

ARTICLE II. BASIC DEFINITIONS**Section 17: Definitions of Basic Terms**

The words and phrases defined in this section shall have the meaning indicated when used in this ordinance, unless otherwise specifically provided, or unless clearly required by the context.

- (1) *Adult Assisted Living.* A facility for six or fewer persons over the age of 62 who cannot live independently and who need assistance with daily chores and housekeeping.
- (2) *Adult Care Center.* A licensed facility for four or more aged, infirmed, or disabled adults which is operated during a part of the day only, which provides supplementary care and protection of individuals who reside elsewhere.
- (3) *Alley.* A right-of-way less than 30 feet in width designated as an alley on the plat recorded in the land records of Loudoun County or dedicated as such in a deed.
- (4) *Alteration, Floodplain.* A development action that will change the cross section of the floodplain and will increase either the erosive velocity or height of floodwaters either on-site or off-site. Alterations include, but are not limited to land disturbing activities, such as clearing, grading, excavating, transportation improvements and filling of land.(Added 6/14/01)
- (5) *Animal Hospital.* A facility rendering surgical and medical treatment to animals and providing overnight accommodations for such animals, but not including crematory facilities. (Added 9/13/01)
- (6) *Auto Repair Garage.* A building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work..
- (7) *Base Flood/One-Hundred Year Flood.* A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year). (Added 6/14/01)
- (8) *Base Flood Elevation (BFE).* The Federal Emergency Management Agency designated 100-year water surface elevation. (Added 6/14/01)
- (9) *Basement or Cellar.* That portion of a building that is partly or completely below grade. A basement or cellar shall be counted as a story if the vertical distance from the average adjoining grade to the ceiling is over five feet.
- (10) *Bed And Breakfast.* An owner-occupied dwelling unit containing no more than three guest rooms where lodging, with or without meals, is provided for compensation.

- (11) *Boarding House*. A dwelling in which, as a home occupation and for compensation, lodging, meals, or both are furnished to no more than nine guests. Such dwelling shall contain no more than five guest rooms.
- (12) *Building*. A structure designed to be used as a place of occupancy, storage or shelter.
- (13) *Building, Accessory*. A building that is located on the same lot as a principal building and is used incidentally to a principal building or that houses an accessory use.
- (14) *Building, Principal*. The primary building on a lot or a building that houses a principal use.
- (15) *Building Height*. The vertical distance measured from the average elevation of the finished grade adjoining the building at all exterior walls or surfaces to the highest point of the building. Where the finished ground level slopes away from the exterior walls, the average finished grade shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building. (Amended 12/9/99)
- (16) *Building Line (or Set Back Building Line)*. Line beyond which the foundation wall and/or any enclosed porch, vestibule, or other such portion of a building shall not project.
- (16a) *Building Supply*. A building or structure in which building or construction and home improvement materials are offered or kept for sale at retail or wholesale. (Added 10/09/03)
- (17) *Car Wash, Recycling*. A structure or portion thereof with machine- or employee hand-operated facilities for washing, cleaning, polishing or waxing motor vehicles, which employs state-of-the-art water reclamation and conservation technology that may include, but not be limited to one or more underground water reclamation tanks, re-pressurization pump and filtering system. (Added 2/11/99)
- (17a) *Caretaker's Dwelling*. A secondary dwelling unit or apartment contained within, or detached from, a principal non-residential structure which is (i) used as a residence by a caretaker or watchman, or (ii) inhabited to provide added security to the premises. The caretaker's dwelling shall be accessory to the principal structure. (Added 06/10/04)
- (18) *Child Care Center*. A building where care, protection and supervision of more than five children are provided, on a regular schedule, during any part of the day but not for an entire 24-hour period.
- (19) *College, University*. An institute of higher education authorized by the Commonwealth of Virginia to award baccalaureate or higher degrees, which may include on-site student, faculty and employee housing facilities. (Added 9/13/01)
- (19a) *Commercial Greenhouse Operations*. A building and/or land for the growing for sale of flowers, fruits, vegetables, plants, shrubs, trees, and/or similar vegetation, with or without on-site sales. (Added 10/09/03)

- (20) *Conference Center.* A facility used for non-profit, business or professional conferences, seminars and training programs with accommodations limited to conference attendees. Accommodations may be included for sleeping, eating and recreation. (Added 9/13/01)
- (21) *Conservancy Lot.* A privately-owned, single-family residential lot in a conservancy subdivision, which will remain as a large parcel, the bulk of which is in permanent open space easement and a portion of which is designated a building area for the dwelling. (Added 9/13/01)
- (22) *Corporate Office.* A single-tenant office building(s) that houses the corporate or regional offices of a group or organization wherein the primary use is the conduct of business and which may include meeting rooms, data processing, training facilities and other office service functions for employees such as a cafeteria for use by employees and visitors, but not open to the general public. (Added 9/13/01)
- (23) *Corporate Retreat.* A facility owned and operated by a private or non-profit corporation for the purpose of providing a rural training center and retreat for its employees and which may include conference and meeting facilities, eating facilities, and recreational amenities of a rural nature, none of which shall be open to the general public. (Added 9/13/01)
- (24) *Country Club.* Land area and buildings containing a golf course, recreational facilities such as a swimming pool and tennis courts, a clubhouse (which may include a restaurant), and customary accessory uses, either private or open to the public. (Added 9/13/01)
- (25) *Country Inn.* A business offering overnight accommodations and dining in a rural setting, preferably in an historic structure, with between 4 and 20 guest rooms and a full-service restaurant providing meals to guests and the general public. (Added 9/13/01)
- (26) *Cross-Section.* Shape and dimensions of a channel and valley of the floodplain perpendicular to the line of flow.(Added 6/14/01)
- (27) *Developer.* A person who is responsible for any undertaking that requires a zoning permit, special use permit or sign permit.
- (28) *Development.* A use or activity which is to be done pursuant to a zoning permit, special use permit or sign permit.
- (29) *Development (in a Floodplain).* Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. (Added 6/14/01)
- (30) *Dwelling.* A building or portion thereof arranged or designed to provide living facilities for one or more families.
- (31) *Dwelling, Single Family Detached.* A building containing not more than one dwelling unit entirely surrounded by open space on the same lot.

- (32) *Dwelling, Single Family Attached (Townhouse)*. One of three or more dwelling units having a common or party wall separating dwelling units, each with direct access to the outside.
- (33) *Dwelling, Two-Family (Duplex)*. Building containing two dwelling units, arranged one above the other or side by side, or some combination of the two.
- (34) *Dwelling, Multi-Family*. A building containing three or more dwelling units (an apartment house), but not including townhouses.
- (35) *Dwelling Unit*. One or more rooms containing sleeping, kitchen and bathroom facilities for and used or held for use as a permanent residence by one family.
- (36) *Easement, Utility*. The right of a person, government agency, or public utility company to use public or private land owned by another for the specific purpose of providing utility services or locating utility service facilities thereon.
- (37) *Equestrian Facilities*. The use of land, buildings, or structures for the training of horses and riders, the boarding of horses and/or the staging of equestrian events. (Added 9/13/01)
- (38) *Family*. One or more persons living together as a single housekeeping unit.
- (39) *Family Day Home*. A residence in which no more than five children, excluding the provider's own children and any children living in the home, receive care, protection and supervision for compensation on a regular schedule, during any part of the day but not for an entire 24-hour period. A family day home shall be deemed a single-family occupancy for purposes of this ordinance.
- (39a) *Financial Institution*. Any establishment wherein the primary occupant is concerned with such State-regulated businesses as banking, savings and loans, loan companies and investment companies. (Added 10/09/03)
- (40) *Fitness Center*. A health, athletic, or recreational club, private gymnasium, or weight control establishment, which may offer for use aerobic training equipment, weight training equipment, saunas, whirlpools, locker rooms and shower facilities. (Amended 10/09/03)
- (41) *Floodplain*. Any land area susceptible to being inundated by water from any source. (6/14/01)
- (42) *Flood Hazard Area*. Any normally dry area that is susceptible to being inundated by water. Flood hazard areas include, but are not limited to, lands subject to the 100-year flood, and shall include both floodway and flood fringe, where such have been designated. (6/14/01)
- (43) *Flood profile*. A graph or a longitudinal profile showing the relationship of the water surface elevation of a flood event to locations along a stream or river. (Added 6/14/01)
- (44) *Floodproofing*. A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of

- flood damages to properties, water and sanitary facilities, structures and contents of buildings. (Added 6/14/01)
- (45) *Golf Course*. A tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways and hazards and that may include a clubhouse and equipment shelter. This use may contain a driving range as an accessory use to the golf course, but not as the primary use. (Added 9/13/01)
- (46) *Greenbelt Open Space*. Open space designed to provide buffers and to protect scenic views as seen from existing roadways and from public spaces. (Added 9/13/01)
- (47) *Group Home*. A residential facility in which more than eight mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Section 54.1-3401 of the State Code. A residential facility shall be deemed to be any group home or other residential facility for which the Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority pursuant to the State Code.
- (48) *Gross Floor Area*. The total floor area of a building measured by adding the outside dimensions of the building at each floor level intended for occupancy or storage.
- (49) *Height (Other than Building Height)*. The vertical distance on the side of the structure facing an adjacent street or adjacent lot measured from the lowest exposed point of the structure being measured to the highest point of the structure. Except as provided elsewhere in this ordinance, elements attached to or incorporated into a structure, including, but not limited to columns, finials, pillars, and pilasters, shall be deemed a part of the structure and shall be considered in measuring height. Grades shall not be adjusted under or around a structure if it has the effect of circumventing the maximum height allowances set forth in this ordinance.(also see *Building Height*) (Amended 12/9/99)
- (50) *Home Occupation*. An occupation, profession, activity or use that is clearly a customary, incidental and secondary use conducted entirely within a dwelling and does not change the exterior of the property or affect the residential character of the neighborhood.
- (50a) *Indoor Theatre*. A building designed for the enactment of dramatic performances and/or showing of motion pictures. (Added 10/09/03)
- (51) *Inn*. A professionally-run business that offers overnight accommodations and may include a full-service restaurant providing breakfast, lunch and dinner to guests and the general public. The number of guest rooms may range from 4 to no more than 20.
- (52) *Lot*. A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.
- (53) *Lot, Corner*. A lot abutting on and at the intersection of two or more streets.

- (54) *Lot, Interior.* Any lot other than a corner lot; including a through lot.
- (55) *Lot, Through.* A lot having its front and rear yards each abutting on a street.
- (56) *Lot Area.* The total horizontal area included within the rear, side, and front lot lines or proposed street lines. No alley, public way, public land, or area proposed for future street purposes either public or private shall be included in the calculation of lot area.
- (57) *Lot Coverage.* The percentage of a lot area occupied or covered by the ground area of principal and accessory buildings or other roofed areas on such lot.
- (58) *Lot Depth.* The horizontal distance between the front and rear lot lines measured from the midpoint of the front lot line to the midpoint of the rear lot line.
- (59) *Lot Line.* A line dividing one lot from another lot or from a street or alley.
- (60) *Lot Line, Front.* The lot line abutting a street on an interior lot, the shortest lot line abutting a street on a corner lot, or the interior lot line most parallel to and nearest the street from which access is obtained for a flag lot.
- (61) *Lot Line, Rear.* The lot line generally opposite or parallel to the front lot line, except in a through lot. If a rear lot line is less than ten feet long or the lot is pointed at the rear, the rear lot line is assumed to be a line at least ten feet long, lying wholly within the lot, parallel to the front lot line, or if the front lot line is curved, parallel to the chord of the arc of the front lot line.
- (62) *Lot Line, Side.* Any lot line not a front or rear lot line.
- (63) *Lot Width.* The horizontal distance between side lot lines measured at the front property line and at the required front setback.
- (64) *Lowest Floor.* The lowest floor of the lowest enclosed area (including basement).(Added 6/14/01)
- (65) *Major Fill (in a Floodplain).* The addition of sod and/or soil to any lot or parcel to a depth exceeding twelve inches (12") at any point and covering an area exceeding 750 square feet. (Added 6/14/01)
- (66) *Nonconforming Lot.* A lot existing at the effective date of this ordinance that does not meet the minimum area requirements of the district in which the lot is located.
- (67) *Nonconforming Project.* Any structure, development, or undertaking that is incomplete at the effective date of this ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.
- (68) *Nonconforming Situation.* A situation that occurs when, on the effective date of this ordinance, any existing lot or structure or use of an existing lot or structure does not

conform to one or more of the regulations applicable to the district in which the lot or structure is located.

- (69) *Nonconforming Use.* A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. The term also refers to the activity that constitutes the use made of the property.
- (69a) *Nursery School.* A facility that provides a curriculum of pre-school education, including kindergartens. (Added 10/09/03)
- (70) *Nursing Home.* An institutional facility which provides skilled and intermediate nursing care and medical supervision at a lower level than that provided in a hospital.
- (71) *Obstruction.* Any wall, dam, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood hazard area, which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property. (Added 6/14/01)
- (72) *Open Air Market.* A principal use which includes the sale of horticultural or agricultural products, including nursery stock, Christmas trees, fresh produce, honey, cider and similar products.
- (73) *Parcel.* See Lot.
- () *Parking Lot Facility.* A site for surface parking which provides one or more parking spaces together with driveways, aisles, turning, and maneuvering areas, incorporated landscaped areas, and features meeting the requirements established by this ordinance. These facilities shall be used to accommodate clients, customers, or employees during the property owner's business hours and may be made available to the public with or without compensation after the normal business hours of the property owner. (Added 02/10/05)
- (74) *Percentage of Lot Coverage.* The permissible percentage of "lot area" which may be covered by buildings, including covered porches and accessory buildings.
- (75) *Professional Office.* A building or portion of a building where services are performed involving predominately professional persons such as doctors, dentists, lawyers, architects, artists, real estate brokers, insurance agents, accountants, engineers, or urban planners. (Amended 10/09/03)
- (75a) *Real Estate Office.* A building or portion of a building where services performed are predominately the buying or selling of real estate. (Added 10/09/03)
- (76) *Recreational Vehicle.* A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled

or permanently towable by a light duty truck; and (d) designed not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use. (Added 6/14/01)

- (77) *Road, Crossing of the Floodplain.* Any improved right-of-way traversing a floodplain generally perpendicular to the flow of the drainageway. (Added 6/14/01)
- (78) *Rooming House.* See Boarding House.
- (79) *School, Private.* A private or parochial school for the purpose of providing primary and/or secondary education for children, which may include on-site student, faculty and employee housing facilities. (Added 9/13/01)
- (80) *School, Public.* A public school for the purpose of providing primary and/or secondary education for children. (Added 9/13/01)
- (81) *Social and Fraternal Club or Lodge.* A private, non- profit establishment which provides social, physical, recreational or benevolent services to its members and their guests. Such establishment shall not be used to operate a trade or business.
- (82) *Self-Storage Facility.* A structure or group of structures containing individual, self-contained units leased to individuals, organizations, or businesses for self-storage of personal property, with no commercial transactions permitted other than the rental of the storage units.
- (83) *Service Station.* A building and/or lot where the primary use is the supply and dispensing of motor fuels, oils, batteries, tires or motor vehicle accessories.
- (84) *Story.* That portion of a building included between the surface of any floor and the surface of the floor next above or, if there is no floor above, the space between such floor and the ceiling next above. No story shall be deemed to be a first story, if its floor level is more than five feet above the average level of the finished ground surface adjacent to the exterior walls of such story. A basement shall be counted as a story, if its ceiling is over five feet above the average level of the finished ground surface adjacent to the exterior walls of such story or, if it is intended to be used for business or dwelling purposes. A mezzanine floor shall be counted as a story, if it covers over one-third of the area of the floor next below or if the vertical distance between the floor next below and the floor next above is 20 feet or more.
- (85) *Story, Half.* A space under a sloping roof, which has the line of intersection of a roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use.
- (86) *Street.* A public or private thoroughfare used or intended to be used, for passage or travel by motor vehicles.
- (87) *Street, Proposed.* Any proposed right-of-way or proposed widening or extension of any existing street or public way shown as a highway or street on the transportation plan of the

Comprehensive Plan of the Town of Middleburg, Virginia, and Zoning Map of the Town of Middleburg or shall hereafter be adopted, amended, or extended, or on any preliminary subdivision plan or on any other plan approved by the planning commission and/or the mayor and council.

- (88) *Street, Center Line of.* A line established as a center line of a street by any state, county, town or other official agency or governing body having jurisdiction thereof and shown as such on an officially adopted or legally recorded map or, if there be no center line established or if there exists conflict among several maps, the center line of a street shall be a line lying midway between the street or right-of-way lines thereof. When the street lines are indeterminate and pavement or a well defined traveled way exists, the center line is assumed to be a line midway between the edges of such pavement or traveled way.
- (89) *Street Width.* The shortest distance between street lines, measured across the street right-of-way.
- (90) *Structure.* Anything constructed or erected for use, occupancy or ornamentation.
- (91) *Substantial Damage.* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Added 6/14/01)
- (92) *Substantial Improvement (in a Floodplain).* Any reconstruction, rehabilitation, addition, or other improvement of a structure within a floodplain, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".(Added 6/14/01)
- (93) *Use.* The activity or function that actually takes place or is intended to take place on a lot.
- (94) *Use, Accessory.* A use which is customarily incidental and subordinate to, and on the same lot as, the principal use.
- (95) *Use, Principal.* The primary use and chief purpose of a lot or structure.
- (96) *Utility Facility, Community or Regional.* All utility facilities other than neighborhood facilities.
- (97) *Utility Facility, Neighborhood.* A utility facility that is designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where such facility is proposed to be located.

- (98) *Yard.* An area on the same lot with a building or group of buildings, lying between the building or building group and the nearest lot line, unobstructed from the ground upward and unoccupied except by specific uses and structures permitted by this ordinance.
- (99) *Yard, Front.* A yard, extending across the full width of a front lot line between side lot lines and from the front lot line to the front building line in depth.
- (100) *Yard, Rear.* A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the building. The depth of the rear yard shall be measured at right angles to the rear line of the lot.
- (101) *Yard, Side.* A yard extending from the front yard to the rear yard measured from and perpendicular to the side lot line.
- (102) *Zoning Permit.* A permit issued by the zoning administrator which authorizes the recipient to make use of property in accordance with the requirements of this ordinance.

Sections 18 through 20: Reserved