

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE CITY OF SALEM, VIRGINIA held in the Council Chambers of City Hall, 114 North Broad Street Salem, VA 24153

**AGENDA ITEM:**

**Chapter 106 Code Changes**

Hold public hearing to consider amending Chapter 106 – Zoning, Article II – District Regulations, Section 106-232 pertaining to Industrial park overlay district, Article III – Use and design standards, Section 106-318 pertaining to Urban agriculture, Article IV – Development standards, Section 106-400 pertaining to site plans, 402 pertaining to nonconforming uses and sites, 406 pertaining to plot plans, Article V – Administration, Section 106-520 pertaining to amendments to ordinance, 524 pertaining to special exception permits and use not provided for permits, Article VI – Definitions and Use Types, Section 106-600 pertaining to site plans, of the CODE OF THE CITY OF SALEM, VIRGINIA.

**SUBMITTED BY:**

Mary Ellen Wines, Planning & Zoning Administrator

**SUMMARY OF INFORMATION:**

As the current zoning ordinance was adopted on March 14, 2005, routine updates and amendments are required to support the City's needs and align with state code requirements. Modernizing standards and practices helps to ensure regulations stay compliant, while also enabling existing and prospective businesses to expand and thrive in harmony with the community at large. Logistical challenges/confusion and/or inconsistencies in the ordinance prove challenging for our citizenry as a whole.

To that extent, the following code changes have been proposed.

***Section 106-232, Industrial park overlay district*** would include not only south Salem Industrial Drive, but also Southside Drive, Cook Drive, Midland Road, and Intervale Drive. As industrial businesses are the major backbone of the city, it is important to allow flexible regulations in appropriate locations when they pertain to expansion and growth. The flexibility included in this overlay district is safeguarded by corresponding screening requirements along major corridors.

***Section 106-318.1, Keeping of chickens*** was originally adopted in 2012 and charges the Animal Control Office of the Police Department with inspecting each pen. Those departments have experienced a downturn in staffing, and as a result, it has become apparent that their focus should lie elsewhere. The inspection of pens would instead fall to the Community Development Department. Community Development has installed a new software program that allows automatic renewals of the permits, and this change would also prompt the renewal on a calendar year basis instead of a fiscal year basis.

***Section 106-400, Development Standards*** has been a bit unclear regarding when a site plan is required and what type of site plan needs to be submitted for review. In order to ensure consistency and improve the development review process, staff proposes changes that define

a plot plan, minor site plan, major site plan, and if/when each is required. In the spirit of promoting a business-friendly development environment, staff proposes a reduction in the threshold (based on a percentage of fair market value of improvements) that require a site plan and corresponding site improvements. Currently, the threshold of improvements is 25% or more of the fair market value of the structure. Staff proposes to increase that threshold to 50%, thereby enabling small businesses to renovate/expand without significant additional hurdles.

Additionally, when a site plan is required due to a violation of the zoning ordinance, the ordinance currently lacks a mechanism to ensure construction of corresponding site plan components in a timely manner. Staff proposes that the work included in an approved site plan due to a zoning violation be fulfilled/installed within 90 days of approval.

***Sections 106-520 & 524 Amendments to ordinance and special exception permits.*** Currently, if a lot or parcel does not meet the minimum lot area, width, or frontage requirements, an applicant must apply to the Board of Zoning Appeals for a variance prior to acceptance of a land use application. Because an amendment and/or a permit request must go through the public hearing process, staff feels that if additional conditions are warranted, it can be handled through that existing process instead of an additional variance request. There are many substandard legal nonconforming lots located within the city. As these are "grandfathered" lots and can be developed in their current state, the extra step for a variance seems unwarranted.

***Section 106-600 Definitions.*** The definitions for plot plan, minor site plan, and major site plan have been added.

**REQUIREMENTS:**

The request meets the requirements of Section 15.2-2285 of the Code of Virginia related to the preparation and adoption of a zoning ordinance.

**RECOMMENDATION:**

Staff recommends approval of this request.

Sec. 106-232. Industrial park overlay district.

Sec. 106-232.1. Statement of intent.

(A) It is the intent of the industrial park overlay district to recognize that industrial land is a scarce and valuable resource within the City of Salem. The standards contained in this district allow for land to be used with maximum intensity, while also recognizing the need to buffer surrounding areas and street frontage.

Sec. 106-232.3. Establishment of industrial park overlay districts.

(A) Industrial park overlay districts shall include all parcels with frontage on one or more of the following streets:

1. The portion of Salem Industrial Drive south of the railroad right-of-way.
2. **Southside Drive**
3. **Cook Drive**
4. **Midland Road and Intervale Drive**

Sec. 106-232.5. Site development regulations.

(A) Notwithstanding the requirements of article IV, herein, the development regulations within the industrial park overlay district shall be as specified in the underlying zoning districts, with the following exceptions:

1. The front yard setback shall be a minimum of eight feet from the street right-of-way. For parcels adjacent to the Roanoke River, the rear yard setback shall be a minimum of eight feet from normal high water elevation.
2. For parcels adjacent to the Roanoke River, an eight-foot landscape buffer yard from normal high water elevation shall be established and reserved for natural vegetation.
3. When parcels abut a different zoning classification, a 15-foot buffer yard with two rows of large evergreen trees shall be planted within the buffer.
4. No perimeter landscaping as required under section 106-402.7 between parking areas and adjacent properties is required for parking lots with fewer than 100 parking spaces.
5. Planting islands at the ends of parking rows are not required for parking lots with fewer than 100 parking spaces.
6. Regardless of the number of parking spaces, rows of more than 20 parking spaces shall be broken up with an island containing at least one tree.
7. Front yard setbacks shall be professionally designed and landscaped with a combination of evergreen shrubs and deciduous trees. The required number of shrubs shall be a minimum of one shrub per 25 linear feet of frontage. The required number of deciduous trees shall be a minimum of one tree per 100 linear feet of frontage. These plantings may be grouped with the approval of the administrator.
8. Each parcel shall have a minimum of one canopy tree, as defined in section 106-230.9, per 100 parking spaces. For parcels containing fewer than 100 parking spaces, a minimum of one such tree shall be provided. These trees shall be located within large planting areas so as to shade parking areas or buildings.
9. Stormwater areas may be landscaped with bog plants, or as rain gardens, in conjunction with city stormwater regulations. Stormwater areas may include appropriately adapted trees or plants, which may count towards the overall landscaping requirements.

10. Structures that encroach into the front setback at the time of the adoption of this ordinance are exempt from the provisions of section 106-402.23(4). However all other requirements of section 106-402.23 are in full force and effect, as well as the requirements in section 106-526.
11. **Parcels with frontage on West Riverside and/or Mill Lane shall provide a buffer yard of a minimum of eight feet containing one row of large evergreen trees or two rows of small evergreen trees.**
12. **Parcels with frontage on Apperson Drive shall provide a buffer yard of a minimum of eight feet containing one row of large evergreen trees or two rows of small evergreen trees.**
13. **Parcels with frontage on Electric Road and/or Easton Road shall provide a buffer yard of a minimum of eight feet containing one row of large evergreen trees or two rows of small evergreen trees.**

Sec. 106-232.7. Administration.

- (A) The owner shall be responsible for the perpetual maintenance and protection of all landscaped areas required by this ordinance.
- (B) Replacement of trees is permitted and shall be in accordance with the applicable provisions of this ordinance. Dead, unhealthy, or misshapen trees shall be replaced immediately by the owner.
- (C) Maintenance includes actions necessary to keep trees neat and orderly in appearance and free of litter and debris. Pruning of trees shall be done in a manner that preserves the character of the tree and is not detrimental to the health of the tree.
- (D) The administrator shall have the authority to enforce the requirements of this ordinance.

DRAFT

### **Sec. 106-318.1. Keeping of chickens.**

(A) *Intent.* The keeping of chickens supports a local, sustainable food system by providing an affordable, nutritious food source of fresh eggs. These regulations are to provide appropriate standards for the keeping of chickens within an urban residential environment, while protecting the residential integrity of the surrounding neighborhood and the health and safety of the chickens.

(B) *General standards.* Keeping of chickens, as defined herein, shall be permitted as an accessory use to single family dwellings if (i) the use is conducted at the applicant's place of residence, (ii) the use is conducted for personal household consumption only, and (iii) subject to the following conditions:

1. Each parcel shall contain one single family dwelling and must have a minimum lot size of one-quarter acre (10,890 square feet).
2. Chickens are defined herein as domestic female chicken hens. Roosters are prohibited.
3. Chickens shall be kept for the household's personal consumption only. Commercial use such as selling eggs or selling chickens for meat shall be prohibited.
4. There shall be no slaughtering or processing of chickens.
5. No more than six chickens shall be allowed **per parcel**.
6. Adequate shelter, care, and control of the chickens are required. Any person allowed to keep chickens under this section shall comply with all of the provisions and requirements of the city and state code regarding care, shelter, sanitation, health, rodent control, cruelty, neglect, noise, reasonable control and any other requirements pertaining to, but not limited to, the adequate care and control of animals in the city.
7. The owner of the chickens shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. Chickens found to be infested with insects and parasites that may result in unhealthy conditions may be removed by an animal control officer.
8. Chickens shall not be allowed to roam free. They shall be kept in an enclosed secure area not to exceed a total of 128 square feet, hereinafter known as a pen. Pens shall include a coop (enclosed structure) containing a minimum of one and one-half square foot per hen and an open run area containing a minimum of eight square feet per hen. Pens may be portable.
9. The materials used for pens shall be uniform and kept in good condition in order to protect the safety of the chickens.
10. All pens shall be deemed accessory structures and shall comply with the setback requirements as provided in section 106-202.3(B)(2) herein, and shall be no closer than 50 feet from any **adjacent** principal structure, situate on an adjacent parcel, other than that of the owner of the chickens. Portable pens shall be moved on a regular basis.
11. All pens shall be located in the rear yard only.
12. All pens shall be located out of any drainage areas that could allow fecal matter to enter a storm drainage system or stream.
13. All pens shall be constructed and maintained so as to be **impermeable** **fully** **resistant** to rodents, wild birds, and predators, including dogs and cats, and to prevent such animals or other pests from being harbored underneath, inside, or within the walls of the enclosure. All pens must be kept dry, well-ventilated, and in sanitary condition at all times, and must be cleaned on a regular basis to prevent offensive odors. All manure not used for composting or fertilizing shall be removed promptly. Odors from chickens, manure, or other chicken-related substances shall not be detectable at the property boundaries.

14. All feed or other material intended for consumption by the chicken shall be kept in containers impenetrable by rats or other rodents, and such container shall be equipped with tightly fitting caps or lids. All feeding shall be conducted in a manner so as to prevent unconsumed food from being accessible to other animals or rodents. The presence of rodents in an area used for the keeping of chickens shall be *prima facie* evidence that such area is maintained in violation of this section.
15. Composting of chicken litter and waste on site is highly encouraged. If any litter and/or waste is to be disposed of, it must be double bagged and securely closed and deposited in either a city approved receptacle or taken to the city transfer station. Also, any dead chickens shall also be double bagged and securely closed and deposited in either a city approved receptacle or taken to the city transfer station.
16. Disposal of litter, waste, and dead chickens on public land or in the sewage or stormwater collection system is strictly prohibited.

(C) *Administration.*

1. Persons wishing to keep chickens pursuant to this subsection must file an application with the **Community Development city zoning** department. The application shall include a sketch showing the area where the chickens will be housed and all types and size of enclosures in which the chickens will dwell along with a \$25.00 fee. The sketch must show all property dimensions and setbacks. Once the site and enclosures have been inspected and approved by the **Community Development department** ~~the city's animal control officer, the city will issue a permit will be issued~~. The permit shall be valid ~~until the end of the calendar year in which it is issued for one year~~. Each existing permit must be renewed ~~at the end of the calendar year annually in July~~ by filing an application with the **Community Development city zoning** department, along with payment of a \$25.00 renewal fee. ~~The animal control officer~~ **Community Development** shall make another inspection of the site, prior to the approval of the renewal application.
2. Any violations found may subject the owner to revocation of their permit and to criminal charges as provided herein.
3. The provisions of this section shall be enforced by the zoning administrator and such enforcement authority may be delegated by the administrator to the animal control office or other departments of the city.
4. Any person violating any of the provisions of this section shall be deemed guilty of a class 4 misdemeanor. Each day a violation continues shall constitute a separate offense.
5. The keeping of chickens in AG—Agriculture district shall conform with the requirements of section 106-302 herein, and shall not be subject to the provisions of section 106-316.3 and section 106-318.

(D) *Existing use at time of enactment.* Notwithstanding the foregoing provisions of this section, places of residences where chickens (roosters not being permitted under any circumstances) are currently being kept at the time of enactment of this ordinance shall have a period of two years from such date of enactment to comply with the requirements herein. However, those eligible hereunder shall, on or before August 1, 2012, declare and certify such existing use to the satisfaction of the city and make application as required by section 106-318.1(C).

## **ARTICLE IV. DEVELOPMENT STANDARDS**

### **Sec. 106-400. Site plan review.**

(A) The administrator shall determine which class of site plan (plot, minor, or major) shall be submitted to the city for each of the following: ~~A site plan shall be required and shall be submitted to the city for each of the following:~~

1. All new development, ~~including additions or modifications to buildings or sites, in every zoning district except for single family and two family dwellings.~~
2. The conversion of any single family or two family dwelling to any other use or to a higher intensity residential use.
3. ~~Additions or modifications to buildings or sites, except single family and two family dwellings, if said addition or modification results in a 5,000 square foot or greater increase in impervious surface area of the site. An agreement in lieu of plan may be approved by the city engineer for sites resulting in a 5,000—9,999 square foot increase.~~
- 4.3. The conversion of any property from fee simple ownership to a condominium form of ownership.
- 5.4. The conversion of any building or property to a different use category, e.g., commercial to industrial.
- 6.5. Additions or modifications that may increase the requirements of any development standard including but not limited to parking, landscaping, and stormwater management.
6. The associated building or structure containing a lawful nonconforming use (or is situated on a lawful nonconforming site) is enlarged, extended, reconstructed, renovated, or structurally altered to the extent that costs exceed 50 percent of the building's or structure's fair market value prior to any improvement. For purpose of this section, all costs incurred from enlargement, extension, reconstruction, renovation, or structural alteration of such during a three-year period shall be included in determining whether the costs of such improvements exceed 50 percent of the fair market value.
7. The use or development of any parcel conditionally rezoned, where any of the conditions accepted and attached to the parcel(s) apply to the physical arrangement or design of the site.

(B) All required site plans shall be prepared by a professional engineer, or land surveyor B, who is registered by the Commonwealth of Virginia. The city may waive this requirement if the type, scale or location of the proposed development does not necessitate such plans.

(C) A plot plan, that meets the standards contained in section 106-406.3 shall be required for all uses or development not requiring a site plan.

(D) **The following additional plans may be required in conjunction with the site plan:**

1. For sites resulting in less than 5,000 square feet of land disturbance, an erosion and sediment control plan may be required.
2. For sites resulting in 5,000 to less than 10,000 square feet of land disturbance, an erosion and sediment control plan, at minimum, shall be required.
3. For sites resulting in 10,000 square feet or greater of land disturbance, an erosion and sediment control plan and a stormwater management plan shall be required.

### **Sec. 106-400.1. Plot Plans.**

Plot plans shall be legibly drawn and shall clearly indicate the area, shape, and dimensions of the property proposed for development. All existing easements, natural water courses, and existing and proposed improvements shall also be shown on the plan. The plan shall clearly indicate the minimum distances

**between existing and proposed uses and all property lines. Proposed access to the property shall also be shown.**

**Sec. 106-400.12. Minor site plans.**

- (A) Site plans as required by this section where the proposed use or development may not be of such scale and impact that the more detailed major site plan review requirements are necessary, the zoning administrator may allow the submission of a minor site plan. The requirements of the minor site plan will be determined based on the proposed development.
- (B) Every minor site plan submitted in accordance with the requirements of this chapter shall show the following information unless the administrator determines that such information is not necessary to insure conformance with city ordinances or standards:
  1. Location of the lot or parcel by vicinity map. Site plans shall also contain a north arrow, original date, revision dates and graphical scale.
  2. Property lines of the parcel(s) proposed for development, including the distances and bearings of these lines. If only a portion of a parcel is proposed for development, a limits of development line shall also be shown.
  3. The name and address of the property owner and or developer of the site, if different than the owner. The name and address of the person or firm preparing the plan.
  4. The tax parcel number(s) of parcels proposed for development and depicted on the site plan.
  5. The name of adjacent property owners and the owners of any property on which any utility or drainage easement may be required in conjunction with the development. Tax parcel numbers for each of these properties shall also be provided.
  6. The nature of the land use(s) proposed for the site.
  7. The zoning district designation of the parcel(s) proposed for development, and the zoning designation and current land use of adjacent parcels.
  8. The names, and locations of existing and proposed public or private streets, alleys and easements on or adjacent to the site. The center lines or boundary of adjacent rights-of-way shall also be shown.
  9. The location, type, and size of site access points such as driveways, curb openings, and crossovers. Sight distances at these access points shall be provided. If existing median cuts will serve the site, they shall be shown. If new median cuts are proposed, their location shall also be shown.
  10. All proffers accepted pursuant to section 106-522 shall be shown on the plan.
  11. Off-street parking areas and parking spaces including handicapped spaces, loading spaces, and walkways indicating type of surfacing, size, angle of stalls, width of aisles, and a specific schedule showing the number of spaces provided and the number required by this chapter.
  12. The exact location of buildings or structures existing on or proposed for the site, including their setbacks from property lines, and the distance between buildings or structures.
  13. The number of stories, floor area, and building height of each building proposed. If more than one land use is proposed, the floor area of each land use shall be provided. Floor area shall be calculated on the basis of parking required for the use(s).
  14. For residential developments, the type of dwelling unit shall be stated along with the number of units proposed. Where necessary for determining the number of required parking spaces, the number of bedrooms in each unit shall also be provided.
  15. The location of proposed or required fire lanes and signs.

16. Detailed utility plans and calculations shall be submitted for sites for which public water or sewer will be provided or for sites on which existing utilities will be modified. The city engineer shall have the authority to set the standards for such plans.
17. The location of existing and proposed freestanding signs on the parcel.
18. The location and type of proposed exterior site lighting, including height of poles and type of fixtures.
19. The location of any 100-year flood plain and floodway on the site, and the relationship of buildings and structures to this floodplain and floodway.
20. The location of required proposed buffer yards, screening, fencing, and site landscaping and irrigation. The type and size of the plant materials and screening to be used shall be provided. In addition, the relationship of these materials to physical site improvement and easements shall be provided.
21. Elevation drawings of, at minimum, the view from the public rights-of-way. Additional views may be required.

**~~Sec. 106-400.2. Preliminary site plans.~~**

**~~(A) Applicants for major site plan approval may submit a preliminary site plan to the city for review and approval prior to preparing a final site plan. The preliminary site plan shall show the general location of all existing and proposed land uses and site features. Specifically, it shall include the following information:~~**

- ~~1. The name and location of the proposed development.~~**
- ~~2. The boundary of the entire tract showing distances and bearings.~~**
- ~~3. The name and address of the property owner and or developer of the site, if different than the owner. The name and address of the person or firm preparing the plan.~~**
- ~~4. Area and present zoning of the site proposed for development.~~**
- ~~5. Adjacent and abutting properties with information on ownership, zoning and current use.~~**
- ~~6. Location of the lot or parcel by vicinity map. Site plans shall also contain a north arrow, original date, revision dates and graphical scale.~~**
- ~~7. The names, and locations of existing and proposed public or private streets, alleys and easements on or adjacent to the site. The center lines or boundary of adjacent rights of way shall also be shown.~~**
- ~~8. The exact location of buildings or structures existing on or proposed for the site, including their setbacks from property lines, and the distance between buildings or structures.~~**
- ~~9. The existing topography of the parcel prior to grading, and the proposed finished contours of the site with a maximum of two foot contour intervals.~~**

**~~(B) The city shall review the preliminary site plan and shall advise the applicant whether or not the features and uses shown on the preliminary plan generally conform to the provisions of this chapter and any other applicable city ordinance and requirement. If the features and uses shown on the preliminary plan generally conform to the provisions of this chapter, the city shall advise the applicant of the approval of the preliminary plan and shall authorize the applicant to prepare and submit a final site plan. If the features and uses shown on the preliminary plan do not conform to the provisions of this chapter, the city shall advise the applicant in writing, and shall advise the applicant on what changes to the preliminary plan are necessary prior to approval.~~**

**Sec. 106-400.3. ~~Final~~ Major site plans.**

**(A) Every ~~final~~ major site plan submitted in accordance with the requirements of this chapter shall show the following information unless the administrator determines that such information is not necessary to insure conformance with city ordinances or standards:**

1. Location of the lot or parcel by vicinity map. Site plans shall also contain a north arrow, original date, revision dates and graphical scale.

2. Property lines of the parcel(s) proposed for development, including the distances and bearings of these lines. If only a portion of a parcel is proposed for development, a limits of development line shall also be shown.
3. The name and address of the property owner and or developer of the site, if different than the owner. The name and address of the person or firm preparing the plan.
4. The tax parcel number(s) of parcels proposed for development and depicted on the site plan.
5. The name of adjacent property owners and the owners of any property on which any utility or drainage easement may be required in conjunction with the development. Tax parcel numbers for each of these properties shall also be provided.
6. The nature of the land use(s) proposed for the site.
7. The zoning district designation of the parcel(s) proposed for development, and the zoning designation and current land use of adjacent parcels.
8. The names, and locations of existing and proposed public or private streets, alleys and easements on or adjacent to the site. The center lines or boundary of adjacent rights-of-way shall also be shown.
9. The location, type, and size of site access points such as driveways, curb openings, and crossovers. Sight distances at these access points shall be provided. If existing median cuts will serve the site they shall be shown. If new median cuts are proposed, their location shall also be shown.
10. All proffers accepted pursuant to section 106-522 shall be shown on the plan.
11. Off-street parking areas and parking spaces including handicapped spaces, loading spaces, and walkways indicating type of surfacing, size, angle of stalls, width of aisles, and a specific schedule showing the number of spaces provided and the number required by this chapter.
12. The exact location of buildings or structures existing on or proposed for the site, including their setbacks from property lines, and the distance between buildings or structures.
13. The number of stories, floor area, and building height of each building proposed. If more than one land use is proposed, the floor area of each land use shall be provided. Floor area shall be calculated on the basis of parking required for the use(s).
14. For residential developments, the type of dwelling unit shall be stated along with the number of units proposed. Where necessary for determining the number of required parking spaces, the number of bedrooms in each unit shall also be provided.
15. The location of proposed or required fire lanes and signs.
16. The existing topography of the parcel prior to grading, and the proposed finished contours of the site with a maximum of two foot contour intervals.
17. Detailed utility plans and calculations shall be submitted for sites for which public water or sewer will be provided or for sites on which existing utilities will be modified. The City Engineer shall have the authority to set the standards for such plans.
18. An erosion and sedimentation control plan and detail sheet shall be submitted for site developments involving the grading disturbance of greater than 5,000 square feet of area, or 1,000 cubic yards of material.
19. A detailed storm water management plan and calculations shall be submitted. The City Engineer shall determine the requirements for such plans.
20. The location of existing and proposed freestanding signs on the parcel.
21. The location and type of proposed exterior site lighting, including height of poles and type of fixtures.
22. The location of any 100 year flood plain and floodway on the site, and the relationship of buildings and structures to this floodplain and floodway.

23. The location of required or proposed buffer yards, screening, fencing, and site landscaping and irrigation. The type and size of the plant materials and screening to be used shall be provided. In addition, the relationship of these materials to physical site improvements and easements shall be provided.
24. Elevation drawings of, at minimum, the view from the public rights-of-way. Additional views may be required.

#### Sec. 106-400.5. Format of plans.

(A) Site plans shall be submitted in digital format in accordance with the following:

1. The file format shall be PDF.
2. Black and White or Grayscale unless color is a necessity.
3. 50mb file size limit.
4. Sheet size ARCH D, 24 by 36 inches.
5. Plans shall be designed using an engineering scale. Scale of the plans shall not be greater than one-inch equals ten feet (1" = 10'), or less than one-inch equals 50 feet (1" = 50'). The Zoning Administrator may approve a lesser scale such as 1" = 100' provided sufficient detail is provided to ensure compliance with all applicable requirements.
6. All sheets shall be properly numbered, and match lines provided when appropriate.
7. **Prior to review by the city, an application or letter shall be signed by the owner and developer of the proposed development certifying that they are aware of proposed plan.**
8. Prior to final approval by the city, site plans shall be signed by the owner **and/or** developer of the parcel(s) proposed for development. The signature(s) shall certify that the owner **and/or** developer is aware of the site design requirements imposed by the site plan and other applicable city codes and shall further certify that the owner **and/or** developer agrees to comply with these requirements, unless modified in accordance with local law.

#### Sec. 106-400.7. Administrative procedures and requirements.

(A) The Zoning Administrator shall have the administrative authority to establish city procedures for site plan review and approval. No procedure so established shall set a lesser standard than is legislated in this chapter.

(B) The Zoning Administrator shall coordinate the city review of any site plan submitted in accordance with city administrative procedures and shall have the authority to request opinions or decisions from other city departments, agencies or authorities of the Commonwealth of Virginia, or from other persons as may from time to time be consulted.

(C) **A minimum of ten complete sets of site plans shall be submitted for review.** A review fee shall be required for any site plan submitted. The city shall establish procedures for the collection of these fees.

(D) The city shall review, and approve or disapprove any site plan submitted for its review within 45 days of the filing of the plan with the city. If an unapproved site plan is returned to the applicant or other agent of the property owner, due to lack of required information on the plan, or because the design or standards proposed on the site plan do not meet the provisions of this chapter or other applicable city standards, the 45-day time period shall begin again with the resubmittal of the plan to the city.

(E) Approval of a **final** site plan pursuant to the provisions of this chapter shall expire five years from the date of approval in accordance with § 15.2-2261 of the Code of Virginia, as amended, unless building and/or zoning permits have been obtained for the development.

(F) No building or zoning permit shall be issued by any city official for any building, structure or use depicted on a required site plan, until such time as the plan is approved by the city.

- (G) No change, revision, or erasure shall be made on any pending or approved site plan, nor on any accompanying data sheet where approval has been endorsed on the plan or sheets, unless authorization for such changes is granted in writing by the Zoning Administrator who shall consult with all applicable departments or agencies prior to approving the change.
- (H) **Improvements included on a site plan submitted as a result of a notice of violation shall be installed within ninety (90) days of approval.**

Sec. 106-400.9. Minimum standards and improvements required.

- (A) Any improvement required by this chapter, or any other ordinance of the City of Salem shall be installed at the cost of the developer unless other agreements have been reached between the developer, the city, the Virginia Department of Transportation, and/or any other governmental agency.
- (B) Prior to the approval of a site plan the applicant shall execute an agreement to construct required or proposed improvements located within public rights-of-way or easements or any such improvement connected to any public facility. The applicant shall also file a performance guarantee with surety acceptable to the city in the amount of the estimated cost of the improvements plus ten percent contingency, as determined by the city engineer. The owner's performance guarantee shall not be released until the construction has been inspected and accepted by the city.
- (C) Proposed lot sizes, buildings or uses shown on site plans shall conform to the provisions of this chapter. Nonconforming lots of record, buildings or uses may be developed in accordance with section 106-526 of this chapter.
- (D) Proposed parking areas, travel lanes and access drives shown on site plans shall be designed, located and constructed in accordance with section 106-404 of this chapter.
- (E) Utilities shown on site plans shall conform to applicable city standards, as determined by the city engineer.
- (F) Stormwater management facilities shown on site plans shall be designed and implemented in accordance with the provisions of chapter 30, article IV, of the City Code.
- (G) Erosion and sedimentation control plans shall be designed and implemented in accordance with the provisions of chapter 30, article III, of the City Code.
- (H) Proposed exterior site lighting shall be in accordance with section 106-406.1 of this ordinance.
- (I) Required buffer yards, screening and/or landscaping shown on site plans shall be designed and located in accordance with section 106-402 of this ordinance.

Sec. 106-402.23. Nonconforming uses and sites.

- (A) Any lot or parcel of land having a lawful use that does not conform with the buffering, screening and landscaping provisions for this section shall be required to comply with these provisions if:
  1. The lawful use is discontinued for more than two years; or
  2. The lawful use is replaced in whole or in part by a higher intensity use type, i.e., commercial to industrial;
  3. The associated building or structure containing the lawful use is removed; or
  4. The associated building or structure containing the lawful use is modified. A site plan may be required in accordance with Section 106-400. ~~enlarged, extended, reconstructed or structurally altered to the extent that costs exceed 25 percent of the building's or structure's fair market value prior to any improvement. For purpose of this section, all costs incurred from enlargement, extension, reconstruction or structural alteration of such structure during a three year period shall be included in determining whether the costs of such improvements exceed 25 percent of the fair market value.~~

---

**Sec. 106-406.3. Plot plans.**

(A) A plot plan shall be submitted, prior to the approval of a zoning permit, for any new or expanded use or development not requiring a site plan or a concept plan. Plot plans shall be legibly drawn and shall clearly indicate the area, shape and dimensions of the property proposed for development. All existing easements, natural water courses, and existing and proposed improvements shall also be shown on the plan. The plan shall clearly indicate the minimum distances between existing and proposed uses and all property lines. Proposed access to the property shall also be shown.

**DRAFT**

## **ARTICLE V. ADMINISTRATION**

### **Sec. 106-520. Amendments to ordinance.**

(A) Whenever the public necessity, convenience, general welfare, or good zoning practice require, the City Council may, by ordinance, amend, supplement, or change these regulations, district boundaries, or classifications of property. Any such amendments may be initiated by:

1. Resolution of the council;
2. Motion of the commission; or
3. Petition of the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property which is the subject of the proposed zoning map amendment. Any petition submitted shall be in writing and shall be addressed to council.
4. Any person may submit suggestions for zoning ordinance text amendments to the administrator. The administrator shall forward these requests to the Commission for their review. The commission shall be under no obligation to schedule a public hearing on any such amendment request, except that the council may direct the commission to hold a public hearing on any text amendment request.

(B) The administrator shall establish a schedule for the receipt of amendment applications. The administrator shall also establish and maintain the amendment application materials. These application materials shall, at a minimum, include any information the administrator deems necessary for the city staff, Commission and council to adequately evaluate the amendment request. A concept plan shall accompany all map amendment requests. The administrator shall establish minimum standards for concept plans.

(C) ~~**The administrator shall not accept any amendment application for a lot or parcel that does not comply with the minimum lot area, width, or frontage requirements of the requested zoning district. In such situations, the applicant shall first seek a variance from the Board of Zoning Appeals. If a variance is granted, the administrator shall thereafter accept the amendment application for the consideration of the Commission and Council.**~~

(DC) If the Council denies any amendment application submitted for its review, or the application is withdrawn after Council consideration, the city shall not consider substantially the same application for the same property within one year of the Council action. The administrator shall have the authority to

determine whether new applications submitted within this one year period are substantially the same. In making any such determination the administrator shall have the authority to consider any items pertaining to the proposed use or development of the site such as, but not limited to, the uses proposed, densities, access, building locations, and overall site design.

#### **Sec. 106-520.5. Posting of property.**

- (A) The city may require that properties proposed for public hearing before the Commission or Board of Zoning Appeals, under the requirements of this chapter, shall be posted with a notice announcing **that a public hearing has been scheduled. The sign may contain directions on how to obtain the specific information regarding** the nature, and the date, time and place of the public hearing. This posting requirement shall be in addition to the public hearing and notice requirements imposed by § 15.2-2204 of the Code of Virginia.
- (B) The city shall prepare the notice of hearing and shall post said notice on the property or properties that are the subject of the hearing. The posting shall be accomplished at least ten days before the date of the proposed public hearing. The ~~administrator~~ shall determine the number of notices required to meet the intent of this section. All notices posted shall be clearly visible from abutting rights of way.
- (C) **The city will be deemed to have complied with its notice requirements upon compliance with paragraph (B) above, and, if the unauthorized removal of or damage to, or the notices prior to the advertised public hearing, shall not be considered as a failure to comply with paragraph (B). due to weather or legitimate vandalism, shall not violate the public notice intent of this section.**

#### **Sec. 106-524. Special exception permits and use not provided for permits.**

- (A) The procedures and standards contained in this section shall apply to all uses specifically permitted as special exceptions in the district regulations found elsewhere in this chapter. These procedures and standards shall also apply for all requests for Use Not Provided For Permits, authorized under the provisions of this chapter.
- (B) Special Exceptions are hereby established in recognition that in addition to uses permitted by right, certain uses may, depending on their scale, design, location and conditions imposed by Council, be compatible with existing and future land uses in the district.
- (C) Use not provided for permits are hereby established in recognition that this chapter may not be sufficiently detailed to list all possible land uses. When a land use is proposed that is not listed in Article II of this chapter, and/or is not a permitted use by right or by special exception in any zoning district

contained in this chapter, the Council shall have the authority under the following provisions to consider the scale, design, and location of the non-listed land use and determine its compatibility with existing and future land uses in the district.

(D) The review and subsequent approval or disapproval of a special exception or a use not provided for permit, shall be considered a legislative act, and shall be governed by the procedures **applicable theretothereof**.

(Ord. of 3-14-05(2))

**Sec. 106-524.1. General standards.**

(A) ~~The administrator shall not accept any special exception application nor any use not provided for permit application for any lot or acreage that does not meet the minimum size, width and/or frontage requirements of the district where the use is proposed. In addition, if the administrator shall not accept any special exception application for a lot or acreage that does not meet the minimum size, width and/or frontage requirements of any applicable use and design standards for the use as listed in Article III of this chapter. In such situations, the applicant shall first seek a variance from the Board of Zoning Appeals. If a variance is granted, the administrator shall thereafter accept the special exception or use not provided for permit application for consideration by the Commission and Council.~~

(B) No special exception permit, or use not provided for permit shall be issued by the Council unless the Council shall find that in addition to conformity with any standards contained in Article III Use and Design Standards, the proposed special exception or use not provided for, shall conform with the following general standards. These standards shall be met either by the proposal as submitted and thereafter revised by the applicant, or by the proposal as modified or amended as part of the review of the application by the Commission or Council.

1. The proposal as submitted or modified shall generally conform to the latest comprehensive plan of the City of Salem.
2. The proposal as submitted or modified shall have a minimum adverse impact on the surrounding neighborhood or community. Adverse impacts shall be evaluated with consideration to items such as, but not limited to, **long term or permanent** traffic congestion, noise, lights, dust, drainage, water quality, air quality, odor, fumes and vibrations. In considering impacts, consideration shall be given to the timing of the operation, site design, access, screening, and or other matters that might be regulated to mitigate adverse impacts.

---

## Sec. 106-600. Definitions.

(A) For the purposes of this chapter, the following rules of language shall apply:

The specific shall control the general.

The word person includes a firm, association, organization, partnership, trust, and company, as well as an individual.

The word he shall mean she, and she shall mean he.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

The word lot shall include plot or parcel.

The present tense includes the future tense; the singular number includes the plural; the plural includes the singular.

The word shall is mandatory; the words may and should are permissive.

All public officials, bodies, and agencies referred to in this chapter are those of the City of Salem Virginia, unless otherwise specifically indicated.

(B) Where terms in this chapter are undefined, the meaning of the term shall be as ascribed in the most recent edition of Webster's Unabridged Dictionary, unless it is the opinion of the Administrator that based upon normal zoning practice, a different meaning shall apply.

(C) The words and terms listed below shall have the following meanings:

*Abutting.* Contiguous or adjoining; having property or zoning district lines in common, or separated by a right-of-way.

*Access.* A means of approach, including ingress and egress.

*Accessory building or structure.* A building or structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use. Where an accessory building or structure is attached to the principal building in a substantial manner, as by a wall or roof, such accessory building shall be considered a part of the principal building.

*Accessory use.* A use of land, or a building or structure or portion thereof, customarily incidental and subordinate to the principal use of the land or building or structure and located on the same lot with such principal use.

*Acreage.* A parcel of land, regardless of area, described by metes and bounds and not a lot shown on any recorded subdivision plat.

*Addition.* Any construction that increases the gross floor area of a building or structure, or results in an expanded footprint of a building or structure on the ground.

*Alley.* A right-of-way that provides secondary vehicle and service access to abutting properties that have frontage on one or more streets.

*Alteration.* Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, or any enlargement or reduction of a building or structure, whether horizontally or vertically, or the moving of a building or a structure from one location to another.

*Amendment.* A modification to this chapter, including the text or associated maps that has been approved by the Salem City Council.

---

**Antenna.** A communication device which transmits or receives electromagnetic signals. Antennas may be directional, including panels, and microwave dishes, and omni-directional including satellite dishes, whips, dipoles, and parabolic types. An antenna does not include the tower or other supporting structure to which it is attached.

**Awning.** A shelter constructed of rigid or non-rigid materials on a supporting framework, either freestanding, or projecting from and supported by an exterior wall of a building.

**Base flood.** A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of being equaled or exceeded in any given year). Areas including the base flood are depicted as zones AE on the City of Salem's flood insurance rate map (FIRM).

**Base flood elevation (BFE).** The Federal Emergency Management Agency designated 100 year water surface elevation.

**Basement.** A story partly underground and having at least one-half of its height above the average adjoining grade on all sides of the building or structure.

**Berm.** A landscaped earthen mound, incorporated as part of a site design, and intended to enhance the compatibility of abutting or nearby properties through the mitigation of sound, the screening of views, and/or the visual enhancement of a property's landscaped character.

**Board of zoning appeals.** The term Board of Zoning Appeals shall refer to the City of Salem Board of Zoning Appeals, also referred to in this chapter as BZA.

**Buffer yard.** A yard improved with screening and landscaping materials required between abutting zoning districts of differing intensities or between adjoining land uses for the purpose of decreasing the adverse impact of differing uses and districts.

**Building.** Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, activity, process, equipment, goods or materials of any kind.

**Building coverage.** That portion of a lot, which when viewed from directly above, would be covered by any building or structure. For the purposes of this definition, lot shall include contiguous lots of the same ownership within a single zoning district which are to be used, developed or built upon as a unit.

**Building, front.** That portion of a building facing the street of address. The front door shall be provided with orientation to the street on which the lot faces.

**Building, height of.** The vertical distance above the average existing grade measured to the highest point of the building. The height of a stepped or terraced building shall be the maximum height of any segment of the building.

**Building line.** When viewed from above, the line, parallel to the street right-of-way, that passes through the point of the principal building nearest the street right-of-way, or in the case of the rear building line, furthest from the street right-of-way.

**Business entity or unit.** A room, a portion of a room, or suite of rooms occupied or capable of being occupied by a proprietorship, partnership, corporation, limited liability company, or other lawful enterprise where any commercial activities are conducted.

**Cellar.** A story having more than one-half of its height below average adjoining grade on all sides of the building or structure.

**Certificate of zoning compliance.** For the purposes of this chapter, official certification that premises conform to all applicable provisions of the City of Salem Zoning Ordinance and may be lawfully used or occupied.

---

*Channel.* A perceptible natural or artificial waterway which periodically or continuously contains moving water confined to a definite bed and banks.

*Cluster subdivision.* An alternative means of subdividing land that concentrates building density in specific areas to allow the remaining land to be reserved for the preservation of environmentally-sensitive features and open space.

*Commission.* The term Commission shall mean the Planning Commission of the City of Salem, Virginia.

*Condominium.* A building or group of buildings, created pursuant to the Virginia Horizontal Property Act, § 55-79 et seq., Code of Virginia, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

*Construction, new.* Structures for which construction commenced on or after the effective date of this chapter and including any subsequent improvements to such structures.

*Construction, start.* The date a building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 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 the installation of streets and /or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwellings units or not part of the main structure.

*Council.* The City Council of the City of Salem, Virginia.

*Deck.* A structure, without a roof, directly adjacent to a principal building which has an average elevation of 30 inches or greater from finished grade. A deck may be constructed of any materials.

*Dedication.* The transfer of private property to public ownership upon written acceptance.

*Density.* The number of dwelling units permitted per unit of land, commonly expressed as dwelling units per acre.

*Development.* Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations. Within the Floodplain Overlay District this definition shall also include the storage of equipment or materials.

*District.* A zoning district as described and permitted by § 15.2-2280 et seq. of the Code of Virginia.

*Driveway.* A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

*Dwelling unit.* A room or group of rooms connected together containing cooking, bathroom and sleeping facilities constituting a separate, independent housekeeping unit, physically separated from any other dwelling unit in the same structure.

*Easement.* A portion of a lot or acreage reserved for present or future use by a person or entity other than the fee simple owner of the lot or acreage. Easements may exist on the ground, or under or above the lot or acreage.

*Establishment.* Any business, enterprise or other land use permitted by this ordinance.

*Family.* One or more persons related by blood, marriage, or adoption, or under approved foster care, or a group of not more than four persons (including servants) living together as a single housekeeping unit.

---

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

- a. The overflow of inland waters;
- b. The unusual and rapid accumulation or runoff of surface waters from any source; or
- c. Mudslides (i.e., mudflows), which are approximately caused or precipitated by accumulations of water on or under the ground.
- d. The collapse or subsidence of land along a body of water as a result of erosion or undermining caused by water or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a sever storm or by an unanticipated form of nature, such as a flash flood, or by some similarly unusual and unforeseeable even which results in flooding as defined in this section.

*Flood, one hundred year.* A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year).

*Floodway fringe.* That area characterized during floods by shallow, slow-moving water and represents a low hazard potential; more specifically, the floodway fringe is that area of the 100-year flood elevations contained in the flood profiles of the flood insurance study adopted by the City of Salem and as shown on the Flood Insurance Rate Map (FIRM) accompanying that study.

*Floodplain.* (1) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; or, (2) an area subject to the unusual and rapid accumulation of run-off or surface waters from any source.

*Flood proofing.* Any combination of structural and nonstructural additions, changes or adjustments to structure which reduce or eliminate flood damage to real estate or improved real property and water and sanitary facilities, structures and their contents.

*Floodway.* The stream channel and adjacent land area required to carry off the often fast-moving floodwaters of the base flood and is considered to be an area of high hazard potential; more specifically, the floodway is that certain area of the 100-year floodplain that must be reserved in order to discharge such floodwaters without increasing the water surface elevation of that flood more than one foot at any point. Floodways are defined in Table 2 of the flood insurance study adopted by the city and as shown on the Flood Insurance Rate Map (FIRM) accompanying that study.

*Floor area, finished.* The sum of the horizontal areas of a building which is intended for human habitation and use and which has a floor to ceiling height of six and one-half feet or greater. Areas excluded from the finished floor area would include unfinished basements and attics, storage and utility rooms, and garages.

*Floor area, gross.* The sum of the horizontal areas of the several stories of a building, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall. Gross floor area shall exclude interior parking and loading spaces, and airspace above atriums.

*Garage, private.* A building for the private use of the owner or occupant of a principal residential building situated on the same lot as the principal building for the storage of motor vehicles.

*Glare.* The effect produced by lighting, with a brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

*Land disturbing activity.* Any land change which may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land.

---

*Landscaping.* The improvement of the appearance of an area by the planting of trees, grass, shrubs, or other plant materials.

*Loading space, off-street.* Space for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled.

*Lot.* A parcel of land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivisions or as otherwise permitted by law.

*Lot, corner.* A lot located at the intersection of two or more streets or where lot lines or right-of-way lines, or the extension thereof, intersect at less than 135 degrees.

*Lot coverage.* That portion of a lot, which when viewed from directly above, would be covered by any building or structure, parking and loading areas and other surface which is impermeable or substantially impervious to storm water. Gravel parking areas shall be considered impervious. For the purposes of this definition, lot shall include contiguous lots of the same ownership within a single zoning district which are to be used, developed or built upon as a unit.

*Lot, depth of.* The average horizontal distance between front and rear lot lines. The average shall consist of the horizontal distances of the side lot lines and the distance of a line connecting the midpoints of the front and rear lot lines.

*Lot, double frontage.* A lot, other than a corner lot, which has frontage on more than one street other than an alley. Double frontage lots may be referred to as through lots.

*Lot, frontage.* The horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. On curvilinear streets the arc between the side lot lines shall be considered the lot frontage.

*Lot, interior.* A lot, other than a corner lot, which has only one frontage on a street other than an alley.

*Lot, irregular.* A lot of such a shape or configuration that technically meets the area, frontage and width to depth requirements of this chapter but meets these requirements by incorporating unusual elongation, angles, curvilinear lines unrelated to topography or other natural land features.

*Lot, pipestem.* A panhandle or flag shaped lot with its widest point set back from the road at the rear of another lot (called the pipe), and having a thin strip of land connecting to the road to provide legal access and frontage (called the stem). Pipestem lots are also referred to as panhandle lots or flag lots.

*Lot, width of.* The average horizontal distance between all side lot lines measured at a right angle, and at the midpoint of each side lot line.

*Lot of record.* A lot whose existence, location, and dimensions have been legally recorded or registered in a deed or on a plat in the Clerk's office of the Circuit Court of the City of Salem.

*Lowest floor.* The lowest enclosed area, including basement, of any structure. An unfurnished or flood-resistant enclosure usable solely for the parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this division.

*Modular home.* A dwelling unit manufactured off-site and transported to the building site for final assembly on a permanent foundation. Such units shall be comprised of a combination of one or more sections or modules, as more fully defined in the Code of Virginia, Title 36, as amended, and incorporated herein by reference, including the necessary electrical, plumbing, heating, ventilating and other service systems. Such units may also be known as industrialized buildings.

*Monopole.* A single pole structure, usually self supporting, used to support antennas.

---

*Natural watercourse.* Any natural stream river, creek, waterway, gully, or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks.

*Nonconforming building.* Any building the size, dimensions or location of which was lawful when erected or altered, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this ordinance.

*Nonconforming lot.* A lot, the area, dimensions or location of which was lawful at the time the lot was created, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this chapter.

*Nonconforming use.* A use or activity which was lawful when originally established, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this chapter.

*Not-for-profit.* An organization or activity which has obtained nontaxable status from the U. S. Internal Revenue Service.

*Off-street parking area.* Space provided for vehicular parking outside the dedicated street right-of-way.

*Open space.* Any parcel or area of land or water essentially unimproved and set aside, dedicated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open Space may include, recreation centers, playgrounds, swimming pools, tennis and basketball courts, and similar facilities.

*Open space, common.* Land within or related to a development, not individually owned or dedicated for public use, which is intended for the common use or enjoyment of the residents of the development and may include such complementary structures as are necessary and appropriate.

~~*Open space may include, recreation centers, playgrounds, swimming pools, tennis and basketball courts, and similar facilities.*~~

*Outdoor storage.* The keeping, in other than a building, of any goods, materials, or merchandise on the same parcel for more than 24 consecutive hours.

*Overlay district.* A district established by this Chapter to prescribe special regulations to be applied to a site in combination with the underlying or base district.

*Patio.* A level surfaced area directly adjacent to a principal building which has an average elevation of not more than 30 inches from finished grade, and without walls or a roof. A patio may be constructed of any materials.

*Permanent foundation.* For the purposes of a modular home, a permanent foundation shall consist of a continuous solid or fully grouted masonry or concrete footing that shall fully support the exterior walls. A crawlspace, slab on grade, and basement foundations shall be considered permanent foundations. Pier and ground anchor support systems shall not be considered a permanent foundation.

*Plot plan.* ~~**A drawing that clearly indicates the area, shape, and dimensions of the property proposed for development. All existing easements, natural water courses, and existing and proposed improvements shall also be shown on the plan. The plan shall clearly indicate the minimum distances between existing and proposed uses and all property lines. Proposed access to the property shall also be shown.**~~

*Porch.* A roofed open area, which may be glazed or screened, usually attached to or part of and with direct access to or from, a building.

*Principal building or structure.* A building or structure in which the primary use of the lot on which the building is located is conducted.

---

*Principal use.* The main use of land or structures as distinguished from a secondary or accessory use.

*Private.* Unless otherwise specifically indicated, private shall mean anything not owned, operated, provided and/or maintained by a local, state, or federal government.

*Public.* Unless otherwise specifically indicated, public shall mean anything owned, operated, provided and/or maintained by a local, state, or federal government.

*Public water and sewer systems.* A water or sewer system owned and operated by:

- (1) A municipality or county; or
- (2) A private individual or a corporation approved and properly licensed by the State Corporation Commission prior to the adoption date of this chapter; and meeting the requirements of the State Health Department and/or Virginia Department of Environmental Quality.

*Recreational vehicle.* Recreational vehicle means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light-duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreation camping, travel or seasonal use.

*Replacement cost.* The cost of restoring a damaged building or structure to its original condition. Replacement cost shall include reasonable estimates of the cost of materials and labor and shall be compared with the assessed value as determined by the city assessor to determine the percentage of the cost of improvements.

*Right-of-way.* A legally established area or strip of land, either public or private, on which an irrevocable right of passage has been recorded.

*Screening.* A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation. Screening is intended to substantially, but not necessarily totally obscure visual impacts between adjoining uses.

*Setback.* The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

*Shopping center.* A group of commercial establishments planned, constructed and managed as a total entity with shared access, customer and employee parking provided onsite, provision of goods delivery separated from customer access, aesthetic considerations and protection from the elements.

*Site plan.* ***A document prepared by an engineer or architect, licensed by the Commonwealth of Virginia, which is drawn to scale showing the proposed development of land. The document may include all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information.***

*Major site plan.* A site plan that typically includes stormwater management and/or utility work.

*Minor site plan.* A site plan that typically does not include stormwater management and/or utility work.

*Special exception.* A use with operating and/or physical characteristics different from those uses permitted by right in a given zoning district which may, nonetheless, be compatible with those by-right uses under special conditions and with adequate public review. Special Exceptions are allowed only at the discretion and approval of the Salem City Council following review and recommendation by the Salem Planning Commission.

*Stoop.* A platform, without a roof, located at the entrance of a building with sufficient area to facilitate the ingress and egress to the building.

---

*Story.* That portion of a building included between the surface of any floor and the floor next above it, or if there is not a floor above it, then the space between the floor and the ceiling above it.

*Street.* Any vehicular way which: (1) is an existing state or municipal roadway: or, (2) is shown on a plat approved pursuant to law; or, (3) is approved by other official action. The term street shall include road, and highway. Unless otherwise indicated, the term street shall refer to both public and private streets.

*Structure.* Anything that is constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including but not limited to buildings, signs, manufactured homes and swimming pools. Walls and fences shall not be deemed structures except as otherwise specifically provided in this chapter.

*Substantial damage.* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed 50 percent of the market value of the structure before such damage occurred.

*Substantial improvement.* Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not however, include either any project for improvement for a structure to comply with existing state or city health, sanitary or safety code specifications which are solely necessary to assure safe living condition, or any alteration of a structure listed on a national, state, or local historic register.

*Telecommunications.* The transmitting and receiving of electromagnetic signals through the atmosphere.

*Use not provided for permit.* A permit authorizing a land use that is not listed as a permitted use by right or by special use in any zoning district provided for in this chapter. Use Not Provided for Permits are allowed only at the discretion and approval of the Salem City Council following review and recommendation by the Salem Planning Commission.

*Variance.* A reasonable deviation from the provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure in accordance with § 15.2-2201 of the Code of Virginia, as amended.

*Watercourse.* A natural or artificial channel for passage or running water fed from natural sources in a definite channel and discharging into some stream or body of water.

*Yard.* A required open space on a lot, unoccupied and unobstructed from the ground upward, unless otherwise provided by this chapter.

*Yard, front.* A yard between the building line and the street right-of-way extending across the full width of the lot.

*Yard, rear.* A yard between the rear line of the building and the rear line of the lot extending the full width of the lot.

*Yard, side.* A yard between the side line of the building and the side line of the lot extending from the front lot line to the rear lot line.

*Zoning administrator.* The Zoning Administrator of the City of Salem Virginia, or an authorized agent thereof, also referred to in this chapter as the administrator.