

Town of Warrenton Zoning Ordinance

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Amended by Town Council: December 9, 2014
December 11, 2018
April 9, 2019
December 10, 2019
April 12, 2022
XXXX, 2024

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Article 2 General Provisions

2-1 Application and Prohibition

2-1.1 General Application

All buildings and structures erected hereafter, all uses of land, water or buildings established hereafter, all structural alterations or relocations of existing buildings occurring hereafter, and all enlargements of, additions to, changes in and relocations of existing uses occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such buildings, structures, uses or land are located. Existing buildings, structures and uses which comply with the regulations of this Ordinance shall likewise be subject to all regulations of this Ordinance.

Existing lawful buildings, structures and uses which do not comply with regulations herein shall be subject to Section 11-4 of this Ordinance relating to nonconformities.

2-1.2 General Prohibition

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

2-2 Compliance with Chapter Required

2-2.1 Compliance with chapter generally

- 1 No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be constructed, except in conformity with all of the regulations specified in this Ordinance for the district in which it is located.
- 2 No building or other structure shall be erected or altered:
 - 1) To exceed the height or bulk specified in this Ordinance.
 - 2) To accommodate or house a greater number of families than permitted by this Ordinance.
 - 3) To occupy a greater percentage of lot area than specified in this Ordinance.
 - 4) To have narrower or smaller rear yards, front yards, side yards, or other open space than required by this Ordinance.
 - 5) In any other manner contrary to the provisions of this Ordinance.

2-2.2 Compliance with Ordinance in issuance of permits and licenses

All departments, officials and public employees of the Town vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance. They shall issue permits or licenses for uses, buildings or purposes only when they are in harmony with the provisions of this Ordinance. Any such permit or license, if issued in conflict with the provisions of this Ordinance, shall be null and void.

2-3 Exemptions

The following are exempt from this Ordinance:

2-3.1 Electrical transmission lines of 150 kV or more, approved by the State Corporation Commission.

2-3.2 Poles, wires, cables, conduits, vaults, laterals, pipes, valves, meters or any other similar equipment when used for the purpose of distributing service to individual customers within an approved or established service area, but not including telecommunications towers, plants or substations.

2-3.3 The height limitations of this Ordinance shall not apply to cupolas, barns, silos, farm buildings, chimneys, flag poles, water tanks, and monuments and necessary mechanical appurtenances not exceeding in height the distance therefrom to the nearest lot line.

2-3.4 Federal projects as applicable under 40 U.S.C. §3312.

2-3.4 State-owned lands and buildings, as applicable under Virginia Code § 15.2-2293.

2-4 Public Facilities Manual

2-5.1 The Town of Warrenton Public Facilities Manual, as amended by Town Council of the Town of Warrenton, is hereby incorporated herein by reference in the Zoning and Subdivision Ordinances as though set out in full herein.

2-5.2 All utility systems shall be designed and constructed in accord with the Town of Warrenton Public Facilities Manual.

2-5 Zoning of Annexed Territory

2-5.1 Any property annexed or boundary adjusted into the corporate limits, hereinafter referred to as the “annexed property”, which was zoned in Fauquier County for a density more intense than one (1) dwelling unit per acre, after the effective date of the Zoning Ordinance shall immediately upon the effective date of such annexation or boundary

adjustment be reclassified to the R-15 Zoning District pursuant to Article 3 of the Zoning Ordinance.

2-5.2 Notwithstanding the foregoing, if the annexed property was zoned in Fauquier County with a density equal to or less intense than one (1) dwelling unit per acre, the annexed property shall immediately upon the effective date of such annexation or boundary adjustment be reclassified to the R-E Zoning District, pursuant to Article 3 of this Zoning Ordinance.

2-5.3 Notwithstanding the provisions of paragraph 2-5.1 and 2-5.2, if the annexed property was zoned in Fauquier County to a commercial district, the annexed property shall immediately upon the effective date of such annexation or boundary adjustment be reclassified to the C Zoning District pursuant to Article 3 of the Zoning Ordinance.

2-5.4 The Planning Commission shall prepare and present a recommended zoning classification of any annexed property to the Town Council within twelve (12) months of the effective date of such annexation or boundary adjustment.

2-6 Calculation of Density

2-6.1 Maximum Density. The maximum density specified in this Ordinance for a given zoning district shall not be exceeded. Calculations of development density, including lot, lot area, parent tract, net and gross density for residential development and other such terms, shall be made in accord with the formulas provided within the definitions of those terms in Article 12 of this Ordinance.

2-7 Authorization for Constructing Public Facilities

No public facility shall be constructed, established or authorized unless and until it has been reviewed and approved by the Planning Commission as provided by Section 15.2-2232 of the Virginia Code, as being in substantial accord with the Town's adopted Comprehensive Plan.

Repair, reconstruction, improvement and normal, minor service extensions of public facilities or public corporation facilities, unless involving a change in the location or extent of a street or public area shall be deemed to be in accordance with Section 15.2-2232 of the Virginia Code. For purposes of this section, widening, extension, enlargement or change of use of public streets, public facilities or public areas shall not be excepted from the requirement of review for Comprehensive Plan conformity.

2-8 Provisions Are Minimum Requirements

The provisions of this Ordinance shall be the minimum requirements to promote and the public health, safety and general welfare.

2-9 Interpretation of Terms

For the purpose of this Ordinance, certain words and terms are to be interpreted as defined in Article 12.

In case of any dispute over the meaning of a word, phrase or sentence, whether defined in this Ordinance or not, the Zoning Administrator is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this Ordinance, as set forth in Article 1; provided, that an appeal may be taken from any such determination as provided in Article 11 of this Ordinance.

2-10 Uses Not Permitted are Prohibited

For the purpose of this Ordinance, permitted uses are listed for the various districts. Unless it is otherwise clear from the context of the lists or other regulations of this Ordinance, uses not specifically listed are prohibited.

In case of any dispute as to whether a use is permitted in any district, the Zoning Administrator is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this chapter, as set forth in Article 10 and by the purposes and intent of the particular district, provided that an appeal may be taken from any such determination as provided in Article 11 of this Ordinance.

2-11 Adding Unspecified Uses

Uses other than those allowed in the applicable district may be added to a district only upon adoption of a text amendment approved by the Town Council, pursuant to the amendment procedures set forth in Article 11 of this Ordinance.

2-12 Zoning Map and District Boundaries

2-12.1 The Town is divided into the Zoning Districts set forth in Article 2, and defined in Articles 3 of this Ordinance, and as shown on the map entitled “Zoning Map, Town of Warrenton, Virginia”, together with all explanatory matters thereon.

2-12.2 The Zoning Map shall be located in the office of the Zoning Administrator and shall be the final authority as to the current zoning classification of land and water areas, buildings and other structures in the Town except for subsequent amendments enacted by the Town Council and not yet officially recorded on said map.

2-12.3 No changes of any kind shall be made to the Zoning Map except in conformity with the procedures and requirements of this Ordinance.

2-12.4 Determination of district boundaries

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the districts as shown on the zoning map, the following rules shall apply:

- 2-12.4.1 Where district boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys or railroad main tracks, such center line of the right-of-way or prescriptive easement or lines at right angles to such center lines shall be construed to be such boundaries, as the case may be.
- 2-12.4.2 Where a district boundary is indicated to follow the shoreline of a river, creek, branch, pond, lake or other body of water, such boundary shall be construed to follow the shoreline at low water or at the limit of the jurisdiction, and if there is a change in the shoreline, such boundary shall be construed as moving with the actual shoreline. Where a district boundary is indicated to follow the centerline of a river, creek, branch or other body of water, such boundary shall be construed to follow the centerline at low water or at the limit of the jurisdiction, and if there is a change in the shoreline, such boundary shall be construed as moving with the actual shoreline.
- 2-12.4.3 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 2-12.4.4 If no distance, angle, curvature description or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the zoning district shall be determined by the use of the scale shown on the zoning map.
- 2-12.4.5 If uncertainties continue to exist after the other provisions of this section are exhausted, the question of the property's zoning district shall be presented to the Zoning Administrator for interpretation and be so noted on the Map. In case of subsequent dispute, the matter may be appealed to the Board of Zoning Appeals in accord with the procedures set forth in Article 11.

2-13 Methods of Measuring Lots, Yards and Related Terms

2-13.1 Regular lots, width measurements

The width of a regular lot shall be determined by measurement across the lot at the depth of the required front yard or building setback line. The distance between side lot lines at

the points where they intersect with a street line (front lot line) shall be not less than eighty percent of the required width of the lot.

However, in cases where lots front on curved or circular (cul-de-sac) streets, the radii of which do not exceed ninety feet, the distances between side lot lines where they intersect with the street line (front lot line) may be reduced to sixty percent of the required lot width, measured in a straight line between the points where side lot lines extended intersect the street line.

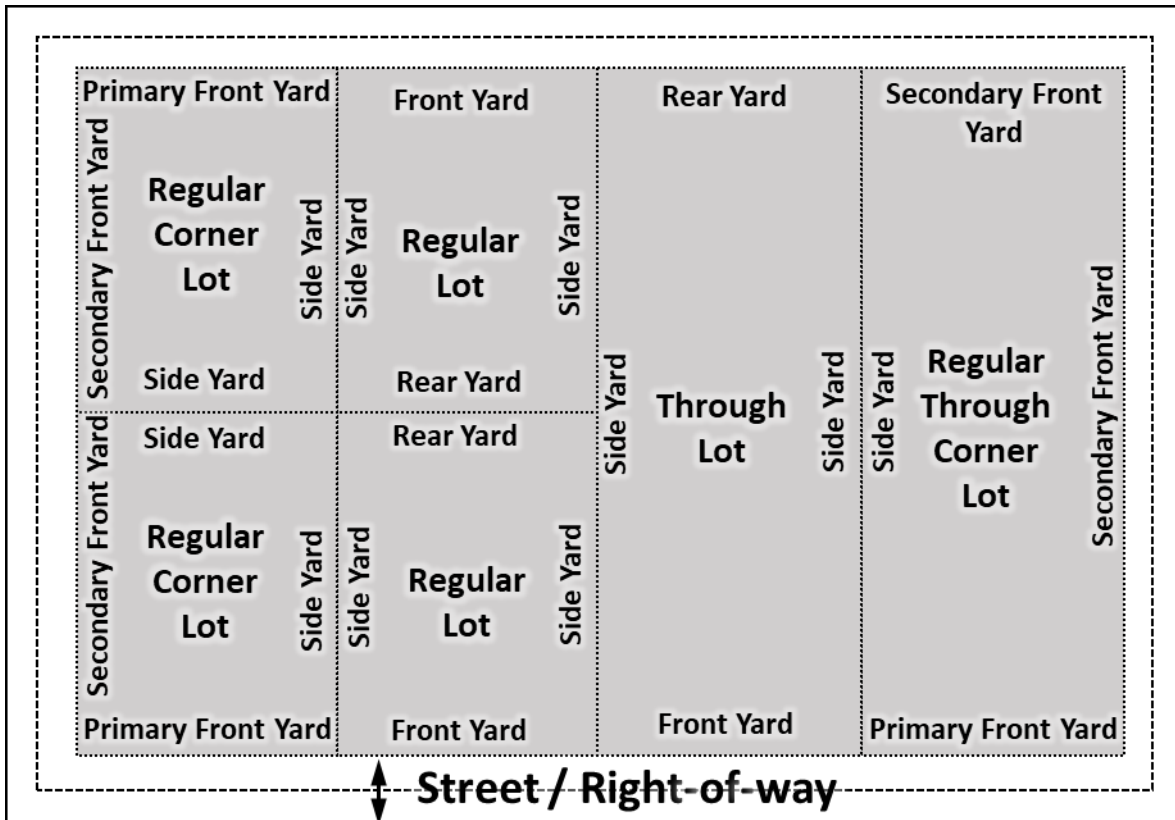
2-13.2 Regular lots, determination of front yard

2-13.2.1 On regular interior lots, the front shall be construed to be the portion nearest the street or access road.

2-13.2.2 On regular corner lots, all sides along streets shall be considered front yards. The primary front yard shall be construed to be the shortest boundary fronting on a street, providing lot width requirements are met. If the lot has equal frontage on two or more streets, the primary front lot shall be determined and shown on the subdivision plat or site plan. The secondary front yard begins at the point where it intersects with the primary front yard and extends to the side yard.

2-13.2.3 On regular through corner lots, all sides along streets shall be considered front yards. The primary front yard shall be construed to be the shorter boundary fronting the street, provided that if the shortest boundary fronting on a street is eighty percent or more of the length of the longest boundary fronting on a street, the applicant may select either frontage providing the lot width requirements are met. The remaining yards fronting on a street shall be considered secondary front yards, beginning at the point where they intersect with the primary front yard and extend to the side yard.

2-13.2.4 On regular through lots, the front shall be construed to be the shorter boundary fronting on a street. If the lot has equal frontage on two streets, the front of the lot shall be determined and shown on all subdivision plats and site plans by the prevailing building pattern, or the prevailing lot pattern if a building pattern has not been established.



2-13.3 Regular lots, yards adjacent to street

- 2-13.3.1 Front yards of at least the depth required by setback requirements in the district shall be provided across the entire frontage of a regular lot.
- 2-13.3.2 Other yards adjacent to streets shall be provided across or along the entire portion of the lot adjacent to the street.
- 2-13.3.3 Rear yards on interior regular lots

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

- 2-13.3.4 Side yards on regular lots

Side yards on regular lots are defined as extending from the required front yard line (setback line) to the required rear yard line. On regular through lots the required side yard shall run from the required front yard line to the second required front yard line. On corner lots the required side yards shall

run from the point where side yard lines intersect, to the required front yard lines.

2-13.4 Irregular lots, dimensional requirements

An irregular lot, as defined herein, shall be required to meet the dimensional requirements of the district.

2-13.5 Irregular lots, yard requirements

All yards shall meet the yard requirements of the district.

2-13.6 Setback Measurement from streets

All setbacks from public streets shall be measured from the front property line, which is the same as the street line or the front right-of-way.

2-13.7 The depth of required yards adjacent to streets shall be measured perpendicular or radially to such street lines, and the inner line of such required yards shall be parallel to the outer line.

2-13.8 If no dedicated right-of-way exists, if no construction plans are approved for the road, or if less than the minimum right-of-way exists, the right-of way shall be assumed to be the edge of the existing travel way.

2-13.9 For corner lots, the primary front lot line shall be deemed to be the shortest of the two (2) sides fronting on streets.

2-13.10 For corner lots, the secondary front yard setback adjacent to the side street shall be not less than the average of the side and front setbacks required for the lot.

2-13.11 For corner lots, the lot width along the side street shall be in conformity with the minimum lot width requirements for the respective use.

2-14 Lots and Yard Requirements

2-14.1 Frontage Regulations

Except as provided elsewhere in this Ordinance with respect to townhouses, cluster developments, and Planned Unit Developments, no lot shall be used in whole or in part unless such lot abuts upon a public street in accord with the minimum frontage regulations of this Ordinance. No lot or parcel of land abutting the terminus of a public street shall be deemed to comply with the frontage regulations unless such lot abuts on an approved permanent cul-de-sac.

2-14.2 Location on a Lot Required

Every building hereafter erected, reconstructed, converted, moved, or altered, other than accessory buildings as defined and other than townhouses, cluster developments, and Planned Unit Developments, shall be located on a lot of record and in no case shall there be more than one principal building on one lot unless otherwise provided for in this Ordinance. Uses otherwise provided for include multiple-family housing, commercial and office centers and complexes, industrial uses, and institutional complexes.

2-14.3 Lot Access Requirements

All structures requiring a building permit shall be erected on lots which have frontage on a public road, unless otherwise specified or provided for herein, or in the Subdivision Ordinance.

2-14.4. Definitions of Lots and Yards

All types of lots and yards shall be defined as provided in Articles 3 and 12 herein.

2-14.5. Principal Use

Only one principal use or structure shall be permitted on a lot unless otherwise specifically provided for herein. Additional buildings may be permitted, but shall be designated as secondary or subordinate to the principal use.

2-14.6 Required yards and other areas

No part of a yard or other open space, area, or off-street parking or loading space, required in connection with any building or use for the purpose of complying with this Ordinance shall be included as part of a yard, open space area or off-street parking or loading space similarly required for any other building or use, unless otherwise specifically provided for in this Ordinance.

2-14.7. Reductions below minimum requirements of chapter

No lot, area, or yard existing prior to the adoption of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth in this Ordinance. Any lot, area, or yard created after the adoption of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

2-15 Relationship to Private Agreements

This Ordinance is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship, provided, however, that where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such private agreements or legal relationships, the regulations of this Ordinance shall govern. The Town bears no responsibility for enforcing any private easements, covenants or other such agreements to which the Town is not a party.

2-16 Conditional Zoning

As part of a petition to rezone property and amend the official zoning maps, the property owner may include voluntary proffers in writing placing certain conditions and restrictions on the use and development of such property. If a petition to rezone is approved, the Zoning Administrator is vested with all necessary authority to administer and enforce such conditions and restrictions, all in accordance with Sections 15.2-2296 et seq., of the Code of Virginia, and such sections are incorporated herein as a part hereof to the same extent and purpose as though such sections were herein fully set out at length.

2-17 Condominium Conversion

In all zoning districts, a structure or use may convert to condominium ownership only if all requirements of this Ordinance, the Subdivision Ordinance, the comprehensive plan, and all other applicable ordinances are met.

2-18 Encroachments in Required Yards

The following features, and no others, may extend into required minimum yard areas, but only as qualified below.

2-18.1 Cornices, canopies, awnings, eaves, or other such similar feature, all of which are at least ten (10) feet above grade, may extend three (3) feet into any required setback but not nearer to any lot line than a distance of two (2) feet. This provision shall not apply to permanent canopies over gasoline pump islands which have supports located on the pump island. Such canopies may extend into minimum required front yards, providing they do not overhang travel lanes or, if no travel lanes exist, they shall not be located closer than twenty-two (22) feet from the right-of-way line.

2-18.2 Sills, headers, belt courses, and similar ornamental features may extend twelve (12) inches into any required setback.

2-18.3 Bay windows, oriel, balconies, and chimneys not more than ten (10) feet in width may extend three (3) feet into any required front or side setback, ten (10) feet into any required rear setback, but not nearer to any lot line than a distance of five (5) feet.

- 2-18.4 An outside stairway, unenclosed above and below its steps, may extend four (4) feet into any required side or rear setback, but not nearer to any side lot line than a distance of six (6) feet.
- 2-18.5 Decks may not project into any required front yard or side yard, but may project into rear yards by not more than one-half of the required rear yard setback, provided that no deck extends closer than 10 feet to any rear property line. Decks built within such encroachments may not be covered or enclosed. Decks or patios of a height of 18 inches or less as measured from the point of lowest grade are not subject to any setbacks.
- 2-18.6 Open fire escapes of noncombustible material may project into side or rear yards by not more than four (4) feet and no closer to any property line than five (5) feet.
- 2-18.7 Front porches may project into any required front yard by not more than six feet into the required yard setback, not more than three feet into required side yard setback and into not more than ten feet into the required rear yard setback.
- 2-18.8 Heating, Ventilation, and Air Condenser Units (HVAC) may project into rear and side yard setbacks provided that no HVAC extends closer than five (5) feet to any rear or side property line.

2-19 Fences and Walls

- 2-19.1 Fences and walls may be erected up to a height of six (6) feet in all zoning districts, except for fences or walls that extend within the required front setback, unless otherwise restricted by the ARB within the Historic District. Within the area bounded by the front setback and the side lot lines, fences and walls shall not exceed four (4) feet in height, unless otherwise restricted by the provisions of this Ordinance. Excluded are walls or fences encompassing swimming pools or other uses which are required by law.
- 2-19.2 Fences along the secondary front yard of a corner lot shall meet the side yard setback requirements within the front setback if they exceed four (4) feet in height.
- 2-19.3 In residential developments of five (5) or more dwelling units, fencing should be uniform throughout the development and shall be in accord with Article 8 of this Ordinance.
- 2-19.4 Retaining Walls shall not exceed a height of six (6) feet in any zoning district unless approved by the Planning Director. Any wall exceeding that height that is accessible to residential or pedestrian areas must have a safety railing along the top of the wall.
- 2-19.5 Fences exceeding 6 feet in height may be approved in conjunction with a Special Use Permit for a Permissible Use listed within Article 3.

2-20 Height Regulations

Buildings may be erected up to the maximum height as allowed in the Zoning District within which it is located, except that:

- The height limit for dwellings may be increased up to forty-five (45) feet and up to three (3) stories provided that front, side, and rear yard setbacks increase one (1) foot for each additional foot of building height over thirty-five (35) feet.
- A public or semi-public building such as a school, church, or library may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.
- Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, and television antennae are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.
- No accessory building which is within twenty (20) feet of any party lot line shall be more than fifteen (15) feet high. All accessory buildings shall be less than the main building in height.
- No signs, nameplate, or advertising device of any kind shall be installed upon or attached to any chimney, tower, tank, or structure of like kind which is permitted to extend above the height limits of the district in which it is located.

2-21 Obstruction to Vision at Intersections Prohibited

No shrubbery, sign, fence or other similar obstruction to vision between the heights of two and one half (2.5) and ten (10) feet from the ground level shall be permitted within the distance required to provide adequate sight distance to meet Virginia Department of Transportation requirements and included in Article 6.

2-22 ~~Removal of Top Soil [see also Articles 4 and 5]~~ **Removed (XXXX 2024)**

~~The retention of adequate top soil on the land within the Town is considered necessary for the general welfare of the Town. The permanent removal of topsoil from the land within the Town shall be regulated, as set forth in the Town's Erosion and Sediment Control Ordinance and Site Conservation Manual, incorporated as Article 4 of the Zoning Ordinance. Urban Best Management Practices shall be utilized to stabilize disturbed areas and reduce runoff volumes and sedimentation.~~

~~A land disturbance permit is required when disturbing or clearing an area in excess of 2,000 square feet for any purpose, including, but not limited to, structures, borrow pits, ponds, and~~

~~driveways, except as exempted in Articles 4 and 5 of this ordinance.~~

~~These activities are regulated in accordance with Virginia Erosion and Sediment Control Laws §§ 62.1-44.2 through 62.1-44.34:28; Virginia Water Quality Management Planning Regulations 9VAC25-720, and Virginia Erosion and Sediment Control Regulations 9VAC25-840, as adopted by the Virginia Water Control Board and administered by the Virginia Department of Environmental Quality (DEQ). All of these laws and regulations and any future updates of the aforementioned sections are also adopted as a part of this Ordinance.~~

2-23 Districts Established

For the purposes of this chapter, the Town is hereby divided into the following districts:

Regular (Base) Districts:

R-15	Residential District
R-10	Residential District
R-6	Residential District
RT	Residential Townhouse District
RMF	Residential Multifamily District
R-40	Residential District
R-E	Residential District
RO	Residential Office District
PSP	Public-Semi-Public Institutional District
C	Commercial District
CBD	Central Business District
I	Industrial District

Overlay and Special Districts:

FPD	Flood Plain District
PUD	Planned Unit Development District
HD	Historic District

Article 4 ~~Site Conservation Manual~~ Removed (XXXX 2024)

~~Amended April 9, 2019~~

~~December 10, 2019~~

REFER TO: Chapter 21 of the Town Code, Erosion and Stormwater Management Ordinance

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Article 4—Site Conservation Manual

4.1—Title and Purpose

4.1.1—Title

~~The Article contained herein shall hereafter be known as, referred to, and entitled: “The Town of Warrenton Site Conservation Manual.”~~

4.1.2—Authority

~~This Site Conservation Manual is authorized under Section 15.2-2280 of the Code of Virginia, 9VAC25-840, Virginia Erosion and Sediment Control Law, and any other applicable titles and sections of the Code, as amended. The Site Conservation Manual is hereby incorporated into and made a part of the Zoning Ordinance of the Town of Warrenton, Virginia.~~

4.1.3—Intent

~~The intent of the Site Conservation Manual is to promote responsible land development and the preservation of the Town’s natural landscape through the application of protective measures on and around site development both during and following development. The Town’s natural landscape shall include, but is not limited to, natural resources such as trees and woodlands, fresh water bodies, wetlands, riparian areas, other natural areas and natural soils.~~

4.1.4—Purpose

- ~~To promote the preservation of the natural landscape on public and private lands and to encourage responsible development, this manual shall require the owner of each development area to be responsible for developing a comprehensive Site Conservation Plan (SCP). This plan will address preservation of our natural landscape through tree preservation, riparian setbacks, erosion and sediment control, stormwater management, and design.~~
- ~~The Site Conservation Plan will assure all land disturbance activities are in accordance with the requirements of the Virginia Stormwater Management Program (VSMP) Regulations and permit, Town of Warrenton Zoning Ordinance; Section 8-7 Acceptable Tree Species; Section 8-9 Conservation of Heritage and Specimen Trees; Section 8-10 Retention and Replacement of Trees Requirements and Article 10 Site Development Plan; Town of Warrenton Subdivision Ordinance; and the Commonwealth of Virginia Erosion and Sediment Control Law.~~
- ~~The Construction Site Conservation Manual (CSCM) shall establish procedures for the~~

~~administration and enforcement of such controls. The CSCM will include the preparation of a Stormwater Pollution Prevention Plan (SWPPP) to be maintained on site during construction and that will clearly identify to conversion of temporary E&S measures to final SWM/BMP measures and to protect the integrity of those permanent facilities after construction is completed.~~

- ~~• The preparation of a VPDES (VSMP) Permit Registration Statement, submittal to the Town of Warrenton, along with required permit fees, for processing through the Department of Environmental Quality (DEQ), is hereby required, in accordance with the Authority set forth in section 4-1.2.~~

4.1.5 — ~~Conflicting Content with other Codes and Ordinances~~

~~Whenever any provisions of any Commonwealth or Federal statute or other provisions impose a greater requirement, or higher standard, than is required by these regulations, the provisions of the Commonwealth or Federal statute, provision, or regulation shall govern.~~

4.1.6 — ~~Certain State Erosion and Sediment Control Provisions Adopted~~

~~Chapter Three of the Virginia Erosion and Sediment Control Handbook and the Virginia Erosion and Sediment Control Regulations (9VAC25-840) amended by the State Water Control Board, October 2013, or the most current edition of such regulations, is hereby adopted in its entirety and incorporated herein by reference in this manual as set out in full herein. The text of these regulations is on file in the Community Development Department.~~

~~Except as otherwise provided for in Section 4-5 Exceptions of this manual, no person shall engage in any kind of land disturbing activity within the Town of Warrenton until they have first acquired a Land Disturbance Permit.~~

4.1.7 — ~~Severability~~

~~Should any section or provision of this Ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity or application of the remainder of the Ordinance as a whole or any part thereof.~~

4.2 — ~~Recordation of Riparian Setback Areas~~

~~Prior to final approval of a subdivision, site plan, or other development, as applicable, the Riparian Setback Area shall be permanently recorded on the plat records for all parcels associated with the site. Recordation shall be in accordance with the requirements of the Town of Warrenton Subdivision Ordinance Section 3-10 Final Plat Requirements.~~

4.3—Application Procedure

~~The Site Conservation Plan shall be submitted as part of the acceptance of the preliminary plat (or in the absence of a requirement for preliminary plats, then as part of the final plat, as applicable) and/or a site development plan required for development within the Town of Warrenton and shall follow the requirements outlined in Article 10, Site Development Plans, of the Town Zoning Ordinance.~~

4.3.1—Applicant

~~For the purposes of this Manual, the preparation, submission, and approval of the SCP shall be the responsibility of the property owner. In addition, the requirements of Section 4.8.4, Bond Requirements, of this Manual concerning a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement that is acceptable under the provisions of Section 4.8.4, Bond Requirements, shall be met.~~

4.3.2—Agreement in Lieu of SCP

~~Pertaining to development sites exempt from the site review process as per Section 10-2 of the Town Zoning Ordinance, the Town of Warrenton and the land owner may enter into an Agreement in Lieu of the SCP. This agreement must specify the BMPs that the property owner will put into effect to assure the preservation of the Natural Landscape on site and on the adjacent sites in the best manner available. With this agreement the designation of a responsible land disturber who holds a certificate of competence is required per Section 62.1-44.15:53, Virginia Erosion and Sediment Control Law. If a violation occurs during the land disturbing activities the person designated as the responsible land disturber shall be responsible for correcting such violation. Failure to provide the name and contact information, including phone number, of an individual holding a certificate of competence prior to engaging in land disturbing activities may result in revocation of the approved plan and the person responsible for carrying out the plan shall be subject to the penalties referenced in Section 4-12, Criminal and Civil Penalties, of this Manual.~~

4.3.3—SCP Authority

~~The Zoning Administrator, or the Administrator's designated representative, shall be responsible for the verification and assurance that all applicable requirements are met prior to the issuance of any permits for land development. The Zoning Administrator shall work with the Erosion and Sediment Control Administrator, Town Arborist and/or any other department or agency of interest to assure that a complete Site Conservation Plan has been approved prior to issuance of any permits for land development.~~

4.3.4—Erosion and Sediment Control Plan Approving Authority

~~The Town of Warrenton's Erosion and Sediment Control Administrator shall be responsible for determining the adequacy of the Erosion & Sediment Control Plan submitted for land disturbing activities, for the approval of such plans, and that such plan will be complied with throughout the~~

development process.

4.3.5 — Responsible Land Disturber

~~As a prerequisite to engaging in land disturbing activities shown on the approved SCP the person responsible for the plan shall provide all contact information, including phone numbers, of the individual holding a certificate of competence to the Town. This person will be held as the contact person to be notified if violations occur. This information shall be supplied directly onto the first page of the SCP. Failure to provide the name and contact information, including phone number, of an individual holding a certificate of competence prior to engaging in land disturbing activities may result in revocation of the approved plan and the person responsible for carrying out the plan shall be subject to the penalties referenced in Section 4-12, Criminal and Civil Penalties, of this manual.~~

4.4 — Definitions

~~See Article 12, the Virginia Erosion and Sediment Control Handbook (VESCH), 9VAC25-840, and any other applicable titles and sections of the Code, as amended.~~

4.5 — Exceptions

4.5.1 — Erosion and Sediment Control Exemptions

~~Minor land disturbing activities such as home gardens and individual home landscaping, repairs, maintenance work.~~

~~Individual service connections.~~

~~Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land disturbing activity is confined to the area of the road, street, or sidewalk, which is hard surfaced.~~

~~Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of the building to be served by the septic tank system.~~

~~Surface or deep mining.~~

~~Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off site disposal areas.~~

~~Tilling, planting, or harvesting or agricultural, livestock feedlot operations, horticultural, or forest crops or livestock feedlot operations; including agricultural engineering as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation. However, this exception shall not apply to harvesting of forest crops unless the area on which the harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et~~

~~seq.) of the code of Virginia or is converted to bona fide agricultural or improved pasture use as described in subsection B of (§ 10.1-1163) of the Code of Virginia.~~

~~Repair or rebuilding of tracks, right of way, bridges, communication facilities, and other related structures and facilities of a railroad company.~~

~~Agricultural engineering operations including but not limited to the construction of terraces, terrace outlets, check dams, silt basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 (§ 10.1-1100 et seq.) Chapter 6 of this title, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation.~~

~~Disturbed land area of less than two thousand (2,000) square feet in size.~~

~~Installation of fence and sign posts or telephone and electric pole and other kinds of posts or poles.~~

~~Emergency work to protect life, limb, or property, and emergency repairs; however, if the land disturbing activity would have required an approved erosion and sediment control plan, and the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirement of the plan approving authority.~~

4.5.2 — Riparian Buffer and Setback Exceptions

~~Grassy swales and other ephemeral streams~~

~~Roadside ditches~~

~~Drainage ditches whose purpose is to convey storm water to the public system~~

~~Tile drainage systems~~

~~Stream Culverts~~

4.6 — Riparian Buffer and Setback Area

4.6.1 — Riparian Buffers

~~Riparian buffers shall be composed of a 25 foot area extending from streamside and the existing natural landscape of the stream including trees and underbrush. If the natural landscape has been removed, the buffer area is required to be landscaped with a mixture of deciduous and coniferous trees with the majority being deciduous canopy or ornamental trees of species specified in Section 8-7 of the Zoning Ordinance. The riparian buffer shall be included as any buffer or part of any buffer area required in Article 8 of the Zoning Ordinance.~~

4.6.2—Riparian Setback Area

~~Riparian Setbacks, unless as specified as a riparian area of special concern referenced in Section 4-6.3, shall be 50 feet from streamside and will include the riparian buffer area.~~

4.6.3—Riparian Areas of Special Concern

4.6.3.1 Delineated Floodplain Areas

~~Where the 100 year floodplain is wider than the Riparian Setback on either or both sides of a stream, the Riparian Setback shall be extended to the outer edge of the 100 year floodplain as defined by FEMA.~~

4.6.3.2 Steep Slopes

~~In areas where the gradient of the riparian corridor significantly impacts the stream the following adjustments to the Riparian Setback shall be made:~~

Average Percentage of Slope	Adjustment to Riparian Setback
15% -20%	Add 25 feet
21% -25%	Add 50 feet
>25%	Add 100 feet*

~~*See Article 9-17 of the Zoning Ordinance~~

4.6.3.3 Wetland Areas

~~Where potential wetlands are shown on the US Fish and Wildlife Service National Wetlands Inventory (NWI), a Jurisdictional Determination (JD) issued by the US Army Corps of Engineers shall be required with any application for a land disturbance permit. Riparian Setbacks shall include the full extent of wetlands protected by federal or state law.~~

4.7—Permits

~~Development in The Town of Warrenton shall require a two-tier permit system. This system will be required for all construction activities within the Town except for those exemptions outlined in Section 10-2 of the Town Zoning Ordinance and Section 4-5, Exceptions, specified in this manual. Permits will be issued once the site review process has been completed and proper bonding is in place. The two required permits are the Land Disturbance Permit and the Building Permit.~~

4.7.1—Land Disturbance Permit

~~The "LAND DISTURBANCE PERMIT" (LDP) shall be issued for the implementation of grading~~

~~which is composed of riparian protection, tree removal and those requirements set by the erosion and sediment control plan. No additional construction will be performed and no additional building materials shall be allowed on site until the Zoning Administrator has verified that all requirements of this permit have been met. No Land Disturbance Permit shall be issued without a plat survey showing all riparian setback areas and a tree survey and replacement schedule approved by the Town Arborist or Zoning Administrator.~~

~~The issuance of the Land Disturbance Permit shall be conditioned on an approved SCP which shall be presented at the time of application.~~

~~The ESC Administrator may allow the stockpiling of additional construction materials, or the temporary storage of equipment, on the site prior to the issuance of the second permit if a suitable location can be identified. Proper Erosion and Sediment Control, approved by the Erosion and Sediment Control Administrator, must be maintained on the stockpile area prior, during, and after the area is used for stockpiling.~~

4.7.2 — Building Permit

~~The "BUILDING PERMIT" will be issued once the Zoning Administrator certifies that the requirements set forth in this manual and required by the Land Disturbance Permit, have been properly installed. This permit will set forth the commencement of the final construction phase and requires review and approval of the Site Development Plan and of any and all building plans.~~

4.8 — Program Standards/Procedures

4.8.1 — Plan Contents

~~The preservation of our natural landscapes requires that developers work to contain the natural features of the land in their development practices. The contents of the SCP will demonstrate the developer's intent toward preservation and shall include the following requirements based on the Chesapeake Bay Watershed Manual Section VI and Article 8 Sections 7, 9 and 10 of the Town Zoning Ordinance:~~

4.8.1.1 Riparian Protection Plan

~~Riparian Protection Plan showing riparian setback and buffer areas and those methods of either retaining the natural forested areas or plantings designed to protect the buffered area.~~

4.8.1.2 Tree Survey

~~A tree survey of existing trees as required by Section 10-4-2-15 of the Zoning Ordinance on sites proposed for development, which includes a listing of all heritage and specimen trees to be preserved and the location of all trees on the site with a caliper of six (6) inches or greater. Such trees shall be also identified in a table listing their species, caliper, and canopy~~

size.

4.8.1.3 Tree Protection Plan

~~Tree Protection Plan as required by Section 10-6-12 of the Zoning Ordinance that indicates the location of trunks and drip lines for trees or wooded areas that are to be retained. In the case of wooded areas, the trunks and drip lines of perimeter trees shall be sufficient indication of location.~~

4.8.1.4 Tree Replacement Schedule

~~A replacement schedule of all trees required to be replaced in Section 8-10 of the Zoning Ordinance. Replacement trees shall be replaced by trees indigenous to the Warrenton region. Deciduous trees shall replace deciduous trees and nondeciduous trees shall replace nondeciduous trees.~~

4.8.1.5 Erosion and Sediment Control Plan

~~An erosion and sediment control plan containing a description of the controls appropriate for the best management of each construction operation as outlined in the Virginia Erosion and Sediment Control Law. The plan must make use of the practices that preserve the existing natural conditions to the maximum extent possible. Clear cutting, as defined in Article 12, shall not be authorized.~~

~~For subdivisions of two lots or greater, and site plans comprising one or more acres of land, the plan shall be designed after a Phase I investigation that identifies all potentially historically significant and environmentally sensitive areas on the property. These include, but are not limited to, structures, wetlands, floodplain, steep slopes, endangered habitats, and unstable soils. Buildings and lot locations shall be laid out to preserve, to the maximum extent possible, the conditions identified in the Phase I investigation.~~

~~Development of the plan shall be accomplished through the use of phased development practices per the following schedule that follows the normal progression of land development:~~

- ~~▪—Phase 1: Streets, parking areas, and utilities, including temporary and permanent erosion and sediment control and stormwater installations~~
- ~~▪—Phase 2: Open space and amenity areas, where provided.~~
- ~~▪—Phase 3: Lots for buildings and structures. Lots shall not be cleared until a land disturbance permit in conjunction with a building permit has issued.~~

4.8.1.6 ~~Methods of protection~~

~~Methods of protection shall be clearly indicated on site plan with a legend of symbol included on each sheet.~~

4.8.1.7 ~~Responsible Party~~

~~Protected natural areas including riparian areas and all storm water management facilities shall have an inspection and maintenance plan that identifies the owner and the responsible party for carrying out the inspection and maintenance plan. Contact information, including phone numbers, shall be located on the first page of the SCP.~~

4.8.2 — ~~Operation and Maintenance of Storm Water Management Facilities~~

~~An approved plan for the maintenance of all storm water management facilities is required by Article 5 of the Zoning Ordinance. The responsibility for the operation and maintenance of storm water management facilities, unless assumed by the Town of Warrenton, shall remain with the property owner and shall pass to any successor or owner. If portions of the land are to be sold, legally binding arrangements shall be made to pass the basic responsibility to successors in title. These arrangements shall be designated for each property owner, governmental agency, or other legally established entity to be permanently responsible for maintenance.~~

4.8.3 — ~~Approval Process~~

4.8.3.1 ~~Approval~~

~~The Town of Warrenton Erosion and Sediment Control Administrator and the Zoning Administrator shall review any and all SCPs and grant written approval within sixty (60) days of the receipt of the plan if it determines that the plan meets the requirements of the Town's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of the SCP Manual. The approval process follows after a site development plan (SDP) has been approved in accordance with Article 10 of the Zoning Ordinance. The land disturbance permit will be issued after the site plan is approved in its entirety and all required documentation, including proof of the purchase of off site nutrient or wetland credits, copies of required wetlands permits or Jurisdictional Determinations from the US Army Corps of Engineers, and all easements, plats, bonds or surety contracts and documents have been submitted and approved, as applicable.~~

4.8.3.2 ~~Denials~~

~~When an SCP is determined to be inadequate, written notice of denial stating the specific reasons for the denial shall be communicated to the applicant within sixty (60) days. The notice shall specify the modifications, terms and conditions that will permit approval of the~~

~~plan. If no action is taken by the Town of Warrenton within the time specified above, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.~~

4.8.3.3 Plan Alterations

~~An approved SCP may be changed in the following cases:~~

- ~~1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulation;~~
- ~~2. Where the person responsible for carrying out the approved SCP finds that because of changed circumstances, or for other reasons, the approved plan cannot be effectively carried out; and~~
- ~~3. Proposed amendments to the SCP, consistent with the requirements of this manual, are agreed to by the Erosion and Sediment Control Administrator, and Zoning Administrator, and the person responsible for carrying out the plan.~~

4.8.4 Bond Requirements

~~Upon approval of the cost estimates required by Section 10-8 of the Zoning Ordinance and Section 3-12.3 of the Subdivision Ordinance, the owner or developer is required to submit:~~

- ~~1. A certificate certifying that the construction costs have been paid to the person constructing such improvements covered by the cost estimates; or~~
- ~~2. A cash escrow, certified check, or performance and payment bond surety with escalation clause for the cost of improvements to insure completion; or~~
- ~~3. A bank or savings institution's letter of credit, on certain designated funds satisfactory to the Planning Director as to the institution, the amount and the form.~~

4.8.5 Multi-jurisdiction Requirements

~~Where land-disturbing activities involve lands under the jurisdiction of more than one local control program an erosion and sediment control plan, the SCP may, at the option of the applicant, be submitted to the State Board for review and approval rather than to each jurisdiction concerned.~~

4.8.6 Erosion Impact Areas

~~The Town may designate areas in the town which shall be classified as Erosion Impact Areas as defined in Article 12. Any such designation and classification shall be deemed to be a component of the local control program. Consistent with this Manual, and in order to prevent further erosion, the Erosion and Sediment Control Administrator may require the approval of a conservation plan for any~~

Erosion Impact Area. Such plan shall be subject to all review, bonding, inspections and enforcement provisions of this Manual which apply to Land Disturbance Permits. The plan must be submitted by the property owner.

4.8.7 — Preconstruction Meeting

Pre-Construction meeting shall be held prior to the initiation of any site work. Attendees include, but are not limited to, Planning Director, Erosion and Sediment Control Inspector/Administrator, Town Arborist, Town Engineer, Town Zoning Administrator, and the Responsible Land Disturber or his representatives.

4.8.8 — Inspection Process

During the development process, all land disturbing activities within the Town of Warrenton shall be inspected by the Town's Erosion and Sediment Control Administrator and when applicable, The Town Erosion and Sediment Control Inspector, the Town Arborist, or a qualified Town representative. The inspection process includes the following:

An initial site inspection shall be made prior to the start of construction to assure that all relative onsite protective measures are in place and that all affected offsite waterways and environmental impact areas are protected. The E&S Administrator shall give written notice to Responsible Land Disturber that the inspection is complete and that construction can start. If the inspection finds that these protective measures are not in place, corrective action shall be recorded and given to the Responsible Land Disturber either directly onsite or via first class mail. Construction shall not begin until the relative onsite and offsite protective measures are in place.

Each site in which land disturbing activities are being conducted shall be inspected at least once every two weeks and within twenty four (24) hours of a runoff producing event and at the completion of the project prior to the release of any performance bonds.

Town of Warrenton Standard Operating Procedure for Erosion and Sediment Control Inspection further outlines the inspection process.

4.9 — Fees

A reasonable fee to defray the cost of plan review, including site inspections for the duration of the construction process, shall be paid to the Town. These charges shall be in accord with the Site Plan Review fee schedule as adopted by the Town Council and relative permits such as the Land Disturbance Permit.

4.10 — Variances

The ESC Administrator may waive or modify any regulations that are deemed inappropriate or too

restrictive for site conditions, by granting a variance. The ESC Administrator shall follow the process as outlined in section 9VAC25-840 of the Virginia Erosion and Sediment Control Regulations. For ESC variance denials, the applicant may resubmit a variance request with additional documentation to the State Water Control Board.

- During construction, the person responsible for implementing the approved ESC plan may request a variance in writing from the Erosion and Sediment Control Administrator. The Erosion and Sediment Control Administrator shall respond in writing either approving or disapproving such a request.
- If variances submitted during construction are not approved within ten (10) days of receipt of the variance request, the request shall be considered to be disapproved.

4.11—Violations, Remedies, and Public Notice

Violations include, but are not limited to, failure to comply with an approved plan or undertaking a land disturbing activity without an approved plan, and the destruction of adjacent property including adjacent tree damage or damage to any tree save areas. When a violation is noted, the ESC Administrator shall take the following steps to secure compliance:

4.11.1—Informal Contact/Verbal Warning

The Inspector shall complete a standard inspection report form detailing the observed violation and circumstances pertaining to it. The report shall specify the measures needed for compliance and a time frame for completion. The on-site job superintendent shall be notified verbally, if possible, and asked to sign the inspection report to verify that verbal notification has been given. Copies of the inspection report shall be given or sent to the permit holder and other concerned parties.

4.11.2—Notice to Comply

If the informal contact is unsuccessful, the Erosion and Sediment Control Administrator shall issue a “Notice to Comply”. This notice shall specify the measures required for compliance and the deadline for completion. The notice must be sent to the permit holder by registered or certified mail to the address specified by the permit holder in his application or the notice can be delivered to the person supervising the activity.

4.11.3—Stop Work Order

If the Notice to Comply is not acted upon by the land developer the Zoning Official or ESC Administrator shall issue a stop work order requiring that all or part of a land disturbing activities on the site be stopped until the specified corrective measures have been taken.

Where the alleged noncompliance is causing, or is in imminent danger of causing, harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, tree removal is

~~taken place without notification to the Zoning Administrator, and/or land disturbance activity has commenced without a an approved plan or land disturbance permit, per Section 11-3.3.11 of the Zoning Ordinance, such an order may be issued whether or not the alleged violator has been issued a notice to comply as specified above. Under these circumstances, a stop work order may be issued on site to the responsible party or their agent.~~

~~Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The stop work order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the locality in which the site is located. Upon failure to comply within the time specified, the land disturbance permit or construction permit may be revoked and the permit holder or person responsible for carrying out the plan shall be deemed to be in violation of the requirements of this manual and shall be subject penalties set forth in Section 4-12 Criminal and Civil Penalties.~~

4.11.3.1 — ~~The order shall remain in effect for seven days from the date of service; pending application by the enforcing authority or alleged violator for appropriate relief to the circuit court of Fauquier County. If the alleged violator has not obtained an approved site plan or any required permits within seven days from the date of service of the order, the Zoning Administrator and/or ESC Administrator or his designee may issue an order to the owner requiring that all construction and other work on the site be stopped until the appropriate corrective measures have been taken.~~

4.11.3.2 — ~~The owner may appeal the issuance of an order to the circuit court of Fauquier County. Any person violating, neglecting, or refusing to obey an order issued by the Town may be compelled in a proceeding instituted in the court to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits the order shall immediately be lifted.~~

4.12 — Criminal and Civil Penalties

~~Violators shall be guilty of a Class 1 misdemeanor and shall be subject to fines not to exceed \$2,500 and/or twelve months imprisonment in jail.~~

~~Every violation not remedied in the notice to comply letter shall carry a \$100.00 fine per day with a total of \$3,000.00 per violation and \$1,000.00 per day for any land disturbing activity commenced without an approved plan for a total of \$10,000 per violation.~~

~~In addition to any criminal or civil penalties provided this section, any person who violates any provision of this chapter may be liable to the Virginia State Water Control Board per § 62.1-44.15 of the Code of Virginia.~~

4.13—Appellate Process

4.13.1—Appeals of items regulated by the Zoning Ordinance

~~Appeal of a formal decision of the Zoning Administrator shall be subject to the requirement of Section 11-3.12 of the Zoning Ordinance of the Town of Warrenton. Appeals shall be in writing and shall be filed with the Board of Zoning Appeals in care of the Zoning Administrator. Such appeal shall be taken within thirty (30) days from the date of any written decision adversely affecting the rights, duties or privileges of the person engaging in or proposing to engage in land disturbing activities. The application for appeal shall be filed with the Zoning Administrator and shall specify the grounds for the appeal.~~

4.13.2—Appeals to the Virginia Erosion and Sediment Laws

~~Any appeals concerning the ESC portion of this document shall be taken to the Virginia State Water Control Board and shall be subject to review by the circuit court provided that an appeal is filed within thirty (30) days from the date of any written decision adversely affecting the rights, duties or privileges of the person engaging in or proposing to engage in land disturbing activities.~~

4.13.3—Appeal of a Stop Work Order

~~The owner may appeal the issuance of an order to the circuit court of Fauquier County. Any person violating or failing, neglecting, or refusing to obey the stop work order may be compelled in a proceeding instituted in the circuit court of Fauquier County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.~~

4.14—Duration of Approval

~~Approval of the SCP is conditioned to the Site Plan Approval process and all time limits associated with it. Although, the Town reserves the right to adjust requirements of this SCP if field conditions warrant such adjustments.~~

Article 5—Stormwater Management Removed (XXXX 2024)

~~Amended April 9, 2019~~

~~December 10, 2019~~

REFER TO: Chapter 21 of the Town Code, Erosion and Stormwater Management Ordinance

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Article 5—Stormwater Management

~~Pursuant to Code § 62.1-44.15:27, this ordinance is adopted as part of an initiative to coordinate the Town of Warrenton stormwater management requirements with the Town's erosion and sediment control, flood insurance, and flood plain management requirements into a unified program within the Town's Zoning Ordinance, in accordance with the provisions of the Virginia Stormwater Management Act. It is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the Town and those responsible for compliance with these programs.~~

5-1 ~~PURPOSE AND AUTHORITY (Section 9VAC25-870-20, 9VAC25-870-40)~~

- ~~(a) The purpose of this Ordinance is to ensure the health, safety, and welfare of the citizens of the Town of Warrenton, to protect private and public properties, and to protect the quality and quantity of state waters from unmanaged stormwater runoff through land disturbing activities that may cause unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby legal requirements related to water quality and quantity shall be administered and enforced.~~
- ~~(b) This ordinance is adopted pursuant to Article 1.1 (§ 62.1-44.15:25 et seq.) of Chapter 6 of Title 62.1 of the Code of Virginia.~~

5-2 ~~DEFINITIONS (9VAC25-870-10)~~

~~See Article 12.~~

5-3 ~~STORMWATER PERMIT REQUIREMENT; EXEMPTIONS~~

- ~~(a) Except as provided herein, no person may engage in any land disturbing activity until a VSMP authority permit has been issued by the Administrator in accordance with the provisions of this Ordinance.~~
- ~~(b) Notwithstanding any other provisions of this Ordinance, the following activities are exempt from permitting under this Article, unless otherwise required by law:~~
 - ~~(1) Permitted surface or deep mining operations and projects, or oil and gas extraction operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;~~
 - ~~(2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the~~

provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;

- (3) ~~Single family residences separately built and disturbing less than 10,000 square feet and not part of a larger common plan of development or sale, including additions or modifications to existing single family detached residential structures. However, these will require an Agreement in Lieu for Erosion and Sediment Control, and may require other permits such as Floodplain, Zoning, etc.~~
- (4) ~~Land disturbing activities that disturb less than 10,000 square feet of land area or activities that are part of a larger common plan of development or sale that is one (1) acre or greater of disturbance, for which an approved SWM Plan has already been implemented covering that proposed disturbance, and a VSMP Permit is currently in effect for that common plan of development. Discharges to a sanitary sewer or combined sewer system; although these discharges are prohibited in the Town Code.~~
- (5) ~~Activities under a State or federal reclamation program to return an abandoned property to an agricultural or open land use;~~
- (6) ~~Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this Subsection; and~~
- (7) ~~Conducting land disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within seven days of commencing the land disturbing activity and compliance with the administrative requirements of Subsection (a) is required within 30 days of commencing the land disturbing activity.~~
- (e) ~~In order to protect the quality of state waters and to control the discharge of stormwater pollutants from land disturbing activities, runoff from Chesapeake Bay Preservation Act land disturbing activities shall be controlled unless otherwise exempt. Chesapeake Bay Act land disturbing activities do not require completion of a registration statement or coverage under the General Permit but shall be subject to the following technical criteria and program administrative requirements in this ordinance and 9VAC25-870-51:~~
 - (1) ~~Erosion and Sediment Control Plan;~~
 - (2) ~~Stormwater Management Plan;~~

- ~~(3) Exemptions may be requested;~~
- ~~(4) Long term maintenance of stormwater management facilities;~~
- ~~(5) Water quality design criteria;~~
- ~~(6) Water quality compliance;~~
- ~~(7) Channel protection and flood protection;~~
- ~~(8) Offsite compliance options available;~~
- ~~(9) Subject to design storm and hydrologic methods, linear development controls, and criteria associated with stormwater impoundment structures or facilities.~~

5-4 **~~STORMWATER MANAGEMENT PROGRAM ESTABLISHED; SUBMISSION AND APPROVAL OF PLANS; PROHIBITIONS~~**

- ~~(a) Pursuant to § 62.1-44.15:27 of the Code of Virginia, the Town hereby establishes a Virginia stormwater management program for land disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMPs promulgated by the State Board for the purposes set out in Section 5-1 of this Ordinance. The Town hereby designates the Community Development Director as the Administrator of the Town of Warrenton VSMP stormwater management program.~~
- ~~(b) No VSMP authority permit shall be issued by the Administrator, until the following items have been submitted to and approved by the Administrator as prescribed herein:~~
 - ~~(1) A permit application that includes a general permit registration statement, if such statement is required;~~
 - ~~(2) An erosion and sediment control plan approved in accordance with Article 4, Erosion and Sediment Control, of the Town Zoning Ordinance; and~~
 - ~~(3) A stormwater management plan that meets the requirements of Section 5-6 of this Ordinance or an executed agreement in lieu of a stormwater management plan.~~
- ~~(c) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained.~~
- ~~(d) No VSMP authority permit shall be issued until the fees required to be paid pursuant to Section 5-15, are received and a reasonable performance bond required pursuant to Section 5-16 of this Ordinance has been submitted.~~
- ~~(e) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing,~~

~~construction, disturbance, land development and drainage will be done according to the approved permit.~~

- ~~(f) No grading, building or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the Administrator.~~

5-5 **STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLANS**

- ~~(a) The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section 9VAC25-870-54 and must also comply with the requirements and general information set forth in Section 9VAC25-880-70, Section II [stormwater pollution prevention plan] of the general permit. The SWPPP must include:~~
- ~~(1) Approved erosion and sediment control plan;~~
 - ~~(2) Approved stormwater management plan;~~
 - ~~(3) Pollution Prevention Plan for regulated land disturbing activities; and~~
 - ~~(4) Description of any additional control measures necessary to address a TMDL.~~
- ~~(b) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.~~
- ~~(c) The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.~~
- ~~(d) At the discretion of the Administrator, the SWPPP may be waived for projects less than 1 acre and where the proposed new impervious area is less than 10,000 square feet.~~

5-6 **STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN**

- ~~(a) The Stormwater Management Plan, required in Section 5-4 of this Ordinance, must apply the stormwater management technical criteria set forth in Section 5-9 of this Ordinance to the entire land disturbing activity. Individual lots in new residential, commercial or industrial developments shall not be considered separate land disturbing activities but shall be considered under a Common Plan of Development. A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff, and include the following information:~~

- ~~(1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and postdevelopment drainage areas;~~
- ~~(2) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected, and a Responsible Land Disturber certification;~~
- ~~(3) A narrative that includes a description of current site conditions and final site conditions;~~
- ~~(4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;~~
- ~~(5) Information on the proposed stormwater management facilities, including:
 - ~~(i) The type of facilities;~~
 - ~~(ii) Location, including geographic coordinates;~~
 - ~~(iii) Acres treated; and~~
 - ~~(iv) The surface waters or karst features, if present, into which the facility will discharge.~~~~
- ~~(6) Hydrologic and hydraulic computations, including runoff characteristics;~~
- ~~(7) Documentation and calculations verifying compliance with the water quality and quantity requirements of Section 5-9 of this Ordinance.~~
- ~~(8) A map or maps of the site that depicts the topography of the site and includes:
 - ~~(i) All contributing drainage areas;~~
 - ~~(ii) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;~~
 - ~~(iii) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;~~
 - ~~(iv) Current land use including existing structures, roads, and locations of known utilities and easements;~~
 - ~~(v) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;~~
 - ~~(vi) The limits of clearing and grading, and the proposed drainage patterns on the site;~~~~

- ~~(vii) Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and~~
 - ~~(viii) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.~~
- ~~(b) If an operator intends to meet the water quality and/or quantity requirements set forth in Section 5-9 of this Ordinance through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by § 62.1-44.15:345 of the Code of Virginia. A VSMP authority shall allow offsite options when:~~
 - ~~(1) Less than five acres of land will be disturbed;~~
 - ~~(2) The post construction phosphorous control requirement is less than 10 pounds per year; or~~
 - ~~(3) The applicant demonstrates to the satisfaction of the VSMP authority that:~~
 - ~~(i) Alternative site designs have been considered that may accommodate onsite best management practices; and~~
 - ~~(ii) Onsite best management practices have been considered in alternative designs to the maximum extent practicable; and~~
 - ~~(iii) Appropriate onsite best management practices will be implemented; and~~
 - ~~(iv) Full compliance with post-development nonpoint nutrient runoff compliance requirements cannot practicably be met onsite. The applicant must demonstrate onsite control of at least 75 percent (75%) of the required phosphorous nutrient reductions. If the applicant is unable to provide 75% onsite control, a waiver may be granted by the VSMP authority subject to review of the applicant's justification to allow the use of offsite credit purchase to exceed 25%.~~
- ~~(c) Elements of the stormwater management plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.~~
- ~~(d) A construction record drawing for permanent stormwater management facilities shall be submitted to the Administrator. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying~~

~~that the stormwater management facilities have been constructed in accordance with the approved plan. Construction record drawings are not required for stormwater management facilities for which maintenance agreements are not required pursuant to Section 5-10(b).~~

- ~~(e) Approved stormwater management plans for residential, commercial and industrial subdivisions govern the development of individual parcels within that plan, throughout the development life of the property even if ownership changes.~~

5-7 **POLLUTION PREVENTION PLAN; CONTENTS OF PLANS**

- ~~(a) Pollution Prevention Plan, required by 9VAC25-870-56, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:~~
- ~~(1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;~~
 - ~~(2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and~~
 - ~~(3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.~~
- ~~(b) The pollution prevention plan shall include effective best management practices to prohibit the following discharges:~~
- ~~(1) Wastewater from washout of concrete, unless managed by an appropriate control;~~
 - ~~(2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;~~
 - ~~(3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and~~
 - ~~(4) Soaps or solvents used in vehicle and equipment washing.~~
- ~~(c) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.~~

5-8 **REVIEW OF STORMWATER MANAGEMENT PLAN**

- (a) ~~The Administrator or the Public Works Director as the duly authorized agent of the Administrator shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following:~~
- ~~(1) The Administrator shall determine the completeness of a plan in accordance with Section 5-6 of this Ordinance, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.~~
 - ~~(2) The Administrator shall have an additional 60 calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subdivision (1), then plan shall be deemed complete and the Administrator shall have 60 calendar days from the date of submission to review the plan.~~
 - ~~(3) The Administrator shall review any plan that has been previously disapproved, within 45 calendar days of the date of resubmission.~~
 - ~~(4) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this Ordinance.~~
 - ~~(5) If a plan meeting all requirements of this Ordinance is submitted and no action is taken within the time provided above in subdivision (2) for review, the plan shall be deemed approved.~~
 - ~~(6) Any changes or modifications to the plans initiated by the applicant during the review process (not responses to staff comments) will reset the 60 day calendar review process as of the date of the applicant's request.~~
- (b) ~~Approved stormwater plans may be modified as follows:~~
- ~~(1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator. The Administrator shall have 60 calendar days to respond in writing either approving or disapproving such request.~~
 - ~~(2) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during inspection.~~

- (e) ~~The Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The Administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to Section 5-10 (b).~~

5-9 ~~TECHNICAL CRITERIA FOR REGULATED LAND-DISTURBING ACTIVITIES~~

- (a) ~~To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the Town of Warrenton hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II-B of the Regulations 9VAC25-870(62-99), as amended, expressly to include 9VAC25-870-63 [water quality design criteria requirements]; 9VAC25-870-65 [water quality compliance]; 9VAC25-870-66 [water quantity]; 9VAC25-870-69 [offsite compliance options]; 9VAC25-870-72 [design storms and hydrologic methods]; 9VAC25-870-74 [stormwater harvesting]; 9VAC25-870-76 [linear development project]; and, 9VAC25-870-85 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this Ordinance, except as expressly set forth in Subsection (b) of this Section.~~
- (b) ~~Any land-disturbing activity considered grandfathered by the VSMP authority shall be subject to the Part II-C (9VAC25-870 (93-99) technical criteria of the VSMP Regulation provided:~~
- ~~(1) A proffered or conditional zoning plan, zoning with the a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the locality to be equivalent thereto (i) was approved by the locality prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-870-10, (iii) will comply with the Part II-C technical criteria of the VSMP Regulation, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;~~
 - ~~(2) A state permit has not been issued prior to July 1, 2014; and~~
 - ~~(3) Land disturbance did not commence prior to July 1, 2014.~~
- (c) ~~Locality, state and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II-C technical criteria of the VSMP Regulation provided:~~
- ~~(1) There has been an obligation of locality, state or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 2, 2012; and~~
 - ~~(2) A state permit has not been issued prior to July 1, 2014, and~~

- (3) ~~Land disturbance did not commence prior to July 1, 2014.~~
- (d) ~~Land disturbing activities grandfathered under subsections A and B of this section shall remain subject to the Part II C technical criteria of the VSMP Regulation for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.~~
- (e) ~~In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C.~~
- (f) ~~Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.~~
- (g) ~~The Administrator may grant exceptions to the technical requirements of Part II B or Part II C of the Regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this Ordinance are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this Ordinance.~~
- (1) ~~Exceptions to the requirement that the land disturbing activity obtain required VSMP authority permit shall not be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, or any other control measure duly approved by the Director.~~
- (2) ~~Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.~~
- (h) ~~Nothing in this Section shall preclude an operator from constructing to a more stringent standard at their discretion.~~

5-10 **ADEQUATE DRAINAGE**

- (a) ~~In order to protect and conserve the land and water resources of this Town for the use and benefit of the public, measures for the adequate drainage of surface waters shall be taken and facilities provided in connection with all land development activities.~~
- (b) ~~Adequate drainage of surface water means the effective conveyance of storm and other surface waters through and from the onsite stormwater management facilities into a(n):~~
- (1) ~~natural watercourse, i.e., a stream with incised channel (bed and banks).~~

- (2) ~~—drainage facility of sufficient capacity without adverse impact upon the land over which the waters are conveyed or upon the watercourse or facility into which such waters are discharged, or~~
- (3) ~~—adequate channel as defined in Section 5-2 of these regulations.~~

5-10.1 Minimum Requirements

- (a) ~~—The drainage system must have the hydraulic characteristics to accommodate the maximum expected flow of surface waters for a given watershed, or portion thereof, for the duration and intensity of rainfall, as specified in the Town's Public Facilities Manual (PFM).~~
- (b) ~~—Determination of the size and capacity of the drainage system shall be based on the planned development, existing zoning or existing development, whichever is greater, within the watershed.~~
- (c) ~~—The drainage system shall be designed:~~
 - (1) ~~—To honor natural drainage divides,~~
 - (2) ~~—To account for both off site and on site surface waters,~~
 - (3) ~~—To convey such waters to a natural watercourse, i.e., a natural watercourse at the natural elevation, or an existing or proposed stormwater management facility, and~~
 - (4) ~~—To discharge the surface waters into a natural watercourse at the natural elevation, or into an existing facility of adequate capacity.~~
- (d) ~~—The drainage system shall be designed such that properties over which the surface waters are conveyed, from the development site to discharge point(s), are not subject to increased erosion or increased flooding.~~
- (e) ~~—Concentrated surface waters shall not be discharged on adjoining property, unless an easement expressly authorizing such discharge has been granted by the owner of the affected land or unless the discharge is into a natural watercourse, or other appropriate discharge point as set for the above.~~
- (f) ~~—The owner or applicant/development may continue to discharge storm water which has not been concentrated into a lower lying property if the following three conditions are met:~~
 - (1) ~~—The peak runoff rate after development does not exceed the predevelopment peak runoff rate for the 1-year storm and 10-year storm.~~
 - (2) ~~—The increase in runoff volume caused by the development will not have an adverse impact, such as erosion or flooding, on the lower lying property. Any increase in runoff volume will be analyzed and meet the requirement of the Energy Balance~~

Equation as defined by the Channel Protection criterion of Part IIB of the new SWM Regulations (9VAC25-870-66 Water Quantity). Sheet flow is to be analyzed in accordance with 9VAC25-870-66.D.

- ~~(g) If the discharge conditions are not met and the discharge may aggravate an existing drainage problem or cause a drainage problem, the applicant/developer must provide a drainage system satisfactory to the Director to preclude an adverse impact upon the adjacent or downstream property. These improvements will be contained within a suitable Drainage Easement.~~
- ~~(h) Drainage structures shall be constructed in such a manner that they may be maintained at a reasonable cost. Drainage structures and treatment facilities designed for treatment of stormwater runoff from multiple building lots shall not be located on or within and individual building lot or lots, but shall be within commonly owned area, and shall be located so as to be easily accessed for maintenance purposes.~~
- ~~(i) If the outfall is into a natural and well defined, stabilized watercourse, the two year peak flow from the development of the watershed must be at a flow rate and velocity which the watercourse can accept without causing erosion in the streambed or over bank flooding. Alternatively, if the applicant/developer chooses, the downstream watercourse may be modified so that it can handle the two year post development flow, provided, however, that if the applicant/developer choose to install a storm drainage system, the system shall be designed in accordance with these regulations for such systems.~~
- ~~(j) If off site downstream construction and easements are necessary to obtain an adequate drainage outfall, no plans shall receive final approval until such storm drainage easements, extending to the nearest natural and well defined, adequate, stabilized watercourse, or adequate man made drainage channel or pipe, have obtained and recorded among the land records of Fauquier County, Virginia.~~
- ~~(k) Storm sewers shall be discharged into the area least likely to erode. The following should be considered:
 - ~~(1) Generally, it is preferred to discharge at the flood plain limit into an adequate watercourse channel leading to the main stream bed, rather than disturb the flood plain by extending the storm sewer.~~
 - ~~(2) If an adequate watercourse channel does not exist, the only alternative is to discharge into the main stream bed.~~
 - ~~(3) In either case, energy dissipation devices are required.~~~~
- ~~(l) The requirements of Town of Warrenton relating to Erosion and Sedimentation Control, and the further requirements for protection of stream beds by detention of surface waters,~~

~~set forth in these regulations must be satisfied. Additionally, the Stormwater Management Regulations requirements to protect water quality must be met, if applicable.~~

- ~~(m) All drainage ways, including overland relief pathways, must be separated from buildings. No building or other permanent structure may be built on or in a storm drainage system, or easement.~~
- ~~(n) Consideration must be given in the preparation of the plans to preclude adverse impacts resulting from higher rates and volumes of flow that might occur during construction.~~
- ~~(o) In cases where the drainage plans of a proposed development do not satisfy these minimum requirements because necessary off site facilities or improvements are lacking, the applicant/developer shall delay development until the necessary off site facilities or improvements are constructed or other arrangements are made which are suitable to the Director of Public Works. In such event, the plat or plans, if otherwise satisfactory, will be approved when the requirements of this Article are satisfied. Alternatively, the applicant/developer may choose to supply the offsite facilities that are necessary for adequate drainage.~~
- ~~(p) The downstream extent of this review shall be to the point at which the total drainage area is at least 100 times greater than the area of the development site in question.~~

5-11 ~~LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES~~

- ~~(a) The Administrator shall require the provision of long term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local land records prior to general permit termination or earlier as required by the Administrator and shall at a minimum:~~
 - ~~(1) Be submitted to the Administrator for review and approval prior to the approval of the stormwater management plan;~~
 - ~~(2) Be stated to run with the land;~~
 - ~~(3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;~~
 - ~~(4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and~~
 - ~~(5) Be enforceable by all appropriate governmental parties.~~
- ~~(b) At the discretion of the Administrator, such recorded instruments need not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the~~

satisfaction of the Administrator that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the Administrator.

- ~~(c) If a recorded instrument is not required pursuant to Subsection 5-10 (b), the Administrator, or any duly authorized agent of the Administrator, shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the Administrator.~~

5-12 **MONITORING AND INSPECTIONS**

- ~~(a) The Administrator or any duly authorized agent of the Administrator shall inspect the land-disturbing activity during construction for:~~
- ~~(1) Compliance with the approved erosion and sediment control plan;~~
 - ~~(2) Compliance with the approved stormwater management plan;~~
 - ~~(3) Development, updating, and implementation of a pollution prevention plan; and~~
 - ~~(4) Development and implementation of any additional control measures necessary to address a TMDL, if applicable.~~
- ~~(b) The Administrator or any duly authorized agent of the Administrator may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this Ordinance.~~
- ~~(c) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the Administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.~~
- ~~(d) Pursuant to § 62.1-44.15:40 of the Code of Virginia, the Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this Ordinance, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this Ordinance.~~
- ~~(e) Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator or any duly~~

authorized agent of the Administrator pursuant to the Town's adopted and State Board approved inspection program, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in Section 5-10.

5-13 **HEARINGS**

- (a) ~~Any permit applicant or permittee, or person subject to Ordinance requirements, aggrieved by any action of the Town taken without a formal hearing, or by inaction of the Town, may demand in writing a formal hearing by the Town Board of Zoning Appeals causing such grievance, provided a petition requesting such hearing is filed with the Administrator within 30 days after notice of such action is given by the Administrator.~~
- (b) ~~The hearings held under this Section shall be conducted by the Town at a regular or special meeting of the Board of Zoning Appeals.~~
- (c) ~~A verbatim record of the proceedings of such hearings shall be taken and filed with the Board of Zoning Appeals. Depositions may be taken and read as in actions at law.~~
- (d) ~~The Board of Zoning Appeals or its designated member, as the case may be, shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the local governing body, or its designated member, whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.~~

5-14 **APPEALS**

See Section 5-13 — HEARINGS above and Article 11-3.3.10 Appeals of the Town Zoning Ordinance.

5-15 **ENFORCEMENT**

- (a) ~~If the Administrator determines that there is a failure to comply with the VSMP authority permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.~~
- (1) ~~The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection (b) or the permit may be revoked by the Administrator.~~

- (2) ~~If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the Administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land disturbing activities without an approved plan or required permit to cease all land disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.~~

~~Such orders shall be issued in accordance with Article 11 of the Town Zoning Ordinance. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 5-13 (c).~~

- (b) ~~In addition to any other remedy provided by this Ordinance, if the Administrator or his designee determines that there is a failure to comply with the provisions of this Ordinance, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with the Town Zoning Ordinance and/or the Public Facilities Manual.~~
- (c) ~~Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in Fauquier Circuit Court by the Town to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.~~
- (d) ~~Any person who violates any provision of this Ordinance or who fails, neglects, or refuses to comply with any order of the Administrator, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement may constitute a separate offense.~~
- (1) ~~Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:~~
- (i) ~~No state permit registration;~~

- ~~(ii) No SWPPP;~~
 - ~~(iii) Incomplete SWPPP;~~
 - ~~(iv) SWPPP not available for review;~~
 - ~~(v) No approved erosion and sediment control plan;~~
 - ~~(vi) Failure to install stormwater BMPs or erosion and sediment controls;~~
 - ~~(vii) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;~~
 - ~~(viii) Operational deficiencies;~~
 - ~~(ix) Failure to conduct required inspections;~~
 - ~~(x) Incomplete, improper, or missed inspections; and~~
 - ~~(xi) Discharges not in compliance with the requirements of Section 4VAC 50-60-1170 of the general permit.~~
- ~~(2) The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.~~
- ~~(3) In imposing a civil penalty pursuant to this Subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.~~
- ~~(4) Any civil penalties assessed by a court as a result of a summons issued by the Locality shall be paid into the treasury of the Town of Warrenton to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.~~
- ~~(e) Notwithstanding any other civil or equitable remedy provided by this Section or by law, any person who willfully or negligently violates any provision of this Ordinance, any order of the Administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.~~

5-16 FEES

- ~~(a) Fees to cover costs associated with implementation of a VSMP related to land disturbing activities and issuance of general permit coverage and VSMP authority permits shall be imposed in accordance with Table 1. When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the Applicant shall be subject to fees ("total fee to be paid by applicant" column) in accordance with the disturbed acreage of their site or sites according to Table 1.~~

Table 1: Fees for permit issuancee

Fee type	Total fee to be paid by Applicant (includes both VSMP authority and Department portions where applicable)	Department portion of “total fee to be paid by Applicant” (based on 28% of total fee paid*)
General / Stormwater Management — Small Construction Activity/Land Clearing. (Areas with common plans of development or sale with land disturbance acreage less than one acre, except for single family detached residential structures).	\$290	\$81
General / Stormwater Management — Small Construction Activity/Land Clearing (Single family detached residential structures within or outside a common plan of development or sale with land disturbance acreage less than 5 acres). No registration statement required: must adhere to general permit requirements.	\$209	\$0
General / Stormwater Management — Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 Acres)	\$2,700	\$756
General / Stormwater Management — Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$3,400	\$952
General / Stormwater Management — Large Construction Activity/Land Clearing [Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres]	\$4,500	\$1,260
General / Stormwater Management — Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100	\$1,708
General / Stormwater Management — Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688

* If the project is completely administered by the Department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the Department.

(b) Fees for the modification or transfer of registration statements from the general permit issued by the State Board shall be imposed in accordance with Table 2. If the general permit modifications result in changes to stormwater management plans that require

additional review by the Town, such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in Table 1.

Table 2: Fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities

Type of Permit	Fee Amount
General / Stormwater Management — Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$20
General / Stormwater Management — Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 and less than 5 acres)	\$200
General / Stormwater Management — Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$250
General / Stormwater Management — Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300
General / Stormwater Management — Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450
General / Stormwater Management — Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$700

- (c) ~~The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, these fees shall apply until the permit coverage is terminated.~~

Table 3: Permit Maintenance Fees**

Type of Permit	Fee Amount
Chesapeake Bay Preservation Act Land Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$50
General / Stormwater Management — Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$50
General / Stormwater Management — Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance equal to or greater than 1 acre and less than 5 acres)	\$400
General / Stormwater Management — Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$500

Type of Permit	Fee Amount
General / Stormwater Management Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$650
General / Stormwater Management Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$900
General / Stormwater Management Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater 100 acres)	\$1,400

~~**General permit coverage maintenance fees shall be paid annually to the Town, by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a Notice of Termination is effective.~~

~~(d) The fees set forth in Subsections (a) through (c) above, shall apply to:~~

- ~~(1) All persons seeking coverage under the general permit.~~
- ~~(2) All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.~~
- ~~(3) Persons whose coverage under the general permit has been revoked shall apply to the Department for an Individual Permit for Discharges of Stormwater from Construction Activities.~~
- ~~(4) Permit and permit coverage maintenance fees outlined under Section 5-15 (e) may apply to each general permit holder.~~

~~(e) No general permit application fees will be assessed to:~~

- ~~(1) Permittees who request minor modifications to general permits as defined in Section 5-2 of this Ordinance. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the Administrator shall not be exempt pursuant to this Section.~~
- ~~(2) Permittees whose general permits are modified or amended at the initiative of the Department, excluding errors in the registration statement identified by the Administrator or errors related to the acreage of the site.~~

~~(f) All incomplete payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent (over 90 days past due) account. The Town shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.~~

5-17 ~~PERFORMANCE BOND (9VAC25-870-104.D AND CODE § 603.8(A))~~

~~Prior to issuance of any permit, the Applicant shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the Town, to ensure that measures could be taken by the Town at the Applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions as a result of his land disturbing activity. If the Town takes such action upon such failure by the Applicant, the Locality may collect from the Applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Within 60 days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the Applicant or terminated.~~

5-18 ~~ADOPTION, AMENDMENTS, AND REPEAL~~

~~This guidance document shall remain in effect until rescinded, amended or superseded.~~

Article 10 Site Development Plans

**Amended by Town Council: February 12, 2016
April 9, 2019
December 10, 2019
XXXX, 2024**

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Article 10 Site Development Plans

10-1 Purposes and Intent

The purpose of this Article is to set out procedures and requirements for site plans and improvements to assure compliance with the Zoning Ordinance and all other applicable ordinances and statutes, to encourage innovative and creative design and facilitate use of the most advantageous techniques in the development of land within the Town of Warrenton, and to ensure the efficient use of the land to promote high standards in the layout design, landscaping, and construction of development.

10-2 Development or Land Use Requiring a Site Development Plan

10-2.1 A site development plan is required and shall be submitted for the following:

1. Any new or improved parking lot containing more than five (5) spaces, any commercial parking lot, or any development in which automobile parking space is to be used by more than one (1) establishment. However, where the existing and proposed uses are permitted by-right, and no other requirements under this Article would apply, different parking requirements for the uses that comprise an increase in the required parking of less than 25% shall not trigger the requirement for a site development plan.
2. Except as exempted in this section, any change from one category of use to a different category of use, any special use permit use, or any development in all Zoning Districts except single-family detached dwelling units. However, a site plan in sufficient detail to determine compliance with the applicable standards and specifications of the Town of Warrenton may be required for the construction of single-family detached dwellings if more than two (2) dwelling units are proposed to be constructed, or where any of the following conditions exist:
 - Where natural and storm water courses are located on the proposed site or where a proposed driveway or entrance intersects existing natural or storm water courses.
 - Where a cluster alternate design is proposed.
 - When a change is proposed in a previously approved site development plan.
 - When an existing residential use is proposed for change to a commercial, industrial, or multifamily residential use.
3. All public and/or semi-public buildings and other uses involving a structure required to be reviewed by the Planning Commission under §15.2-2232 of the Code of Virginia as amended.

4. For enlargements of existing structures equal to or greater than 25% of the structure's gross floor area, required parking must equal the sum of those spaces prior to the enlargement plus the number of spaces required by these regulations for any additional use area, unless waived by Town Council. Where the enlargement is less than 25% of the use or structure's gross floor area, and less than 25% additional parking is required, the additional parking may be waived by the Planning Director and a site development plan may not be required unless other requirements of this Ordinance apply. For a change of use within an existing structure where there is no enlargement of the existing structure, no additional parking is required unless the proposed change of use involves an increase of more than 25% over the required parking for the current use, according to Article 7.
5. Notwithstanding the requirement for a site development plan, nothing in this section shall prevent or preclude all other applicable zoning ordinance and subdivision ordinance requirements, including Article 8, Landscaping, Article 9, Supplemental Regulations, and Chapter 21 of the Town Code, Erosion and Stormwater Management, ~~Article 4, Site Conservation Manual, and Article 5, Stormwater Management~~, from being applied where a change of use, expansion, or enlargement of a structure or parking lot occurs on a property subject to these requirements that is nonconforming or in violation. In these cases, amendments an existing approved site development plan may be approved where appropriate.

10-2.2 Exceptions. No formal site plan shall be required for any special use conducted on a temporary basis, not to exceed two (2) years duration, as approved by the Board of Zoning Appeals or Town Council pursuant to Article 11 of the Zoning Ordinance.

10-2.3 Waivers. The Planning Director may waive the site plan approval requirement when all of the following determinations are made:

1. No improvement would be required for the proposed use which might involve surety bonding under this ordinance.
2. Applicant agrees in writing to make other improvements required under the Ordinance.
3. The proposal will not involve an increase in the intensity over the existing use with respect to entrances, travelways, parking or impact on neighboring lands.
4. The proposal will result in not more than a twenty-five percent (25%) increase in either the gross floor area of the structure housing the use or in the outdoor area used.
5. The requirement of a final site plan would not forward the purposes of this ordinance or otherwise serve the public interest.

10-3 Presubmission Meeting Required

A presubmission conference with the Planning Director is required prior to sub-mission of a site development plan. The intent of the conference is to clarify the requirements of this Ordinance,

and other ordinances of the Town that may be applicable, in order that the site development plan can be prepared in an efficient manner, and to facilitate plan review by the Planning Director.

10-4 Site Development Plan - Information Required

10-4.1 Every site development plan, as hereafter provided shall contain the following information:

1. A boundary survey of the tract or site plan limit with an error of closure within the nearest second related to the true meridian, and showing the location and type of boundary evidence except where a tract or site is a part of a subdivision of record.
2. All horizontal dimensions shown on the site development plan shall be in feet and decimals of a foot to the closest one hundredth of a foot; and all bearings in degrees, minutes and seconds to the nearest second.
3. A certificate signed by the engineer or surveyor setting forth the source and title of the owner of the tract and the place of record of the last instrument in the chain of title.
4. The name, phone number, and mailing address of the owner, or their authorized agent, of the subject parcel to whom which all correspondence regarding review of the site plan will be addressed.

10-4.2 Site development plans shall also contain the following information as determined appropriate by the Planning Director:

1. Existing and proposed streets and easements, their names, numbers, and widths; existing and proposed property lines; existing and proposed utilities of all types; water courses and their names; flood plain limits; owners, zoning, and present use of adjoining tracts; and the present zoning of the subject parcel.
2. Location, type, and size of ingress and egress to the site, including the projected number of vehicle trips per day generated by the proposed development.
3. Location, type, size, and height of all fencing, screening and retaining walls where required under the provisions of applicable ordinances.
4. All off-street parking and parking bays, loading spaces, and walkways indicating type of surfacing, size, angle of stalls, width of aisles, and a specific schedule showing the number of parking spaces provided and the number required in accordance with the Zoning Ordinance of the Town of Warrenton.
5. Number of floors, floor area, height, and location of each building, including building setback lines, and proposed general use for each building B if a multifamily residential building, townhouse, or patio house, the number, size, and type of dwelling units shall be known.
6. Front elevations shall be shown on all commercial, industrial, and multifamily developments, regardless of height.
7. Existing and proposed water and sanitary sewer facilities indicating all pipe sizes, types, and grades and where connection is to be made to an existing or a proposed

central water and sewer system.

8. Provisions for the adequate disposition of natural and storm water in accordance with the Town of Warrenton Public Facilities Manual and the standards of the Virginia Stormwater Management Program, indicating location, sizes, types, and grades of ditches, catch basins, and pipes, and connection to the existing drainage system, and showing that all requirements of ~~Article 5, Stormwater Management~~ Chapter 21 of the Town Code, Erosion and Stormwater Management Ordinance, and, where applicable, Article 3-5.1, Floodplain District Overlay, shall be met.
9. Provisions and schedules for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction, in accordance with the Virginia Erosion and Sediment Control Handbook and the State law, and showing that all requirements of ~~Article 4, Erosion and Sediment Control Site Conservation~~ Chapter 21 of the Town Code, Erosion and Stormwater Management Ordinance, have been met.
10. Existing topography accurately shown with a maximum of two (2) foot contour intervals at a scale of not less than fifty (50) feet to the inch. The requirement for a contour map may be waived where existing grades are less than three (3) percent and spot elevations are provided.
11. Proposed finished grading by contour supplemented where necessary by spot elevations.
12. A landscape design plan based upon accepted professional design layouts and principles as required by Article 8 of the Zoning Ordinance shall be submitted.
13. The proposed location of all outside trash receptacles and dumpsters and proposed methods of screening. Refuse containers or refuse storage areas shall be located in a paved area and hidden from general public view, either from within or outside the lot, by means of fences, walls, or landscape planting.
14. The location and method of lighting for parking lots, pedestrian walkways, public spaces, and common areas designed or intended for use during evening hours.
15. The location of all trees on the site with a caliper of six (6) inches or greater shall be indicated, and shall meet the requirements of ~~Article 4-8.1.2, Tree Survey~~, Article 8-7.4, Noxious and Invasive Species, and Article 8-10, Retention and Replacement of Trees. Existing trees shall be identified in a table listing their species, caliper, and canopy size. Wooded areas shall be designated by symbols that indicate the perimeter of the area covered by the canopy of the trees. Invasive species and other trees proposed to be removed shall be indicated clearly. Trees and/or wooded areas to be retained, and methods to be used to assure adequate protection for trees adjacent to disturbed areas, shall be indicated. Such methods shall conform to Section 3.38, Tree Preservation and Protection of the Virginia Erosion and Sediment Control Handbook and Article 8-10.4, Tree Protection Zones.

10-5 Site Development Plan - Preparation Procedure and Specific Items to be Shown

10-5.1 Site development plans, or any portion thereof, involving engineering, architecture, city

planning, urban design, landscape architecture, or land surveying, will be prepared by persons qualified to do such work. Final site plans shall be certified by an architect or by an engineer or by a land surveyor within the limits of their respective licenses authorized to practice by the State of Virginia.

- 10-5.2 The Planning Director may waive the requirement for the certification of the site development plan or portions thereof by these professionals in those cases where no action proposed by the developer falls within their professional purview; however, the person(s) principally responsible for the preparation of the site development plan shall sign said drawings, regardless of professional registration status.
- 10-5.3 The site plan shall show the name and address of the owner or applicant, city or town, county, state, north point, date, and scale of drawing and number of sheets. In addition it shall reserve a blank space four (4) inches by four (4) inches in size on the plan face for the use of the approving authority.
- 10-5.4 Site development plans shall be prepared to the scale of one (1) inch equals fifty (50) feet or larger; sheets shall measure eighteen by twenty-four inches (18" X 24") at a minimum and no larger than thirty-six by twenty-four inches (36" X 24").
- 10-5.5 The site development plan may be prepared on one (1) or more sheets. If prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. All information required under Section 27-3 need not be included on the basic plan but may be submitted on additional sheets which may be of varying sizes.
- 10-5.6 A minimum of twelve (12) clearly legible blue or black line copies of a site development plan shall be submitted to the Planning Director for the Town of Warrenton, as well as a digital copy in a form suitable to the Planning Director.
- 10-5.7 Profiles shall be submitted for all sanitary and storm sewers, streets and curbs adjacent thereto, and other utilities, and shall be submitted on standard federal aid plan and profile sheets. Special studies as required may be submitted on standard cross section paper and shall have a scale of one (1) inch equals fifty (50) feet horizontally and one (1) inch equals five (5) feet vertically. No sheet width shall exceed thirty-six by twenty-four inches (36" X 24"). Flood plain limit studies required shall be shown on profile sheets with reference to properties affected and center line of stream.
- 10-5.8 A minimum of two (2) datum references for elevations used on plans and profiles and correlated, where practical, to U. S. Geological Survey datum. At least one (1) datum reference shall be on-site.
- 10-5.9 Submitted plans shall include a completed application checklist and payment of review fees, as established by the Town.

10-6 Minimum Standards and Improvements Required

- 10-6.1 All improvements required by this Article shall be installed at the cost of the owner or applicant. Where cost sharing or reimbursement agreements between the Town of Warrenton and the owner or applicant are requested and deemed appropriate by the Town, the same shall be entered into by formal agreement prior to final site development plan approval, and shall be subject to the Virginia Department of Transportation review and acceptance where appropriate. Where specifications have been established by the Town of Warrenton or by the Virginia Department of Transportation for streets and related facilities, or by this Ordinance for other facilities and utilities, such specifications shall be followed. The owner or applicant's performance bond shall not be released until construction has been inspected and accepted by the authorized engineer or Planning Director for the Town and by the Virginia Department of Transportation where appropriate.
- 10-6.2 All streets and highway construction standards and geometric design standards shall be in accordance with the Town's Public Facilities Manual and Subdivision Ordinance unless such geometric design standards are specifically modified by the Town Council upon recommendation of the Planning Director. The Town Council may modify street geometric design standards for local, collector, and minor loop streets. Half-streets along the boundary of land proposed for development or subdivision shall not be permitted. All new streets must be platted and constructed to meet the full width required by this Article and such construction is the sole responsibility of the applicant or subdivider. Construction of private streets is not permitted unless permission is granted by Town Council.
- 10-6.3 Adequate easements shall be provided for drainage and all utilities. Minimum easement width shall be fifteen (15) feet. If two (2) utilities are located within one (1) easement area, the minimum easement width shall be twenty (20) feet. If more than two (2) utilities are located within an easement area, the easement width shall be established by the Warrenton Utilities Director.
- 10-6.4 Adequate drainage for the disposition of storm and nature waters both on-site and off-site shall be provided. Drainage structures and treatment facilities designed for treatment of stormwater runoff from multiple building lots shall not be located on or within an individual building lot or lots, but shall be within commonly-owned area, and shall be located so as to be easily accessed for maintenance purposes. The extent and nature of both on-site and off-site treatment is to be in accordance with the Town of Warrenton Public Facilities Manual, the Town's Virginia Stormwater Management Permit (VSMP), and the standards and requirements of the Virginia Department of Environmental Quality.
- 10-6.5 Provisions shall be made for all necessary temporary and permanent erosion and sedimentation control measures, both on-site and off-site. The extent of the control

measures, both on-site and off-site, are to be in accordance with ~~the Virginia Erosion and Sediment Control Handbook adopted by the Town (see the Town's Erosion and Sediment Control Ordinance)~~ **Chapter 21 of the Town Code, Erosion and Stormwater Management Ordinance**. Slopes of twenty-five (25) percent or greater may be unsuitable for development and shall be reviewed in accordance with Section 9-17 of the Zoning Ordinance, for grading or development. Urban Best Management Practices shall be used to reduce storm water volumes and transport of sediment off-site.

- 10-6.6 Adequate provision shall be made by the owner or applicant to construct all utilities, required to service the development, both on-site and off-site. Design requirements shall follow the provisions of the Town of Warrenton Public Facilities Manual.
- 10-6.7 Percolation tests and/or other methods of soil evaluation deemed necessary by the Administrator for the Town shall be the responsibility of the owner or applicant.
- 10-6.8 When central water and/or sewer systems having sufficient capacity either exist or are proposed within a reasonable distance of the area of the site development plan, provisions shall be made to connect to the system as provided in the Code of the Town of Warrenton.
- 10-6.9 Landscape planting, screening, fences, walks, curbs, gutters, and other physical improvements as required by this Ordinance or other ordinances of the Town of Warrenton, Virginia, and the regulations of the Virginia Department of Transportation shall be provided by the owner or applicant.
- 10-6.10 Where required on site development plans, sidewalks and curb and gutter shall be provided along both sides of all public streets, private streets, and public access areas; however, these requirements may be waived for sites with a density of less than four (4) dwelling units per acre. A written request for such waiver is required for Town Council consideration and action after a recommendation by the Planning Commission and public hearings, in accordance with the procedures established in Article 11-3.10.
- 10-6.11 Lighting will be provided by the developer along all newly constructed public roads, private roads, within parking lots, along pedestrian walkways, and within public common areas, designed to ensure the safe and convenient movement of vehicles and pedestrians during evening and nighttime hours.
- 10-6.12 A Tree Protection Plan that indicates the location of trunks and driplines for trees or wooded areas that are to be retained. In the case of wooded areas, the trunks and driplines of perimeter trees shall be sufficient indication of location. Methods of protection shall be clearly indicated, including details of all retaining walls, tree guards, tree wells, indications that grading changes will not alter surface water movement to or from trees to be retained, and methods to mark trees and wooded areas to be preserved

during grading and construction activities.

- 10-6.13 One (1) set of approved plans, profiles, and specifications shall be at the job site at all times when work is being performed.

10-7 Administration and Procedures for Processing Site Development Plans

- 10-7.1 The Planning Director shall be responsible for the receipt, review, processing, and approval of site development plans.
- 10-7.2 The Planning Director may request opinions and/or decisions, from other departments, divisions, agencies, or authorities of the Town and County government; from officials, departments, or agencies of the Commonwealth of Virginia; or from other qualified persons as may from time to time be retained.
- 10-7.3 The Planning Director, subject to the approval of the Town Council, may from time to time establish reasonable procedures for the administration of this Article.
- 10-7.4 Site development plans, including any modifications which conform to the standards and requirements in this Article shall be approved by the Planning Director.
- 10-7.5 Approval, approval with modifications, or disapproval of a site development plan by the Planning Director shall occur within sixty (60) days of official acceptance. If disapproved, written notification shall be provided to the applicant stating the deficiencies in the plan that cause the disapproval by reference to specific adopted ordinances, regulations, or policies and identifying the modifications or corrections that would permit approval of the plan. Approval, approval subject to modifications, or disapproval of a revised and resubmitted site development plan shall occur within forty-five (45) days of official acceptance.
- 10-7.6 Any person aggrieved of any decision of the Planning Director pursuant to this Article may, within thirty (30) days of such decision, file an appeal to the Board of Zoning Appeals specifying the grounds upon which aggrieved. Appeals shall be in writing and shall be filed in the Office of the Zoning Administrator, and shall be in accord with §15.2-2211 of the Code of Virginia as amended and Article 11 of the Zoning Ordinance.
- 10-7.7 No public easement, right-of-way, or public dedication shown on any site development plan shall be accepted for dedication for public use until such proposed dedication shall first be approved by the Town Council and evidence of such approval is shown on the instrument to be recorded.
- 10-7.8 Approval of a site development plan pursuant to this Article shall expire five (5) years after the date of approval or the established period of validity per § 15.2-2261 and 15.2-2209.1 of the Code of Virginia as amended. Extensions may be granted upon written

request by the applicant to the Planning Director, forty-five (45) days prior to lapse of approval, and extension of all bond and surety agreement. A six (6) month extension may be granted at the discretion of the Planning Director. Further extensions may be authorized only by Town Council approval upon showing a good cause. Modifications to an approved site plan during the period of validity shall be in accordance with § 15.2-2261 C and D of the Code of Virginia, as amended.

- 10-7.9 No permit shall be issued by any administrative officer or agent of Warrenton for the construction of any building or improvement requiring a permit in any area covered by the site development plan except to the provisions of this Article and the duly approved site development plan.
- 10-7.10 The Town and State agencies responsible for the supervision and enforcement of this Article shall periodically inspect the site during the period of construction.
- 10-7.11 Upon compliance with the terms of this Article and the satisfactory completion of construction, as determined by an on-site inspection by Town staff, the Planning Director for the Town of Warrenton shall furnish a certificate of approval. Certificates of approval, upon ratification by the Governing Body, shall release all of the bonds which may have been furnished.
- 10-7.12 Any requirement of this Article may be waived by the Town Council where the applicant establishes that an undue hardship would be created by the strict enforcement of this Article, providing such a waiver, as requested, shall not be adverse to the purpose of this Article.
- 10-7.13 No change, revision, or erasure shall be made on any pending or final site development plan or on any accompanying data sheet where approval has been endorsed on the plat or sheets unless authorization for such changes is granted in writing by the approving body or the Planning Director.
- 10-7.14 Any approved site development plan may be revised, provided request for revision shall be filed and processed in the same manner as the original site development plan. Approval, approval subject to modifications, or disapproval of revisions to a site development plan shall occur within sixty (60) days of their official acceptance. If disapproved, written notification shall be provided to the applicant or the applicant's designated agent stating the deficiencies in the plan that cause the disapproval by reference to specific adopted ordinances, regulations, or policies and identifying the modifications or corrections that would permit approval of the plan.
- 10-7.15 The fee for processing a site development plan, and revisions to an approved site plan, shall be as prescribed by Town Council by resolution.

10-8 Required Bonds and Surety

- 10-8.1 All site plans and subdivision plats must be accompanied, at the time of submission, by a detailed estimate of the costs for installation of on-site and off-site improvements intended or designed to be dedicated for public use, and maintained by the Town of Warrenton, the Commonwealth, or other public agency, when such improvements are to be financed in whole or in part by private funds, including:
1. the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system, or other improvement dedicated for public use; and
 2. site-related improvements required by this Ordinance for vehicular ingress and egress, for public access streets, including traffic signalization and control, for structures necessary to ensure stability of critical slopes, and for storm water management facilities.
- 10-8.2 The estimated cost of construction shall be based on unit prices for new public or private sector construction in the Warrenton region, and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed twenty-five percent of the estimated construction costs. An estimated time frame for phasing and completion of all improvements will be submitted for review and approval by the Planning Director.
- 10-8.3 Cost estimates will be reviewed and approved, approved with revisions, or disapproved by the Director of Planning and Community Development with notice provided in writing and addressed to the owner, or their designated agent, as identified on the site plan documents.
- 10-8.4 Upon approval of the aforesaid cost estimates, the owner or developer shall (i) certify to the Council that the construction costs have been paid to the person constructing such facilities; (ii) furnish to the Council a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to Planning Director in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii) furnish to the Council a bank or savings institution's letter of credit on certain designated funds satisfactory to Planning Director as to the bank or savings institution, the amount and the form. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated costs and an administrative fee as provided herein. All instruments affecting the bonding of a project shall be in a form satisfactory to the Town of Warrenton, and approved by the Town Attorney.

10-8.5 The Town shall grant periodic partial releases of any bond, escrow, letter of credit, or other performance guarantee required for the completion of improvements which are to be bonded, under the following provisions:

1. Upon written request by the subdivider or developer, the Council shall make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than ninety percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, and may make partial releases of such lower amounts as may be authorized by the Council based upon the percentage of facilities completed and approved by the Council, or the state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least thirty percent of the facilities covered by any bond, escrow, letter of credit, or other performance guarantee.
2. The Director of Planning and Community Development shall not be required to execute more than three periodic partial releases in any twelve-month period. Upon final completion and acceptance of said facilities, the Planning Director shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the subdivider or developer, provided that the Director may require a maintenance bond in an amount determined reasonable by the Director not to exceed fifteen per cent (15%) of the originally posted bond amount, as a maintenance bond to ensure all facilities were constructed properly. For the purpose of final release, the term "acceptance" is deemed to mean: when said public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and for operating such facility upon acceptance.
3. Releases shall be made within thirty days after receipt of written notice by the subdivider or developer of completion of part or all of any facilities required to be constructed hereunder, unless the Planning Director notifies said subdivider or developer in writing of non-receipt of approval by applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty-day period.
4. If no such action is taken by the Planning Director within the time specified above, the request shall be deemed approved, and a partial release granted to the subdivider or developer. No final release shall be granted until after expiration of such thirty-day period and there is an additional request in writing sent by certified mail return receipt to Town Manager. The Town Manager or the Planning Director shall act within ten working days of receipt of the request; then if no action is taken, the request shall be deemed approved and final release granted to the subdivider or developer.
5. After receipt of the written notices required above, if the Planning Director takes no action within the times specified above and the subdivider or developer files suit in the local circuit court to obtain partial or final release of a bond, escrow, letter of

credit, or other performance guarantee, as the case may be, the circuit court, upon finding the governing body or its administrative agency was without good cause in failing to act, shall award such subdivider or developer his reasonable costs and attorneys' fees.

6. Neither the Council nor any administrative officer of the Town shall refuse to make a periodic partial or final release of a bond, escrow, letter of credit, or other performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the facilities covered by said bond, escrow, letter of credit or other performance guarantee.
7. For the purposes of this ordinance, a certificate of partial or final completion of such facilities from either a duly licensed professional engineer or land surveyor, as defined in and limited to Va. Code Ann. 54.1-400 or from a department or agency designated by the Council, may be accepted without requiring further inspection of such facilities.

10-9 As-Built Site Plans Required

Upon completion of all required improvements shown on the approved site development plan, the owner or applicant shall submit to the Planning Director for the Town of Warrenton a vellum or sepia transparency plus three (3) copies of the completed as-built site plan, or building location plat certified by an engineer, architect, or surveyor. The "as-built site plan" shall be submitted within a year of issuance of occupancy permits for the review and approval by the Public Utilities Director and Planning Director for conformity with the approved site plan and the ordinances and regulations of the Town of Warrenton and state agencies. Final approval of as-built plans shall be required before the final release of applicable bonds.

Article 11 Administration, Procedures and Enforcement

Amended by Town Council: February 12, 2013
December 11, 2018
December 10, 2019
March 10, 2020
April 12, 2022
XXXX, 2024

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Article 11 Administration, Procedures and Enforcement

11-1 Administration

11-1.1 Zoning Administrator.

The provisions of this Ordinance shall be enforced by the designated agent of the Town of Warrenton, who shall be known as the Zoning Administrator. The Zoning Administrator shall have all necessary authority on behalf of the Town Council to administer and enforce the Zoning Ordinance. His authority shall include:

1. ordering in writing the remedying of any condition found in violation of this Ordinance;
2. insuring compliance with the ordinance, bringing legal action, including injunction, abatement, or other appropriate action or proceeding subject to appeal pursuant to § 15.2-2311 of the Code of Virginia and Article 11 of this Ordinance; and
3. in specific cases, making findings of fact and, with concurrence of the Town attorney, conclusions of law regarding determinations of rights accruing under § 15.2-2307 of the Code of Virginia.
4. granting a variance from any building setback requirement contained in the Zoning Ordinance in accord with Article 11 of this Ordinance and § 15.2-2286 of the Code of Virginia.
5. The Zoning Administrator shall respond within ninety (90) days of a request for a decision or determination on zoning matters within the scope of his authority unless the requester has agreed to a longer period.
6. In addition to the regulations and requirements herein contained concerning the administration of this Ordinance, the Zoning Administrator may establish reasonable additional administrative forms and procedures deemed necessary for the proper administration of this Ordinance.
7. Such other powers as may be granted in the Code of Virginia.

11-1.2 Certified Copy.

A certified copy of the Zoning Ordinance, as adopted and including any amendments, shall be filed in the office of the Zoning Administrator of Warrenton and in the office of the Clerk of the Circuit Court of Fauquier County, Virginia.

11-1.3 Processing Fees.

It is the intent of the Town that at least part of the cost of administering this Ordinance be borne by those responsible for development; therefore, a fee schedule, as prescribed by the Town Council and modified from time to time, shall apply to all permits, reviews, and

processing as required by this Ordinance.

- 11-1.4 Payment of Delinquent Taxes Prior to Filing a Land Use Application. Prior to the filing of an application for a special use permit, special exception, variance, rezoning, site plan, subdivision plat, land disturbance permit, or other land use permit, the applicant shall produce evidence that any delinquent Town real estate taxes properly assessed against the subject property have been paid in full, in accord with § 15.2-2286 (E) of the Code of Virginia, as amended.

11-2 Board of Zoning Appeals

11-2.1 General Provisions (Purpose, Authority and Membership)

- 11-2.1.1 The Board of Zoning Appeals shall hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of the Zoning Ordinance.
- 11-2.1.2 The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary to carry out its authorized business.
- 11-2.1.3 The Board shall consist of five (5) members and shall be appointed by the Circuit Court of Fauquier County. Members shall be residents of the Town of Warrenton. The Board shall receive compensation for traveling expenses and may receive other such compensation as may be authorized by the Town Council. Appointments to fill vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.
- 11-2.1.4 The term of office shall be for five (5) years. One of the five (5) appointed members may be an active member of the Planning Commission.
- 11-2.1.5 Any member of the Board may be removed, for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the Circuit Court, after a hearing held after at least fifteen (15) days written notice.
- 11-2.1.6 Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has an interest.
- 11-2.1.7 The Board shall choose annually its own chairman and vice-chairman who shall act in the absence of the chairman.
- 11-2.1.8 The Town Manager shall appoint a staff member to serve as secretary to the Board of Zoning Appeals, without vote and shall prepare minutes of meetings, keep all records and conduct official correspondence of the Board. In the

absence of the secretary at any meeting, the Board shall appoint some other person, who may or may not be a member of the Board, to prepare the minutes thereof.

11-2.2 Rules and Regulations

- 11-2.2.1 The meeting of the Board shall be held at the call of its chairman or, in his absence, the acting chairman, or at such times as a quorum of the Board may determine.
- 11-2.2.2 The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.
- 11-2.2.3 The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
- 11-2.2.4 All meetings of the Board shall be open to the public. A favorable vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass.
- 11-2.2.5 For the conduct of any hearing and the taking of any action or transaction of official business, a quorum shall be required of not less than three (3) members of the Board.
- 11-2.2.6 In exercising its powers the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from. The concurring vote of three (3) members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the Ordinance or to effect any proceedings and other official actions, which shall be filed in the office of the Board and shall be public records.

11-2.3 Powers and Duties

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

- 11-2.3.1. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this Ordinance or of any ordinance adopted pursuant thereto, in

accord with Section 11-3.13 of this Ordinance, including decisions of the Zoning Administrator. The decision on such appeals shall be based on the Board's judgment of whether the administrative officer was correct. The Board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision. In the case of interpreting the zoning map, the board shall interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. The Board shall not have the power to change the locations of district boundaries as established by Ordinance.

- 11-2.3.2. To authorize upon appeal or original application in specific cases a variance as defined in § 15.2-2201 of the Code of Virginia, from the terms of this Ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this ordinance shall be observed and substantial justice done and the requirements in Section 11-3.12.
- 11-2.3.3. No provision of this section shall be construed as granting any Board the power to rezone property or to base Board decisions on the merits of the purpose and intent of any ordinances duly adopted by the Town Council.
- 11-2.3.4. When giving any required notice to owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail.

11-2.3.5. Records

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep full records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator and shall be a public record.

11-2.3.6. Periodic Reports

The Board shall submit a report of its activities to the Town Council at least once each year.

11-2.3.7. Limitation

All provisions of this Ordinance relating to the Board shall be strictly construed. The Board, as a body of limited jurisdiction, shall act in full

conformity with all provisions and definitions in this Ordinance and in strict compliance with all limitations contained therein.

11-2.3.8. Decisions Subject to Judicial Review

In accord with § 15.2-2314 of the Code of Virginia, as amended, all decisions and findings of the Board shall be final decisions, and shall be subject to judicial review in the following manner:

1. Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board or bureau of the Town, may present to the Circuit Court of Fauquier County a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the Board of Zoning Appeals.
2. Upon the presentation of such petition, the court shall allow a Writ of Certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board of Zoning Appeals and on due cause shown, grant a restraining order.
3. The Board of Zoning Appeals shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
4. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with the commissioner's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
5. Costs shall not be allowed against the Board of Zoning Appeals, unless it shall appear to the court that the Board acted in bad faith or with malice in making the decision appealed from. In the event the decision of the Board is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the Writ of Certiorari.

11-3 Procedures for Application Review and Approval

11-3.1 Types of Permit Applications

This Ordinance provides for the following types of permit applications for land use and development:

1. *Land Disturbance Permit* - subject to review and approval by the Planning Director.
2. *Zoning Permit* - subject to review and approval by the Zoning Administrator.
3. *Building Permit* - subject to review and approval by the Building Official.
4. *Occupancy Permit* - subject to review and approval by the Zoning Administrator.
5. *Site Development Plan* - in accordance with the Zoning Ordinance of the Town of Warrenton and subject to review and approval by the Planning Director.
6. *Subdivision Plat* - in accordance with the Subdivision Ordinance of the Town of Warrenton and subject to review and approval by the Planning Director.
7. *Commission Permit ("2232 Review")* - subject to public review and approval by the Planning Commission.
8. *Zoning Amendment (including Conditional Zoning Procedures)* - subject to review and approval by the Town Council.
9. *Special Use Permit* - subject to review and approval by the Town Council.
10. *Variances* - subject to review and approval by the Board of Zoning Appeals and, for certain cases as provided for herein, subject to review and approval by the Zoning Administrator.
11. *Appeals* - subject to review and approval by the Board of Zoning Appeals.
12. *Additional Governmental Approval*. All departments, officials and public employees of the Town vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits or licenses for uses, buildings or purposes only when they are in conformance with the provisions of this Ordinance. Any such permit or license, if issued in conflict with the provisions of this Ordinance, shall be null and void.

11-3.2 Public Hearing Procedures

11-3.2.1 Advertisement and Notice is Required.

Prior to each public hearing involving planning and zoning matters before the Planning Commission, the Town Council or the Board of Zoning Appeals, the Town shall provide advertisement and written notice as may be required by §§ 15.2-2204 and 15.2-2285 of the Code of Virginia, as amended.

11-3.2.2 Notice by Town.

Notwithstanding any other provisions of this section, whenever the notices required under this Section are sent on behalf of an agency, department or division of the Town, such notice shall be sent by the Zoning Administrator and may be sent by first class mail; however, the Zoning Administrator shall make affidavit that such mailings have been made and file such affidavit with the papers in the pertinent application or case.

11-3.2.3 Notice and Certification by Applicant.

For any application for amendment or development approval for which a public hearing is required before the Planning Commission and the Council and which is initiated by an applicant, the applicant shall be responsible for providing notice in accord with § 15.2-2204 of the Code of Virginia. A certification of notice and a listing of the persons to whom notice has been sent shall be filed with the Zoning Administrator by the applicant at least five days prior to the first public hearing of the Commission. A counterpart of such affidavit shall be presented to the Planning Commission or the Council at the beginning of its public hearing. The applicant may rely upon records of the local real estate assessor's office or the applicable website, if available, to ascertain the names of persons entitled to notice.

11-3.2.4 Condominium Ownership.

In the case of a condominium, written notice may be sent to the unit owner's association instead of to each individual unit owner.

11-3.2.5 Additional Notice Required for Deferrals

If an item is not heard at a public hearing for which it was noticed, but is deferred to a specific date, no additional notice at a public hearing is required by this Section.

11-3.2.6 Additional Notice Required for Recessed Public Hearings.

If a public hearing is begun but the agenda not completed, thereby requiring the meeting to be recessed, no additional notice is required as long as the dates for completion of the public hearing agenda is announced at the hearing which has been recessed.

11-3.2.7 Speakers at Public Hearings.

All witnesses and speakers presenting facts, evidence or opinion at any public hearing shall provide their name, address and affiliation, if any, for the record.

Witnesses or speakers may be required to give oath or affirmation regarding the truth of their statements. At the discretion of the person presiding over the hearing, speakers may be limited as to the time they are allowed to speak.

11-3.3 Land Disturbance Permit

11-3.3.1 Permit Required

No person shall engage in any kind of land disturbing activity, as defined in Article 11, within the Town of Warrenton until they have acquired a Land Disturbance Permit.

Whenever a land disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of the required erosion and sediment control plan and receipt of a land disturbance permit shall be the responsibility of the owner of the land.

11-3.3.2 Plan Submission

If filed separately from a site development plan, three (3) copies of the erosion and sediment control plan shall be submitted to the Administrator. If submitted with the site development plan, the erosion and sediment control plan shall accompany each copy of the site plan submission.

11-3.3.3 Approved Plan.

An approved plan is required before the issuing of any other building or development permits.

11-3.3.4 Plan, Action.

Any erosion and sedimentation plan submitted under the provisions of this Article and ~~the Town's Erosion and Sediment Control Ordinance~~ Chapter 21 of the Town Code, Erosion and Stormwater Management Ordinance, will be acted on within forty-five (45) days from receipt by either approving or disapproving in writing and, if disapproved, giving specific reasons for such disapproval. If no formal action has been taken by the plan approving authority within forty-five (45) days after receipt of a plan, the plan shall be deemed approved.

11-3.3.5 Plan Amendments.

An approved plan may be changed by the plan approving authority in the

following cases:

1. where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or
2. where the person responsible for carrying out the approved plan finds that because of changed circumstances, or for other reasons, the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this Article, are agreed to by the plan approving authority and the person responsible for carrying out the plan.

11-3.3.6 Bonding.

Prior to the issuance of any permit, the Administrator shall also require an applicant to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the Town Attorney for the Town of Warrenton, to ensure that measures could be taken by the Town, at the applicant's expense, should they fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of them by the approved plan as a result of their land disturbing activity. This cash escrow, letter of credit, or other acceptable legal arrangement will provide for a right-of-entry by representatives of the Town, for purposes of inspection, reinstallation, maintenance, or any conservation practices as may be necessary.

1. If the Town takes such conservation action upon such failure by the permittee, the agency may collect from the permittee for the difference should the amount of the reasonable cost of such action exceed the amount of the security held.
2. Within sixty (60) days of the achievement of adequate stabilization of the land disturbing activity, the bond, cash escrow, letter of credit, or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.
3. These requirements are in addition to all other provisions of this Article relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

11-3.3.7 Inspections and Enforcement, Generally.

Inspections shall be performed by the Town's Construction Inspector or Building Official and enforcement shall be performed by the Zoning Administrator.

11-3.3.8 Monitoring, Reports, and Inspections.

The Construction Inspector or Building Official, through the Administrator shall: (i) provide for periodic inspections of the land disturbing activity, and (ii) may require monitoring and reports from the person responsible for carrying out the plan, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. The owner, permittee or person responsible for carrying out the plan, or operator shall be given notice of the inspection. If the plan approving authority through the Administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the mail to the plan certification, or by delivery at the site of the land disturbing activity to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed in violation of this Article and upon conviction shall be subject to the penalties provided in Section 11-5 herein.

With respect to approved plans for erosion and sediment control in connection with all regulated land disturbing activities which require a permit, the Administrator may require of the person responsible for carrying out the plan such monitoring and reports, and may make such on-site inspections, after notice to that person, as are deemed necessary to determine whether the soil erosion and sediment control is performed, and whether such measures are effective in controlling soil erosion and sediment resulting from the land disturbing activity. Such person shall have the opportunity to accompany the inspector on any on-site inspection.

After land clearing operations have begun, no area shall be denuded for more than thirty (3) days unless authorized by the Administrator. All trenches for storm, sewer, water, and gas lines are to be backfilled, compacted, seeded, and mulched within seven (7) days of backfill.

11-3.3.9 Acceptance of Performance.

Upon completion of an approved erosion and sedimentation control plan, the permittee shall notify the Administrator of such completion. The Town Construction Inspector or Building Official shall then inspect the work and plantings, and upon their determination that they are in compliance with the approved plan, they shall notify the Administrator, who shall issue a letter of

preliminary acceptance. A condition of any such preliminary acceptance shall be that the applicant or permittee guarantee all erosion and sedimentation control work for a period of one (1) year from the date of its preliminary acceptance, or for a period of one (1) year from repair or replanting ordered by the Administrator, until such time that all control structures and a minimum of ninety (90) percent of all plantings shall have survived for a year without need of further replanting or repair. The Administrator may order in writing such replanting or repair work as shall be deemed necessary to enforce compliance with the approved plan and guarantee at any time during the one (1) year period. Such an order shall serve to revoke the preliminary acceptance and shall cause the applicant to renew the guarantee for an additional one (1) year from the date of replanting or repair. Final acceptance shall occur when preliminary acceptance has remained unrevoked for a period of one (1) year, or when all control structures and a minimum of ninety (90) percent of all plants have survived for a period of one (1) year without need of further replanting or repair. For the purposes of this Article, normal cleaning of silt basins alone shall not be construed to be repair work.

11-3.3.10 Appeals.

Final decisions of the Administrator under this Article shall be subject to review by the Board of Zoning Appeals, provided, that an appeal is filed within thirty days from the date of any written decision by the Administrator.

Final decisions of the Administrator or Board of Zoning Appeals under the Article shall be subject to review by the Fauquier County circuit court, provided, that an appeal is filed within thirty (30) days from the date of the final written decision of the Board.

11-3.3.11 Violations; Remedies; Civil Penalties; Notice.

1. Stop Work Order.

Upon receipt of a sworn complaint of a violation of this Article from the representative of the program authority or the Board responsible for ensuring program compliance, the chief administrative officer of the program authority or the Board may, in conjunction with or subsequent to a notice to comply as specified in subsection A above, issue an order requiring that all or part of a land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken or, if land-disturbing activities have commenced without an approved plan requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. Where the alleged

noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply as specified in subsection A above. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply.

The order shall be served in the same manner as a notice to comply, and shall remain in effect for seven days from the date of service pending application by the enforcing authority or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the chief administrative officer or his designee may issue an order to the owner requiring that all construction and other work on the site other than corrective measures be stopped until an approved plan or any required permit have been obtained.

Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the locality in which the site is located. The owner may appeal the issuance of an order to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. Any person violating or failing, neglecting, or refusing to obey an order issued by the chief administrative officer or his designee may be compelled in a proceeding instituted in the circuit court of the jurisdiction wherein the violation was alleged to have occurred to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

2. Civil Penalties, generally.

Except as set out immediately herein below, any person who violates this Article may be liable to the Town in a civil action for civil penalties of One Hundred Dollars (\$100.00) for any one violation. Each day during which the violation is found to have existed shall constitute a separate offense. The total civil penalties for a series of specified violations arising from the same operative set of facts shall not exceed Three Thousand Dollars (\$3,000.00). Notwithstanding the foregoing, the civil penalty for commencement of land-disturbing activities without an

approved permit as provided in ~~Section 4-5 of this ordinance~~ Chapter 21 of the Town Code, Erosion and Stormwater Management Ordinance, shall be One Thousand Dollars (\$1,000.00), except that civil penalties for a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not exceed a total of Ten Thousand Dollars (\$10,000.00).

3. Injunctions and Other Relief.

Notwithstanding any other relief or remedy available under this Article, the Administrator may apply to the Circuit Court of Fauquier County for injunctive or such other equitable relief as might be appropriate in the case of a violation or threatened violation of any of the provisions of the Article, without the necessity of showing that there does not exist an adequate remedy at law.

4. Notice of Violation.

In no case shall the Administrator begin legal action to enforce the provisions of this Article unless and until they have first given, or made diligent effort to give, specific notice to the applicant or permittee, as the case may be, of any violation of this Article for which such legal or equitable relief is to be sought. Such notice shall give the applicant or permittee a reasonable opportunity under the particular circumstances to correct the situation before the enforcement action is brought.

5. Civil Penalties.

Any person violating or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to this Article shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation.

6. Cumulative Remedies.

The remedies provided for in this Article shall be cumulative in the sense that the imposition of, or attempt to impose, one (1) remedy shall not act as a restriction of any right to impose or attempt to impose, any other remedy authorized by this Article.

7. Administrative Fines.

With the consent of any person who has violated or failed, neglected or

refused to obey any regulation or order of the Administrator, or any condition of a permit or any provision of this Article, the Town Council, or the Administrator may provide, in an order issued by the Town Council or the Administrator against such person, for payment of civil charges for violations in specific sums, not to exceed Two Thousand Dollars (\$2,000) for each violation. Such civil charges shall be instead of any appropriate civil penalties which could be imposed as outlined in Section 11-5.

11-3.3.12 Criminal Penalties - Misdemeanor.

Violators of this Article shall be guilty of a Class One misdemeanor and subject to a fine not exceeding \$2,500, or twelve months imprisonment in jail, or both, for each violation.

11-3.4 Zoning Permits

11-3.4.1 Zoning Permit Required

No permitted principal or accessory building, structure or use, or building, structure or use permissible by special exception, shall be constructed, reconstructed, moved, added to or structurally altered or otherwise allowed without a zoning permit issued by the Zoning Administrator. A zoning permit is required in all cases where a building permit is required.

Failure to obtain a zoning permit shall be a violation of this chapter and punishable under Section 11-5.

The Zoning Administrator shall maintain a record of all zoning permits and a copy shall be furnished, upon request, to any person.

11-3.4.2 Application for Zoning Permit

An application for a Zoning Permit shall be made to the Zoning Administrator, who shall require and be furnished by the applicant with all plans and documents as may be determined to be necessary to evaluate whether the proposed structure and facilities will be in compliance with the provisions of this Ordinance.

In order for an application for a zoning permit to be deemed complete, each such application shall be accompanied by the following items, unless waived by the Zoning Administrator as not pertinent. The Zoning Administrator may also require additional information necessary in order to determine if the

application conforms with the provisions of this Ordinance.

1. A statement from the Town Director of Public Works that all applicable regulations and requirements for water and wastewater facilities have been complied with.
2. A complete description of the intended use or uses.
3. If a dwelling, the number of housekeeping units within the structure.
4. A plot plan signed by the applicant drawn to scale showing dimensions of the structure with respect to property lines and public highways; provided, no part of which is to be located less than the required setback distance from any property line or right-of-way of any public highway.
5. Number, size, location and lighting of signs, if any.
6. Off-street parking and other facilities.
7. Proposed utilities and their locations.
8. Drainage design and proposal.
9. Topographic map, if determined to be necessary by the zoning administrator.
10. Fee in accord with the fee schedule adopted by the Town Council.

11-3.4.3 Standards for Issuance

Zoning permits issued on the basis of plans and applications approved by the zoning administrator authorize only the use, arrangement and construction set forth in the approved plans and applications, and no other use, arrangement or construction. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this chapter and punishable as provided under Section 11-5.

No zoning permit shall be issued where it appears that the structure to be constructed or the use contemplated would be in violation of the provisions of this Ordinance or any other applicable law, ordinance or regulation. The issuance of a zoning permit shall not afford protection to any owner who is found to be in violation of this Ordinance or any other applicable law, ordinance or regulation.

If it appears that the proposed structure and use of land or structure is in conformity with the provisions of this chapter, a zoning permit shall be issued to the applicant by the zoning administrator. If an intended use is found to be in compliance with this Ordinance, before proceeding, the applicant is still required to ensure compliance with the Virginia Uniform Statewide Building Code, and all other applicable laws, ordinances and regulations.

Approval or denial of a zoning permit shall be made within ten (10) working

days of the time at which the Zoning Administrator has deemed that the zoning permit application is complete.

11-3.4.4 Duration of Valid Zoning Permit

Any zoning permit issued shall be valid for one year. If an applicant has not completed construction of the building after one year of receiving the permit, the applicant may re-apply.

11-3.5 Building Permits

11-3.5.1 Building Permit Required

No principal or accessory building, structure or use shall be constructed, reconstructed, moved, added to or structurally altered or otherwise allowed without a building permit issued by the Building Official.

Failure to obtain a building permit shall be a violation of this chapter and punishable under Section 11-5 of this Ordinance.

The Building Official shall maintain a record of all building permits and a copy shall be furnished, upon request, to any person.

11-3.5.2 Application for Building Permit

An application for a Building Permit shall be made to the Building Official, who shall require and be furnished with all such plans and documents as may be required to determine whether the proposed structure and facilities will be in compliance with the provisions of this ordinance and with the Virginia Statewide Uniform Building Code.

In order for an application for a Building Permit to be deemed complete, each such application shall be accompanied by the following items, unless an item is deemed not pertinent by the Building Official, and such additional information as the Building Official may require as being necessary in order to determine if the application conforms with the provisions of this Ordinance and the Building Code:

1. The size and shape of the parcel of land on which the proposed building is to be constructed
2. Scale drawings which accurately show the design, construction, dimensions and materials of all proposed buildings and structures
3. The location of such buildings and structures with respect to the property

lines of said parcel of land, and the right-of-way of any street or highway adjoining said parcel of land.

4. Proposed utilities and their location.
5. Drainage scheme.
6. Fee in accord with the fee schedule adopted by the Town Council.

11-3.5.3 Standards for Issuance

Building permits issued on the basis of plans and applications approved by the Building Official authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this chapter and punishable as provided under Section 11-5 of this chapter.

No building permit shall be issued before receipt of a zoning permit for the proposed use and structure. Building and zoning permits for the same use and structure may be submitted, reviewed and approved concurrently.

No building permit shall be issued where it appears that the structure to be constructed or the use contemplated would be in violation of the provisions of this Ordinance or any other applicable law, ordinance or regulation. The issuance of a building permit, however, shall not afford protection to any owner who is found to be in violation of this Ordinance or any other applicable law, ordinance or regulation.

If the proposed structure is in conformity with the provisions of this Ordinance and the Virginia Uniform Statewide Building Code, a building permit shall be issued to the applicant by the Building Official.

Approval or denial of a building permit shall be made within ten (10) working days of the time at which the Building Official has deemed that the application for permit is complete.

11-3.5.4 Duration of Valid Building Permit

Building permits issued shall be valid for one year.

11-3.6 Occupancy Permit

11-3.6.1 Occupancy Permit Required.

Land may be used, and buildings occupied, structurally altered, erected, or

changed in use for any purpose as permitted in the District in which such land or building is located, only after an occupancy permit has been issued by the Zoning Administrator. Such a permit shall state that the building or the proposed use, or the use of the land, complies with the provisions of this Ordinance. A similar permit shall be issued for the purpose of maintaining, renewing, or changing a nonconforming use. An occupancy permit either for the whole or a part of a building or the use of the land shall be applied for simultaneously with the application for a building permit.

11-3.6.2 Standards for Issuance.

The Occupancy Permit shall be issued within ten (10) days after final approval by the Building Official of the erection or structural alteration of such building or part which has conformed with the provisions of this Ordinance and all previously issued permits and approvals for the site, including building permits, zoning permits and site plans.

No Occupancy Permit shall be granted until all improvements shown on any approved site plan have been completed in accordance therewith.

11-3.7 Site Development Plan

11-3.7.1 Site Development Plan Required

No person shall commence any use or erect any structure, including additions to existing structures, parking areas or other required site plan features, without first obtaining the approval of a site development plan by the Planning Director as set forth in this article. No use shall be carried on, no structure erected or enlarged, and no other improvement or construction undertaken, except as shown upon an approved site development plan.

A site development plan shall be required for the following uses in the enumerated districts:

- Multi-family dwellings, town houses and all other dwellings except single family detached, two-family and accessory dwellings.
- All uses in the RO, PSP, CBD, LI and C Districts
- For all special use permits

11-3.7.2 Exemptions from Site Development Plan Requirement

The following are exempt from having to file a site plan: the lawful

construction, alteration and occupancy of a single or two-family dwelling or accessory unit, with or without a garage. Exemption from the site plan requirements does not authorize violation of any other provision of this Ordinance.

11-3.7.3. Site Development Plan Requirements

Every site plan shall be submitted to the Planning Director in accordance with the applicable standards and regulations for Site Development Plans as provided in the Town of Warrenton Subdivision and Development Ordinance.

11-3.7.4. Review and Approval

Upon receipt of any Site Development Plan, the Zoning Administrator shall review it in accordance with the applicable procedures, standards and regulations for Site Development Plans as provided in this Ordinance.

11-3.7.5. Revisions To, Or Deviation From, Approved Plan.

After a Site Development Plan has been approved by the Zoning Administrator, minor adjustments of the plan, which are in substantial compliance with this article and the other provisions of this Ordinance and which serve the overall purposes of this section, may be approved by the Zoning Administrator. Deviation from an approved site plan without the written approval of the zoning administrator shall void the plan and the Zoning Administrator shall require the applicant to resubmit a new plan for consideration. Any major revision of an approved Site Development Plan shall be made in the same manner as the originally approved plan.

11-3.8 Commission Permit (“2232 Review”)

11-3.8.1 Permit Required

In accord with the Code of Virginia, §15.2-2232, no street, park or other public area or public structure, public utility, public building or public service corporation facility other than railroads, whether publicly or privately owned, shall be constructed, established or authorized unless and until the general location or approximate location, character and extent thereof has been submitted to and approved by the Planning Commission as being substantially in accord with the adopted comprehensive plan or part thereof.

Widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas shall likewise be submitted for approval, but paving,

repair, reconstruction, improvement, drainage or similar work and normal service extensions of public utilities or public service corporations shall not require approval, unless involving a change in location or extent of a street or public area.

11-3.8.2 Application

An application for a commission permit shall be filed with the Zoning Administrator and shall meet the minimum submission requirements as prescribed for a zoning permit in Section 11-3.4.2. and in addition shall include a written statement of justification from the applicant as to why the proposed improvement should be deemed to be in accord with the Comprehensive Plan.

An application is not necessary for features already specifically shown on the Comprehensive Plan, as determined by the Planning Director.

11-3.8.3 Planning Commission Action

In connection with any such determination, the Planning Commission may, and at the direction of the Town Council shall, hold a public hearing, after notice as required by §15.2-2204 of the Code of Virginia.

The Planning Commission shall communicate its findings pursuant to this section to the Town Council, indicating its approval or disapproval, along with written reasons therefore. Failure of the commission to act within sixty (60) days of submission of an application, unless such time is extended by the Council, shall be deemed approval.

11-3.8.4 Issuance of Permit; Town Council Review

The Zoning Administrator, on behalf of the Planning Commission, shall issue a Commission Permit following approval by the Planning Commission pursuant to this section. The Council may overrule the action of the Commission by a vote of a majority of its membership.

11-3.8.5 Appeal of Denial of Permit

The owners or their agents may appeal the decision of the Planning Commission to the Council within ten (10) days after the decision of the Commission. The appeal shall be by written petition to the Council setting forth the complete reasons for the appeal. The appeal shall be heard by the Council within sixty (60) days of its submission. A majority vote of the Council shall overrule the Commission.

11-3.9 Zoning Amendments

11-3.9.1 Authority for Change.

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Town Council may, by ordinance, amend, supplement, or change the regulations, district boundaries, or classifications of property. Any such amendment may be initiated by resolution of the Town Council, or by motion of the Planning Commission, or by petition of any property owner, addressed to the Town Council, in accord with the procedures and requirements of this Ordinance.

The regulations, restrictions and boundaries established in this Ordinance may, from time to time, be amended, supplemented, changed, modified or repealed, by ordinance, by a majority vote of the Town Council after recommendation by the Planning Commission, provided that a public hearing shall be held in relation thereto at which parties in interest and citizens shall have an opportunity to be heard; and that notice shall be given of the time and place of such hearing as provided for in §§ 15.2-2204 and 15.2-2285 of the Code of Virginia, as amended.

11-3.9.2 Initiation of Amendment

Either a zoning map or text amendment may be proposed by resolution of the Town Council, by motion of the Planning Commission, or by application by the owner, contract purchaser with the owner's written consent, or the owner's agent therefore, of the property which is the subject of the proposed amendment.

11-3.9.3 Submission of Application for Amendment.

Every application for amendment of the Zoning Ordinance shall contain the following items, as applicable. Applicability shall be determined by the Planning Director who may waive or modify any of the designated submission items if appropriate given the nature of the application and so as to facilitate review by the Town and the public. Five (5) copies of the complete application shall be submitted.

1. The applicant's name, address, phone number and email address, and signature.
2. The applicant's authorized representative's name, address, phone number and email address.

3. The property owner's name, address, phone number and email address and signature.
4. A summary of existing data and conditions of the property, including:
 - Existing zoning classification
 - Tax Map and parcel numbers
 - Address of the property
 - Total acreage
5. A plan of the property, at a scale of 1"=200', showing the extent of the area to be rezoned, streets bounding and intersecting the area, the land use and zone classification of abutting districts, and photographs of the area to be rezoned and abutting areas.
6. A plan to a scale of 1" = 200', unless an alternative scale is requested and approved by the Planning Director, indicating the locations of existing and proposed topography, vegetation, floodplain, wetlands, structures, uses, streets, and areas for off-street parking and loading.
7. A boundary survey of the property to be rezoned
8. Information at the time of submission, on all parcels contiguous to the subject property and any property within 100 feet of the boundary, including:
 - Existing zoning
 - Existing land use
 - Proposed land use
 - Historic buildings or structures
9. A statement of justification that explains the circumstances in the proposed district and the abutting districts and any other factors on which the applicant relied as reasons for supporting the proposed zoning amendment, including the degree of compliance of the proposed request and subsequent development plans with the provisions of the Comprehensive Plan.
10. The approximate time schedule for the beginning and completion of development in the area and any proposed phasing of the development.
11. A Concept Development Plan for the property, showing the proposed uses and their general relationships within the site and external to the site, including proposed structures, uses, streets, parking areas, open space areas, vegetation, sidewalks and trails and means of access to the existing road system
12. A Traffic Study that shows the projections for trip generation, traffic volume and levels of service on site and on the adjacent road system,

including provisions for safely accommodating both vehicular and pedestrian traffic.

13. Information about the market area to be served by the proposed development if a commercial use, including population, effective demand for proposed business facilities, and any other information describing the relationship of the proposed development to the needs of the market area.
14. A statement of Impact Mitigation describing and analyzing the various impacts of the proposed rezoning, including fiscal, environmental conditions, and public facilities and utilities impacts, and the proposed methods for mitigating any anticipated impacts.
15. Any development conditions or proffers
16. Disclosure of Real Parties in Interest
17. Certificate of Payment of Taxes, verifying that real estate taxes have been paid for all property included in the application.
18. Record of Pre-Application Conference
19. Fees, in accord with the fee schedule adopted by the Town Council
20. A statement describing in detail the existing character of the area.

11-3.9.4 Staff Review of Application

1. Pre-Application Conference.

Prior to filing an application, an applicant shall meet with the Planning Director and discuss the proposed application and land uses and questions regarding the procedures or substantive requirements of this Ordinance. In connection with all such conferences, the Zoning Administrator shall be consulted as appropriate. A request for a pre-application conference shall be made to the Planning Director and shall be accompanied by a sketch map of the site, a description of the proposed project or use, and a list of the issues to be discussed at the conference. The Planning Director shall respond to each written request for a pre-application conference within fifteen (15) calendar days of receipt.

2. Review of Application for Completeness.

No application shall be accepted and reviewed unless determined by the Planning Director to be complete. A complete application is one which meets the minimum submission requirements established herein. Each application shall be reviewed to determine if it includes the minimum submission requirements. The Planning Director shall maintain a current log of all pending complete applications.

3. Acceptance of Complete Application.

Within fifteen (15) calendar days of submission of the application, the Planning Director shall either officially accept the application as complete and forward to the applicant a notice of acceptance, or reject the application if it is incomplete and forward to the applicant a notice of incompleteness specifying those areas of additional information necessary for acceptance and review.

If a notice of incompleteness is issued, the applicant may resubmit the application with the additional data required. Upon resubmission, the Planning Director will review the resubmitted application in the manner provided in this section for the original application.

If the application is not resubmitted within sixty (60) days of being determined incomplete, the Planning Director shall notify the applicant that the original application has been rejected as incomplete.

4. Referrals. Upon official acceptance of the application for zoning amendment, the Planning Director shall forward a copy of the application to all town departments and county or state agencies whose comments are necessary or desirable for full and appropriate review of the merits of the application.
5. Referral responsibilities. Each reviewing agency shall prepare a staff report of referral comments which sets out in writing its comments and recommendations regarding the application and shall forward such staff report to the Director of Planning.
6. Review of Referrals. All referral comments shall be provided to and reviewed by the Director of Planning within thirty (30) calendar days after an application has been officially accepted. The Planning Director shall forward to the applicant a written review of the issues raised by the application.
7. Applicant Response. Upon receipt of the written report from the Planning Director, an applicant may submit a written request for a meeting with the Planning Director to discuss the matters contained in the report and the application. Such request shall include a response to the matters raised in the Director's written report.
8. Required Action by Other Entities. In the event that this Ordinance requires that an application not be granted until acted upon by some government board or agency other than the Town Planning Commission

and Council, the Planning Director shall forward the application for amendment to such board or agency for appropriate action prior to notification to an applicant that an application is ready to be presented to the Planning Commission or Town Council. The Planning Commission may make its recommendations on an application contingent on required action by the other boards or agencies.

9. Report and Notice to Applicant. The Planning Director shall compile the referrals and other information pertinent to the application, prepare a written staff report with proposed findings and recommendations as to the application, and notify the applicant that the report is complete and the application is ready to be presented to the Planning Commission and Town Council for public hearing.
10. Submission to Planning Commission. Within sixty (60) days of formal acceptance of the application, the Planning Director shall forward the application and staff report to the Planning Commission for its review.

11-3.9.5 Amendment to Application

An application may be amended by the submission of additional information or proposed changes to the application after it has been officially accepted. If the additional information or proposed changes submitted are to conform with recommendations made by Town staff, commissions or boards, then it shall not be deemed an amendment and the application shall continue to be processed on its original time line.

However, if the additional information or proposed changes submitted by the applicant are at the applicant's request, then the Planning Director shall review the information within fifteen (15) calendar days of receipt and render a finding as to whether the submitted information necessitates repeating any portion of the review process including public hearings. If any portion must be repeated, the Director shall notify the applicant in writing within the fifteen (15) calendar day period that the additional information or proposed changes must be withdrawn, submitted as a new application, or will require the applicant to approve an extension of the time limits prescribed in this Section and such notice shall specify the required extension. The applicant will then have fifteen (15) calendar days to provide the Director with a written response either granting the necessary extension or withdrawing the additional information or proposed changes. If the applicant chooses to withdraw the information, then the application will proceed based on its original timeline.

11-3.9.6 Withdrawal of Application

An application for rezoning may be withdrawn at any time upon written request by the applicant and with the consent of either the Planning Commission or the Town Council, whichever body has advertised the hearing; There shall be no refund of rezoning fees in the case of withdrawal either before or after advertising. In the event of and upon such withdrawal, processing of the motion, resolution or petition shall cease without further action.

11-3.9.7 Planning Commission Review.

Within sixty (60) calendar days after a zoning amendment application has been submitted to the Planning Commission from the Planning Director, and generally within one hundred twenty (120) days after official acceptance of the application by the Town, the Planning Commission shall hold a public hearing on the application after notice as required by § 15.2-2204 of the Code of Virginia.

11-3.9.8 Report by Planning Commission

The Planning Commission shall report to the Town Council its recommendation with respect to the proposed amendment. Failure of the Planning Commission to report to the Town Council within one hundred (100) days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, shall be deemed a recommendation for approval, unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period

If the proposed amendment consists of a change in the text of this Ordinance, the Commission may recommend revisions to the proposal. If the proposed amendment consists of a change in zoning district boundaries, it may recommend that the land be rezoned to a different zoning district classification than that requested if the Commission is of the opinion that such revision is in accord with sound zoning practice and the adopted Comprehensive Plan, is in furtherance of the purposes of this Ordinance and is not more intensive than the advertised/noticed proposed use. Before recommending a larger extent of land or a rezoning to a more intensive classification than was set forth in the application, the Commission shall hold an additional duly noticed public hearing on the matter.

In recommending the approval or denial of any proposed amendment to this Ordinance, the Planning Commission should state its reasons for such

recommendation.

Tabling or deferring an application for rezoning on the grounds of inadequate data may be requested by the applicant for a period of no longer than ninety (90) days, after which the application shall be considered to be automatically withdrawn. All costs involved in re-applying and re-advertising shall be paid by the applicant.

11-3.9.9 Town Council Review and Action.

After receiving the report of the Planning Commission, or after the lapse of one hundred (100) days past the initial meeting of the Planning Commission on the application without Commission recommendation, the Town Council shall hold its own public hearing after notice and advertising required by § 15.2-2204 of the Code of Virginia. The Council may approve the zoning amendment as requested by the applicant, it may deny the amendment, or it may approve a zoning classification of less intensity than that requested, if available in the Ordinance, without holding a new hearing. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing. The Town Council must act on the proposed zoning amendment within one year of official acceptance of the application.

11-3.9.10 Evidentiary Matters Before the Town Council

All information, testimony or other evidence presented by an applicant for a zoning amendment shall be presented to the Planning Commission in conjunction with its review and hearing on the application. If the Town Council determines that an applicant is presenting evidence which is substantially or materially different from that presented to the Commission, the Council may refer the application back to the Commission for such additional consideration and action as the Council may deem appropriate. All costs in re-advertising shall be paid by the applicant.

11-3. 9.11 Contesting a Decision of the Town Council

Every action contesting a decision of the Town Council for granting or failing to adopt a proposed zoning ordinance or amendment thereto or granting or failing to grant a special exception or special use permit, shall be filed within thirty (30) days of such decision with the Fauquier County Circuit Court.

11-3.9.12 Criteria for Consideration of Zoning Map Amendments.

In considering requests for zoning map amendments, the Planning Commission and Town Council should consider, among other issues, the following factors:

1. whether the rezoning request, if granted, would further the public interest, and whether it conforms with the goals, objectives, and policies of the Comprehensive Plan;
2. whether the rezoning is consistent with the town's Future Land Use Plan, as identified in the Comprehensive Plan, and established character of the area and land use patterns;
3. whether the rezoning is justified by changed or changing conditions;
4. whether the rezoning, if granted, would create an isolated district unrelated to adjacent districts;
5. whether utility, sewer and water, transportation, school, recreation, stormwater management and other facilities exist or can be provided to serve the uses that would be permitted on the property if it were rezoned;
6. whether the rezoning will be compatible with properties and uses in the vicinity and not have an adverse impact on these properties or their values;
7. whether there are adequate sites available elsewhere in the Town for the proposed use, or uses, in districts where such uses are already allowed;
8. whether the impact that the uses that would be permitted if the property were rezoned will have upon the volume of vehicular and pedestrian traffic and traffic safety in the vicinity and whether the proposed rezoning provides sufficient measures to mitigate such impacts;
9. whether a reasonable and viable economic use of the subject property exists under the current zoning;
10. whether the effect of the proposed rezoning on environmentally sensitive land or natural features, wildlife habitat, vegetation, water quality and air quality is compatible with the Town's Comprehensive Plan;
11. whether the proposed rezoning encourages economic development activities in areas designated by the Comprehensive Plan and provides desirable employment and enlarges the tax base;
12. whether the proposed rezoning considers the current and future requirements of the community as to land for various purposes, including housing and business, as determined by population and economic studies;
13. the effect of the proposed rezoning to provide moderate housing by enhancing opportunities for all qualified residents of the Town; and
14. the effect of the rezoning on natural, scenic, archaeological, or historic features of significant importance.

11-3.9.13 Criteria for Consideration of Text Amendments.

If the request is for an amendment of the text of this Ordinance, the Planning Commission and Town Council shall consider the following matters, in addition to any relevant matters included in Section 11-3.9.12:

1. Whether the proposed text amendment is consistent with the Comprehensive Plan.
2. Whether the proposed text amendment is consistent with the intent and purpose of this Ordinance.

11-3. 9.14 Joint Public Hearing.

The Town Council and the Planning Commission may hold a joint public hearing following proper public notice under § 15.2-2204 of the Code of Virginia, as amended.

11-3.9.15 Majority Requirement for Change in Ordinance.

An affirmative vote of at least a majority of the members of the Town Council shall be required to adopt, amend, or reenact a zoning ordinance.

11-3.9.16 Timing of Application Consideration and Reconsideration

Proposed amendments shall be considered as soon as feasible, based on the regular schedule of the Planning Commission and the Town Council meetings and the schedule of newspaper publication relative to public notice.

Upon the denial of any application filed to change a zoning district designation, no further application concerning any or all of the same property shall be filed for rezoning to the same use in less than twelve (12) months from the time of denial by the Town Council, unless this requirement is specifically waived by the Town Council.

11-3.9.17 Conditional Zoning

1. Purpose and Authority

As part of a petition to rezone property and amend the official zoning map, the property owner may voluntarily proffer in writing certain conditions and restrictions on the use and development of his property, such conditions being in addition to, or modification of, the regulations provided for a particular zone or zoning district by this Ordinance. The

Zoning Administrator shall be vested with all necessary authority to administer, interpret and enforce such conditions and restrictions, all in accordance with the terms of §15.2-2296 et seq. of the Code of Virginia, as amended..

While the conditions may vary from property to property by reason of the nature of the use and different circumstances at a particular location, it is not the intention of this section to authorize conditions limited to a particular individual or group, owner, or operator, and the provisions of this section shall not be used for the purpose of discrimination in housing.

2. Proffered Conditions.

As a part of an application for rezoning or amendment to the zoning district map, the owner or owners of the property involved may, prior to a public hearing before the Town Council, voluntarily proffer in writing such reasonable conditions, in addition to the regulations provided for the zoning district or districts as herein set forth, as he deems appropriate for the particular case to address impacts of the proposed use.

For the purpose of this Ordinance, proffered conditions may include written statements, development plans, profiles, elevations, and/or other demonstrative materials. Materials of whatever nature and intended as proffers shall be annotated with the following statement signed by the owner or owners of the subject property: "I (we) hereby voluntarily proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission unless an amendment thereto is mutually agreed upon by the Town Council, and the undersigned."

3. When Proffers Are Made.

Proffered conditions should be submitted for Staff review as part of the initial application for rezoning..

Proffered conditions made at the Planning Commission meeting shall be forwarded to the Town Council prior to the Council's public hearing.

To be considered by the Planning Commission, proffers must be submitted with the application prior to advertising for public hearing.

4. Contents of Proffer.

Proffered conditions shall be signed by all persons having an ownership interest in the property and shall be notarized. Proffered conditions shall contain a statement that the owners voluntarily enter into the proffers contained therein.

5. Review and Revision of Proffered Conditions.

Additional conditions may be proffered by the applicant during or subsequent to the public hearing before the Planning Commission, provided however that after proffered conditions are signed and made available for public review and the public hearing before the Town Council has been advertised (whether or not jointly held with the Planning Commission) no change or modification to any proffered condition shall be approved without a second advertised public hearing thereon.

6. Modifications to Proffers.

After the Town Council's public hearing has been advertised, should additional or modified conditions be proffered by the applicant, which conditions were specifically discussed at the public hearing before the Planning Commission, then a second public hearing need be held only before the Town Council before the application and the modified conditions can be reviewed and acted on by the Council.

7. Additional Conditions.

Should additional conditions be proffered by the applicant at the time of the public hearing before the Town Council, which conditions were not addressed at the public hearing before the Planning Commission, or if the proffered conditions are modified beyond the scope of any conditions considered at the public hearing before the Planning Commission, the application shall be the subject of a second public hearing before both the Planning Commission and the Town Council, which hearing may be held either separately or jointly.

8. Annotation of Zoning District Map.

The zoning district map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The Zoning Administrator shall keep in his office and make available for

public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district. Such conditions shall become a part of the zoning regulations applicable to the property in question, regardless of changes in ownership or operation, unless subsequently changed by an amendment to the zoning district map, and such conditions shall be in addition to the specific regulations set forth in this Ordinance for the zoning district in question.

9. Enforcement of Conditions.

The Zoning Administrator shall be vested with all necessary authority on behalf of the Town Council to administer, interpret and enforce conditions attached to a rezoning or amendment to the zoning district map, including: (a) the ordering in writing of the remedy of any noncompliance with such conditions; (b) the bringing of legal action to insure compliance with such conditions, including injunction, abatement, or other appropriate action or proceeding; and (c) requiring a guarantee, satisfactory to the Town Council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the Town Council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Provided, further, that failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

Upon approval by the Town Council, proffered conditions shall become a part of the zoning regulations applicable to the property, and are enforceable under the same provisions for enforcement as all other provisions in the Ordinance.

10. Substantial Conformance Required.

Upon approval, any site plan, subdivision plat or development plan thereafter submitted for the development of the property in question shall be in substantial conformity with the approved zoning and all proffered statements, plans, profiles, elevations, or other demonstrative materials, and no development shall be approved by any Town official in the absence of said substantial conformity.

11. Substantial Conformance Defined.

For the purpose of this Section, substantial conformity mean that conformity which leaves a reasonable margin for adjustment due to final engineering data but conforms with the general nature of the development, the specific uses, and the general layout depicted by the plans, profiles, elevations, and other demonstrative materials presented or proffered by the applicant. Determinations of substantial conformance shall be made by the Zoning Administrator.

12. Guarantee for Construction of Improvements.

A guarantee, satisfactory to the Town Council, may be required in an amount sufficient for and conditioned upon the construction of any public improvements required by a rezoning request and the proffered conditions. This guarantee may be reduced or released by the Council or agent thereof, upon the submission of satisfactory evidence that the construction of such improvements has been completed in whole or in part. The guarantee shall be required no later than final site plan or subdivision approval, whichever may occur earlier in time.

13. No Permits Shall Be Issued That Do Not Comply With Proffers.

Failure to meet or comply with any proffered conditions shall be sufficient cause to deny the issuance of any site plan or subdivision approvals, grading permits, zoning permits, building permits, or certificates of occupancy as may be determined appropriate by the Zoning Administrator. In addition to the other penalties appropriate for violations of this Ordinance, failure to meet or comply with any proffered condition shall be sufficient cause to deny the issuance of any development approvals or permits relating to the land area which was the subject of the conditional zoning. To this end, each application for a development approval or permit shall include an affidavit by the applicant that all applicable proffers have or will be complied with as agreed upon at the time of rezoning. The burden shall be on the applicant to verify that proposed development complies with all proffered conditions.

14. Appeal of Proffer Decision.

Any person aggrieved by a decision of the Zoning Administrator regarding any proffered condition may appeal such decision to the Town Council. Such appeal shall be filed within thirty (30) calendar days from

the date of the decision being appealed by filing a notice of appeal with the Zoning Administrator. Such notice shall be a written statement specifying the grounds on which aggrieved and the complete basis for the appeal. Upon receipt of the appeal notice, the Council shall take such testimony as it deems appropriate and should render its decision within sixty (60) calendar days after receipt of the appeal notice. The Town Council may reverse or affirm wholly or partly or may modify the decision of the Zoning Administrator.

15. Change of Approved Conditions.

Once proffered conditions have been approved, and there is cause for an amendment which would not be in substantial conformity with them, then an application shall be filed for an amendment of the proffered conditions. Applications can be filed by any landowner subject to conditions proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303 or 15.2-2303.1 and Section 1 of this Article. Written notice of such application shall be provided as prescribed in Section H of § 15.2-2204 to any landowner subject to such existing proffered conditions. The approval of such amendment or variation by the Town Council shall not in itself cause the use of any other property to be determined a non-conforming use per Section 11-4.3 of this Ordinance.

If the amendment concerns an approved site development plan, such application shall include the submission requirements for a site development plan set forth in Section 11-3.7 of this Ordinance, except that the Planning Director may waive any submission requirement if such requirement is not necessary for an adequate review of the amendment application. Such amendment shall be the subject of public hearing in accordance with the requirements for a new application. No such amendment or variation of any conditions proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303 or 15.2-2303.1 and Section 1 of this Article until after public hearings before the Planning Commission and Town Council are advertised pursuant to Article 11-3.2 of this Ordinance. Where a landowner subject to the conditions noted above requests an amendment to such proffered conditions and where such amendment does not affect conditions of use or density, the Town may waive requirements for public hearings.

11-3.10 Special Use Permits and Waivers

11-3.10.1 Authorization.

Uses listed in the district regulations as “permissible uses upon approval by the Town Council” shall be reviewed and acted upon by the Planning Commission and Town Council as provided in Section 11-3.2 of this Ordinance.

Uses listed in the district regulations as “permissible uses upon approval by the Town Council” shall be reviewed and acted upon by the Town Council as provided in Section 11-3.10.10 of this Ordinance.

Special use permits may be granted to establish or construct uses or structures which have the potential for a harmful impact upon the health, safety, and welfare of the public upon finding that the use, with conditions, will not have a deleterious impact, and will reflect the spirit and intent of the Comprehensive Plan as well as this Ordinance.

In acting on a request for a special use permit, the Town Council shall consider the impact of the requested special use.

Only those special use permits that are expressly authorized in a particular zoning district, or elsewhere in this Ordinance may be approved, including waivers where authorized. The Council may approve special use permits or waivers subject to conditions on such permits that shall apply to the property or use, regardless of any change in ownership.

11-3.10.2 Application.

Application for a special use permit shall be filed on the appropriate form therefore as provided by the Zoning Administrator and in accordance with the instructions which accompany the form. Special use permit applications shall contain the same information as required for zoning amendment applications set forth in Section 11-3.9. In addition, unless waived in part by the Zoning Administrator, the applicant shall provide all of the information, data, and studies needed to allow the Planning Commission and Town Council, to reach conclusive evaluations, which shall include, but not be limited to, the following:

- 1 A Statement of Justification explaining the compatibility of the proposed use with the existing and proposed land uses adjacent to and in the vicinity of the site and any potential impacts on the environment

and on the neighborhood due to the proposed use intensity, number of participants, acreage, hours of operation, traffic, lighting, and access, as well as the matters set forth in section 11.3-11.3.

- 2 A vicinity map depicting the adjacent and nearby (within 1,000 feet) land uses, streets and other data customarily incidental to a vicinity map.
- 3 A proposed site development plan indicating the location of the anticipated structures, setback lines, street pattern, parking provisions, a screening plan, and common open space if applicable. Such plans shall be contained on sheets measuring a minimum of 18" X 24" and a maximum of 36" X 24".
- 4 An analysis of the impact on the Town's transportation network and the ability of adjacent streets and intersections to efficiently and safely move the volume of traffic generated by the development, along with estimates of cost and means of providing improvements required to service the proposed special use.
- 5 An analysis of the impact on the Town's community facilities including estimates of costs and means of providing the additional community facilities which will be needed to serve the proposed special use. Community facilities include, but shall not be limited to, sewage disposal facilities and systems, solid waste disposal facilities and systems, water supply facilities and systems, storm drainage facilities and systems, and electrical utility facilities and systems.
- 6 An analysis of the ability of the Town to provide police and fire protection to the proposed special use.
- 7 The proposed configuration and intensity of lighting facilities to be arranged in such a manner to protect the streets and neighboring properties from direct glare or hazardous interference.
- 8 Noise impact and abatement studies to determine potential impact on adjoining properties and neighborhoods.
- 9 The delineation of any necessary screening for any uses or structural features deemed to be incompatible with the objectives of this Article, the remainder of this Zoning Ordinance, or the Comprehensive Plan including walls, fences, plantings, and/or other enclosures. Other landscaping to enhance the effectiveness of the screening and to insure the compatibility of use may also be required.
- 10 The delineation of screening and buffering of all parking areas will be required in accordance with a landscaping plan. Parking areas forward of the established building setback line will be prohibited.
- 11 The delineation of major trees on the site. Except to protect the public safety, avoid property loss, or provide for required parking, all major trees forward of the building setback line may be required for

preservation if their removal would diminish the character of the neighborhood.

11-3.10.3. Evaluation Criteria; Issues for Consideration

In considering a Special Use Permit application, the following factors should be considered. The applicant also shall address these factors in its statement of justification:

1. Whether the proposed Special Use Permit is consistent with the Comprehensive Plan.
2. Whether the proposed Special Use Permit will adequately provide for safety from fire hazards and have effective measures of fire control.
3. The level and impact of any noise emanating from the site, including that generated by the proposed use, in relation to the uses in the immediate area.
4. The glare or light that may be generated by the proposed use in relation to uses in the immediate area.
5. The proposed location, lighting and type of signs in relation to the proposed use, uses in the area, and the sign requirements of this Ordinance.
6. The compatibility of the proposed use with other existing or proposed uses in the neighborhood, and adjacent parcels.
7. The location and area footprint with dimensions (all drawn to scale), nature and height of existing or proposed buildings, structures, walls, and fences on the site and in the neighborhood.
8. The nature and extent of existing or proposed landscaping, screening and buffering on the site and in the neighborhood.
9. The timing and phasing of the proposed development and the duration of the proposed use.
10. Whether the proposed Special Use Permit will result in the preservation or destruction, loss or damage of any significant topographic or physical, natural, scenic, archaeological or historic feature.
11. Whether the proposed Special Use Permit at the specified location will contribute to or promote the welfare or convenience of the public.
12. The traffic expected to be generated by the proposed use, the adequacy of access roads and the vehicular and pedestrian circulation elements (on and off-site) of the proposed use, all in relation to the public's interest in pedestrian and vehicular safety, efficient traffic movement and access in case of fire or catastrophe.
13. Whether the proposed use will facilitate orderly and safe road development and transportation.

14. Whether, in the case of existing structures proposed to be converted to uses requiring a Special Use Permit, the structures meet all code requirements of the Town of Warrenton.
15. Whether the proposed Special Use Permit will be served adequately by essential public facilities, services and utilities.
16. The effect of the proposed Special Use Permit on environmentally sensitive land or natural features, wildlife habitat and vegetation, water quality and air quality.
17. Whether the proposed Special Use Permit use will provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the Comprehensive Plan.
18. The effect of the proposed Special Use Permit use in enhancing affordable shelter opportunities for residents of the Town, if applicable.
19. The location, character, and size of any outdoor storage.
20. The proposed use of open space.
21. The location of any major floodplain and steep slopes.
22. The location and use of any existing non-conforming uses and structures.
23. The location and type of any fuel and fuel storage.
24. The location and use of any anticipated accessory uses and structures.
25. The area of each proposed use.
26. The proposed days/hours of operation.
27. The location and screening of parking and loading spaces and/or areas.
28. The location and nature of any proposed security features and provisions.
29. The number of employees.
30. The location of any existing and/or proposed adequate on and off-site infrastructure.
31. Any anticipated odors which may be generated by the uses on site.
32. Refuse and service areas.

11-3.10.4. Conditions and Restrictions

In approving a Special Use Permit, the Town Council may impose such conditions, safeguards and restrictions as may be necessary to avoid, minimize or mitigate any potentially adverse or injurious effect of such special uses upon other properties in the neighborhood, and to carry out the general purpose and intent of this Ordinance. Conditions and restrictions may include, but are not limited to, those related to fencing, planting or other landscaping, additional set backs from property lines, location and arrangement of lighting, setting of reasonable time limitations and other reasonable requirements deemed necessary to mitigate the impacts of the use and safeguard the interests of the public. The Council may require a

guarantee or bond to ensure that conditions imposed will be complied with. All required conditions shall be set out in the documentation approving the Special Use Permit.

11-3.10.5. Period of Validity

As a condition of approval, a special use permit may be granted for a specific period of time with expiration of the approval to occur at the termination of a stated period. In such case, an extension may be granted prior to expiration by the original approving body, upon written application, without notice or hearing. After expiration, no extension may be granted without complying with the requirements for an initial application for a special use permit unless a qualified application for renewal is actively under consideration by the approving body.

11-3.10.6. Staff Review

Wherever a use or structure is listed either as a permissible use subject to approval of a special use permit, application shall be made to the Planning Director who shall prepare a report and refer such application to the Planning Commission for those uses that are listed as permissible upon approval by the Town Council, and to the Board of Zoning Appeals for those uses listed as permissible upon approval by the Board. Application for a special use permit shall be filed, containing such material and be processed in the same manner as for zoning amendments as provided for in Section 11-3.10. A Special Use Permit may be submitted in conjunction with a zoning map amendment application.

11-3.10.7. For Uses to be Acted Upon by the Town Council, as listed in Article 3

Upon review of the application and supporting data, the Planning Commission shall make its recommendation to the Town Council as to whether the application complies with the special use provisions in the particular district and the Comprehensive Plan, including verification that the use is specifically authorized within the district, and whether it should be approved or denied.

Before submitting its recommendation to Town Council, the Planning Commission shall hold a public hearing which may be a joint public hearing with the Town Council, after notice as required by § 15.2-2204 of the Code of Virginia, as amended. Following the public hearing, the Commission shall forward its recommendation to the Town Council.

11-3.10.8 Town Council Review and Hearing.

For those uses that are listed as permissible upon approval by the Town Council, the Town Council shall consider the recommendations of the Town Planning Commission before granting or denying approval of a special use permit. Before rendering a decision on a particular special use permit, the Town Council shall hold a public hearing, which may be a joint public hearing with the Planning Commission, after notice as required by § 15.2-2204 of the Code of Virginia, as amended.

11-3.10.9 Modifications to the Application or Conditions.

For those uses that are listed as permissible upon approval by the Town Council, after the Planning Commission has made its recommendation to the Town Council, should the application be modified, or additional conditions be agreed to or offered by the applicant that results in a more intense use or higher density or alters conditions that were intended to mitigate the impact of the development as determined by the Zoning Administrator, then a second public hearing shall be held by the Planning Commission before the modified application can be heard by the Town Council. The applicant shall be responsible for paying any additional advertising fees required for a subsequent public hearings before the Planning Commission and the Town Council. The Town Council may still impose reasonable conditions on the applicant, in accord with § 15.2-2286 of the Code of Virginia, as amended.

However, should additional information or modified conditions be submitted by the applicant after the Planning Commission has made its recommendation to the Town Council, which modifications or conditions were discussed at the public hearing before the Planning Commission, then a second public hearing before the Planning Commission shall not be required.

11-3.10.10 For Uses to be Acted Upon by the Town Council

Upon review of the application and supporting data, and before rendering a decision on a particular special use permit, the town Council shall hold a public hearing after notice as required by § 15.2-2204 of the Code of Virginia, as amended, and subsequently shall determine whether the application complies with the special use provisions in the particular district and the Comprehensive Plan, including verification that the use is specifically authorized within the district, and whether it should be approved or denied.

11-3.10.11 Construction Already Commenced.

Nothing contained herein shall require any change in the plans or construction of any building or structure subject to a vested right prior to the effective date of this Ordinance.

11-3.11 Variances

11-3.11.1. Variances Determined by the Board of Zoning Appeals

1. Variances Authorized

- a) The Board of Zoning Appeals shall grant a variance if the applicant proves, by a preponderance of the evidence, 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 the physical condition relating to the property or improvements thereon at the time of the effective date of the Ordinance. For properties located within the Floodplain District, the additional factors and limitations contained in Section 3-5.1.8 of this Ordinance shall also apply.
- b) No variance shall be considered except after notice and hearing as required by §15.2-2204 of the Code of Virginia as amended.
- c) The concurring vote of the majority of the BZA shall be required to authorize a variance.

2. Standards for Variances

In granting a variance, the BZA 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. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local Ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the Ordinance. Where the expansion is proposed within an area of the site or part of the structure

for which a variance is required, the approval of an additional variance shall be required. No variance in the strict application of any provision of this Ordinance shall be authorized by the BZA except upon the following findings:

- 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 the 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 the 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 use permit process that is authorized in the Ordinance or the process for modification to the Zoning Ordinance at the time of the filing of the variance application.

11-3.11.2. Unauthorized Variances

- 1. No variance shall be authorized that would permit the establishment of any use not otherwise permitted in the zoning district under the specific provisions of this Ordinance.
- 2. No variance shall be authorized that would result in an increase in density from that permitted by the applicable zoning district regulations.
- 3. No variance shall be authorized that would relate to nonconforming uses.
- 4. No variance shall be authorized that would reduce the amount of off-street parking space required by Article 7.
- 5. No variance shall be authorized that would relate to signs.
- 6. No variance shall be authorized in cases where the applicant, subsequent to the effective date of this Ordinance, has purchased a portion of a larger parcel, which portion has an area or width less than required by the provisions of this Ordinance at the time of such purchase or which portion has unusual physical characteristics, that are

set forth as the basis for the application for a variance, which would not exist if such portion had not been detached by such purchase from the larger parcel of which it was a part.

7. No variance shall be authorized that would permit the establishment of any use not otherwise permitted in a floodplain.
8. No variance shall be authorized merely for the purpose of convenience or economic hardship.

11-3.11.3. Procedures for Variances

1. Application for Variance

Pursuant to provisions of this article and §15.2-2309 of the Code of Virginia, as amended, any person seeking a variance from the application of regulations of this chapter, shall first submit his proposal to the Zoning Administrator on a form to be provided by the Zoning Administrator, including therewith satisfactory evidence that any delinquent real estate taxes owed to the county which have been properly assessed against the subject property have been paid, and all plans and information relating to the application required by the board of zoning appeals pursuant to §15.2-2310 of the Code of Virginia. The application shall be transmitted promptly to the secretary of the Board of Zoning Appeals, who shall place the matter on the docket to be acted upon by the board.

The Zoning Administrator shall also transmit a copy of the application to the local Planning Commission which may send a recommendation to the Board or appear as a party at the hearing.

2. Decision on Variance Application

Upon receipt of an application or appeal, the Board of Zoning Appeals shall fix a reasonable time for a hearing of such application or appeal in conformance with §15.2-2204 of the Code of Virginia.

The proposal shall then be advertised pursuant to provisions of §15.2-2204 of the Code of Virginia prior to public hearing by the Board of Zoning Appeals. The Zoning Administrator shall also transmit a copy of the application to the Planning Commission, which may send a recommendation to the Board or appear as a party at the hearing.

The Board of Zoning Appeals shall render a decision on any application submitted to it within sixty (60) days after the date of the

hearing thereon.

3. Burden of Applicant

The applicant for a variance shall bear the burden of producing evidence to support the required findings and to establish that the requested variance satisfies all standards for a Variance.

4. Withdrawal of Application

An application or appeal to the Board of Zoning Appeals may be withdrawn by the applicant or appellant at any time prior to the deadline for cancellation of the newspaper advertisement for the first public hearing. After such deadline, an application or appeal may be withdrawn only with the permission of the Board of Zoning Appeals. An application or appeal which is not withdrawn pursuant to this subsection shall be either granted or denied on its merits.

5. Re-Application

If any application is denied by the Board of Zoning Appeals on its merits, no application requesting the same relief with respect to all or part of the same property shall be considered by the Board within twelve (12) months after the date of such denial.

11-3.12 Appeal to the Board of Zoning Appeals

11-3.12.1 When Appeals May be Taken

1. An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the Zoning Administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article or any ordinance adopted pursuant thereto.
2. Such appeal shall be made within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certified to the Board that by reason of facts stated in the certificate a stay would in his opinion

cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise, than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

11-3.12.2 Appeal Procedure

1. Appeals shall be filed with the Board of Zoning Appeals in care of the Zoning Administrator, who shall provide a copy of the appeal to the secretary of the Board, and a third copy provided to the individual, official, department, or agency concerned, if any.
2. Appeals requiring an advertised public hearing shall be accompanied by cash payments to the Town in accordance with the Fee Schedule as set by Town Council by resolution.
3. Upon receipt of an application or appeal, the Board shall fix a reasonable time for the hearing, give public notice thereof in accord with § 15.2-2204 of the Code of Virginia, as well as due notice to the parties in interest.
4. The Board shall make its decision within ninety days of the filing of the application or appeal.
5. In exercising its powers the Board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of a majority of the membership of the Board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the Ordinance or to effect any variance from the Ordinance.
6. The Board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

11-3.12.3 Withdraw of Appeal

An application or appeal to the Board of Zoning Appeals may be withdrawn by the applicant/appellant at any time prior to the deadline for cancellation of the newspaper advertisement provided for in this article. After such deadline, an application or appeal may be withdrawn only with the permission of the Board. An application or appeal which is not withdrawn pursuant to this subsection shall be either granted or denied on the merits by the Board, either in whole or in part.

11-3.12.4 Court Petition

1. Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board, or bureau of the Town may present to the circuit court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the Board.
2. 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 realtor's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowances of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board, and on due cause shown, grant a restraining order.
3. The Board of Zoning Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
4. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
5. Costs shall not be allowed against the Board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from.

11-3.13 Sign Permit

Signs permits shall be required in accordance with Article 6. The timing and application type used for the permitting of signs shall be as specified in Article 6-4.

11-4 Non-Conforming Uses and Structures

11-4.1 Purpose

The purpose of this section is to regulate and limit the development and continued existence of uses, structures, and lots legally established prior to the effective date of this Ordinance which do not conform to the requirements of this Ordinance. Many nonconformities may continue, but the provisions of this subsection are designed to curtail substantial investment in nonconformities and to bring about their eventual improvement to a conforming status or elimination in order to preserve the integrity of this Ordinance and the desired character of the Town and to protect the public health and safety.

Any nonconforming use, structure, or lot which lawfully existed as of the effective date of this Ordinance and which remains nonconforming, and any use, structure, or lot which has become nonconforming as a result of the adoption of this Ordinance or any subsequent reclassification of zoning districts or other amendment to this Ordinance, may be continued or maintained only in accordance with the terms of this section. The limitations of this section shall not apply to structures or lots whose nonconforming features are the subject of a variance that has been granted by the Board of Zoning Appeals or by the Zoning Administrator, or a modification or condition that was approved by the Town Council.

It is the intent of this chapter to abide by the letter and spirit of the provisions of § 15.2-2307 of the Code of Virginia. It is further the intent of this chapter that nonconformities shall not be enlarged, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the districts involved.

11-4.2 Continuation

- 11-4.2.1 If at any time after the enactment of this Ordinance a lawful use of land and/or structures exists which would not be permitted by this chapter, the use may be continued so long as it remains otherwise lawful. A use of land or use of structure established in violation of contemporary zoning regulations is illegal, not nonconforming.
- 11-4.2.2 If any change in title of possession or renewal of a lease of any such lot or structure occurs, the use existing may be continued.
- 11-4.2.3 If any nonconforming use (structure or activity) is discontinued for a period exceeding two (2) years, after the enactment of this Ordinance, it shall be

deemed abandoned and any subsequent use shall conform to the requirements of this Ordinance.

- 11-4.2.4 Whenever a nonconforming structure, lot, or activity has been changed to a more restricted nonconforming use, such existing use may only be changed to a use of the same or less restricted category or to a less non-conforming activity as identified in the zoning district within which it is located.

11-4.3 Non-Conforming Uses

11-4.3.1 Expansion

No nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than was occupied on the effective date of this provision to the Ordinance, unless such enlargement does not result in an increase in nonconformity or results in a change to a use permitted in the district.

11-4.3.2 Discontinuance

If any nonconforming use of land and/or structure ceases for any reason for a period of more than two (2) years, any subsequent use of such land and/or structure shall conform to the regulations specified by this chapter for the district in which such land is located.

11-4.3.3 Superseded

When any nonconforming use, or nonconforming structure and use in combination, is superseded by a permitted use and/or structure, the use shall thereafter conform to the regulations for the district, and no nonconforming use and/or structure shall thereafter be resumed.

11-4.3.4 Moving

No such nonconforming use and/or structure shall be moved in whole or in part to any portion of the land or parcel other than that occupied by such use and/or structure at the effective date or amendment of this ordinance, unless such move results in decreasing the degree of nonconformity or results in conformity with the requirements for the district.

11-4.3.5 Additional Uses

No additional uses which would be prohibited in the district involved shall be allowed.

11-4.3.6 Special Use Permits

Any lawful existing use which is permissible as a special permit use in a district under the terms of this Ordinance shall not be deemed a nonconforming use in such district, but shall, with written notification and proof to the Zoning Administrator, be considered a lawful conforming use in that district.

11-4.4 Non-Conforming Structures and Buildings

11-4.4.1 Repairs and Maintenance

On any building or structure devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding twenty (20) percent of the current replacement value of the structure provided that the cubic content of the structure as it existed at the time of passage or amendment of this Ordinance shall not be increased. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

11-4.4.2 Expansion or Enlargement

A nonconforming structure to be extended or enlarged shall conform with the provisions of this Ordinance, except as provided for herein. No nonconforming use and/or structure shall be enlarged, increased or extended to occupy a greater area of land than twenty-five percent (25%) more than was occupied on the date of adoption or amendment of this ordinance unless such enlargement does not result in an increase in nonconformity or results in a change to a use permitted in the district.

11-4.4.2 Restoration or Replacement

1. If a nonconforming use or structure is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed seventy-five (75) percent of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this Ordinance.
2. Where a conforming structure devoted to a nonconforming activity, or where a nonconforming structure is damaged less than seventy-five (75) percent of the cost of reconstructing the entire structure, either may be repaired or restored, provided any such repair or restoration is started

within twelve (12) months and completed within eighteen (18) months from the date of partial destruction.

3. Historic structures designated as contributing structures to an Historic District adopted by the Town Council shall be exempt from the limitations of Sections 11-4.4.2.1 and 11-4.4.2.2.
4. The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.
5. If a nonconforming structure or portion thereof containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, rebuilt or used, except in conformity with the regulations of the district in which it is located.

11-4.4.3 Pre-existing Setback

Any structure which existed on the date of adoption of this Ordinance which is nonconforming solely due to a setback or yard requirement imposed by this Ordinance may be enlarged, increased, extended, repaired or replaced so long as any such improvements do not result in an increase in the degree of nonconformity.

11-4.4.4 Illegal Structures

No structure that fails to conform with the requirements of this chapter shall be erected.

11-4.5 Non-Conforming Lots

11-4.5.1 Use

Any lot of record at the time of the adoption of this Ordinance which is less in area or width than the minimum required by this Ordinance may be used when the requirements regarding setbacks, side, and rear yards are met.

11-4.5.2 Changes in District Boundaries

Whenever the boundaries of a district are changed by amendment of this Ordinance, any uses of land, legal structures or buildings which become nonconforming as a result of such change shall become subject to the most current provisions of this Ordinance. Such affected use, lot or structure shall be accorded nonconforming use, lot and/or structure status as may be appropriate

under the terms of this Ordinance.

11-4.5.3 Division, Boundary Line Adjustment

No lot or parcel or portion thereof shall be used or sold in a manner reducing compliance with lot width or other requirements established by this chapter, nor shall any division be made which creates a lot with width or area below the requirements stated in this chapter.

Notwithstanding the provisions of the paragraph above, boundary line adjustments may be permitted between nonconforming lots, or between a conforming and a nonconforming lot, provided that the Zoning Administrator determines that the degree of nonconformity for any lot resulting from such boundary line adjustment is not increased due to such adjustment.

11-4.5.4 Condemnation

Any lawfully created lot which, by reason of condemnation for alignment, realignment of a federal or state road, has been reduced in size to any area less than that required by this Ordinance shall be considered a lawful nonconforming lot of record subject to the provisions set forth in this section.

11-4.5.5 Violations Are Not Nonconformities

Uses or structures established in violation of zoning regulations are lawful nonconformities. The burden of proof shall be upon the owner of the property to establish the lawful nonconforming status of a claimed non-conforming use.

11-4.5.6 Accessory Uses/Buildings, Signs

A lawful nonconforming use of a structure, a lawful nonconforming use of land or a lawful nonconforming use of a structure and land in combination shall not be continued, extended or enlarged by use or establishment of either an accessory use or building or by attachment on a building or premises of additional signs intended to be seen from off the premises. Non-conforming signs are regulated in Article 6-16 unless otherwise noted.

11-5 Enforcement and Penalties

11-5.1 Conformance to Provision. All departments, officials, and public employees of the Town of Warrenton which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance. They shall issue permits for uses, buildings, or purposes only when they are in harmony with the provisions of this Ordinance. Any

such permit, if issued in conflict with the provisions of this Ordinance, shall be null and void.

11-5.2. Zoning Administrator

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written violation complaint. The Zoning Administrator shall properly record such complaint, investigate it and take appropriate action thereon if warranted.

Upon his becoming aware of any violation of any provision of this chapter, the Zoning Administrator shall serve notice of such violation on the person committing or permitting such violation. If such violation has not ceased within thirty (30) days or such other reasonable time set by the Zoning Administrator and specified in the notice, he shall institute such legal action as may be necessary to remedy and terminate the violation.

The Zoning Administrator shall order the discontinuance of illegal use of land, buildings or structures, removal of illegal building or structures or of illegal additions, alterations or structural changes and discontinuance of any illegal work being done, or shall take any other action authorized by this chapter to ensure compliance with, or to prevent violation of, its provisions.

Notice of a zoning violation or a written order of the Zoning Administrator 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, and that the decision shall be final and unappealable if not appealed within thirty (30) days.

11-5.3 Violation of Provisions.

Any person, firm, or corporation, whether as principal, owner, lessee, agent, employee or otherwise, who violates, causes, or permits the violation of any of the provisions of this Ordinance shall be guilty of a Class 2 misdemeanor. Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this Ordinance is committed, continued, or permitted by such person, firm, or corporation, and shall be punishable as herein provided.

11-5.4 Recourse for Unlawful Use.

The Zoning Administrator of the Town of Warrenton may institute any appropriate action of proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, or conversion of any building or structure, or the unlawful use of land; to restrain, correct, or abate such violation; to prevent the occupancy of said building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about such premises. The remedies provided for in this section are cumulative and not exclusive and shall be in

addition to any other remedies provided by law.

Article 12 Definitions

Amended by Town Council: February 12, 2013
June 14, 2016
August 9, 2016
December 11, 2018
April 9, 2019
September 10, 2019
December 10, 2019
March 10, 2020
December 13, 2020
August 10, 2021
April 12, 2022
XXXX, 2024

For the purpose of this Ordinance, certain words and terms are used in a limited or special sense as defined herein. Words used in the present tense include the future; the singular number includes plural and the plural singular; the word "structure" includes "building"; the word "used" includes arranges, designed, constructed, altered, converted, rented, leased, or intended to be used; and the word "shall" is mandatory and directory.

Any word, term or phrase used in this ordinance not defined below shall have the meaning ascribed to the word in the most recent edition of Webster's Unabridged Dictionary, unless in the opinion of the Zoning Administrator, established customs or practices of the Town of Warrenton justify a different or additional meaning.

[A](#) | [B](#) | [C](#) | [D](#) | [E](#) | [F](#) | [G](#) | [H](#) | [I](#) | [J](#) | [K](#) | [L](#) | [M](#) | [N](#) | [O](#) | [P](#) | [R](#) | [S](#) | [T](#) | [U](#) | [V](#) | [W](#) | [Y](#) | [Z](#)

Abutting: Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

Abandoned Motor Vehicle: A motor vehicle, trailer, or semi-trailer or part of a motor vehicle, trailer, or semi-trailer that is inoperable and is left unattended on public property, other than an interstate highway or primary highway, for more than forty-eight hours.

Accent: Giving prominence to one or more elements of site design.

Accessory building: (see Accessory Structure)

Accessory Dwelling Unit: A subordinate dwelling unit in a main building or accessory building for use as a complete, independent living facility with provision within the accessory dwelling for cooking, eating, sanitation, and sleeping. Such a dwelling is an accessory use to the main dwelling.

Accessory Structure: A subordinate structure customarily incidental to and located upon the same lot occupied by the main use or building, including, but not limited to, private garage, carport, parking space other than for residential, swimming pool, tennis court, storage or utility building, decks, balconies, porticos, porches, temporary healthcare structures, and living quarters for household employees or caretakers. Accessory structures can be attached or detached, depending upon their use and construction.

Accessory Use: A use clearly incidental and subordinate to, and on the same lot as, a principal use. (also see Accessory Dwelling Units; Home Occupation).

Acre: A unit of land measure containing 43,560 square feet.

Acreage: A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

Active Recreation: (see Recreation, Active)

Active Recreation Area or Facilities: (see Recreation Area or Facilities, Active)

Administrator: The Zoning Administrator for the Town of Warrenton. However, see also *Administrator, VSMP* under Stormwater Management, and *Certified Program Administrator* under Erosion and Sediment Control. The Zoning Administrator is an Agent of the governing body and its associated boards and commissions and is appointed by the Town Manager or Community Development Director.

Agriculture: The tilling of the soil, the raising of crops, non-intensive livestock, horticulture, and forestry, but not including any agricultural industry or business, such as packing plants, dairies, mills, kennels, commercial stables, intensive agriculture as defined herein, or similar uses.

Agriculture, intensive: The raising, breeding and keeping of animals in concentrated, confined conditions, which may include such operations as swine, veal, sheep; houses and pens for poultry or other fowl; feed lots for beef, dairy cattle, swine, sheep and other animals; livestock markets and pet farms.

Agricultural pen: (see Animal Kennel)

Alley: A permanent service way, with a minimum width of twenty (20) feet, providing a secondary means of vehicular access to an abutting property, and not intended for general traffic circulation.

Alteration: Any change, addition, or modification in the total floor area, use, adaptability, or external appearance of an existing structure.

Amusement Arcade: A building or part of a building in which five or more pinball machines, videogames, or other similar player-operated amusement devices are maintained.

Animal Hospital or Clinic: Establishment where treatment is received and no activity is conducted outside the main building. Kennels are not by definition included.

Animal Kennel: An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

Animal Kennel, Private: Any building, buildings, or land designed or arranged for the care of more than three dogs or more than three cats belonging to the owner of the principal use, kept for the purposes of show, hunting, or as pets.

Apartment House: A residential building located on a single lot used or intended to be used as the residence of three (3) or more families living independently of each other, typically sharing a common entrance and hallway for access to individual units, not including row or townhouses (also see Dwelling: Multifamily).

Apartment: A single dwelling unit typically sharing a common entrance and hallway for access within an Apartment House or within a larger, mostly non-residential structure.

Applicant: Any person submitting an application for a permit or requesting issuance of a permit, of any type, under this Ordinance.

Applicant-Owner: An individual, corporation, proprietor, trust, trustee, joint venture, partnership, or other entity having legal title to any tract of land or parcel of land to be developed, whether or not they have given their power of attorney to one of their group, or another individual or entity to act on their behalf in planning, negotiation, or in representing or executing the requirements of the ordinances of the Town of Warrenton.

Appraiser: A person who earns his livelihood from the appraisal of real property, as contrasted with the selling of property, and who meets the standards for membership in the American Institute of Real Estate Appraisers.

ARB: Architectural Review Board.

Arborist or "urban forester": a person trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native and ornamental trees.

Arborist, Certified: An arborist who is certified by the International Society of Arboriculture.

Architect: A person who is recognized by the Commonwealth of Virginia and who is registered with the State Department of Professional and Occupational Regulation, or registered with a like body in another state, as a licensed architect.

Architectural Unit: A visually distinct mass that is part of a larger structure or a collection of structures and is either near the other structures or may be attached by a smaller enclosed structural element such as a gallery, an arcade or other such element.

Area, Gross Leasable: Inside square footage of a building including retail, wholesale, and storage space, exclusive of halls, closets, elevator shafts, toilets, etc., and any outside display.

Assembly Hall: A building or part of a building intended and designed for the conduct of meetings, presentations, and the like.

Assisted Living Facility: A place, establishment, or institution, operated for the maintenance or care of four or more adults who are aged, infirm, or disabled and who are cared for in a primarily residential setting, in accord with § 63.2-100 of the Code of Virginia. The level of service provided for these adults shall include at least moderate assistance with the activities of daily living.

Atrium House: A one-story, single-family, attached dwelling shaped to surround or partly surround a private open space called an atrium, it being a type of townhouse unit (also see Townhouse).

Attached Accessory Structure: An attached subordinate structure customarily incidental to and located upon the same lot occupied by the main use or building, including but not limited to a private garage, carport, balcony and deck.

Automobile body shop: A business limited to the repair and reconstruction of the exterior shells of automobiles and light trucks, including sanding, painting, and refinishing; but may also include frame, engine and other mechanical work in the repair of a vehicle.

Automobile Graveyard: Any lot or place which is exposed to the weather upon which more than five inoperable motor vehicles of any kind, are placed.

Automobile Sales: On-site sales, conducted on a regular or ongoing basis as a commercial enterprise, either retail or wholesale, of automobiles and/or light trucks and vans, but not heavy trucks or equipment.

Awning: A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted to a flat position against the building, but not including a canopy or marquee.

Banks and Savings and Loan Offices: The retail offices of financial services institutions providing walk-in service to customers. Drive-through facilities are a separately designated and regulated component.

Basement: A story having part but not more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulations, if it is used for business purposes, or for dwelling purposes by other than a janitor employed on the premises.

Bed and Breakfast Facility: A private residence, or portion thereof, where short-term lodging is provided for compensation (no longer than 14 consecutive days) and meals may be provided, to guests only. The operator of the facility shall live on the premises or in an adjacent premises on the same lot. Up to four (4) guest rooms without cooking facilities may be provided. [also see Tourist Home; also see Inn]

Bedroom: A room in a dwelling unit planned and intended for sleeping, separable from other rooms by a door.

Berm: A continuous bank of earth designed and placed to block or partially obscure elements of a site (such as a parking area) or of a building (such as a loading dock). Berms typically range in height from two (2) to six (6) feet, with width-to-height ratios of from 2:1 to 5:1. Berms are often used in combination with shrubbery and trees.

Best Management Practices (BMP): A schedule of activities, prohibitions, or practices, including both structural and nonstructural practices, maintenance procedures, and other management practices; devices, methods, or structures, including erosion and sediment control and stormwater designs, to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities that are put into place during site development to protect Town infrastructure, adjacent properties, water bodies, streams, and the natural landscape during construction. After construction, SWM/BMP(s) are the practices that are integrated into a development that control and mitigate the quality and quantity of stormwater runoff from the site after development is completed. These practices need to be maintained over the life of the development or until it is returned to its natural, undeveloped state.

Block: That land abutting on one side of a street extending to the rear lot lines (or, for parcels of land extending through to another street, to a line midway between the two streets) and lying between the nearest intersecting and intercepting streets and boundary of any railroad right-of-way, park, school ground, or unsubdivided acreage or center line of any drainage channel twenty (20) or more feet in width.

Boardinghouse: A building that is the primary residence of the owner where meals and lodging are provided, for compensation, on a permanent basis for up to ten (10) individuals not related by blood, marriage, or adoption to the owner.

Broadcasting Station: The studios and/or facilities for radio or television broadcasting.

Buffer, Buffer Yard: A landscaped area intended to separate and partially obstruct the view of two (2) adjacent land uses or properties from one another or from the roadway or to block noise or other nuisances; land areas reserved for the purpose of providing screening and separation from adjacent, different land uses.

Building: A structure having one (1) or more stories and a roof, designed primarily for support and shelter of persons, animals, or property of any kind. When a structure is divided into separate parts by fire walls, each having separate plumbing, electrical, heating, drainage, and ventilation, each part so divided shall be deemed a separate structure.

Building Area: The area of the horizontal section of the buildings taken at their greatest outside dimensions on the ground floor including all attached structures and covered porches.

Building, Governmental: Any building owned by, operated by and/or leased to a government agency, except utilities, which are defined separately.

Building, Height of: The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the roof if a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof. For buildings set back more than ten (10) feet from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

Building Line: The line which establishes the distance of a structure from any lot boundary line.

Building, Main: The principal structure or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

Building Official: The official appointed by the Town Manager to administer and enforce the Building Code.

Building, Public: (see Building, Governmental)

Business and Professional Office: A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

Business and office supply establishments: Retail or wholesale distribution of office materials, goods and small equipment.

C – District (Commercial District): Any zoning district beginning with "C", and predominantly providing for commercial uses.

Cabinet, upholstery, and furniture shops: A business limited to the production, repair or refinishing of cabinets, furniture and related household items.

Cable television facilities: Offices, studios and other facilities of a cable television business.

Cafeteria: A commercial eating facility in which patrons choose food items along a self-service line rather than through table service.

Cafeteria Truck: a vehicle or cart primarily offering delivery and/or self-service of pre-packaged or prepared foods, not cooked to order or prepared on-site. This type of vendor must obtain an itinerant merchant license from the Town Manager.

Caliper: A measurement of the diameter of a tree trunk taken at four and one-half feet above the soil line. Also known as diameter at breast height (DBH).

Canopy: A structure, other than an awning, made of cloth, metal, or other material which may be a standalone structure or totally or partially attached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure and cannot be raised or retracted.

Capital Improvement Plan: A plan outlining the nature, location, costs, funding, and timing of future capital expenditures for community facilities such as streets, sidewalks, drainage facilities, water and wastewater lines and treatment facilities, parks, public buildings, and required property.

Car Port: A structure attached to a dwelling unit, open on at least one (1) side, designed for the parking and storage of vehicles by the residents of the dwelling and their guests.

Car Wash: A building or area of land that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor.

Car wash, Self-service: A building or area of land that provides facilities for patrons to wash and cleaning their motor vehicles by hand and/or with light equipment such as hoses and vacuums.

Caregiver: An adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.

Carnival: An amusement show, usually traveling from place to place, containing rides, side shows, and other forms of entertainment.

Cellar: A story having more than one-half of the height below grade.

Cemetery: A place where lots are sold for the burial of the dead.

Centerline: The midpoint of the width of a highway or right-of-way.

Channel Letters: A sign that consists of custom-made metal or plastic that are covered in a translucent plastic material, often internally illuminated. The space between the letters is not part of the sign structure but rather the building façade though the space may count toward the sign area depending on how the letters are grouped and calculated in accordance with Section Error! Reference source not found..

Chesapeake Bay Preservation Act land-disturbing activity: A land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal or greater than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject to the regulations adopted pursuant to the Chesapeake Bay Preservation Act, *Code of Virginia*, § 62.1-44.15:67, et seq. Required for localities within Tidewater Virginia.

Child: Any person under eighteen (18) years of age.

Child Care Center: A facility operated for the purpose of providing care, protection, and guidance to a group of four (4) or more children separated from their parents or guardians during part of the day only, and meeting the licensing requirements for child care centers of Section 63.1-196 of the Code of Virginia, 1950, as amended.

Church (or place of religious worship): A building or structure, or group of buildings or structures, which by design and construction are primarily intended for activities that people regularly attend to participate in or hold religious services, meetings, and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which religious services of any denomination are held.

Civic Group: A non-profit group or organization which meets regularly in the Town or which has "Warrenton" or a Town location in its name, and which has demonstrated service to the Town, in the determination of the Zoning Administrator. (also see "non-profit organization")

Cleaning and Pressing Shop: (see Laundry)

Clean Water Act (CWA): The federal Clean Water Act (33 U.S.C §1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

Clear-cutting or Clearing: The indiscriminate removal of trees, shrubs, or undergrowth with the intention of preparing real property for nonagricultural development purposes, or any activity that removes the vegetative ground cover, including but not limited to the removal of vegetation, root mat removal, and/or topsoil removal. This definition does not include the selective removal of non-native tree and shrub species when the soil is left relatively undisturbed; removal of dead trees and shrubs; or normal mowing operations.

Clerk: The Clerk of the Circuit Court of Fauquier County having jurisdiction in the Town of Warrenton.

Clinic: A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities. This definition includes a group practice in which several licensed medical, dental or health care professionals work cooperatively.

Club: Buildings and/or facilities owned and operated by a corporation, association, or persons, which serves as a gathering place for a group of individuals organized for a common purpose to pursue common goals, interests, or activities and characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and by-laws.

Club, Swim or Tennis: A private club with swimming and/or tennis facilities, indoor or outdoor.

Cluster Development: A residential development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas or historic and cultural resources.

COA: Certificate of Appropriateness.

Coherence: Logically consistent arrangement of interdependent elements of a site plan or architectural design.

Commercial Nurseries and Greenhouses: An area or establishment for the propagation, growing, or selling of nursery stock for gardens, grounds, and yards. Such stock may include trees, plants, shrubs, and vines. Landscape contracting of nursery stock shall be permitted as a use.

Commercial Recreation, Indoor: Any enclosed or semi-enclosed establishment operated as a commercial enterprise (open to the public for a fee) for the following activities: games and athletics, bowling, billiards or pool, darts, bingo, slot cars, hard and soft courts, miniature golf, golf driving nets, cultural activities, martial arts, archery, roller or ice skating, skateboarding, swimming, and activities incidental to the foregoing.

Commercial Recreation, Outdoor: Any outdoor establishment operated as a commercial enterprise (open to the public for a fee) for the following activities: games and athletics, batting and pitching cages, darts, hard and soft courts, miniature golf, radio-controlled vehicles and airplanes, pony rides, waterslides, cultural activities, martial arts, archery, camping, roller or ice skating rinks, skateboarding, picnicking, boating, fishing, swimming, golf driving ranges, and activities incidental to the foregoing, but not including amusement rides, amusement parks, theme parks or motor vehicle race tracks.

Commercial Use: An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

Commission, the: The Planning Commission of Warrenton, Virginia.

Common plan of development or sale: A contiguous area where separate and distinct construction activities may be taking place at the same or different times or on different schedules, or are connected through common ownership or interests, rights-of-way, or development pattern.

Communications Towers: (see Transmission and Receiving Towers)

Community Building: A building and associated facilities and area, usually owned by a public nonprofit group or agency, used for and providing fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

Comprehensive Plan: Maps, charts, and descriptive matter officially adopted by the Warrenton Town Council showing, among other things, recommendations for the most appropriate use of land; for the most desirable density of population; for a system of thoroughfares, parkways and recreation areas; for the general location and extent of facilities for water and sewer; and for the general location, character and extent of community facilities.

Complex: A grouping of buildings or architectural elements on a single site or tract.

Condominium: A building or group of buildings in which units are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

Conference Center: A facility designed for conducting large or small group meetings. Such facilities may include overnight accommodations or short term lodging (not longer than fourteen (14) consecutive days), food preparation and service, entertainment, social or charitable events, and recreational facilities.

Conservation Easement: An easement granting a right or interest in real property that is appropriate to retaining land or water areas and their structures in their built, natural, scenic, open, or wooded condition, or for the purpose of maintaining existing land uses; for stormwater management or protection of wetlands, floodplain, soils, slopes, or critical areas; protection and enhancement of scenic views or visual corridors,

for preservation of historic, architectural, or cultural resources, or for other local, environmental, cultural, or historic reasons that further the objectives of the Comprehensive Plan, the Zoning Ordinance, or the Town Code.

Construction Standards: Specifications and standards as adopted by or applicable in the Town of Warrenton relating to the construction of all physical improvements, including but not limited to development, structures, or the installation of utilities.

Convalescent Home: (see Nursing Home).

Convenience Retail: Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same and having a gross floor area of less than five thousand (5,000) square feet.

Convenience store: (see Convenience Retail)

Council: The Town Council of Warrenton, Virginia.

Covenant: A formal agreement of legal validity between two (2) or more parties outlining restrictions, rights, or responsibilities concerning the use of property or structures.

Crematory: A building containing a furnace for reducing dead bodies, either animal or human, to ashes by burning.

Critical Root Zone (CRZ): An area which must be preserved in order to ensure protection and survival of a tree; a minimum of one foot per inch of caliper (defined herein as the diameter at breast height).

Cul-de-sac: A street with only one (1) outlet having an appropriate turn-around area for a safe and convenient reverse of traffic movement.

Dairy: A commercial establishment for the manufacture and sale of dairy products.

Data Center: A facility containing one or more large-scale computer systems used for data storage and processing for off-site users. Typical supporting equipment includes back-up batteries and power generators, electric substations, cooling units, fire suppression systems, and enhanced security features.

Day Care Center: (see Child Care Center and Family Day Care Home).

Deciduous: Any tree or shrub that loses its leaves during the winter season.

Deck: An exterior, roofless, floor system supported on at least two opposing sides by an adjoining dwelling/structure and/or posts, piers or other independent supports.

Density: The number of dwelling units per acre of land.

Density Bonus: An additional increment of density allowable on a site in return for a specified public good, as provided in this ordinance.

Density, Gross: The number of dwelling units per gross acre of land on the site or lot.

Density, Net: The number of dwelling units per net acre of land (gross site or lot area less floodplain, steep slopes and other unbuildable areas).

Detention Facility: A facility which serves the purpose of collecting and retaining rainfall falling on a site for controlled release to primary storm water management facilities as a result of land alteration activities.

Developer or Subdivider: An individual, corporation, proprietor, trust, trustee, joint venture, partnership, or other entity having legal title to any tract of land or parcel of land to be developed, whether or not they have given their power of attorney to one of their group, or another individual or entity to act on their behalf in planning, negotiation, or in representing or executing the requirements of the ordinances of the Town of Warrenton.

Development (noun): Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.

Development (verb): Land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures. Development potentially changes the runoff characteristics of the land.

District: A section of the Town of Warrenton within which the zoning regulations are uniform; Zoning District.

District, Base: A type of Zoning District established in this ordinance that specifies allowable land uses and development intensities and requires a generally uniform group of land uses and lot requirements and does not require a concept development plan in advance of zoning approval.

District, Regular: (see Base District)

District, Overlay: A type of Zoning District established in this ordinance that may be mapped for a particular land area and functions as an additional set of zoning requirements in addition to the zoning requirements of the underlying base district that applies to the tract.

District, Special: (see District, Overlay)

Drive-In Facility (same as “Drive-Through”): Any portion of a building or structure from which customers can receive a service or obtain a product while in their motor vehicle.

Driveway or Accessway: That space specifically designated and reserved on the site for movement of vehicles from one location to another on site or from the site to a public street.

Drug Store: A retail establishment offering a variety of consumer goods with a licensed pharmacist on staff for the purpose of dispensing prescription drugs.

Dustless Surface: A surface adequately covered in accordance with good construction practice, with a minimum of either two (2) applications of bituminous surface treatment concrete, or bituminous concrete approved by the Town, and to be maintained in good condition at all times.

Dwelling: Any structure, or portion thereof, which is designed for generally permanent residential purposes, not including hotels, boardinghouses, lodging houses, tourist cabins, or automobile trailers (also see “dwelling unit”).

Dwelling, Accessory: (see Accessory Dwelling Unit).

Dwelling, Duplex (two-family): Two (2) single-family attached dwellings.

Dwelling, Elderly and Handicapped: A building or portion thereof containing at least ten (10) dwelling units and within which at least ninety (90) percent of all dwelling units are occupied by or designed for occupancy by:

- (a) Families of two or more persons the head of which (or his or her spouse) is 55 years of age or over or is handicapped; or
- (b) The surviving member or members of any family described in paragraph (a) living in a unit within the building with the deceased member of the family at the time of his or her death; or
- (c) A single person who is 55 years of age or over, or a non-elderly handicapped person between the ages of 18 and 55; or
- (d) Two (2) or more elderly or handicapped persons living together, or one or more such persons living with another person who is determined by a licensed physician's certification to be essential to their care or well-being.

For the purpose of this definition Handicapped Person means any adult having an impairment which is expected to be of an indefinite duration, is a substantial impediment to his or her ability to live independently, and is of a nature that such ability could be improved by more suitable housing conditions. A person also shall be considered handicapped if he or she is developmentally disabled, i.e., if he or she has a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen, which constitutes a substantial handicap to such individual.

Dwelling, Four-Family: A residential structure, occupying one lot, arranged or designed to be occupied by four (4) families living independently of each other, generally with separate entrances for each dwelling unit and common open space surrounding the structure.

Dwelling, Live-Work Unit: A residential structure, occupying one lot, with home business quarters on the ground floor and occupant residential quarters on the upper floor or floors.

Dwelling, Mixed Commercial Use: A dwelling unit in a structure that is also designed and used for commercial purposes. Access to the dwelling unit is separate from access to areas used for commercial purposes and the unit is typically located in basements or upper stories with commercial uses occurring at the street level of the structure.

Dwelling, Mobile Home:

Manufactured homes are also commonly referred to as “mobile homes” and differ from Modular Homes as defined herein, in that they do not necessarily comply with BOCA or Virginia Uniform Statewide Building Code standards. Three types are defined herein as follows:

Mobile (Manufactured) Home, Type A: A multi-sectional manufactured home (“doublewide”) constructed after July 1, 1976, that meets or exceeds the Manufactured Home Construction and Safety Standards, promulgated by the U.S. Department of Housing and Urban Development.

Mobile (Manufactured) Home, Type B: A traditional single manufactured home (“singlewide”) constructed after July 1, 1976, that meets or exceeds the Manufactured Home Construction and Safety Standards, promulgated by the U.S. Department of Housing and Urban Development.

Mobile (Manufactured) Home, Type C: Any manufactured home (“mobile home”) constructed before July 1, 1976 and which consequently does not meet the criteria of a Type A or Type B manufactured home as defined herein.

Dwelling, Modular: A dwelling unit constructed through use of large, prefabricated, mass-produced, partially pre-assembled sections or modules which are subsequently put together on-site on a permanent foundation, and which meets the BOCA and Virginia Uniform Statewide Building Code standards.

Dwelling, Multifamily: A residential structure arranged or designed to be occupied by more than one (1) family living independently of each other, the structure having more than two (2) dwelling units and generally 5+having a common entrance or hallway providing access to dwelling units.

Dwelling, Single-Family, Attached: One (1) of two (2) or more residential buildings having a common party wall separating dwelling units, each dwelling unit occupying a separate lot.

Dwelling, Single-Family, Detached: A structure arranged or designed to be occupied by one (1) family, the structure having only one (1) dwelling unit.

Dwelling, Three-Family: A residential structure, occupying one (1) lot, arranged or designed to be occupied by three (3) families living independently of each other, generally with separate entrances for each dwelling unit and common open space surrounding the structure.

Dwelling, Triplex: A group of three (3) townhouse units.

Dwelling, Townhouse: A dwelling unit, occupying one(1) lot, attached by means of a common vertical wall or walls, extending from the floor of the basement to the roof, to a series of similar dwelling units, each of which has individual access from the outdoors and each of which normally consists of two (2) or three (3) stories, situated on one (1) lot. The term "townhouse" is inclusive of the terms "atrium house" and "patio house."

Dwelling, Two-Family: A single structure arranged or designed to be occupied by two (2) families living independently of each other, with separate entrances for each dwelling unit and common open space surrounding the structure.

Dwelling, Quadriplex: A group of four (4) townhouse units.

Dwelling Unit: One (1) or more rooms connected together in a structure designed for occupancy as a separate living quarters, for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, sleeping, and sanitary facilities within the unit.

Easement: A grant of one (1) or more of the property rights by the owner to, or for the use by, the public, a corporation, or another person or entity.

Emergency Housing: The housing is designated to provide emergency housing for a maximum of six (6) months. Emergency housing and related counseling services shall be provided by a Fauquier County/Town of Warrenton recognized human service organization. A house coordinator must reside on the premises,

and a substitute house coordinator shall be on the premises if the house coordinator is away from the residence for more than one day.

Employment service or agency: A public, non-profit or for-profit agency or business that provides assistance in matching prospective employees with employers.

Engineer: A person who is recognized by the Commonwealth of Virginia and who is registered with the State Department of Professional and Occupational Regulation, or registered with a like body in another state, as a "professional engineer."

Erosion: The disintegration, detachment, carrying away, or wearing away of land surface by running water, wind, and/or other natural agents. REFER TO: Chapter 21 of the Town Code, Erosion and Stormwater Management Ordinance

Erosion and Sediment Control: REMOVED (XXXX 2024). REFER TO: Chapter 21 of the Town Code, Erosion and Stormwater Management Ordinance. ~~Under the Articles, Manuals, Forms, and Regulations set forth for the purposes of Erosion and Sediment Control, in addition to the definitions set forth in in 9VAC25-720-10 of the Virginia Water Quality Management Planning Regulations and 9VAC25-80 of the Virginia Erosion and Sediment Control Regulations, as amended, which are expressly adopted and incorporated herein by reference, the words and terms used in this Ordinance have the following meanings unless otherwise specified in this Ordinance.~~

~~*Agreement in Lieu:* An application for a Land Disturbance Permit (LDP) wherein the applicant agrees to certain specific and general best management practices and methods as appropriate for the location, scope and type of development proposed, which may be substituted for an erosion and sediment control plan. This may be acceptable where the land disturbing activity results from the construction of a single family residence, or wholly comprises an area of less than 2,000 square feet, if executed by the Erosion and Sediment Control Administrator in accordance with the requirements of this Ordinance. An Agreement in Lieu may constitute the Site Conservation Plan (SCP) for the project. This differs from an Agreement in lieu of a stormwater management plan (see Stormwater Management).~~

~~*Approved Plan:* That plan approved by the Erosion and Sediment Control Administrator, by the issuance of a Land Disturbance Permit (LDP), which carries the permittee's proposed methodology for controlling erosion, sedimentation, and storm water runoff resulting from proposed land disturbing activity. Changes approved in the field by an Inspector must be shown on the Approved Plan and signed off by the ESC Administrator.~~

~~*Certified Program Administrator:* The Town of Warrenton's designated Erosion and Sediment Control Administrator.~~

~~*Certified Inspector:* Employee of the Town of Warrenton charged with on-site inspection of erosion and sediment control devices employed via this Article and who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.~~

~~*Erosion and Sediment Control Administrator:* Town of Warrenton designated personnel certified by the Virginia Department of Environmental Quality that are responsible for administering the adopted Erosion and Sediment Control requirements.~~

~~*Erosion and Sediment Control Plan:* The document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of all decisions contributing to conservation treatment. The plan shall contain all major conservation decisions and all units of land will be so treated to achieve the conservation objective.~~

~~*Erosion Impact Area:* An area of land not associated with current land disturbing activity, but subject to persistent soil erosion resulting in the delivery of detriment onto neighboring properties or into natural waterways.~~

~~*Land Disturbance Activity Level:* Development projects disturbing more than 2,000 square feet of land area in the Town of Warrenton must comply with the regulations of the Site Conservation Manual (Article 4 of the Zoning Ordinance).~~

~~*Local Erosion and Sediment Control Program (Local Control Program):* An outline of the various methods employed by a district or locality to regulate land disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.~~

~~*Natural Channel Design Concepts:* The utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.~~

~~*Natural Landscape:* The Town's natural landscape shall include, but is not limited to, natural resources such as trees and woodlands, fresh water bodies, wetlands, riparian areas, steep slopes, other natural areas and natural soils.~~

~~*Plan Approving Authority:* The State Water Control Board, the Department of Environmental Quality, the Town of Warrenton, or the Zoning Administrator of the Town of Warrenton responsible for determining the adequacy of a conservation plan or erosion and sediment control plan submitted for land disturbing activities on a unit(s) of land and for approving plans.~~

~~*Responsible Land Disturber:* The property owner or his designated representative.~~

~~*Riparian Area:* A transitional zone, adjacent to a water body, between water and terrestrial ecosystems. Such area is at least periodically influenced by flooding and includes perennial and intermittent streams and lakes.~~

~~*Riparian Buffer:* A riparian area composed of natural vegetation whose purpose is to provide stabilization of stream banks, limit erosion, reduce flood size flows, and filter and settle out runoff pollutants.~~

~~*Riparian Setback:* The area set back along the stream to protect the riparian area and water body from impacts of development and abutting properties from the impact of flooding and land loss through erosion.~~

~~*Runoff Volume:* The volume of water that runs off the land development project from a prescribed storm event.~~

~~*Site Conservation Plan (SCP):* That Plan, which may be a portion of the required Site Development Plan (SDP), Erosion and Sediment Control Plan, and/or Stormwater Plan that includes the design to preserve the natural landscape of the Town of Warrenton per the preservation of trees and woodlands, natural waterways and sediment through the best management of each construction operation. The plans must make use of the practices that preserve the existing natural condition to the maximum extent practicable.~~

~~*Virginia Soil and Water Conservation Board:* Board established by the General Assembly to help guide the delivery of soil and water conservation services to citizens of the Commonwealth.~~

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

~~*Water Quality Volume:* The volume equal to the first one half inch of runoff multiplied by the impervious surface of the land development project.~~

Excavating: Any digging, scooping, or other method of removing earth materials.

External Relationships: Those associations pertaining to off-site considerations. (also see Internal Relationships)

Evergreen: A coniferous or other plant that retains its leaves or needles in all seasons.

Facilities: Something designed, built, installed, etc., to serve a specific function affording a convenience, use or service to the users.

Fair: a temporary, mainly outdoor, public celebratory event, including festivals, which may include musical or theatrical entertainment, display and/or sale of crafts, food and the like.

Fairgrounds, showgrounds, or exhibition center: A site which is used for temporary, regular exhibitions, displays, contests and the like.

Family: One (1) or more persons occupying a dwelling unit and living and cooking together as a single, nonprofit, housekeeping unit, provided that not more than four (4) persons not related by blood, marriage, adoption, or guardianship shall constitute a family unless such group is composed of handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 and all subsequent amendments. Such unrelated handicapped individuals shall have the right to occupy a dwelling unit in the same manner and extent as any family unit established through kinship as defined above.

Family Care Home: A private single-family home in which more than three (3) children, but no more than six (6) children, are received for care, protection, and guidance during only part of the day, except children who are related by blood or marriage to the person who maintains the home, and meeting applicable licensing requirements for family care homes of § 63.1-196 of the Code of Virginia, 1950, as amended.

Farmer's Market: A place where locally grown produce and goods are sold on a temporary or seasonal basis to the general public, not including wholesale or bulk sales to commercial enterprises or the sale of crafts, household items, or other nonagricultural items.

Farm equipment, motorcycle, boat, and sport trailer sales and service: On-site sales and service, either retail or wholesale, of farm equipment, motorcycle, boat, and sport trailers.

Fence: Any artificially constructed barrier of any material or combination of materials erected to enclose, partition, or screen areas of land.

Filling: Any depositing or stockpiling of earth materials.

Flag: Any fabric or bunting containing distinctive colors, patterns, or design that displays words, letters, figures, designs, symbols, fixtures, logos, colors, that may be mounted to a flag pole or other structure.

Flex Industrial uses: Light industrial activities that occur in buildings of no more than two stories in height, with one or more loading docks, and not more than half of the gross floor area used for offices.

Flood: A general and temporary inundation of normally dry land areas.

Flooding: A flood event. In stormwater management, a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

Floodplain: 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. In stormwater management, the floodplain means the area adjacent to a channel, river, stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event. This includes, but is not limited to, the floodplain designated by the Federal Emergency Management Agency and shown on the adopted Federal Insurance Rate Map (FIRM).

Floodplain Management Definitions (reference Floodplain District):

Base Flood/One Hundred-Year Flood: A flood that, on the average, is likely to occur once every one hundred (100) years (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

Existing Manufactured Home Park/Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the initial effective date of these regulations.

Expansion to an Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood Fringe: All that land in a floodplain not lying within a delineated floodway and subject to inundation by relatively low velocity flows and shallow water depths.

Flood Hazard District: The area subject to inundation by waters on the 100-year flood, which is the flood that has a one (1) percent chance of being equaled or exceeded in any given year, as defined by the Federal Emergency Management Agency.

Flood-Prone Area: Any land area susceptible to being inundated by water from any source.

Floodproofing: The protection of structures and public utility systems from damage caused by inundation or seepage of flood waters.

Historic Structure: Any structure that is a) listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; c) individually listed on the Virginia Landmarks Register; or d) individually listed on the local inventory of historic places, provided that the Warrenton preservation program has been certified by the Department of Historic Resources and/or the Secretary of the Interior.

Manufactured Home Park/Subdivision: A parcel, or contiguous parcels, of land divided into two (2) or more lots, for rent or sale, intended for the placement of a manufactured home.

New Construction: For the purpose of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map (FIRM) or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of this Article and includes any subsequent improvements to such structures.

New Manufactured Home Park/Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the initial effective date of these regulations.

Recreational Vehicle: A vehicle which is a) built on a single chassis; b) four hundred (400) square feet or less when measured at the largest horizontal projection; c) designed to be self-propelled or permanently towable by a light duty truck; and d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Start of Construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to it before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include either 1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or 2) any alteration of a “historic structure”, provided that the alteration will not preclude the structures continued designation as a “historic structure.”

Floodway: The channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved and kept free of encroachment, in order to discharge the 100-year flood or storm event without cumulatively increasing the water surface elevation more than one foot at any point along the watercourse. This includes, but is not limited to, the floodway designated by the Federal Emergency Management Agency and shown on the adopted Federal Insurance Rate Map (FIRM).

Floor Area, gross: The sum of the total horizontal areas of all floors of a structure on a lot, measured from the interior faces of exterior walls, including basements, elevator shafts, stairwells at each story, enclosed porches or atriums, interior balconies or mezzanines, and attics with headroom of six (6) feet, six (6) inches or greater. This definition does not include floor space not used for human habitation or suitable for temporary storage of merchandise or equipment such as areas designed for heating and ventilating equipment, cellars or outside balconies which do not project more than six (6) feet from the exterior wall, off-street parking structure, rooftop mechanical structures or penthouses, or areas with less than six (6) feet, six (6) inches or more of structural headroom.

The term “floor area” shall include basements, elevator shafts and stairwells at each story, floor space for mechanical equipment with headroom of seven feet or more, attic space, interior balconies and mezzanines.

The term gross floor area shall not include cellars or outside balconies which do not exceed a projection of six feet beyond the exterior walls of the building.

Parking structures and rooftop mechanical structures are excluded from gross floor area.

The gross floor area of structures devoted to bulk storage of materials including, but not limited to, grain elevators and petroleum storage tanks, shall be computed by counting each ten feet of height or fraction thereof as being equal to one floor.

Floor Area, gross leasable: The total area designated for tenant occupancy and exclusive use in a shopping center or commercial building, including storage, retail area, offices, shipping, basements, mezzanines and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

Floor Area, net: The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls and from the centerline of walls separating two or more buildings. The term “net floor area” shall include outdoor display areas for sale, rental and display of vehicles, equipment and other products, but shall exclude areas designed for permanent uses such as toilets, utility closets, enclosed parking areas, mechanical equipment rooms, public and fire corridors, stairwells, elevators, escalators, and areas under a sloping ceiling where headroom in at least half of such area is less than seven feet.

Footprint, building: (see Floorplate)

Floorplate: The horizontal land area occupied by a building at finished grade including projections and overhangs (“footprint”).

Foster Home: A residence of any person in which one (1) or more children, other than a child by birth or adoption of such person, resides as a member of the household.

Front: The edge of a lot or structure that abuts a street or way and ordinarily is regarded as the front of the lot.

Front, to: When a building or structure faces or orients toward the front of a lot.

Frontage: That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot; the distance between the side lines of any lot as measured along a line, at the required setback distance from the front lot line, generally paralleling the street upon which the lot fronts. The minimum width of a lot measured from one side lot line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line, as defined and required herein. On irregularly shaped lots that make such a measurable line impossible, the frontage shall be measured along the line that can be drawn so as to best meet the intent of the above definition.

Frozen food lockers: Commercial facilities in which frozen foods are stored for wholesale distribution or purposes.

Funeral Home: A building or part thereof used for human funeral services. Such building may contain space and facilities for the following: embalming and the performance of other services used in the preparation of the dead for burial; the performance of autopsies and other surgical procedures; the storage of caskets, funeral urns, and other related funeral supplies; and, the storage of funeral vehicles, but not including facilities for cremation.

Garage, Private: Accessory building designed or used for the private storage of not more than three (3) automobiles owned and used by the occupants of the building to which it is accessory, with no facilities for mechanical service or repair of a commercial or public nature. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of twice as many automobiles as there are dwelling units. A garage which is attached to the main dwelling structure shall be considered part of that structure for purposes of setback, yard and height regulations.

Garage, Public: A building or portion thereof, other than a private garage, designed or used as a business enterprise with a fee or service charge being paid to the owner for renting, selling, or storing motor-driven vehicles.

Garage, Repair: Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of motor vehicles is conducted or rendered, such services taking place within an enclosed building or screened from public view.

Garden Apartment: A dwelling unit situated within a structure consisting of no more than three (3) stories with access to the dwelling units provided by means of an interior hallway or foyer, each dwelling unit normally consisting of a portion of one (1) floor of the structure.

Gasoline Service Station: (see Service Station)

Geometric Design: Typical cross-sections used in street design.

Gift Shop: A building, or area within a building, comprising no more than 3,000 square feet that display and sells merchandise at retail that is related to a historic person, place or event.

Golf Course: Any area of land, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding lighted golf driving ranges as defined herein.

Golf Driving Range: A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

Gooseneck Lighting: A type of light fixture in which a lamp or lightbulb is attached to a flexible, adjustable shaft to allow the user to position the light source without moving the fixture or item to be illuminated. When applied for the purposes of illumination of signage, the lighting is directed on a sign element.

Governing Body: The Town Council of Warrenton, Virginia.

Governmental Buildings: (see Building, Governmental)

Green: Land open to the general public for passive recreational use that contains lawns, shade trees and/or landscaped areas. Paved pedestrian walkways and sitting areas may cover up to twenty-five percent (25%) of the green. Greens may be publicly owned or owned in common by a property owners association. Greens may but are not required to be square or rectangular in shape.

Grade: The average of the finished ground level at the center of all walls of a building. In the case where walls are parallel to and within five (5) feet of a sidewalk, the ground level shall be measured at the sidewalk.

Grading: Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Grain and feed supply stores: A business which sells grain, seed, feed and related agricultural products on a wholesale basis, and may sell at retail as well.

Gross Floor Area: (see Floor Area, Gross)

Gross Leasable Space: (see Floor Area, Gross Leasable).

Group Home: A building which provides living accommodations for the physically or mentally handicapped, children sixteen (16) years of age or younger, abused adults, or persons sixty-five (65) years of age or older. The residents of such group homes shall be supervised by a resident or nonresident staff persons in charge of their area.

Health Official; Health Officer: The health director or sanitarian of the County of Fauquier, Virginia, or his designated agent.

Health or Fitness Facilities: An indoor establishment, which may include saunas and steambaths, offering or providing facilities for and instruction in general health, physical fitness, and controlled exercises such as weight lifting, calisthenics, and aerobic dancing.

Heliport: Any landing area used for the landing and taking off of helicopters for the purpose of picking up or discharging of passengers or cargo, including fueling and emergency service facilities.

Heritage tree: any tree that has been individually designated by the local governing body to have notable historic or cultural interest.

Highway Engineer: The engineer appointed by the Town Manager or designated state official serving the local VDOT residency.

Historic District: An area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation, and designated and/or mapped and adopted by the Town Council as an overlay district of the Zoning Ordinance.

Historic District Definitions (reference HD District):

1. *Alteration:* Any change, modification, or addition to a part of or all of the exterior of any building or structure.
2. *Building:* Any enclosed or open structure which is a combination of materials to form a construction for occupancy or use.
3. *Building Official:* The person appointed by the Town Manager as the individual who issues the permit for the construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or part of any building.
4. *Building Permit:* An approval statement signed by the Building Permit Office authorizing the construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or a part of any building.
5. *Contributing Properties:* Properties so designated on the inventory map of landmarks and contributing properties which is adopted as a part of this Ordinance, being generally those properties which by reason of form, materials, architectural details, and relation to surrounding properties contribute favorably to the general character of the part of the Historic District in which they are located but which by reason of recent age, lack of historic significance, or other factors are not designated as historic landmarks under the criteria of this Ordinance.
6. *Certificate of Appropriateness:* The approval statement signed by the Chairman of the Architectural Review Board which certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or a part of any building within a historic district, subject to the issuance of all other regional permits needed for the matter sought to be accomplished.
7. *Demolition:* The dismantling or tearing down of all or part of any building and all operations incidental thereto.
8. *Historic District:* An area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.
9. *Historic Landmark:* Defined as any building or place listed in the National Register of Historic Places, or in the Virginia Landmarks Register, or any building or place officially designated as a

landmark structure or place by the Town of Warrenton on the inventory map which is adopted as a part of this Ordinance.

10. **Reconstruction:** Any or all work needed to remake or rebuild all or a part of any building to a sound condition, but not necessarily of original materials.
11. **Repairs:** Any or all work involving the replacement of existing work with equivalent material for the purpose of maintenance, but not including any addition, change, or modification in construction.
12. **Restoration:** Any or all work connected with the returning to or restoring of a building, or a part of any building, to its original condition through the use of original or nearly original materials.

Historic Shrine: (see Museum)

Home Garden: A garden in a residential district for the production of vegetables, fruits, and flowers generally for use and/or consumption by the occupants of the premises.

Home Business: Same as Home Occupation, except that a home business is permitted to have up to three full-time equivalent employees who do not reside in the dwelling in addition to any family employees who reside on the premises.

Home Occupation: Any occupation or activity conducted solely by a member of the family residing on the premises which is incidental and secondary to the use of the premises for dwelling, and in general an occupation where services are performed in such a way that visits to the premises by members of the public are infrequent and that the character and intensity of the use is compatible with the quiet nature of residential neighborhoods, provided that (a) not more than the equivalent area of one quarter (1/4) of the total interior finished floor space of the dwelling shall be used for such purpose; (b) that such occupation shall not require external or internal alterations, or the use of machinery or equipment not customary for purely domestic household purposes; (c) that no commodity is stored or sold, except as are made on the premises; (d) there shall be no group instruction, assembly or activity, or no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling.

When within the above requirement, a home occupation includes, but is not limited to the following: art studio; dressmaking; home offices, teaching, with musical instruction limited two (2) pupils at a time. However, a home occupation shall not be interpreted to include the conduct of barber shops and beauty parlors, retail stores, nursing homes, medical offices, clinics, convalescent homes, rest homes, child care centers, day care centers or nursery schools, restaurants, tea rooms, tourist homes, massage parlors or similar establishments offering services to the general public.

Homeowners Association: A private nonprofit corporation of homeowners for the purpose of owning, operating, improving and maintaining various common property and facilities.

Hospital: An institution primarily for human in-patient care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities, rendering medical, surgical, obstetrical, or convalescent care, including nursing homes, homes for the aged, and sanatoriums.

Hospital, Special Care: A special care hospital shall mean an institution rendering care primarily for mental or feeble-minded patients, alcoholics, or drug addicts.

Hotel: A facility offering transient lodging accommodations for ten or more individuals on a daily rate and providing additional services, such as restaurants, meeting rooms, and recreational facilities (also see Motel).

Housing, Emergency: (see Emergency Housing)

Household Pet Grooming: A commercial business limited to the routine grooming of household pets, as defined herein, including bathing, hair cutting and similar functions. (also see Pet Grooming)

Housekeeping Unit: (see Dwelling Unit)

Human Scale: The design and appearance of a building façade or group of facades such that a human being perceives that the facades relate to the size of a human being and are not perceived to be overwhelming, disorienting or intimidating due to the apparent size.

I - District: A zoning district for industrial uses.

Ice cream truck: A vehicle primarily offering delivery and/or self-service of pre-packaged frozen novelties or treats including ice cream, frozen yogurt, popsicles and similar fare. This type of vendor must obtain an itinerant merchant license from the Town Manager.

Illustrative Material: Accompanying pictorial and written data.

Impervious: Condition of a material that prevents significant percolation of water or discharge.

Impervious Surface: A surface on previously undeveloped land that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, including gravel driveways and parking areas.

Improvements: All utilities, facilities, buildings, and structures including but not limited to streets, cul-de-sacs, storm and sanitary sewers, water lines, curb and gutter, and landscaping required pursuant to the terms of the Ordinances of Warrenton, Virginia.

Industry, Heavy: A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Industry, Light: A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing or storage or manufacturing processes that involve hazardous or offensive conditions.

Inn: A single-family dwelling, portion thereof, or accessory building to, where short-term lodging is provided for compensation to transient guests only. Additional services, such as restaurants, meeting and event space, and recreational facilities may also be provided. The operator may or may not live on the premises. Up to twelve (12) guest rooms may be provided.

Inoperable Vehicle: A vehicle parked outside of a structure in any zoning district within the Town that cannot be operated mechanically and/or does not display a current, valid Town and State registration decal.

Institutional uses or buildings: Educational and philanthropic operations, including museums, art galleries, and libraries

Internal Relationships: Those associations pertaining to on-site considerations.

Janitorial service establishment: A commercial facility used to store equipment and materials used in providing janitorial services, which may include limited administrative office space for the enterprise.

Junk Vehicle: An inoperable or abandoned motor vehicle without current Town and State registration.

Junk Yard: The use of any area of land lying within one hundred (100) feet of a state highway or the use of more than two hundred (200) square feet of land area in any location for the storage, keeping, or abandonment of junk including scrap metals or other scrap materials. The term "junk yard" shall include the term "automobile graveyard" as defined herein.

Jurisdiction: The limits of territory within which authority may be exercised by the governing body.

Kennel: (see Animal Kennel).

Landscape Architect: A person who is certified by the State of Virginia in the practice of landscape design.

Laboratories, research: A workplace devoted to scientific research and experimentation.

Laboratories, medical: A workplace devoted to routine testing of medical samples and related items associated with the diagnosis and treatment of diseases.

Land-Disturbing Activity or Land Disturbance: ~~Any land change which may result in the alteration or removal of the Town's Natural Landscape including trees and woodlands, that potentially changes its runoff characteristics and that might impact the natural waterways within the Town through the erosion or movement of sediment into town and state waterways or onto neighboring lands. This includes, but is not limited to, clearing and grading, excavating, transporting and filling of land, except that the term shall not include the exceptions under Article 4-5 or Article 5-3 (e) of the Zoning Ordinance.~~ A manmade change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including construction activity such as the clearing, grading, excavating, or filling of land, or the conversion of land from permeable to impermeable surfaces. REFER TO: Chapter 21 of the Town Code, Erosion and Stormwater Management Ordinance.

Land Disturbance Permit (LDP): A permit issued by the Town for clearing, filling, excavating, or transporting of soil, or any combination thereof. REFER TO: Chapter 21 of the Town Code, Erosion and Stormwater Management Ordinance.

Landscaping: The modification of existing site conditions by earthwork, planting, and/or structural installation to complete a desired landscape scheme.

Landscape Design: The planned treatment of land, structures, plants, topography, and other natural features.

Laundromat: A business that provides home-type washing, drying, and/or ironing machines for hire to be used by customers on the premises.

Laundry: A commercial facility where washing, drying, ironing, and/or dry cleaning are performed, but do not include self service machines.

Laundry, Pick Up-Drop Off: A business that provides laundry services to customers but washing, drying, or dry cleaning facilities are not located on the immediate premises.

Lawn and Garden Equipment: Motorized and non-motorized equipment used to cultivate or maintain lawns and garden plots of yards associated with non-agricultural land uses.

Library: A place devoted to the collection and display of books, manuscripts and related intellectual property for use and circulation by the public but not for sale.

Lighting (reference Lighting Regulations):

Footcandle: Unit of luminance. One lumen per square foot. It is the luminous flux per unit area in the Imperial system. One footcandle equals approximately 0.1 (0.093) lux.

Flood Lam: A specific form of lamp designed to direct its output in a specific direction (a beam) but with a diffusing glass envelope: Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

Full Cutoff Light Fixture or Luminaire; Fully Shielded Light Fixture: A lighting fixture from which no light output, either directly from the lamp or a diffusing element, is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than 10% of the lamp's light intensity is emitted at an angle 10 degrees below that horizontal plane, at all lateral angles around the fixture. Implicit in the definition is a fixture that is aimed straight down and has a flat lens. Any structural part of the light fixture providing this shielding must be permanently affixed.

Glare: The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.

High Intensity Discharge Lamp: A mercury vapor, metal halide, or high or low pressure sodium lamp.

IESNA: Illuminating Engineering Society of North America

Illuminance, Luminance: The intensity of incident light at a point, measured with a light meter in footcandles or lux.

Initial lumens: The lumens emitted from a lamp, as specified by the manufacturer of the lamp.

Lamp: The component of a luminaire that produces light. A lamp is also commonly referred to as a bulb.

Light pollution: Any adverse effect of manmade light.

Light Trespass: Light falling where it is not wanted or needed, typically across property boundaries.

Lumen: Unit of luminous flux; used to measure the amount of light emitted by lamps.

Luminaire: The term "luminaire" means a complete lighting unit, less the support assembly, consisting of a lamp or lamps together with the components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply. A luminaire is also commonly referred to as a fixture.

Lux. Unit of Luminance: One lumen per square meter. It is the luminous flux per unit area in the metric system. One lux equals approximately 10 (10.8) footcandles.

Installed: The attachment, or assembly fixed in place, whether or not connected to a power source, of any outdoor light fixture.

Opaque: Opaque means that a material does not transmit light from an internal illumination source. Applied to sign backgrounds, means that the area surrounding any letters or symbols on the sign either is not lighted from within, or allows no light from an internal source to shine through it.

Outdoor Light Fixture or Luminaire: An outdoor illuminating device, outdoor lighting or reflective surface, lamp or similar device, permanently installed or portable, used for illumination or advertisement.

Temporary Lighting: Lighting which does not conform to the provisions of this Code and which will not be used for more than one thirty (30) day period within a calendar year, with one thirty (30) day extension. Temporary lighting is intended for uses which by their nature are of limited duration; for example holiday decorations, civic events, or construction projects.

Live-Work Unit: (see Dwelling, Live-Work Unit)

Loading Space: A space within the main building or on the same lot providing for the standing, loading, or unloading of trucks and other carriers.

Lodge: (see Club).

Lot: A numbered and recorded portion of a subdivision intended for transfer of ownership or for building development for a single building or accessory building or, in the case of land not transferred for sale, a measured parcel of land having fixed boundaries and designated on a plat or survey showing the metes and bounds or simply described by metes and bounds.

Lot Area: The total horizontal area of the lot lying within the lot lines, provided that no area of land lying within any street or right-of-way shall be deemed a portion of any lot area. The area of any lot abutting a street shall be measured to the street right-of-way.

Lot, Corner: A lot abutting upon two (2) or more streets at their intersection. All sides along the streets shall be considered front yards.

Lot, Coverage: The area of a site covered by buildings or roofed areas.

Lot, Depth of: The average horizontal distance between the front and rear lot lines.

Lot, Double Frontage: An interior lot having frontage on two (2) streets.

Lot, Interior: A lot other than a corner lot with only one street frontage.

Lot Line: A property boundary line of any lot held in single and separate ownership from adjacent property, except that, in the case of any lot abutting a street, the lot line or such portion of the lot as abuts the street shall be deemed to be the same as the street line, and shall not be the center line of the street, or any other line within the street line even though such may be the property boundary line.

Lot, Pipestem: A lot with access provided to the bulk of the lot by means of a narrow corridor that does not meet the street frontage requirement of the district regulations.

Lot, through: A lot in which both the front and rear lot lines abut a street.

Lot of Record: A lot which has been recorded among the land records in the Office of the Circuit Court of Fauquier County, Virginia.

Lot, Substandard: (see Nonconforming Lot).

Lot, Width of: The horizontal distance between side lot lines measured at the required front setback line.

Lumber and building supply: A commercial use devoted to the storage and sale of wood, lumber and related building materials.

Manufacture and/or Manufacturing: The processing, fabrication, assembly, and distribution of products such as, but not limited to: scientific or precision instruments, photographic equipment, communication equipment, computation equipment, household appliances, toys, sporting and athletic goods, glass products made of purchased glass, electric lighting and wiring equipment, industrial controls, lithographic and printing processes, radio and TV receiving sets, watches and clocks, optical goods, and electrical machinery.

Marquee: A permanent structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

Massage Therapist: A practitioner who is licensed or certified by the state and/or a recognized professional organization, to practice massage therapy for purposes of medical care or physical therapy rather than for entertainment or recreation.

Materials: The physical elements of which something is made or fabricated.

Medical or Dental Clinic: Any building or group of buildings occupied by medical practitioners and related services for the purpose of providing health services to people on an out-patient basis.

Medical Center: Any building or group of buildings that provides a range of professional medical services that would normally be found in hospitals, medical clinics and medical offices.

Medical Laboratory: (see Laboratory, Medical)

Meeting Hall: (see Assembly Hall)

Mentally or physically impaired person: A person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in § 63.2-2200, as certified in a writing provided by a physician licensed by the Commonwealth.

Message, Commercial: Any sign, wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

Message, Noncommercial: Any sign, wording or logo that does not represent a commercial message or commercial speech. See also "Message, Commercial."

Mini-Warehouse: A structure containing separate storage spaces of varying sizes leased or owned on an individual basis for self-storage of business, household, or contractors supplies.

Mixed-Use: The development of a neighborhood, parcel(s), building, or structure with a variety of complementary and integrated uses, such as, but not limited to, residential, office, retail, public and institutional uses, personal services, and recreation arranged in a compact urban form.

Mobile Food Cart: Any non-motorized mobile food unit with limited infrastructure that serves food and/or beverages intended for immediate consumption. Mobile food carts may not exceed six (6) feet in length, three (3) in width (excluding wheels), or four (4) feet in height (excluding wheels and umbrellas). Mobile Food Carts include pushcarts and similar devices.

Mobile Food Vehicle: A motorized mobile food unit which is self-sufficient in terms of potable water, sanitary sewer and electric utilities, and generally consists of an enclosed truck, trailer or similar vehicle, where food may be stored, prepared, cooked, and/or served. An open bed truck, van or converted automobile is not considered a mobile food vehicle and is NOT eligible for a mobile food vending permit.

Mobile Food Vendor: Any person or business selling foods from a mobile food cart or mobile food vehicle, which is stationary for a period of time longer than that necessary to complete a sale or greater than a fifteen (15) minute period. This definition does not apply to traveling ice cream trucks, cafeteria trucks serving active construction sites, or non-commercial vehicles.

Mobile Home (also “Manufactured Home”): (see “Dwelling, Mobile Home”)

Mobile Home Park: A residential neighborhood conforming to the requirements of the former MHP Residential District.

Mobile Home Subdivision: An arrangement of lots designed and intended for the placement of mobile homes for residential purposes, meeting the requirement of the former MHP Residential District.

Modular home; Modular dwelling: (see Dwelling, Modular)

Monument sales: Sales of headstones, plaques and similar elements for memorials.

Motel: A building or a group of two (2) or more detached or semi-detached buildings containing rooms or apartments having separate entrances provided directly or closely in connection with automobile parking or storage space serving such rooms or apartments, which building or group of buildings is designed, intended, or used principally for the providing of sleeping accommodations for automobile travelers and is suitable for occupancy at all seasons of the year.

Motion picture studio: A building or group of buildings in which videos, motion pictures or other visual recordings are filmed.

Mural: A painting or other artistic depiction on the wall of a building which does not serve the purpose of commercial or business advertisement or promotion.

Museum: A building which provides educational or aesthetic opportunities for the visiting public on a regular schedule. Artifacts, artwork, historical documents, photographs, costumes, and other objects are exhibited and cared for by a professional staff.

Neighborhood Professional Business: Any establishment containing between 1,500 and 5,000 square feet of gross floor area, on the ground floor of a building/structure wherein the primary occupation is the provision of services on a fee or contract basis. Retail sales to the general public are not permitted, except as a secondary and subordinate activity, and not exceeding ten (10) percent of the gross floor area. The retail sales area component should be clearly delineated within the building/structure. Business service establishments shall not have more than two (2) employees, including the owner.

New Urbanism: A pattern of urban design which incorporates various traditional town planning principles, including narrow streets, on-street parking, interconnected streets, alleys, small front setbacks, mixed-uses and similar features.

Noise: Sound of a harsh, loud, or confused kind causing disturbance to occupants of an abutting, adjacent, or adjoining property, as provided for in the performance standards of these regulations and any other provisions of the Town Code.

Nonconforming Activity: (see Nonconforming Use)

Nonconforming Lot: An otherwise legally platted lot that does not conform to the minimum area or width requirements of this Ordinance for the district in which it is located either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance.

Nonconforming Sign: An otherwise legal sign that does not conform with the regulations of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance.

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

Nonconforming Use: The otherwise legal use of a building or structure or a tract of land, other than a sign, that does not conform with the regulations of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance.

Non-profit organization: A non-profit organization incorporated under the provisions of section 501 [c] 3 of the federal code.

Non-Residential Floor Space: The area of a building that is not used for residential purposes. Areas used primarily for storage shall not be counted towards non-residential floor space.

Nursery School: (see Day Care Center).

Nursing or Convalescent Home: An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity are unable to care for themselves.

Office: A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

Office, business and professional: (see Business and Professional Office)

Office, medical: (see Medical or Dental Clinic)

Off-Street Parking Space or Parking Bays: A reasonably level space, available for the parking of one (1) motor vehicle, not less than nine (9) feet wide and having an area of not less than one hundred sixty-two (162) square feet exclusive of passageways or other means of circulation or access.

One Hundred-Year Flood: A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

On-Site: That area within the boundary of any land to be developed or planned for development.

Open Space: An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes and may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and water bodies, but not including driveways, parking lots, and storage yards.

Open Space, Common: Open space within or related to a development, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of a development.

Operator: The owner or operator of any facility or activity subject to regulation under this Ordinance.

Outdoor Lighting: (see Lighting)

Outdoor Storage: The keeping in an unroofed area of any goods, junk, material, merchandise, or vehicles in the same place for more than one (1) week.

Owner: The owner or owners of the freehold of the premises or lesser estate therein; a mortgagee, or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

Owner-Applicant: (see Applicant-Owner).

Parcel: A continuous quantity of land, as shown on the official parcel maps of the County Commissioner of the Revenue and/or an approved record plat, in the possession of, owned by, or recorded as the property of the same person or persons.

Park: An area open to the general public and reserved for recreational, educational, or scenic purposes.

Parking, off-street: Parking in spaces designated outside of the street right-of-way.

Parking, on-street: Parking in spaces designated within the street right-of-way.

Parking Lot: An area not within a building where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking. For the purposes of this Article, parking lots are defined as any area used for the display or parking of any and all types of vehicles, boats, farm machinery, lawn and garden equipment, or heavy construction equipment, whether or not these items are for sale or lease. This definition includes, but is not limited to, parking lots and display areas for automobile dealerships and service stations. The area of the parking lot shall be calculated to include all paved areas used for ingress, egress, internal circulation, loading, and parking stalls.

Parking Space, All Weather: A parking space surfaced to whatever extent necessary to permit reasonable use under all conditions of weather.

Passive Recreation: (see Recreation, Passive)

Passive Recreation Area: (see Recreation Area or Facilities, Passive)

Patio Home or Patio House: For purposes herein, same as atrium house (also see Atrium House, Townhouse).

Peak Flow Rate: The maximum instantaneous flow from a given storm condition at a particular location.

Performance Bond: Surety, cash escrow, letter of credit, any combination thereof, or other such legal arrangement acceptable to the Town to ensure that measures could be taken by the Town, at the applicant's expense, should they fail to initiate or maintain appropriate action per the approved site plan or permit.

Permittee: The person to whom the permit authorizing construction, building, or land-disturbing activities is issued, and who is ultimately responsible for those activities.

Person: Any individual, partnership, firm, association, joint venture, public private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, any interstate body, or other legal entity.

Personal Service Establishment or Store: Establishments primarily engaged in the repair, care, maintenance or customizing of personal property that is worn or carried about the person, or is a physical component of the person, such as the following which will serve as illustration: beauty parlors, barber shops, shoe repair, tailor shops, opticians, and similar places of business. Personal Service Establishments do not include dry cleaning plants, or linen or diaper service establishments.

Pet, Household: Small, domestic animals that are customarily kept in the house or residential yard for the company or enjoyment of the owner, such as but not limited to dogs, cats, rabbits, birds, rodents, fish and other such animals that pose no threat, harm or disturbance to neighboring residents or properties.

Pet Grooming: A commercial business limited to the routine grooming of household pets, as defined herein, including bathing, hair cutting and similar functions.

Pipeline, Major: A main trunk pipeline that carries water, gas or other material, or that collects stormwater or wastewater, and connects to one or more smaller lines that provide the service to specific customers.

Pipestem Lot: (see Lot, Pipestem).

Planned Unit Development: A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages, including principal and accessory structures and uses substantially related to the character and purposes of the development, and including streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements. It also includes a program for the provision, operation, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned development but will not be provided, operated, or maintained at public expense. PUD includes mixed-use developments, single use residential developments and/or commercial developments, in accord with the provisions of this Ordinance.

Planner: Person qualified to prepare site development plans, either licensed as such or meeting the educational training and work experience standards for membership of the American Institute of Certified Planners.

Planning Director: The person designated by the Town Manager to serve in this capacity. All references to the Planning Director in this Ordinance shall also include the Community Development Director.

Plat: A map or plan of a tract or parcel of land which is to be or has been subdivided (when used as a verb, plat is synonymous with subdivide).

Playground: A recreational area which is graded and either planted in grass or paved, or a combination of both, which may have play equipment, and which may be lighted or unlighted for nighttime sports activities in accord with the provisions of this ordinance.

Plumbing and electrical supply: A business which sells plumbing and/or electric products on a wholesale basis, and may sell at retail as well.

Porch: A structure attached to a building to shelter an entrance or to serve as a semi-enclosed space, usually roofed and generally open-sided, but it may be screened or glass enclosed.

Premise: A contiguous parcel of land with its appurtenances and buildings that functions as a unit. For the purpose of this ordinance, an outparcel along the perimeter of a shopping center or similar multi-tenant use that contains a freestanding building and a parking area separate from the shopping center as indicated on an approved site plan shall be considered a premises separate from the premises of the shopping center.

Printing establishments: Printing, publishing, and engraving establishment; photographic processing; blueprinting; photocopying; and similar uses

Profile: A drawing of a side or sectional elevation of an object.

Property: Any tract, lot, or parcel, or several of the same collected together for the purpose of subdividing, preparing a site development plan, and/or developing.

Public Buildings: (see Building, Public)

Public Facilities Manual: The Town of Warrenton Public Facilities Manual. This manual provides standards and specifications for public facilities construction within the Town.

Public Water and Sewer Systems: A water or sewer system owned and operated by a municipality or county, or owned and operated by a private individual or a corporation approved by the Governing Body and properly licensed by the State Corporation Commission, and subject to special regulations as herein set forth.

Pumping station: A component of a public water or wastewater system that pumps material from one line to another for either distribution or collection.

R – District (Residential District): Any zoning district beginning with "R" and/or any zoning district designed primarily for residential uses.

Raceway or Wireway: A raceway or wireway is a form of mounting structure for signs that are a narrow structure attached to a wall where electrical conduit can run within and where the sign structure itself is mounted to the raceway or wireway.

Recreation, Active: Intensive play or athletic activity involving individual or group participation in games, sports or other activity. Includes such activities as baseball, basketball, tennis, soccer, golf, swimming, riding and other activities involving physical exertion. May be private, public or commercial in nature.

Recreation Area or Facilities, Active: Area or facilities designed for intensive play or athletic activity by either juveniles or adults.

Recreation, Commercial: (see Commercial Recreation)

Recreation, Passive: Activity involving minimal physical exertion such as sitting, walking, picnicking, bird watching and reading.

Recreation Area or Facilities, Passive: Natural areas with or without facilities, primarily scenic, for passive activities, e.g., sitting, walking, riding, or picnicking.

Recycling Center: A facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, and metal cans, are collected, stored, flattened, crushed, or bundled, either by machine or by hand, within a completely enclosed building, in preparation for further processing or manufacturing at another facility.

Recycling Collection Point: An incidental use that serves as a neighborhood drop-off point for recoverable resources, for temporary storage in containers, or small structures, not including processing of such items. Generally, these facilities are located in shopping center parking lots, or other public or semi-public areas such as churches or schools.

Recycling Plant: A facility that is not a junkyard and in which recoverable resources, such as magazines, books, and other paper products; glass; metal cans; and other products, are recycled, reprocessed, and treated, within a completely enclosed building, to return such products to a condition in which they may again be used for production.

Rental service establishment: A business that rents household equipment and/or vehicles.

Rescue Squad: An emergency medical and rescue company, typically operated as a non-profit organization, using emergency medical vehicles to serve customers.

Rest Home: (see Nursing Home).

Restaurant: An establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at tables or counters located within the building. This definition also includes cafes, cafeterias, sit-down restaurants, tea rooms, confectionery shops, refreshment stands, and outdoor cafes.

Restaurant, Carry-Out: An establishment that provides prepared food for pick-up by the customer or delivery by the restaurant employees, but not eat-in facilities.

Restaurant, Drive-Through: An establishment that delivers prepared food, beverages, and/or desserts to customers in motor vehicles, regardless of whether or not it also serves customers who are not in motor vehicles, for consumption on or off the premises.

Restaurant, Fast Food: An establishment whose principal business is the sale of pre-prepared or rapidly prepared food, beverages, and/or desserts directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises. Orders are not generally taken at the customer's table and food is generally served in disposable wrapping or containers.

Retail Stores and Shops: Buildings for the display and sale of merchandise at retail (but specifically exclusive of coal, wood, and lumber yards), such as the following which serve as illustrations: drugstore, newsstand, food or grocery store, candy shop, dry goods and notions store, antique store, gift shop, hardware store, household appliance store, furniture store, florist, music and radio store. This group also includes the consolidation of retail stores into one or more buildings as a shopping center.

Retail uses, General: (see Retail Stores and Shops)

Retail uses, Personal services: Retail uses that provide services to individuals, such as barber, beauty salon, nail care, and the like.

Retail uses, Business services: Retail uses that provide services to businesses, such as office supplies, office equipment, data processing, and the like.

Retail Use, Automated: A retail establishment that is fully automated, without a full time attendant or proprietor.

Retention Facility: The same as a Detention Facility except that the lower water elevation of the pond may be at a level lower than the normal hydraulic grade line of the drainage system into which it drains. Water detained in this lower elevation must therefore be dissipated by evaporation, seepage into the soil, or retained as a permanent water pool.

Reverse Frontage: A lot with double frontage which is not accessible from one of the streets upon which it fronts, usually the street designed for or experiencing the highest vehicular traffic volumes.

Right-of-Way: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. May include a fee simple or easement ownership.

Road, Public: All public property reserved or dedicated for street traffic, maintained by the Town of Warrenton or the Virginia Department of Highways.

Road, Private: A way open to vehicular ingress and egress established as a separate tract for the benefit of certain adjacent properties, not including driveways, and not maintained by the Town of Warrenton or the Virginia Department of Highways.

Rooming House: (see Boarding House).

Rug and carpet cleaning and storage with incidental sales of rugs and carpets: A business which cleans and/or stores rugs and carpets and which may sell or trade such items as an incidental use.

Satellite Dish Antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured, usually in a round, parabolic shape, intended to receive and/or transmit radio, electromagnetic, or microwaves from terrestrially based and/or orbitally based sources.

School: Any public, parochial, or private place of instruction that provides a curriculum of elementary or secondary academic instruction, including kindergartens, elementary schools, middle schools, junior high schools, vocational schools, and high schools, meeting all the licensing requirements of the Commonwealth of Virginia.

Screening: (see Buffer).

Seating Capacity: The actual seating capacity of an area based upon the number of fixed seats or one (1) seat per eighteen (18) inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be one (1) seat for every seven (7) square feet of net floor area, excluding floor area devoted to permanent displays and/or storage.

Security service office or station: A kiosk, office or other structure out of which the security personnel of a building or complex operate.

Sediment: Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site or origin by air, water, gravity, or ice and has come to rest on the earth's surface, either above or below sea level.

Self-Service Storage Units: (see Mini-Warehouse).

Senior Citizens Center: A licensed facility which provides care, supervision, and recreation activities for persons 55 years of age and older, during a portion of the day and which is not used for lodging or overnight care.

Service Station: Buildings and premises where the primary use is the supply and dispensing of retail motor fuels, lubricants, batteries, tires, motor vehicle accessories, and/or light maintenance activities, performed within an enclosed building, such as engine tune-ups, lubrication, and minor or emergency repairs. This definition does not include heavy automobile maintenance activities such as engine overhauls, automobile painting, and body or fender work.

Setback: The minimum distance by which any building or structure must be separated from the front, side, or rear lot line.

Setback Line: The line which establishes the required setback. The same as building line.

Shopping Center: A grouping of retail business and service uses on a single site with common, shared parking facilities and combined access points to the public road system.

Shrub: A low-growing, usually multi-stemmed, woody plant.

Sign: Any object, device, display, or structure, or part thereof, visible from a public place, a public right-of-way, any parking area or right-of-way open to use by the general public, or any navigable body of water which is designed and used to attract attention to an institution, organization, business, product, service, event, or location by any means involving words, letters, figures, designs, symbols, fixtures, logos, colors, illumination, or projected images. The term “sign” also does not include the display of merchandise for sale on the site of the display.

Sign Area: The entire display area of a sign including the advertising surface located on one or more sign faces and any framing, trim and molding, but not including the supporting structure as measured pursuant to Section 6-5.

Sign Copy: Those letters, numerals, and figures, symbols, logos, and graphic elements comprising the content or message of a sign.

Sign Face: The surface of the sign upon, against or through which the message of the sign is exhibited.

Sign Height: The vertical distance to top of sign structure as measured pursuant to Section 6-5.

Sign, Awning: A sign painted on, printed on or attached flat against the surface of an awning.

Sign, Banner: A temporary sign constructed of a flexible substrate such as, canvas, plastic, fabric or similar lightweight, non-rigid material that can be mounted to a structure with cord, rope, cable, or a similar method. Where a banner sign is supported by stakes or another type of supporting structure for posting in the ground, such sign shall be classified as a “Sign, Yard.”

Sign, Building: Signs that are attached to the building including wall signs, projecting signs, awning signs, marquee signs, suspended signs, and canopy signs.

Sign, Canopy: A sign attached to the soffit or fascia of a canopy.

Sign, Changeable Copy: A sign designed so that the characters, letter or illustrations can be changed or rearranged manually or electronically without altering the sign display surface. May also be known as readerboards. See also the definition of “Sign, Electronic Message Center.”

Sign, Drive-Through: Any signage allocated along a drive-through lane that is oriented toward the customer or user in the drive-through lane.

Sign, Electronic Message Center: Any sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Such signs may be included in the definition of other types of signs if they otherwise meet those definitions and do not have features of prohibited signs, such as flashing signs.

Sign, Feather: A temporary sign that is constructed of lightweight cloth, canvas, plastic fabric or similar lightweight, non-rigid material and that is supported by a single vertical pole mounted into the ground or on a portable structure that may resemble a sail, bow, or teardrop.

Sign, Free Standing: Any sign supported upon the ground by a monument, pedestal, bracing, or other permanent measure and not attached to any building. See also the definition of “Sign, Monument.”

Sign, Marquee: A sign attached to and made a part of a marquee or any similar projections from a building, with changeable, fixed or both types of lettering in use.

Sign, Monument: A permanent freestanding sign other than a pole sign, not attached to a building, which is placed upon or supported by the ground independently of any other structure, typically on a monument or pedestal structure.

Sign, Neon: Any illuminated sign that is comprised of glass tubing that contains neon or other gases that light up in various colors when an electric discharge is applied to the gas.

Sign, Nonconforming: Any sign which was erected legally prior to the adoption of this code, but which does not comply with subsequently enacted sign restrictions and regulations or a sign which does not conform to the sign code requirements.

Sign, On-Premise: A sign with a message that relates to an activity located on the same premise.

Sign, Permanent: A sign permitted by this code to be located on the premises for an unlimited period of time, constructed of rigid material, and designed to be permanently attached to a structure or the ground.

Sign, Portable: Any sign not attached to the ground or a sign designed to be transported, including signs designed to be transported by means of wheels. Such signs shall not include sidewalk signs as allowed in Section 6-15.

Sign, Projecting: A sign that is affixed perpendicular to a building or wall and extends more than eighteen inches beyond the face of such building or wall.

Sign, Sidewalk (A-Frame): A freestanding sign which is ordinarily in the shape of an “A” or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure. See also the definition of T-frame signs. Such signs are placed on a public sidewalk, private sidewalk, or similar walkway, in a manner established in Section 6-15.6.1.

Sign, Sidewalk (T-Frame): A freestanding sign which is ordinarily in the shape of an upside down “T” or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure. See also the definition for A-frame signs. Such signs are placed on a public sidewalk, private sidewalk, or similar walkway, in a manner established in Section 6-15.6.1.

Sign, Temporary: A sign that is neither permanently anchored to the ground, nor permanently affixed to a structure, nor mounted on a chassis, constructed of materials not intended for extended/permanent use, and/or is intended for a limited period of display.

Sign, Vehicle: A vehicle sign shall be considered to be used for the primary purpose of advertising if the vehicle fails to display current license plates, inspection sticker, or municipal decal, if the vehicle is inoperable, if evidence of paid-to-date local taxes cannot be made available, or if the sign alters the standard design of such vehicle. Vehicle signs include those attached to or placed on a vehicle or trailer.

Sign, Wall: A sign attached directly to an exterior wall of a building with the exposed face of the sign in a plane parallel to the building wall. A wall signs shall include cornice and transom signs as allowed in the Historic District.

Sign, Window: A sign attached to, in contact with, placed upon or painted on the window or door of a building which is intended for viewing from the outside of such building. This does not include merchandise located in a window. A structure that would be considered a sign if mounted on the exterior of the building, but which is mounted inside the building and oriented to be visible through the window by a person outside of the window, shall be considered a window sign for the purposes of this Article.

Sign, Yard: Any temporary sign placed on the ground or attached to a supporting structure, posts, or poles, that is not attached to any building.

Sign fabricating and painting: The fabrication, painting or assembly of any type of sign as defined herein.

Simplicity: Directness of expression in design.

Site Development Plan: Detailed drawings indicating all building construction and land improvements, including landscape treatments and related information as required by this Ordinance. Also defined as the Site Development Plan Ordinance, Town of Warrenton, Virginia, December, 1970.

Small equipment sales and/or service operations: A commercial enterprise devoted to the repair and sales of small scale motorized equipment for residential or commercial activities, such as lawn mowers and power tools.

Special Exception: (see Special Use Permit)

Special Use Permit: A permit for a use that, owing to some special characteristics attendant to its operation, installation, or relation to the neighborhood, is permitted in a district, subject to Town Council or BZA approval, in accordance with the provisions of Article 11 of this Ordinance. Special Use Permits are subject to special requirements and/or conditions that may be imposed by the Council or BZA, respectively, different from those usual requirements for the district in which the special use is located.

Specifications: A detailed, precise presentation of the materials and procedures to be employed in the construction of all physical improvements required by the ordinance applicable in the Town of Warrenton, Virginia.

Specimen tree: any tree that has been individually designated by the local governing body to be notable by virtue of its outstanding size and quality for its particular species.

Square: Land open to the general public for passive recreational use that contains paved pedestrian plazas, lawns, shade trees and/or landscaped areas. Paved pedestrian plazas may cover up to 90% of the square. Squares may be publicly owned or owned in common by a property owners association. Squares are not required to be square or rectangular in shape.

State: The Commonwealth of Virginia.

State Water Control Law: Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

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

Steep Slope: A slope exceeding twenty-five (25) percent grade.

Storage yards: A yard area in which materials, equipment and/or vehicles used for construction, excavating or similar activities are stored, kept and/or maintained. Storage yards may be partially covered, enclosed or screened.

Stormwater: Precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater Management: ~~Under the Articles, Manuals, Forms, and Regulations set forth for the purposes of Stormwater Management, in addition to the definitions set forth in 9VAC25-870-10 of the Virginia Stormwater Management Regulations, as amended, which are expressly adopted and incorporated herein~~

by reference, the words and terms used in this Ordinance have the following meanings unless otherwise specified herein: **REMOVED (XXXX, 2024). REFER TO: Chapter 21 of the Town Code, Erosion and Stormwater Management Ordinance.**

~~*Adequate channel:* A natural or manmade channel that will convey the designated frequency storm event without overtopping the channel bank nor causing erosive damage to the channel bed or banks. For manmade channels, the ten-year frequency storm is used to verify that stormwater will not overtop the channel banks, and the two-year storm is used to demonstrate that stormwater will not cause erosion to the channel bed or banks. For natural channels, that channel capable of conveying the runoff from a two-year storm without overtopping its banks or eroding the channel lining, or without causing flooding of structures from the 100-year storm event.~~

~~*Administrator, VSMP:* The Administrator of the Town of Warrenton Virginia Stormwater Management Program.~~

~~*Agreement in lieu of a stormwater management plan:* A contract between the VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VSMP for the construction of a single family residence; such contract may be executed by the VSMP authority in lieu of a stormwater management plan. This differs from an Agreement in lieu of an erosion and sediment control plan.~~

~~*Applicant/Developer:* Any person, his Agent, or his assigns submitting a stormwater management plan for approval.~~

~~*Channel:* An elongated depression having a definite bed and bank which serves to confine the flow of water.~~

~~*Concentrated Flow:* Converging area between sheet flow and channel flow. The area where a stream could be said to begin.~~

~~*Conduit or conveyance:* A general term for any open or enclosed facility, natural or man-made, which is intended for the conveyance of water.~~

~~*Control measure:* Any best management practice or stormwater facility (BMP) or other method used to minimize the discharge of pollutants to state waters.~~

~~*Control Section:* A section or a reach of a conduit where conditions exist that make the water level stable. A control section may be partial or complete. A complete control section is independent of downstream conditions and is effective at all stages. An overflow dam or rock ledge crossing a channel are examples. Control sections may be either natural or artificial.~~

~~*Culvert:* A closed conduit carrying water under a highway, railroad, or other embankment. A culvert is distinguished from a bridge by generally having the same material all around its perimeter, and having a regular, symmetrical shape.~~

~~*Debris:* Any material, including floating trash or suspended sediment moved by a flowing stream.~~

~~*Deter:* The practice of containing standing water for a brief time after a surface water runoff event for the purpose of reducing peak runoff rates and/or for removing pollutants. Detention may be achieved in facilities that are normally dry (detention ponds).~~

Discharge:

- (a) ~~The quantity of water, silt, or other mobile substances passing along a conduit per unit of time; rate of flow expressed as cubic feet per second, liters per second, million of gallons per day, etc.~~
- (b) ~~The act involved in water or other liquid passing through an opening or along a conduit or channel.~~
- (c) ~~The water or other liquid which emerges from an opening or passes along a conduit or channel.~~

Ditch: ~~An artificial channel.~~

Flood Routing: ~~Determining the changes in the rise and fall of floodwater as it proceeds downstream along a drainageway, including the effects of structures.~~

Frequency of Storm: ~~The anticipated period in years that will elapse, based on average probability of storms in the design region, before a storm of a given intensity and/or total volume will recur. A 10-year storm can be expected to occur on the average of once every 10 years, but has a 10% chance of occurring in any given year.~~

General permit: ~~The state permit titled GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in Part XIV (9VAC25-880-1 et seq.) of the Regulations authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.~~

Infiltration Facility: ~~A stormwater management facility which temporarily impounds runoff and discharges it via infiltration through the surrounding soil. While an infiltration facility may also be equipped with an outlet structure to discharge impounded runoff, such discharge is normally reserved for overflow and other emergency conditions. Since an infiltration facility impounds runoff only temporarily, it is normally dry during non-rainfall periods.~~

Layout: ~~A conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.~~

Minor modification: ~~An amendment to an existing general permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.~~

On-site Stormwater Management Facilities: ~~Facilities which are designed to control stormwater runoff emanating from a specific site.~~

Peak Discharge: ~~The maximum instantaneous flow from a given storm condition at a specific location.~~

Post-development Runoff: ~~Conditions that may reasonably be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.~~

~~*Predevelopment Runoff:* Conditions that exist at the time that plans for a land development activity are approved by the plan approval authority. For staged development, the first item approved or permitted shall establish the time at which predevelopment conditions are fixed. In the case of land development by governmental agencies, the initiation of land acquisition shall establish the time at which predevelopment conditions are fixed.~~

~~*Regional Watershed Wide Stormwater Management Facility or Regional Facility:* A facility or series of facilities designed to control stormwater runoff from a large contributing area, although only portions of the watershed may experience land development.~~

~~*Regulations:* Virginia Stormwater Management Program (VSMP) Permit Regulations, 9VAC25-870, as amended.~~

~~*State Board:* The Virginia State Water Control Board.~~

~~*State permit:* An approval to conduct a land disturbing activity issued by the State Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the State Board for stormwater discharges from an MS4. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the Regulations.~~

~~*Storm Sewer:* A sewer that carries only stormwater, drainage and other surface water, but not domestic sewage or industrial wastes. A storm sewer system consists of underground conduits, inlets, manholes, open channels, swales and special appurtenances.~~

~~*Stormwater Detention Basin or Detention Basin:* A stormwater management facility which temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream conveyance system. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and are, therefore, not considered in the facility's design. Since a detention facility impounds runoff only temporarily, it is normally dry during non-rainfall periods.~~

~~*Stormwater Drainage System:* A system of conduits and associated structures used to collect and convey runoff.~~

~~*Stormwater Management Facility:* A device that controls stormwater and changes the characteristics of runoff including, but not limited to the quantity and quality, the period of release, or the velocity of flow.~~

~~*Stormwater management plan:* Document(s) containing material describing methods for complying with the requirements of Article 5 of this Ordinance.~~

~~*Stormwater Pollution Prevention Plan (SWPPP):* A document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site, and otherwise meets the requirements of this Ordinance. The document shall identify and require the implementation of control measures, and shall include an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan, and other information that fully demonstrate how the project will comply with the applicable regulations and requirements.~~

~~*Virginia Stormwater BMP Clearinghouse:* A reference website maintained by the Department of Environmental Quality that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.~~

~~*VSMF Authority Permit:* An approval to conduct a land-disturbing activity issued by the Administrator for the initiation of a land-disturbing activity, in accordance with this Ordinance, and which may only be issued after evidence of general permit coverage has been provided by the Department.~~

~~*Waste load allocation or waste load (WLA):* The portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality based effluent limitation.~~

Streams: Water bodies identified as streams on the US Geological Survey topographical maps, the National Wetlands Inventory, or county soil maps.

Story: That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there be no floor above it, the space between the floor and the ceiling next above it.

Story, Half: A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two thirds of the floor area is finished off for use.

Street: A strip of land subject to vehicular and/or pedestrian traffic providing means of access to property; also designated as road, lane, drive, avenue, right-of-way, highway, boulevard, trail, court, place, terrace, etc. (see Street, Public)

Street, Arterial: A highway utilized primarily as a supplement to, and an extension of, the interstate highway system, defined in the Virginia State Highway Commission Standards as an arterial highway. A minimum right-of-way of one hundred twenty (120) feet is required and carrying capacity is in excess of eight thousand (8,000) vehicles per lane per day.

Street, Collector: Any existing or future street shown as a collector street on the adopted Comprehensive Plan or that carries a volume of through traffic between four hundred (400) and three thousand (3,000) vehicles per day.

Street, Interstate: A thoroughfare utilized to carry interstate traffic with a minimum right-of-way of three hundred (300) feet in rural area and carrying capacity in excess of fifteen hundred (1,500) vehicles per lane per hour.

Street, Line: The dividing line between a street or road right-of-way and the contiguous property.

Street, Local: A street that carries or is anticipated to carry a volume of traffic less than four hundred (400) vehicles per day, the right-of-way of which shall not be less than fifty (50) feet.

Street, Primary Thoroughfare: A street that carries or is anticipated to carry a volume of traffic exceeding three thousand (3,000) vehicles per day, the right-of-way of which shall not be less than seventy (70) feet, and should, where feasible, have a minimum right-of-way of ninety (90) feet.

Street, Private: A local or collector street constructed to Town and State standards or the equivalent thereto, guaranteed to be maintained by a private corporation by means of a covenant, deed, and easement acceptable to the Town of Warrenton. Such streets shall have guaranteed public vehicular access.

Street, Public: All public property reserved or dedicated for street traffic, improved to the standards set by the Town of Warrenton or the Virginia Department of Transportation. The lot frontage and setback requirements of this ordinance refer to the public street.

Street, Secondary Collector: A street that carries or is anticipated to carry a volume of through-traffic exceeding four hundred (400) vehicles per day, the right-of-way of which shall not be less than fifty (50) feet nor more than ninety (90) feet depending upon existing or anticipated traffic volume.

Street, Service Drive: A public right-of-way generally parallel with and contiguous to a major highway. Primarily designed to promote safety by eliminating pernicious ingress and egress to the major safe and orderly points of access to the major highway.

Street, Width: The total width of the strip of land dedicated or reserved for public travel includes roadway, curb and gutter, sidewalks, planting strips, and where necessary, utility easements.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, drainage structures, dwellings, buildings, signs, fences, walls, etc., but not private driveways.

Studios for artists, photographers, and sculptors: A work space for the creation of artworks, photography and related or similar activities.

Studios and trade schools: A work space for the conduct, teaching and/or practice of artist or business trades.

Subdivide: To divide any tract, parcel, or lot of land into two (2) or more parts for the purpose of transferring ownership of any part or for the purpose of building development of any sort. The term "subdivide" includes the term "resubdivide" and when appropriate to the context shall relate to the process of subdividing.

Subdivision: means the same as "subdivision" as defined in Article 5 of the Town Subdivision Ordinance.

Subdivision Agent: An employee of the Community Development Department designated by the Planning Director to administer the Subdivision Ordinance and any other similar duties as may be assigned by the Planning Director.

Substations: An appurtenant structure for collecting, processing or distributing a public utility commodity, including electric substations but not including any part of a water or sewer system.

Surveyor, Land: An individual who is certified and licensed by the Commonwealth of Virginia and who is registered with the State Department of Professional and Occupational Regulation as a "registered land surveyor."

Taxicabs stands: An office, kiosk or other station at which taxis are dispatched.

Taxidermist: A person who prepares animal carcasses for ornamental display.

Tea Room: A room or rooms within a private residence, where teas, other beverages, and food products are provided for compensation. The operator of the facility shall live on the premises.

Temporary family health care structure: A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

Theaters: A building, structure or place designed or used primarily for the commercial exhibition of motion pictures to the general public or used for the performance of plays, acts, dramas or musical productions by actors, actresses and/or musicians.

Time of Concentration: The time it takes for runoff to travel from the most hydraulically distant part of the watershed to a point of reference, (i.e. basin outlet, drop inlet, etc.).

Tire recapping and retreading: A business which re-caps and/or re-treads motor vehicle tires.

Total maximum daily load (TMDL): The sum of the individual waste-load allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs. TMDLs for the Chesapeake Bay include phosphorus, nitrogen and total suspended solids (TSS).

Tourist Home: A dwelling where only lodging is provided for compensation for up to five (5) persons (in contradistinction to hotels and boardinghouses) and open to transients.

Town: The Town of Warrenton, Virginia, a municipal corporation.

Town Arborist: International Society of Arboriculture (ISA) Certified Arborist contracted by the Town to oversee the preservation of Town's tree inventory.

Town Engineer: The person designated to serve in this capacity by the Town Manager.

Town Manager: The duly appointed Town Manager of Warrenton, Virginia.

Townhouse: (see Dwelling, Townhouse).

Transitional Housing: The housing is designed to provide temporary housing for not more than four (4) unrelated persons for a maximum of six months. Transitional housing and counseling services shall be provided by a coalition of churches and/or human service organizations. A house coordinator must reside on the premises, and a substitute house coordinator shall be on the premises if the house coordinator is away from the residence for more than one day.

Transmission Line, Major: A main trunk line that carries electricity, telecommunications signals or other similar items, and connects to one or more smaller lines that provide the service to specific customers.

Transmission and receiving towers: Any structure used for the purpose of supporting one (1) or more antennas or microwave dishes, including self-supporting lattice towers, guy towers, or pole towers. The term includes radio, television and telephone transmission towers, alternative antenna support structures such as buildings and rooftops, and other existing support structures, including monopoles. Additional definitions include:

- (1) *Alternative Tower Structure:* Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
- (2) *Antenna:* Any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of electromagnetic waves, provided that this definition shall not be interpreted to include an antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one (1) meter or less in diameter; or an antenna that is designed to receive video programming services via multipoint distribution services; including multi-channel, multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is one (1) meter or less in diameter or diagonal measurement; or an antenna that is designed to receive television broadcast signals.
- (3) *FAA:* The Federal Aviation Administration.
- (4) *FCC:* The Federal Communications Commission.
- (5) *Height:* When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
- (6) *Telecommunication Facility:* Any structure used for the purpose of supporting one (1) or more antennas or microwave dishes, including self-supporting lattice towers, guy towers, or pole towers. The term includes radio and television transmission towers, alternative antenna support structures such as buildings and rooftops, and other existing support structures.
 - (a) *Telecommunication Facility, Freestanding:* A structure that stands alone for the sole purpose of supporting antennas, dishes and other such telecommunications equipment.
 - (b) *Telecommunication Facility, Attached:* A structure or building whose main purpose is to support or house other uses, and to which antennas, dishes and other such telecommunications equipment is attached so as to avoid constructing a freestanding tower.

Travel Lane: Space specifically designated and reserved on the site for the movement of vehicular traffic.

Travel Trailer: A mobile unit less than twenty-nine (29) feet in length and less than four thousand five hundred (4,500) pounds in weight which is designated for temporary human habitation.

Treatment Plant: The central facility for treatment and purification of water or wastewater, as part of a public water or sewer system owned and operated by the Town or other government entity, or by an approved private operator to serve a community area.

Tree canopy; tree cover: Includes all areas of coverage by plant material exceeding five feet in height and the extent of planted tree canopy at 10 or 20 years maturity, based upon the following published reference: Manual of Woody Landscape Plants: Their Identification, Ornamental Characteristics, Culture, Propagation and Uses by Michael A. Dirr (or equivalent professional publication).

Tree, Canopy: A deciduous tree that normally exceeds thirty (30) feet in height at maturity, and is shown on the list of species in Article 8 of this Ordinance.

Tree, Ornamental: A tree that normally does not exceed thirty (30) feet in height at maturity, and is shown on the list of species in Article 8 of this Ordinance.

Tree Protection Zone: An area that is radial to the trunk of a tree in which no construction activity shall occur. The tree protection zone shall be fifteen (15) feet from the trunk of the tree to be retained, or the distance from the trunk to the dripline, whichever is greater. Where there are a group of trees or woodlands, the tree protection zone shall be the aggregate of the protection zones for the individual trees.

Truck sales and service repair garages: A business which sells trucks and/or which provides repair and maintenance services for trucks.

Use: Activity proposed for any portion or part of a parcel, tract, or lot.

Use, Accessory: (see Accessory Use).

U.S.G.S.: U.S. Geological Survey.

U.S.C. & G.S.: U.S. Coast and Geodetic Survey.

Utility: (1) A system of facilities provided by any agency which, under public franchise or ownership, or under certificate of convenience and necessity, provides the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection, or other similar service; (2) A closely regulated private enterprise with an exclusive franchise for providing a public service; (3) the component parts of such facilities, including poles, wires, transformers, underground pipelines or conduits. Treatment plants are defined as separate items.

Variance: In the application of the Zoning Ordinance, 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 the ordinance 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 the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

Vehicular Use Area: The entire paved area that encompasses all parking spaces, loading areas, stacking spaces, and the access drives that provide access to those spaces but that does not include the entry drive or driveway with no direct access to a parking space, stacking space, or loading space.

Vending Machine: An automated device for the sale of goods, typically snacks, beverages and the like.

Vending Gallery: A building or structure containing multiple vending machines.

Veterinary Hospital: A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

Video Game Gallery: (see Amusement Arcade)

Virginia Stormwater Management Act: Article 1.1 (§62.1-44.15:24 et seq.) of Chapter 6 of Title 62.1 of the Code of Virginia.

Virginia Stormwater Management Program (VSMP): A program approved by the State Board after September 13, 2011, that has been established by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

Virginia Stormwater Management Program authority (VSMP authority): Authority approved by the State Board after September 13, 2011, to operate a Virginia Stormwater Management Program.

Visitor Center: A facility established for the purpose of disseminating information about the Town, County of Fauquier or the region. The facility may provide an interpretative area, and small auditorium for visitors or tourists.

Warehouse: A building used primarily for the storage of goods and materials.

Wall: A structure which serves to enclose or subdivide a building, usually presenting a continuous surface except where penetrated by doors, windows, and the like.

Wall, Retaining: A wall constructed to support soil or sub-surface structures.

Water Storage Tank: An enclosed structure used for the storage of water for distribution.

Water and Sewer Systems: (see Public water and sewer systems)

Watercourse: Any naturally occurring, constant or intermittent, surface water and its associated banks, bed, and floodplains.

Watershed: The total drainage area contributing runoff to a single point.

Waterway: A water body, or body of water, including periodic and permanent, partially or wholly inundated areas. Waterways can include ephemeral, intermittent, and perennial streams, lakes, estuaries and shorelines, ponds including vernal ponds, lakes, impoundments, and wetlands.

Wayside Stand, Roadside Stand, Wayside Market: Any structure or land used for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner or his family on their farm.

Wetlands: Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

Wholesale Establishments: A business and its premises where goods are sold on a bulk basis to distributors and direct sales to the general public are limited. Wholesale establishments are also characterized by the use of trucks for delivery or pick-up of goods sold.

Woodland: An area comprising one (1) or more acres of wooded land where the largest trees have at least a six (6) inch caliper, or a grove of trees forming one (1) canopy where ten (10) or more trees have at least eight (8) inch calipers.

Yard: An open space on a lot other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

Yard, Front: An open space on the same lot as a building between the nearest front line of the building (exclusive of steps) and the front lot or street line, and extending across the full width of the lot.

Yard, Rear: An open unoccupied space on the same lot as a building between the nearest rear line of the building (exclusive of steps) and the rear line of the lot, and extending the full width of the lot.

Yard, Sale: Use of the premises of a residential dwelling for general sales of a temporary nature, open to the public with the purpose of disposing of personal, family, or household goods or articles. The term yard sale includes but is not limited to activities known as garage sales, porch sales, backyard sales, and moving sales.

Yard, Side: An open unoccupied space on the same lot as a building between the nearest side line of the building (exclusive of steps) and the side line of the lot, and extending from the front yard line to the rear yard line.

Zero Lot Line: The location of a building on a lot in such a manner that one (1) or more of the building's sides rests directly on a lot line. The side(s) of the building resting on the line typically does not include windows.

Zoning Administrator: An employee of the Community Development Department designated by the Planning Director to administer the Zoning Ordinance and any other similar duties as may be assigned by the Planning Director.

Zoning Ordinance: The Zoning Ordinance of the Town of Warrenton, Virginia.