

Public Hearing Agenda

Item #4.03

A-1 Zoning Amendment
(Permitted and Conditional Uses)

STAFF REPORT

Proposed Zoning Ordinance Amendment #2022-02 to Amend and Reenact the Article II, General Agricultural District (A-I)

Ordinance Amendment #2022-02: An Ordinance to Amend and Reenact the following section of the Sussex County Code, Appendix B, Zoning: Article II, General Agricultural District (A-I) including certain uses to be considered under Conditional Use Permit, clarifying the regulations for garage apartments, and adding provisions for consideration of increased height provisions for industrial uses/structures granted by conditional use permit.

Summary:

The proposed amendment is to the General Agricultural (A-I) zoning district regulations to allow the following amendments:

1) Amend certain currently "permitted uses" to be allowed as a "conditional use".

These uses include:

- Lodges, cabins, groups of cabins, camps, and travel trailers for seasonal occupancy
- Hunt clubs, fishing clubs, yacht clubs and small boats docks (with repair)
- Sporting clays field and pistol range

These uses have the potential to pose a nuisance to surrounding residential uses, and can be difficult to regulate. Requiring a conditional use means the use will only be permitted after careful examination and under certain conditions as may be determined in each case during a public hearing by the Board of Supervisors following a recommendation from the Planning Commission.

2) Clarify regulations for a garage apartment. Currently, garage apartments are only permitted "within or attached" to the single-family residence. The amendment will allow a "detached" garage apartment provided that 50% of the structure is for storage. This provision will be in addition to the current regulations that: a) limit a garage apartment to no more than two (2) rooms plus a kitchenette and bathroom; b) the owner must reside in the single-family residence; and c) the garage apartment shall not be offered to the general public for rent and the use of which shall be limited to either members of the principal owner's family or to domestic servants/caretakers employed by the owner.

- 3) Add provisions for consideration of increased height above thirty-five (35) feet as permitted in the underlying A-I zoning district. The provision will allow industrial uses granted as a conditional use in the A-I zone to achieve a height increase equivalent to that which is allowed in the industrial zoning districts. The height increase may be granted pending approval by the Zoning Administrator, or as a condition granted during the public hearing by the Board of Supervisors following a recommendation from the Planning Commission.

- 4) Formatting and other minor edits/clarifications.

Planning Commission Recommendation:

The Planning Commission conducted a public hearing on the amendment on August 1, 2022 and recommended approval to the Board of Supervisors.

Attachment(s):

> Zoning Ordinance Amendment #2022-2
2

**An Ordinance to Amend and Reenact the Following Sections of the Sussex County Code,
Appendix B, Zoning: Article II, General Agricultural District (A-1)**

WHEREAS, the Board of Supervisors of Sussex County, Virginia, has the legislative authority to make reasonable changes to the ordinances that govern the orderly growth and development of Sussex County; and

WHEREAS, the Sussex County Board of Supervisors is also concerned about the compatibility of uses on public and private lands within Sussex County and seeks to allow flexibility in the administration of the ordinance regulations while protecting the health, safety, and general welfare of present and future residents and businesses of the County.

NOW, THEREFORE, BE IT ORDAINED by the Sussex County Board of Supervisors that **Appendix B, Zoning, Article II, General Agricultural District (A-1)**, as follows:

ARTICLE II. GENERAL AGRICULTURAL DISTRICT A-1

Sec. 16.21. Statement of intent.

The A-1 district covers portions of the county now devoted predominately to farms and forests in which public utilities are not generally available or anticipated in the near future. This district is established to protect land and property values, ground water and surface water quality and other natural resources. It is also the intent of this district to provide for the continued security of the county's agricultural sector by encouraging the orderly and responsible growth of its livestock, dairy and poultry industry. Limited residential and non-residential development is anticipated in these areas. (Ord. of 11/15/07)

Sec. 16-22. Use regulations

In the general agricultural district (A-1), any structure to be erected or land to be used shall be for one (1) or more of the following uses: (Ordinance amendment #2005-02, adopted May 09, 2005)

1. Reservoir, preserve and watershed conservation areas.
2. Wildlife refuges, game preserves, sanctuaries and forest preserves.
3. General farming, livestock, dairy and poultry operations.
4. Agriculture.
5. Single-family dwellings, including modular units,
6. Forestry operation, silvicultural and/or timbering.
7. Public parks, play fields, playgrounds, schools and outdoor recreational facilities owned and operated by the County.
8. Country general store.
9. Lodges, cabins, groups of cabins, camps, and travel trailers for seasonal occupancy, with a conditional use permit.
10. Hunting clubs, fishing clubs, yacht clubs and small boat docks (with repair) with a conditional use permit.

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Deleted: at least nineteen (19) feet and width and placed in a manner which renders the unit no longer transportable. Manufactured homes and modular units shall have an enclosed foundation.
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Sussex County Zoning

11. Intensive livestock, dairy, and poultry operations in accordance with Section 16-32 and the other provisions of Chapter 16, Article II. (Ord. of 03/16/95)	Deleted: General livestock, dairy and poultry operations in accordance with Section 16-32 and the other provisions of Chapter 16, Article II. (Ord. of 03/16/95)
12. Home occupations conducted by the occupant	Deleted: Sawmills, portable, with a conditional use permit
13. Cemeteries and airports, with a conditional use permit	
14. Accessory uses/structures provided there is an existing primary user/structure already existing on the subject property. Carages, or other accessory structures, such as carports, porches and stoops, attached to the main building shall be considered part of the main building.	Deleted: 1 numbering
15. Public utility generating, booster or relay stations, transmission lines and towers, television and radio towers and structures not necessary to house electronic apparatus, pipes, facilities, and water and sewage installations	Formatted: Indent Left: 0.74", No bullets or numbering Formatted: Font 10 pt Deleted: 1 numbering
16. Public telecommunication facilities approved by the Virginia Public Telecommunication Board with the exception of television, radio towers and other structures not necessary to house electronic apparatus public utilities and facilities regulated and by the Virginia State Corporation Commission.	Formatted: Indent Hanging: 0.28", Space After: 0 pt Line spacing: single, Numbered + Level: 1 + Alignment: Numbering Style: 1, 2, 3, ... + Start at 12 + Alignment: Left + Aligned at 0.75" + Indent at 0.75" Deleted: 1 Formatted: Indent Left: 0.5", First line: 0", Space After: 0 pt Line spacing: single
17. Private utility generation, booster or relay stations, transmission lines and towers, television and radio towers and structures not necessary to house electronic apparatus, pipes, meters and other facilities for the provision and maintenance of public utilities, including railroads and facilities, and water and sewage installations	Deleted: 1 Formatted: Indent Left: 0.5", First line: 0", Space After: 0 pt Line spacing: single
18. Manufactured/mobile homes, single- and double-wide, designed for single-family residential use, on individual lots with permanent foundations approved by the Building Official. The open space beneath each manufactured/mobile home shall be skirted with an approved weather-resistant material within ninety (90) days after occupancy of the unit. (Ord. of 04/15/99).	Deleted: 17.1 If owned and operated by Sussex County, public utility generating, booster or relay stations, television and radio towers and structures not necessary to house electronic apparatus, pipes, meters and other facilities for the provision and maintenance of public utilities, including railroads and facilities, water and sewage installations, a. Public telecommunication facilities approved by the Virginia Public Telecommunication Board with the exception of television, radio towers and other structures necessary to house electronic apparatus." 17.2 Deleted: If owned p
19. Mass gathering, with a conditional use permit	Deleted: If owned p
20. Tire storage, with a conditional use permit	Deleted: If owned p
21. Sporting clay field and pistol range, with a conditional use permit (Ord. of 11/17/88, § 2-1; Ord. of 7/19/90(2); Ord. of 2/21/91; Res. of 4-4-91)	Deleted: If owned p
22. Processing plant for agricultural and forestry products, with a conditional use permit (Ord. of 03/16/95)	Deleted: If owned p
23. Processing plant for fertilizer and chemicals for agricultural uses, with a conditional use permit. (Ord. of 03/16/95)	Formatted: 1 Deleted: 1 Deleted: 1 Deleted: 1
24. Sawmills, with a conditional use permit. (Ord. of 03/16/95)	Formatted: Indent Left: 0", First line: 0.5" Deleted: 21 Formatted: Indent Left: 0.5", First line: 0" Formatted: Indent Left: 0", First line: 0.5"
25. Planning mills, with a conditional use permit (Ord. of 03/16/95)	Deleted: 21 Formatted: Indent Left: 0.5", First line: 0" Formatted: Indent Left: 0", First line: 0.5"
26. Federal, state, and local government offices building and their associated facilities.	Formatted: Indent Left: 0", First line: 0.5"
27. Extraction of natural resources and storage of salt, sand and minerals, with a conditional use permit. (Ord. of 06/18/98)	Formatted: Indent Left: 0", First line: 0.5"
28. Sanitary landfill, with a conditional use permit (Ord. of 03/16/95)	Formatted: Indent Left: 0", First line: 0.5"
29. Livestock market, with a conditional use permit. (Ord. of 03/16/95)	Formatted: Indent Left: 0", First line: 0.5"
30. Farm supplies, agricultural equipment sales and services, with a conditional use permit. (Ord. of 03/16/95)	Formatted: Indent Left: 0", First line: 0.5"

- 31. Commercial horse and pony farms, riding stables, horse show area and horse racing tracks, with a conditional use permit. (Ord. of 03/16/95)
- 32. Towing/wrecker service with storage of inoperable and/or damaged vehicles allowed within fully enclosed structures such as warehouses, garages or similar buildings, with a conditional use permit (Ordinance Amendment #99-07)
- 33. Garage Apartment accessory to a single-family dwelling on the same lot, with a conditional use permit and subject to the following:
 - a. The garage apartment shall not contain more than two rooms plus a kitchenette and bathroom.
 - b. The owner must reside in the single-family dwelling.
 - c. The garage apartment shall not be offered to the general public for rent and the use of, shall be limited to either members of the principal owner's family or to domestic servants/caretakers employed by the owner.
 - d. A detached garage apartment shall contain 50% storage space
 - e. A detached garage apartment shall be located behind the single-family dwelling and shall meet the same minimum setbacks prescribed by the zoning district for a single-family dwelling.
 - f. A detached garage apartment shall not be taller than the single-family structure to which it is accessory.
 - g. No dwelling units other than the principal single-family dwelling and one such garage apartment shall be located on a lot, tract or parcel of land.
- 34. Trucking operation, with a conditional use permit. (Ordinance Amendment #2002-01)
- 35. Organics Recycling Facility, with a conditional use permit. (Ordinance amendment #2005-02, adopted May 09, 2005)
- 36. Two-family dwelling with a conditional use permit. (Ordinance amendment #2005-04)
- 37. Private Kennels, accessory to a single-family residence, not for compensation to the owner/resident.
- 38. Commercial Kennels with a conditional use permit.
- 39. Wayside stand, roadside stand, farmers market.
- 40. Commercial child/adult care centers with a conditional use permit.
- 41. Commercial greenhouses with a conditional use permit.
- 42. Volunteer fire or rescue squad.
- 43. Retreat centers with a conditional use permit.
- 44. Churches & their associated facilities.
- 45. Public schools.
- 46. Private schools and training facilities with a conditional use permit.
- 47. Corporate training facility with overnight accommodations with a conditional use permit.

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- Moved down [1]:** No dwelling units other than the principal single-family dwelling and one such garage apartment shall be located on a lot, tract or parcel of land.
- Deleted:** Any single-family dwelling which adds a garage apartment shall be deemed to remain a single-family dwelling and shall be considered to be one (1) dwelling unit for the purpose of yard, setbacks, lot coverage and minimum lot size requirements. (Ord amendment #2001-01)
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4. A conditional use granted by the Board of Supervisors for an industrial use in the A-1 zone may achieve a height increase equivalent to that which is allowed in the I-1 or I-2 zoning districts, pending approval by the Zoning Administrator. The Board of Supervisors, following a recommendation by the Planning Commission, may also consider and grant increases to height for industrial uses during the Conditional Use Permit public hearing process.

3. No accessory building which is within 20 feet of any property line shall be more than one story high. All accessory buildings shall be less than the main building in height, provided that an accessory structure may be erected up to a height of 35 feet when located at least 150 feet from the main building and at least 100 feet from any property line.

2. Church spires, belltowers, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aereals are exempt.

1. A public or semi-public building such as a school or church may be erected to a height of 60 feet from the grade, provided that required front, side and rear yards shall be increased by one foot for each foot in height over 35 feet.

In the A-1 general agricultural district buildings may be erected up to thirty-five (35) feet or two (2) stories, whichever is less in height, except that:

Sec. 16-23. Height Regulations.

59. Licensed farm distilleries, breweries and wineries per Virginia Code Section 15.22288.3.

58. Asphalt Plant Facility, with a conditional use permit. (Ordinance Amendment #2015-01, adopted April 19, 2015)

57. Materials Recycling/Sorting Facility, with a conditional use permit (Ordinance Amendment #2014-01, adopted March 2015)

56. Group homes for up to eight (8) mentally ill or disabled persons with staff are to be considered as occupancy by a single family. (Current illegal use or addition to a controlled substance is excluded from the definition of mental illness.)

55. Mud bog, with a conditional use permit.

54. Bed and Breakfast, with a conditional use permit.

53. Community center, with a conditional use permit.

52. Day camps and summer camps, ~~guides~~ with a conditional use permit.

51. Assembly hall, with a conditional use permit.

50. Animal hospital, animal boarding place, veterinary service, with a conditional use permit.

49. Mobile home or travel trailer as temporary use during the period of construction of a commercial, industrial or public structure or development, public facility or public utility. Travel trailers under no circumstances are to be permitted as permanent livable dwelling units.

48. Golf driving range, miniature golf course with a conditional use permit.

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Sec. 16-24. Area regulations.

1. The minimum lot area for permitted uses in an A-I district shall be two (2) acres (87, 120 square feet). For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The minimum lot area for permitted uses shall not include areas identified as jurisdictional wetlands or areas within a 100-year floodplain.
2. The minimum number of acres on which any new general livestock, dairy or poultry facility may be established shall be the larger of either the number of acres required by the nutrient management plan or a minimum of fifty (50) acres. (Ord. of 10/16/98)
3. The minimum number of acres on which any new intensive livestock, dairy or poultry facility may be established shall be the larger of either the number of acres required by the nutrient management plan or a minimum of fifty (50) acres for the first three hundred (300) animal units, plus ten (10) acres for each additional three hundred (300) animal units or a portion thereof. (Ord. of 10/16/98)
4. Existing livestock, dairy and poultry operations in use as of the effective date of this amendment which do not have sufficient acres, as -required above,- shall be considered nonconforming existing uses and may continue as long as the operation is not abandoned for two (2) years continuously and there is no increase in the size or number of livestock, dairy and poultry kept on the parcel at one time and there is no dimension in the size of the parcel of land containing the intensive livestock, dairy and poultry facility. (Ord. of 03/15/95)
5. For sanitary landfill operations the minimum area requirement is two hundred (200) acres. (Ord. of 10/16/98)

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Sec. 16-25. Reserved

Sec. 16-26. Setback regulations.

1. Any new general livestock, dairy and poultry operations in the A-I district shall be located one thousand (1,000) feet from any primary street, secondary street, road or highway right-of-way. Any new intensive livestock, dairy and poultry operations in the A-I district shall be located at least one thousand five hundred (1,500) feet from any primary street, secondary street, road or highway right-of-way. (Ord. of 10/16/98)
2. Existing livestock, dairy and poultry operations in use as of the effective date of this amendment which do not meet the required setback from a street right-of-way, as required above shall be considered legal non-conforming uses and may continue so long as the operation is not abandoned for two (2) years continuously. No expansions of any such non-conforming livestock, dairy and poultry operations may come close to the street right-of-way (Ord. of 10/16/98)
3. In the A-I, General Agricultural District, all structures shall be located one hundred (100) feet or more from any street right-of-way. This shall be known as the "setback line." However, public utility distribution facilities and signs advertising the sale or rental of property may be erected up to the property line. (Ord. of 11/15/07)
4. Accessory Uses/Structures. No accessory use/structure may be closer to the street right-of-way than the principal use/structure and must be located at least five (5) feet from any side or rear property line.

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Sec. 16-27. Public road frontage regulations.

Sec. 16-28. Yard regulations.
The minimum frontage for permitted uses located on a public road in an A-1 district shall be three hundred (300) feet at the "setback line". (Ord. of 11/15/07)

1. Side: The minimum side yard for each main structure in an A-1 district shall be twenty-five (25) feet, and the total width of the two (2) required side yards shall be fifty (50) feet or more.

2. Rear: Each main structure shall have a rear yard of fifty (50) feet or more.

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3. Any new general livestock, dairy and poultry operations shall be at least five hundred (500) feet from any property line; one thousand (1,000) feet from any residence; and two thousand (2,000) feet from any school, business, public facility, church, incorporated town, residential subdivision or public well. (Ord. of 10/16/98)

4. Any new intensive livestock, dairy and poultry operations shall be at least one thousand (1,000) feet from any property line; two thousand (2,000) feet from any residence and three thousand nine hundred sixty (3,960) feet from any school, business, public facility, church, incorporated town, residential subdivision or public well. (Ord. of 10/16/98)

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5. Any sanitary landfill operation shall be located at least one (1) mile from any residence, school or business, public facility and church; and at least seven hundred fifty (750) feet from any property lines. (Ord. of 12/20/07)

6. The land application of effluent from any new general and intensive livestock, dairy and poultry operations shall be at least three hundred (300) feet from any permanent or intermittent stream measuring from the edge of the channel; one hundred (100) feet from property lines not adjacent to streams; five hundred (500) feet from any residence not located on the same property unless the adjacent property owner agrees to a lesser setback. In addition, the County may require soil sampling as deemed necessary, for any new intensive livestock, dairy and poultry operations, to ascertain the level of nitrates, potassium, phosphates and any other nutrients in the soil prior to and application of effluent. The signing of an agreement to have effluent land applied will constitute permission to allow random soil sampling testing by the county or its agents. (Ord. of 12/17/98)

7. Existing livestock, dairy and poultry operations in use as of the effective date of this provision which do not meet the required yard regulations, as required above, shall be considered legal nonconforming uses and may continue so long as the operation is not abandoned for two (2) years continuously. Replacement, reconfiguration or modifications, including the addition of buildings or accessory structures, of any existing non-conforming livestock, dairy and poultry facilities in operation as of the effective date on this amendment of the zoning ordinance may be permitted provided that:

a. There is no increase in the number of animal units kept at the operation.

b. A nutrient management plan is obtained as provided for this chapter.

c. Replacement facilities, the reconfiguration of existing facilities, and modifications, including the addition of buildings or other accessory structures, shall meet the setback requirements in existence prior to the amendments of October 15, 1998 (Ord. of 12/17/98)

Sec. 16-29. Special provisions for corner lots.

1. Of the two (2) sides of a corner lot in an A-1 district, the front shall be deemed to be the shortest of the two (2) sides fronting on streets.
2. The minimum side yard on the side facing the side street shall be thirty-five (35) feet for both main and accessory buildings. (Ord. of 11-17-88, § 2-8)

Sec. 16-30. Off-street parking.

Off-street parking in an A-1 district shall be as required by Section 16-372. (Ord. of 11-15-07)

Sec. 16-31 Reserved.

Sec. 16-32 Development plans; Nutrient management plan

Certified Plat Required

Each application for livestock, dairy or poultry operation shall be accompanied by a plat or similar documentation acceptable to the Zoning Administrator for the entire parcel with location of the proposed operation. With this plat or similar documentation the operator shall submit a written statement sworn to and subscribed before a notary public by which the operator certifies to the Zoning Administrator that the operation shown on the plat or similar documentation meets all applicable setback requirements of this ordinance and the plat or similar documentation is a complete and accurate depiction of the facility on the parcel or parcels.

Livestock, dairy or poultry operations development plans

1. In the A-1, General Agriculture District, a livestock raiser, dairy operator or poultry grower or a potential raiser, owner, grower may file with the Zoning Administrator a development plan which indicates the number, size and location of livestock, dairy or poultry facilities planned for the subject parcel. When such development plan has been approved and filed with the Zoning Administrator and during the period in which it remains in effect, the planned facilities shall be obliged to meet setbacks only from those dwellings and uses existing at the time the development plan is approved.
2. The development land shall be based on the requirements of this chapter and shall be accompanied by a plat or similar documentation verifying the accuracy of the distances shown in the development plan and continuing all of the data required herein above.
3. The development plan shall remain in force only so long as the facilities proposed are constructed in accordance with the development plan and are placed in service in a timely manner.
4. At least one-third (1/3) of the number of head of livestock or dairy animals, subject to this chapter of the ordinance or one (1) poultry facility indicated in the development plan must be placed into service within twelve (12) months of the date on which the development plan is approved by the Zoning Administrator, unless at least one-third (1/3) of the number of livestock, dairy or one (1) such poultry facility is already in service on the subject parcel at the time of development plan may only be obtained if no more than five (5) years have passed since the date on which the development plan was approved by the Zoning Administrator.
5. The operator shall the Zoning Administrator in writing within thirty (30) days of placement into service of any facilities indicated in his development plan.
6. In the event an operator fails to build or have in place the minimum number of head required in section (d) above or poultry facility indicated in the development plan within twelve (12) months of obtaining zoning approval, or fails to obtain zoning approval for any of the facilities indicated in his development plan within the prescribed

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The permitted density in the A-1 district shall not be more than one (1) dwelling (single-family dwelling or manufactured/mobile home) per lot, parcel or tract of land. (Ord. 04/15/99)

Sec. 16-33. Density Requirements

6 The nutrient management plan unless sooner required by the provisions of this Article or by the Commonwealth of Virginia or any department or division thereof, shall be reviewed and updated every ten (10) years by an agent of the Virginia Department of Conservation and Recreation or by the Virginia Cooperative Extension Service or by a person certified or employed by the Commonwealth as a nutrient management planner. (Ord. of 03/15/95)

5 Notwithstanding the provision of this section, a raiser, operator or grower whose facilities were in operation prior to the effective date of this amendment, in attempting to comply with the requirement to provide a letter storage site within two (2) years from the adoption of this amendment may locate an animal waste storage site within any setback otherwise required in this chapter upon satisfaction that the storage site will not encroach upon setbacks to a great extent than the existing facility (Ord. of 03/15/95)

4 The nutrient management plan shall also provide for a site, with or without a permanent structure, for the storage of animal wastes which shall meet all applicable requirements and standards of the Commonwealth of Virginia and any department or division thereof. If an operator is unable to locate a site on the same parcel because of insufficient acreage or topographical hardship, then the Zoning Administrator, after consultation with the operator's engineer, may permit the storage site to be located on land owned by the operator adjacent to the facility, or, if there is a valid agreement for off-site disposal as provided in the Article, the Zoning Administrator may permit the storage site to be located on a parcel specified in the agreement for such offsite disposal. (Ord. of 03/15/95)

3 If off-site disposal is part of the nutrient management plan, the grower, raiser or operator shall provide, as part of the nutrient management plan, written documentation of an agreement with the receiver of the wastes produced at the grower's facility. Documentation shall specify the duration of the agreement and the nature of the application or use of the wastes. In addition, when effluent is to be spread on land belonging to a second party the agreement will include notification of the requirement of Section 16-28: Yard Regulations. A nutrient management plan containing such an agreement shall be valid only as long as the agreement remains in force and shall be reviewed whenever such an agreement expires or is terminated by either party. The grower shall notify the Zoning Administrator whenever such an agreement is terminated before its stated expiration date within fifteen (15) days of such termination (Ord. 10/16/98)

2 The nutrient management plan shall provide for the safe disposal of use of all manure, animal waste, produced by each facility. (Ord. of 03/15/95)

1 After the effective date of this amendment to the Zoning Ordinance no operation consisting of at least one hundred fifty (150) animal units shall be issued a zoning permit until a nutrient management plan for the proposed facility has been reviewed and approved by the Virginia Department of Conservation and Recreation or by the Virginia Cooperative Extension Service or other appropriate state agencies. (Ord. of 03/15/95)

Nutrient Management Plan

Each parcel for which a development plan has been approved by the Zoning Administrator shall display at its entrance a sign no smaller than two (2) square feet, or larger than four (4) square feet, clearly visible from the nearest roadway, indicating that a development plan is in effect for the parcel and containing the words "Certified Intensive Livestock Development Site" (Ord. of 03/15/95)

five (5) year period the Zoning Administrator shall revoke the development plan and all future development plans of facilities on the subject parcel until they shall strictly conform to the requirements of this chapter.

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Adopted this 18th day of August, 2022.

Susan Seward, Chairman of the Board of Supervisors

Attest:

_____ Shilton Ricks-Butts, Clerk

Approved as to Form:

_____ Jeff Gore County Attorney

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**An Ordinance to Amend and Reenact the Following Sections of the Sussex County Code,
Appendix B, Zoning: Article II, General Agricultural District (A-1)**

WHEREAS, the Board of Supervisors of Sussex County, Virginia, has the legislative authority to make reasonable changes to the ordinances that govern the orderly growth and development of Sussex County; and

WHEREAS, the Sussex County Board of Supervisors is also concerned about the compatibility of uses on public and private lands within Sussex County and seeks to allow flexibility in the administration of the ordinance regulations while protecting the health, safety, and general welfare of present and future residents and businesses of the County.

NOW, THEREFORE, BE IT ORDAINED by the Sussex County Board of Supervisors that Appendix B, Zoning, Article II, General Agricultural District (A-1), as follows:

ARTICLE II. GENERAL AGRICULTURAL DISTRICT A-1

Sec. 16.21. Statement of intent.

The A-1 district covers portions of the county now devoted predominately to farms and forests in which public utilities are not generally available or anticipated in the near future. This district is established to protect land and property values, ground water and surface water quality and other natural resources. It is also the intent of this district to provide for the continued security of the county's agricultural sector by encouraging the orderly and responsible growth of its livestock, dairy and poultry industry. Limited residential and non-residential development is anticipated in these areas. (Ord. of 1 1/15/07)

Sec. 16-22. Use regulations

In the general agricultural district (A-1), any structure to be erected or land to be used shall be for one (!) or more of the following uses: (Ordinance amendment #2005-02, adopted May 09, 2005)

1. Reservoir, preserve and watershed conservation areas.
2. Wildlife refuges, game preserves, sanctuaries and forest preserves.
3. General farming. Livestock, dairy and poultry operations.
4. Agriculture.
5. Single-family dwellings, including modular units
6. Forestry operation, silvicultural and/or timbering.
7. Public parks, play fields, playgrounds, schools and outdoor recreational facilities owned and operated by the County.
8. Country general store.
9. Lodges, cabins, groups of cabins, camps, and travel trailers for seasonal occupancy, with a conditional use permit.
10. Hunting clubs, fishing clubs, yacht clubs and small boat docks (with repair) with a conditional use permit.

11. Intensive livestock, dairy, and poultry operations in accordance with Section 16-32 and the other provisions of Chapter 16, Article II. (Ord. of 03/16/95)
12. Home occupations conducted by the occupant.
13. Cemeteries and airports, with a conditional use permit.
14. Accessory uses/structures provided there is an existing primary use/structure already existing on the subject property. Garages, or other accessory structures, such as carports, porches and stoops, attached to the main building shall be considered part of the main building.
15. Public utility generating, booster or relay stations, transformer substations, transmission lines and towers, television and radio towers and structures not necessary to house electronic apparatus, pipes, meters and other facilities for the provision and maintenance of public utilities, including railroads and facilities, and water and sewage installations.
16. Public telecommunication facilities approved by the Virginia Public Telecommunication Board with the exception of television, radio towers and other structures not necessary to house electronic apparatus public utilities and facilities regulated and by the Virginia State Corporation Commission.
17. Private, utility generation, booster or relay stations transformer substations, transmission lines and towers, television and radio towers and structures not necessary to house electronic apparatus, pipes, meters and other facilities for the provision and maintenance of public utilities, including railroads and facilities, and water and sewage installations, with a conditional use permit.
18. Manufactured/mobile homes, single- and double-wide, designed for single-family residential use, on individual lots with permanent foundations approved by the Building Official. The open space beneath each manufactured/mobile home shall be skirted with an approved weather-resistant material within ninety (90) days after occupancy of the unit. (Ord. of 04/15/99).
19. Mass gathering, with a conditional use permit.
20. Tire storage, with a conditional use permit.
21. Sporting clays field and pistol range, with a conditional use permit. (Ord. of 11/17/88, § 2-1; Ord. of 7/19/90(2); Ord. of 2/21/91; Res. of 4-4-91)
22. Processing plant for agricultural and forestry products, with a conditional use permit (Ord. of 03/16/95)
23. Processing plant for fertilizer and chemicals for agricultural uses, with a conditional use permit. (Ord. of 03/6/95)
24. Sawmills, with a conditional use permit. (Ord. of 03/16/95)
25. Planning mills, with a conditional use permit (Ord. of 03/16/95)
26. Federal, state, and local government offices building and their associated facilities.
27. Extraction of natural resources and storage of salt, sand and minerals, with a conditional use permit. (Ord. of 06/18/98)
28. Sanitary landfill, with a conditional use permit (Ord. of 03/16/95)
29. Livestock market, with a conditional use permit. (Ord. of 03/16/95)
30. Farm supplies, agricultural equipment sales and services, with a conditional use permit. (Ord. of 01/16/95)

31. Commercial horse and pony farms, riding stables, horse show area and horse racing tracks, with a conditional use permit. (Ord. of 03/16/95)
32. Towing/wrecker service with storage of inoperable and/or damaged vehicles allowed within fully enclosed structures such as warehouses, garages or similar buildings, with a conditional use permit (Ordinance Amendment #99-07)
33. Garage Apartment accessory to a single-family dwelling on the same lot, with a conditional use permit and subject to the following:
 - a. The garage apartment shall not contain more than two rooms plus a kitchenette and bathroom.
 - b. The owner must reside in the single-family dwelling.
 - c. The garage apartment shall not be offered to the general public for rent and the use of shall be limited to either members of the principal owner's family or to domestic servants/caretakers employed by the owner.
 - d. A detached garage apartment shall contain 50% storage space
 - e. A detached garage apartment shall be located behind the single-family dwelling and shall meet the same minimum setbacks prescribed by the zoning district for a single-family dwelling.
 - f. A detached garage apartment shall not be taller than the single-family structure to which it is accessory.
 - g. No dwelling units other than the principal single-family dwelling and one such garage apartment shall be located on a lot, tract or parcel of land.
34. Trucking operation, with a conditional use permit. (Ordinance Amendment #2002-01)
35. Organics Recycling Facility, with a conditional use permit. (Ordinance amendment #2005-02, adopted May 09, 2005)
36. Two-family dwelling with a conditional use permit. (Ordinance amendment #2005-04)
37. Private Kennels, accessory to a single-family residence, not for compensation to the owner/resident.
38. Commercial Kennels with a conditional use permit.
39. Wayside stand, roadside stand, farmers market.
40. Commercial child/adult care centers with a conditional use permit.
41. Commercial greenhouses with a conditional use permit,
42. Volunteer fire or rescue squad.
43. Retreat centers with a conditional use permit.
44. Churches & their associated facilities,
45. Public schools.
46. Private schools and training facilities with a conditional use permit.
47. Corporate training facility with overnight accommodations with a conditional use permit.

- 4. A conditional use granted by the Board of Supervisors for an industrial use in the A-1 zone may achieve a height increase equivalent to that which is allowed in the I-1 or I-2 zoning districts, pending approval by the Zoning Administrator. The Board of Supervisors, following a recommendation by the Planning Commission, may also consider and grant increases to height for industrial uses during the Conditional Use Permit public hearing process.
 - 3. No accessory building which is within 20 feet of any property line shall be more than one story high. All accessory buildings shall be less than the main building in height, provided that an accessory structure may be erected up to a height of 35 feet when located at least 150 feet from the main building and at least 100 feet from any property line.
 - 2. Church spires, belltowers, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aeriels are exempt.
 - 1. A public or semi-public building such as a school or church may be erected to a height of 60 feet from the grade, provided that required front, side and rear yards shall be increased by one foot for each foot in height over 35 feet.
- In the A-1 general agricultural district buildings may be erected up to thirty-five (35) feet or two (2) stories, whichever is less in height, except that:

Sec. 16-23. Height Regulations.

- 59. Licensed farm distilleries, breweries and wineries per Virginia Code Section 15.22288.3.
- 58. Asphalt Plant Facility, with a conditional use permit. (Ordinance Amendment #2015-01, adopted April 19, 2015)
- 57. Materials Recycling/Sorting Facility, with a conditional use permit (Ordinance Amendment #2014-01, adopted March 2015)
- 56. Group homes for up to eight (8) mentally ill or disabled persons with staff are to be considered as occupancy by a single family. (Current illegal use or addition to a controlled substance is excluded from the definition of mental illness.)
- 55. Mud bog, with a conditional use permit.
- 54. Bed and Breakfast, with a conditional use permit.
- 53. Community center, with a conditional use permit.
- 52. Day camps and summer camps, outdoors with a conditional use permit.
- 51. Assembly hall, with a conditional use permit.
- 50. Animal hospital, animal boarding place, veterinary service, with a conditional use permit.
- 49. Mobile home or travel trailer as a temporary use during the period of construction of a commercial, industrial or public structure of development, public facility or public utility. Travel trailers under no circumstances are to be permitted as permanent livable dwelling units.
- 48. Golf driving range, miniature golf course with a conditional use permit.

Sec. 16-24. Area regulations.

1. The minimum lot area for permitted uses in an A-I district shall be two (2) acres (87, 120 square feet). For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The minimum lot area for permitted uses shall not include areas identified as jurisdictional wetlands or areas within a 100-year floodplain.
2. The minimum number of acres on which any new general livestock, dairy or poultry facility may be established shall be the larger of either the number of acres required by the nutrient management plan or a minimum of fifty (50) acres. (Ord. of 10/16/98)
3. The minimum number of acres on which any new intensive livestock, dairy or poultry facility may be established shall be the larger of either the number of acres required by the nutrient management plan or a minimum of fifty(50) acres for the first three hundred (300) animal units, plus ten (10) acres for each additional three hundred (300) animal units or a portion thereof.(Ord. of 10/16/98)
 4. Existing livestock, dairy and poultry operations in use as of the effective date of this amendment which do not have sufficient acres, as -required above,- shall be considered nonconforming existing uses and may continue as long as the operation is not abandoned for two (2) years continuously and there is no increase in the size or number of livestock, dairy and poultry kept on the parcel at one time and there is no dimension in the size of the parcel of land containing the intensive livestock, dairy and poultry facility, (Ord. of 03/15/95)
5. For sanitary landfill operations the minimum area requirement is two hundred (200) acres. (Ord. of 10/16/98)

Sec. 16-25. Reserved

Sec. 16-26. Setback regulations.

1. Any new general livestock, dairy and poultry operations in the A-I district shall be located one thousand (1,000) feet from any primary street, secondary street, road or highway right-of way. Any new intensive livestock, dairy and poultry operations in the A-I district shall be located at least one thousand five hundred (1,500) feet from any primary street, secondary street, road or highway right-of-way. (Ord. of 10/16/98)
- 2 Existing livestock, dairy and poultry operations in use as of the effective date of this amendment which do not meet the required setback from a street right-of-way, as required above shall be considered legal non-conforming uses and may continue so long as the operation is not abandoned for two (2) years continuously. No expansions of any such non-conforming livestock, dairy and poultry operations may come close to the street right-of-way. (Ord. of 10/16/98)
3. In the A-I, General Agricultural District, all structures shall be located one hundred (100) feet or more from any street right-of-way. This shall be known as the "setback line." However, public utility distribution facilities and signs advertising the sale or rental of property may be erected up to the property line. (Ord. of 11/15/07)
4. Accessory Uses/Structures. No accessory use/structure maybe closer to the street right-of-way than the principal use/structure and must be located at least five (5) feet from any side or rear property line.

Sec. 16-27. Public road frontage regulations.

The minimum frontage for permitted uses located on a public road in an A-1 district shall be three hundred (300) feet at the "setback line". (Ord. of 11/15/07)

Sec. 16-28. Yard regulations.

- 1. Side. The minimum side yard for each main structure in an A-1 district shall be twenty-five (25) feet, and the total width of the two (2) required side yards shall be fifty (50) feet or more.
- 2. Rear. Each main structure shall have a rear yard of fifty (50) feet or more.

3. Any new general livestock, dairy and poultry operations shall be at least five hundred (500) feet from any property line; one thousand (1,000) feet from any residence; and two thousand (2,000) feet from any school, business, public facility, church, incorporated town, residential subdivision or public well. (Ord. of 10/16/98)

4. Any new intensive livestock, dairy and poultry operations shall be at least one thousand (1,000) feet from y property line, two thousand (2,000) feet from any residence and three thousand nine hundred sixty (3,960) feet from any school, business, public facility, church, incorporated town, residential subdivision or public well. (Ord. of 10/16/98)

5. Any sanitary landfill operation shall be located at least one (1) mile from any residence, school or business, public facility and church; and at least seven hundred fifty (750) feet from any property lines. (Ord. of 12/20/07)

6. The land application of effluent from any new general and intensive livestock, dairy and poultry operations shall be at least three hundred (300) feet from any permanent or intermittent stream measuring from the edge of the channel; one hundred (100) feet from property lines not adjacent to streams; five hundred (500) feet from any residence not located on the same property unless the adjacent property owner agrees to a lesser setback. In addition, the County may require soil sampling as deemed necessary, for any new intensive livestock, dairy and poultry operations, to ascertain the level of nitrates, potassium, phosphates and any other nutrients in the soil prior to land application of effluent. The signing of an agreement to have effluent land applied will constitute permission to allow random soil sampling testing by the county or its agents. (Ord. of 12/17/98)

7. Existing livestock, dairy and poultry operations in use as of the effective date of this provision which do not meet the required yard regulations, as required above, shall be considered legal nonconforming uses and may continue so long as the operation is not abandoned for two (2) years continuously. Replacement, reconfiguration or modifications, including the addition of buildings or accessory structures, of any existing non-conforming livestock, dairy and poultry facilities in operation as of the effective date on this amendment of the zoning ordinance may be permitted provided that:

- a. There is no increase in the number of animal units kept at the operation.
- b. A nutrient management plan is obtained as provided for this chapter.
- c. Replacement facilities, the reconfiguration of existing facilities, and modifications, including the addition of buildings or other accessory structures, shall meet the setback requirements in existence prior to the amendments of October 15, 1998. (Ord. of 12/17/98)

Sec. 16-29. Special provisions for corner lots.

1. Of the two (2) sides of a corner lot in an A-I district, the front shall be deemed to be the shortest of the two (2) sides fronting on streets.
2. The minimum side yard on the side facing the side street shall be thirty-five (35) feet for both main and accessory buildings. (Ord. of 11 - 17-8 8. § 2-8)

Sec. 16-30. Off-street parking.

Off-street parking in an A-I district shall be as required by Section 16-372. (Ord. of 11-15-07)

Sec. 16-31 Reserved.

Sec. 16-32 Development plans; Nutrient management plan

Certified Plat Required

Each application for livestock, dairy or poultry operation shall be accompanied by a plat or similar documentation acceptable to the Zoning Administrator for the entire parcel with location of the proposed operation. With this plat or similar documentation the operator shall submit a written statement sworn to and subscribed before a notary public by which the operator certifies to the Zoning Administrator that the operation shown on the plat or similar documentation meets all applicable setback requirements of this ordinance and the plat or similar documentation is a complete and accurate depiction of the facility on the parcel or parcels.

Livestock, dairy or poultry operations development plans

1. In the A-I, General Agriculture District, a livestock raiser, dairy operator or poultry grower or a potential raiser, owner, grower may file with the Zoning Administrator a development plan which indicates the number, size and location of livestock, dairy or poultry facilities planned for the subject parcel. When such development plan has been approved and filed with the Zoning Administrator and during the period in which it remains in effect, the planned facilities shall be obliged to meet setbacks only from those dwellings and uses existing at the time the development plan is approved.
2. The development land shall be based on the requirements of this chapter and shall be accompanied by a plat or similar documentation verifying the accuracy of the distances shown in the development plan and continuing all of the data required herein above.
3. The development plan shall remain in force only so long as the facilities proposed are constructed in accordance with the development plan and are placed in service in a timely manner.
4. At least one-third (1/3) of the number of head of livestock or dairy animals, subject to this chapter of the ordinance or one (1) poultry facility indicated in the development plan must be placed into service within twelve (12) months of the date on which the development plan is approved by the Zoning Administrator, unless at least one-third (1/3) of the number of livestock, dairy or one (1) such poultry facility is already in service on the subject parcel at the time of development plan may only be obtained if no more than five (5) years have passed since the date on which the development plan was approved by the Zoning Administrator.
5. The operator shall the Zoning Administrator in writing within thirty (30) days of placement into service of any facilities indicated in his development plan.
6. In the event an operator fails to build or have in place the minimum number of head required in section (d) above or poultry facility indicated in the development plan within twelve (12) months of obtaining zoning approval, or fails to obtain zoning approval for any of the facilities indicated in his development plan within the prescribed

five (5) year period the Zoning Administrator shall revoke the development plan and all future development plans of facilities on the subject parcel until they strictly conform to the requirements of this chapter.

Each parcel for which a development plan has been approved by the Zoning Administrator shall display at its entrance a sign no smaller than two (2) square feet, or larger than four (4) square feet, clearly visible from the nearest roadway, indicating that a development plan is in effect for the parcel and containing the words "Certified Intensive Livestock Development Site" (Ord. of 03/15/95)

Nutrient Management Plan

1. After the effective date of this amendment to the Zoning Ordinance no operation consisting of at least one hundred fifty (150) animal units shall be issued a zoning permit until a nutrient management plan for the proposed facility has been reviewed and approved by the Virginia Department of Conservation and Recreation or by the Virginia Cooperative Extension Service or other appropriate state agencies. (Ord. of 03/15/95)
2. The nutrient management plan shall provide for the safe disposal of use of all manure, animal waste, produced by each facility. (Ord. of 03/15/95)

3. If off-site disposal is part of the nutrient management plan, the grower, raiser or operator shall provide, as part of the nutrient management plan, written documentation of an agreement with the receiver of the wastes produced at the grower's facility. Documentation shall specify the duration of the agreement and the nature of the application or use of the wastes. In addition, when effluent is to be spread on land belonging to a second party the agreement will include notification of the requirement of Section 16-28: Yard Regulations. A nutrient management plan containing such an agreement shall be valid only as long as the agreement remains in force and shall be reviewed whenever such an agreement expires or is terminated by either party. The grower shall notify the Zoning Administrator whenever such an agreement is terminated before its stated expiration date within fifteen (15) days of such termination (Ord. 10/16/98)

4. The nutrient management plan shall also provide for a site, with or without a permanent structure, for the storage of animal wastes which shall meet all applicable requirements and standards of the Commonwealth of Virginia and any department or division thereof. If an operator is unable to locate a site on the same parcel because of insufficient acreage or topographical hardship, then the Zoning Administrator, after consultation with the operator's engineer, may permit the storage site to be located on land owned by the operator adjacent to the facility; or, if there is a valid agreement for off-site disposal as provided in the Article, the Zoning Administrator may permit the storage site to be located on a parcel specified in the agreement for such offsite disposal. (Ord. of 03/15/95)

5. Notwithstanding the provision of this section, a raiser, operator or grower whose facilities were in operation prior to the effective date of this amendment to the zoning ordinance, in attempting to comply with the requirement to provide a letter storage site within two (2) years from the adoption of this amendment may locate an animal waste storage site within any setback otherwise required in this chapter upon satisfaction that the storage site will not encroach upon setbacks to a great extent than the existing facility (Ord. of 03/15/95)

6. The nutrient management plan unless sooner required by the provisions of this Article or by the Commonwealth of Virginia or any department or division thereof, shall be reviewed and updated every ten (10) years by an agent of the Virginia Department of Conservation and Recreation or by the Virginia Cooperator Extension Service or by a person certified or employed by the Commonwealth as a nutrient management planner. (Ord. of 03/15/95)

Sec. 16-33. Density Requirements

The permitted density in the A-1 district shall not be more than one (1) dwelling (single-family dwelling or manufactured/mobile home) per lot, parcel or tract of land. (Ord. 04/15/99)

Adopted this 18th day of August, 2022.

Susan Seward, Chairman of the Board of Supervisors

Attest:

_____ Shilton Ricks-Butts, Clerk

Approved as to Form:

_____ Jeff Gore County Attorney

