

ORDINANCE #O-2020-02

AN ORDINANCE AMENDING THE POWHATAN COUNTY CODE OF ORDINANCES TO AMEND THE PROVISIONS OF CHAPTER 83 (ZONING ORDINANCE), ARTICLE XI (DEFINITIONS) TO ADD, REMOVE, AND MODIFY DEFINITIONS FOR CERTAIN TERMS.

WHEREAS, Sections 15.2-1427 and 15.2-1433 of the Code of Virginia, 1950, as may be amended from time to time, enable a local governing body to adopt, amend, and codify ordinances or portions thereof; and

WHEREAS, Sections 15.2-2280, 15.2-2285, and 15.2-2286 of the Code of Virginia, 1950, as amended, enables a local governing body to adopt and amend zoning ordinances; and

WHEREAS, this amendment of the Powhatan County Zoning Ordinance is required to serve the public necessity, convenience, general welfare, and good zoning practice pursuant to Section 15.2-2286(A)(7) of the Code of Virginia, as amended; and

WHEREAS, the proper advertisement and public hearing was conducted as required by law; and

WHEREAS, the full text of this amendment was available for public inspection in the Department of Community Development, Powhatan County Administration Building, 3834 Old Buckingham Road, Powhatan, Virginia 23139.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF POWHATAN that Article XI (Definitions) of the Zoning Ordinance of the County of Powhatan is amended and reenacted as follows:

**CODE OF THE COUNTY OF POWHATAN, VIRGINIA
CHAPTER 83. ZONING ORDINANCE**

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ARTICLE XI. – DEFINITIONS

...

Sec. 83-521. - Definitions.

Abandonment, for the purposes of Article X, abandonment shall mean the stopping or halting of use or occupancy of a nonconformity for a period of two years or more.

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Assisted living facility means a public or private congregate residential facility that provides personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) 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. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

The following are not deemed assisted living facilities:

- (1) A facility or portion of a facility licensed by the state board of health or the department of behavioral health and developmental services, but including any portion of such facility not so licensed;
- (2) The home or residence of an individual who cares for or maintains only persons related to him by blood or marriage;

- (3) A facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to Code of Virginia § 22.1-214, when such facility is licensed by the department as a children's residential facility under Code of Virginia § 63.2-1700 et seq., but including any portion of the facility not so licensed;
- (4) Any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority; and
- (5) A residential facility for eight or fewer individuals who are treated as a single-family in accordance with Code of Virginia § 15.2-2291.

Attached means, when used in reference to two or more structures, having one or more common walls or being joined by a covered porch or passageway. Two structures may also be considered attached if separated by less than three (3) feet.

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Change of use means the change in the use of a structure or land. Change of use shall include a change from one use type to another use type.

Check cashing establishment means any person or establishment engaged in the business of cashing checks, drafts, or money orders for compensation, and registered with the state corporation commission pursuant to Code of Virginia § 6.1-433.

Child day care center means an establishment providing a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) six or more children at any location. (See principal/use-specific standards, Division 1: Standards for Specific Principal Uses and Structures, of Article VII: Use Standards.)

Civic center means a facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption. Similar structures with a capacity of less than 500 people constitute conference centers or training centers. (See principal/use-specific standards, Division 1: Standards for Specific Principal Uses and Structures, of Article VII: Use Standards.)

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Conditional use permit. See Article II: Administration.

Comprehensive plan shall mean the long-range comprehensive plan of Powhatan County, Virginia, including those maps, plats, charts, and descriptive matter that have been formally adopted by the Board of Supervisors, pursuant to the provisions of the Code of Virginia.

Condominium means a multiple-unit residential or nonresidential development where individual units are owned individually, but all other elements of the development are owned jointly by unit owners.

Conference or training center means a facility designed to accommodate fewer than 500 persons and used for conferences, seminars, product displays, recreation activities, and

entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption. Similar facilities located in a rural setting constitute *rural event venues* (See principal/use-specific standards, Division 1: Standards for Specific Principal Uses and Structures, of Article VII: Use Standards.)

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Contractor's offices means a building or portion of a building used by a building, heating, plumbing, electrical, or other development contractor both as an office and for the storage of a limited quantity of materials, supplies, and equipment inside the building. If outdoor storage of materials, supplies, or equipment is associated with the office, the use is considered a contractor's storage yard.

Contractor's storage yard means an outdoor storage area operated by, or on behalf of, a contractor for the storage of construction equipment, vehicles, or other materials commonly used in the individual contractor's type of business and/or the storage of scrap materials used for the repair and maintenance of contractor's own equipment.

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Density means the ratio of the total number of residential dwelling units on a lot to total lot area (or in the case of mixed-use development, to lot area allocated to residential use).

Detached means a building that does not have a wall in common or in contact with another building and is separated from other structures by at least three (3) feet.

Developer means any person, including a governmental agency, undertaking development.

Development means the initiation or change of any use and any man-made change to improved or unimproved real estate. "Development" shall include, but not be limited to, the following:

- (1) Change in the type of use of a building, structure, or land;
- (2) Disturbance of land through the removal of trees or ground cover;
- (3) Division of land into two or more parcels;
- (4) Dredging, filling, and grading;
- (5) Construction or enlargement of a building or other structures;
- (6) Material increase in the intensity of use of land, such as an increase in the number of businesses, offices, manufacturing establishments, or dwelling units located in a building or structure or on the land;
- (7) Demolition of a structure;
- (8) Commencement or expansion of agricultural, horticultural, or forestry activities on a parcel of land;
- (9) Commencement or expansion of resource extraction activities such as mining, excavation, or drilling operations;
- (10) Deposition of refuse or solid or liquid waste on a parcel of land;
- (11) Storage of equipment or materials;

- (12) Alteration, either physically or chemically, of the shore, bank, or channel of any stream, lake, or other body of water or alteration of any wetland; and
- (13) Any land disturbing activity that adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Director means the Powhatan County, Virginia Director of Community Development. See Article II: Administration.

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Dwelling unit means one or more rooms connected together and constituting a single housekeeping unit, with independent cooking and sleeping facilities, designed or used for occupancy by a single family, and separate from any other dwelling units or rooms in the same building.

Dwelling, duplex means a residential building containing two dwelling units. Such units may be part of a single structure, or may be attached by one or more common walls. Unlike *dwelling, townhouse*, each dwelling unit is located on the same parcel and are not located on individual lots (See principal/use-specific standards, Division 1: Standards for Specific Principal Uses and Structures, of Article VII: Use Standards.)

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Dwelling, single-family detached means a detached residential building other than a manufactured home containing a single dwelling unit. (See principal/use-specific standards, Division 1: Standards for Specific Principal Uses and Structures, of Article VII: Use Standards.)

Dwelling, three- or four-family means a residential building containing three or four individual dwelling units. The units may be located side by side in a horizontal configuration and/or stacked one above the other in a vertical configuration, sharing common vertical walls and/or horizontal floors/ceilings. A three-family dwelling may be referred to as a triplex, and a four-family dwelling as a quadplex. Unlike *dwelling, townhouse*, each dwelling unit is located on the same parcel and not located on individual lots (See principal/use-specific standards, Division 1: Standards for Specific Principal Uses and Structures, of Article VII: Use Standards.)

Dwelling, townhouse means a residential building containing two or more dwelling units, each with its own outside entrance and individual lot, and that are joined together by a common or party wall that is without openings for human passage.

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Fabrication. See *Manufacturing, assembly, or fabrication, light*.

Facade means the front of a building, including the entire building wall, fascia, windows, doors, and canopy.

Fairground means an area of land use including, but not limited to: agricultural-related office buildings, animal shows and judging, carnivals, circuses, community meeting or recreational buildings and uses, concerts, food booths and stands, games, rides, rodeos, sales and auctions, storage, theaters. Amphitheaters, arenas, stadiums, auditoriums, amusement parks or stages may be an accessory use to a fairground. Fairgrounds do not include racetracks or motorsports parks.

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Hotel or motel means a hotel or motel is a building or a group of buildings in which one or more sleeping accommodation units are offered to the public and intended primarily for use by transient persons or tourists for overnight or short-term lodging basis. Such uses may include kitchenettes, microwaves, and refrigerators for each guest unit. This use type does not include bed and breakfast inns. Hotels and motels are considered synonymous uses. (See principal/use-specific standards, Division 1: Standards for Specific Principal Uses and Structures, of Article VII: Use Standards.)

Independent cooking facility. See *kitchen, residential*.

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Kennel, commercial means a facility (other than an animal confinement facility or animal production use) which charges to or collects from animal owners a fee for overnight maintenance, care or boarding of animals, where five or more dogs, cats, fowl, or other pets over the age of six months are kept. (See principal/use-specific standards, Division 1: Standards for Specific Principal Uses and Structures, of Article VII: Use Standards.)

Kennel, private means a building and/or premises where five or more dogs, cats, fowl (including domestic chickens and ducks), or other pets over the age of six months are kept, boarded, maintained, or cared for overnight, for private, noncommercial purposes such as for show, hunting, farming, or as household pets. (See accessory/use-specific standards, Division 2: Standards for Accessory Uses and Structures, of Article VII: Use Standards.)

Kitchen, residential means any single room within a dwelling unit that contains a cooking oven (other than a microwave oven) or gas or electric burners for cooking food, and two or more of the following items:

1. A microwave oven;
2. An electrical supply of more than 110 volts;
3. A sink with a drain one inch in diameter or larger;
4. A garbage disposal;
5. A dishwasher; and/or
6. A refrigerator or freezer.

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Landowner means any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and agent or personal representative of the owner.

Large retail sales establishment means a large retail sales establishment is any retail sales establishment constituting a single business engaged in retail sales activities and located in a stand-alone single tenant building with a gross floor area of 60,000 square feet or more.

Law enforcement facility means protection centers operated by a governmental agency, including administrative offices, storage of equipment, temporary detention facilities, and the open or enclosed parking of patrol vehicles. Correctional facilities are not a law enforcement facility and are a separate use type.

Lawn care, pool, or pest control service means an establishment primarily engaged in providing lawn care services (e.g., mowing, aeration, seeding, fertilizer, landscaping), swimming

pool services (e.g., cleaning, draining, equipment repair), or pest control services (e.g., inspection, extermination).

Limited commercial landscaping contractor. See *Home-based landscaping business*.

Liquor store means an establishment licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

Live entertainment means and shall include, but not be limited to, musical performances, public speaking, or comedy.

Livestock means animals normally kept for use on a farm or raised for sale or profit, including but not limited to pigs, sheep, goats, cattle, bison (American buffalo), chickens, horses, ponies, alpacas, and llamas.

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Lot line, corner means, on a corner lot, the longer of the two lot lines abutting a public street right-of-way or private road easement.

Lot line, front means a lot line (other than a corner lot line) separating the lot from an abutting public street right-of-way or private road easement. Where the boundaries of a lot extend into an abutting public street right-of-way or private road easement, the front lot line shall be the outside edge of the right-of-way or easement.

Lot line, rear means a lot line not abutting a street and connecting the lot's side lot lines—or a side lot line and a front lot line, for corner lots—along the edge of the lot opposite its front lot line.

Lot line, side means a lot line not abutting a street and connecting the lot's front and rear lot lines.

Lot of record means a lot which is part of a subdivision, a plat of which has been recorded in the office of the clerk of circuit court, or a lot described by metes and bounds, the description of which has been so recorded.

Lot width means the horizontal distance along a line delineating the minimum front yard depth applicable to a lot, between its intersections with the lot's side lot lines. For lots with more than one front yard, lot width applies along the front yard that has the shorter street frontage and for residential lots, fronts the street with the lower traffic volume capacity.

Lot, corner means a lot other than a through lot that abuts two or more streets at their intersection.

Lot, flag means a lot consisting of a narrow "flagpole" strip extending from an abutting street to a much wider "flag" section lying immediately behind an abutting lot or lots, or a lot not abutting a street, where the access to the lot is by a narrow "flagpole" private access easement. Flag lots shall not be permitted except for family divisions and lots along a cul-de-sac's circular turnaround.

Lot, interior means a lot abutting only one street.

Lot, through means a lot abutting two parallel or nearly parallel streets.

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Major thoroughfare plan means a plan identifying roadway improvements needed to support projected growth and assigning priorities for roadway construction, which is incorporated into the long-range comprehensive plan of Powhatan County, Virginia, as amended.

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Manufacturing, assembly, or fabrication, light means an establishment primarily engaged in manufacturing uses that involve the mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation of products for sale to the wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building, do not include processing of hazardous gases and chemicals, and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor, or vibration. This use type does not include other manufacturing uses specifically listed in the standards for specific principal uses (Article VII: Use Standards). Examples include, but are not limited to: computer design and development; apparel production; sign making; assembly of pre-fabricated parts; manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of surgical instruments; manufacture, processing, and packing of cosmetics; and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item. (See principal/use-specific standards, Division 1: Standards for Specific Principal Uses and Structures, of Article VII: Use Standards.)

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Medical or dental clinic means a small-scale facility where patients are admitted for examination and treatment by one or more physicians, dentists, or other health practitioners on a short-term basis. The use includes the offices of physicians, dentists, chiropractors, optometrists, podiatrists, audiologists, speech pathologists, physical therapists, acupuncturists, psychologists, and other health practitioners. It also includes facilities providing short-term outpatient care and treatment (which may or may not be overnight), such as urgent care centers, kidney dialysis centers, ambulatory surgical clinics, outpatient pain therapy clinics, biofeedback centers, sleep disorder clinics, family planning clinics, community health clinics, and health maintenance organization (HMO) medical clinics. Such facilities that provide overnight care and treatment may include sleeping rooms for care workers and members of patients' families. This use does not include hospitals (which are much larger in scale) or blood/tissue collection centers, drug or alcohol treatment facilities, or massage clinics (which provide specialized medical services).

Medical or dental lab means facilities and offices devoted to bacteriological, biological, x-ray, pathological, and similar analytical or diagnostic services to medical doctors or dentists, including incidental pharmaceuticals and the production, fitting, and/or sale of optical, dental, or prosthetic appliances.

Medical treatment facility means facilities and offices for providing inpatient and overnight treatment, care, and support targeted to chronically ill patients or involving minor surgical procedures. This use involves more intensive and longer duration treatment and care than medical clinics and less intensive treatment and care than hospitals. Examples include urgent care centers and outpatient surgery centers.

...

Pet means animals that have been bred or raised to live in the habitation of humans in a residential setting, and are dependent upon the same for food and shelter, including but not limited

to the following: dogs; cats; rabbits; hedgehogs; chinchillas; hermit crabs; hamsters; gerbils; guinea pigs; mice; rats; turtles; fish; domestic chickens, ducks, and geese; birds such as canaries, parakeets, doves, and parrots; worm/ant farms; chameleons and similar lizards; and spiders and snakes not venomous to humans.

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Right-of-way means a dedication of land to be used generally for streets, alleys, or other public uses wherein the owner gives up all his rights to the property as long as it is being used for the dedicated purpose. Also, a land measurement term meaning the distance between lot property lines which generally contain not only the street pavement but also the sidewalks, grass area, and utilities.

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Shallow flooding area means a special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Shed sales, outdoor means the retail sale and display of prefabricated sheds, carports, gazebos, and similar small-scale structures in an outdoor area as a principal use.

Shelter for victims of domestic abuse means a facility with support and supervisory personnel that provides temporary living accommodations for abused persons.

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Yard means an area within a lot that lies between a principal structure on the lot and the nearest lot line. Yards are further classified as front yards, side yards, and rear yards.

Yard sale. See *Garage or yard sale*.

Yard, corner means the yard on a corner lot that is located between the principal structure on a lot and the lot's longest frontage along a public street right-of-way or private road easement (corner lot line), extending the full length of that frontage.

Yard, front means the yard (other than a corner yard) between a principal structure on a lot and the lot's frontage along a public street or private road easement (front lot line), extending the full width of the lot.

Yard, rear means the yard between a principal building on a lot and the rear lot line, extending the full width of the lot.

Yard, required means the area within a lot extending inward from the front, side, or rear lot line for the minimum front, side, or rear yard depth applicable in the zoning district in which the lot is located, and that is required to remain unoccupied and unobstructed from the ground upward except as may be otherwise specifically provided in this chapter.

Yard, side means the yard between a principal building on a lot and the nearest side lot line, extending between the lot's front yard and rear yards (or for through lots, between the lot's opposite front yards).

Zoning district means an area delineated on the official zoning district map within which a prescribed set of development standards are applied to various types of development. (See Article I, General Provisions.)

Zoning district map, official means the official zoning district map upon which the boundaries of various zoning districts are drawn and which is an integral part of this chapter.

Zoning district, base means a zoning district within which a single set of use, intensity, dimensional, and development standards are applied.

Zoning district, overlay means a zoning district superimposed over one or more underlying base zoning districts that imposes standards and requirements in addition to those required by the underlying base zoning district.

(Ord. No. O-2013-06, 9-16-13; Ord. No. O-2013-09, 2-3-14; Ord. No. O-2014-03, 2-18-14; Ord. No. O-2014-11, 6-2-14; Ord. No. O-2014-26, 10-6-14; Ord. No. O-2018-24, 9-24-18; Ord. No. O-2019-12, 2-25-19)

In all other respects said Zoning Ordinance of the County of Powhatan shall remain unchanged and be in full force and effect.

This amendment shall take effect immediately upon passage.

ADOPTED BY THE POWHATAN COUNTY BOARD OF SUPERVISORS ON JANUARY 27, 2020.


David T. Williams, Chairman
Powhatan County Board of Supervisors

ATTEST:


Bret Schardein, Clerk
Powhatan County Board of Supervisors

Recorded Vote:

David T. Williams	<u>Aye</u>
Larry J. Nordvig	<u>Aye</u>
Michael W. Byerly	<u>Aye</u>
Bill L. Cox	<u>Aye</u>
Karin M. Carmack	<u>Aye</u>
