

### **ARTICLE III – DEFINITIONS** <sup>64</sup>

- 3-1 For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
- 3-2 **ABATTOIR:** A commercial slaughter house.
- 3-3 **ACCESSORY USE OF STRUCTURE:** A subordinate use or building customarily incidental to and located upon the same lot occupied by the main use or building.
- 3-4 **ACREAGE:** A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.
- 3-5 **ADMINISTRATOR, THE:** The official charged with the enforcement of the Zoning Ordinance. He may be any official who is by formal resolution or ordinance designated to the position by the governing body. He may serve with or without compensation as determined by the governing body.
- 3-5A **ADULT BOOKSTORE OR ADULT VIDEO STORE:** An establishment which has a substantial or significant portion of its stock in trade, books, magazines, periodicals, films, videos or similar printed materials and which, with respect to the entire premises or a portion or a section of the premises, limits its customers to persons over 18 years of age, or as one of its principal

business purposes offers for sale, rental, or viewing for any form of consideration any one or more of the following: (a) Books, magazines, periodicals or printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”; or (b) Instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities.”

3-5B ADULT CABARET: (a) any place or establishment which features dancers, go-go dancers, exotic dancers, male or female impersonators, or similar entertainers or any live entertainment and which excludes minors or from which minors are prohibited by statute or ordinance, and whether or not any such business is licensed to sell alcoholic beverages; (b) a nightclub, bar, restaurant, or similar commercial establishment which regularly features: (1) a person or persons who appear in a state of nudity; or (2) live performances which are characterized by the exposure of “specified anatomical areas,” or by “specified sexual activities,” including topless or bottomless dancers, exotic dancers, or strippers; or (c) films, motion pictures, video cassettes or tapes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

- 3-5C ADULT DRIVE-IN THEATER: An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions or other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” for observation by patrons.
- 3-5D ADULT ENTERTAINMENT: Dancing, modeling, or other live entertainment if the entertainment is characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” or is intended for the sexual stimulation or titillation of patrons; or the showing of films, motion pictures, videotapes, slides, photographs, CD-ROMS, DVD-ROMS, or other media that are characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”
- 3-5E ADULT ENTERTAINMENT ESTABLISHMENT: A restaurant, nightclub, private club, or similar establishment which features, on a regular basis, live performances involving persons who are nude or seminude. For the purposes of this provision “seminude” shall mean: (a) Less than completely and opaquely covered pubic region, buttocks, or female breasts below a point immediately above the top of the areola, except any portion of the cleavage of the female breasts exhibited by a dress, shirt, leotard, bathing suit, or other wearing apparel, provided the areola are not exposed, but

under no circumstances less than completely covered genitals, anus, or areola of the female breasts; (b) Male genitals in a state of arousal even if completely and opaquely covered. Any establishment that features such performance more than one day in a 30 days' period shall be deemed to be an adult entertainment establishment. The above restrictions shall not apply to a legitimate theatrical performance where nudity or semi nudity is only incident to the primary purpose of the performance.

3-5F ADULT ENTERTAINMENT PARLOR: (a) any premises or part thereof in which is provided services of which a principal feature or characteristic is the nudity or partial nudity of any person; (b) any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods, including books, magazines, pictures, slides, film, phonograph records, prerecorded magnetic tape and any other reading, viewing or listening matter, or services including activities, facilities, exhibitions, viewings and encounters, the principal feature or characteristic of which is the nudity or partial nudity of any person, or in respect of which the word "nude," "naked," "topless," "bottomless," "sexy," or any other word or any picture, symbol, or representation having like meaning or implication is used in any advertisement; (c) any premises or part thereof in which is provided in pursuance of a trade, calling, business or occupation, goods or services appealing or designed to appeal to erotic or sexual appetites or inclinations.

- 3-5G ADULT MERCHANDISE: Magazines, books, other periodicals, videotapes, films, motion pictures, photographs, slides, CD-ROMS, DVD-ROMS, virtual reality devices, or other similar media that are characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas”; instruments, devices, or paraphernalia either designed as representatives of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs; or lingerie or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices.
- 3-5H ADULT MINI-MOTION PICTURE THEATER: An establishment, with a capacity of more than five, but less than 50 persons, where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons.
- 3-5I ADULT MODEL STUDIO: (a) any establishment open to the public where, for any form of consideration or gratuity, figure models who display “specified anatomical areas” are provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by persons, other than the proprietor, paying such consideration or gratuity. This provision shall not

apply to any school of art which is operated by an individual, firm, association, partnership, corporation, or institution which meets the requirements established in the Code of Virginia (1950), as amended, for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma; (b) a commercial establishment, including a lingerie store or novelty store, in which a person performs or simulates "specified sexual activities," exposes "specified anatomical areas," or engages in other performances intended for the sexual stimulation or titillation of patrons.

3-5J ADULT MOTEL: A motel, hotel, or similar commercial establishment that (a) provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right of way, or by means of any off-premises advertisements, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or (b) offers a sleeping room for rent for a time period of less than ten hours; or (c) allows a tenant or occupant to sub rent the sleeping room for a time period of less than ten hours.

3-5K ADULT MOTION PICTURE ARCADE: Any place to which the public is permitted or invited wherein coin or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines,

projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.”

3-5L ADULT MOTION PICTURE THEATER: An establishment, with a capacity of 50 or more persons, where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown; and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons. A finding by the Zoning Administrator that sexually oriented films predominate or that a predominant number of films are restricted to adults shall be presumed to be correct unless the subject owner or operator rebuts the presumption by clearing and convincing evidence.

3-5M ADULT MOVIE THEATER: An enclosed building regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” for observation by patrons, excluding movies that have been rated “G,” “PG,” “PG-13,” or “R” by the Motion Picture Association of America.

- 3-5N ADULT NIGHTCLUB: A restaurant, bar, club, or similar establishment that regularly features adult entertainment.
- 3-5O ADULT STORE: An establishment having adult merchandise as a substantial or significant portion of its stock-in-trade.
- 3-5P ADULT USES: Are defined as any of the following or any combination thereof:
- (a) Adult bookstore or adult video store
  - (b) Adult drive-in theater
  - (c) Adult entertainment establishment
  - (d) Adult mini-motion picture theater
  - (e) Adult model studio
  - (f) Adult motion picture arcade
  - (g) Adult motion picture theater
  - (h) Adult uses
  - (i) Adult cabaret
  - (j) Escort agencies
  - (k) Sexual encounter centers
  - (l) Sexually oriented businesses
- 3-6 AGRICULTURE: The tilling of the soil, the raising of crops, horticulture, forestry, and gardening, including the keeping of animals and fowl, including any agricultural industry or business, such as fruit packing plants, dairies or similar use.

- 3-7 ALTERATION: Any change in the total floor area, use adaptability, or external appearance of an existing structure.
- 3-7A ALTERNATIVE TOWER STRUCTURE: Man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.<sup>77</sup>
- 3-7B ANTENNA: Any apparatus designed for telephonic, data, radio, or television communications through the sending and/or receiving of electromagnetic waves.<sup>49</sup>
- 3-8 APARTMENT HOUSE: A residential building containing three (3) or more dwelling units.<sup>21</sup>
- 3-9 APPROVED: A written report submitted by the appropriate officer giving his approval to a thing or condition which he, or someone designated by him, has inspected pursuant to the provisions of this ordinance.
- 3-9A ARCHERY RANGE, COMMERCIAL: The use of land for archery for the purposes of target practice or competitions for a fee or other remuneration to the owner on a continuing or continuous basis. Excluded from this use type shall be private target practice areas established by individuals for their personal target practice on their own property as permitted by the Town Code, and general hunting, and unstructured and nonrecurring discharging of bows, crossbows, compound bows, longbows, etc. on private property with the property owner's permission. No bows shall be discharged within three hundred (300) feet of any street or highway, railroad, residence, or any structure which is normally used to house machinery, tools, livestock or

animals, feed, or any other related agricultural/domestic activity.<sup>78</sup>

3-9B ARCHERY RANGE, INDOOR: The use of a structure for archery (bows, crossbows, compound bows, longbows, etc. which propel an arrow) for the purposes of target practice or temporary competitions. Appropriate and industry standard measures shall be taken to prevent the penetration of any projectile outside the structure.<sup>78</sup>

3-9C ARCHERY RANGE, OUTDOOR: The use of land for archery (bows, crossbows, compound bows, longbows, etc. which propel an arrow) for the purposes of target practice or temporary competitions. Excluded from this use type shall be private target practice areas established by individuals for their personal target practice on their own property as permitted by the Town Code, and general hunting, and unstructured and nonrecurring discharging of firearms on private property with the property owner's permission. No bows, crossbows, compound bows, or longbows, etc. shall be discharged within three hundred (300) feet of any street or highway, railroad, residence, or any structure which is normally used to house machinery, tools, livestock or animals, feed, or any other related agricultural/domestic activity.<sup>78</sup>

3-10 AREA, FLOOR: The square feet of usable and/or living area of a building and/or dwelling. It is the area within the outside walls, excluding porches, carports and terraces.

3-11 AREA, GROUND: The Square feet of ground area occupied by a building and/or dwelling. It is the area within the outside foundation walls, excluding porches, garages, carports and terraces.

- 3-12 AUTOMOBILE GRAVEYARD: Any lot or place which is exposed to the weather upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, and placed, located or found. (Sections 33-279.3, Code of Virginia of 1950 as amended in 1968.)
- 3-13 BASEMENT: A story having a part but not more than one-half (2) of its height below grade.
- 3-14 BATH, FULL: A separate room in which there will be a water closet, a lavatory, and a bathtub and/or shower.
- 3-15 BATH, HALF: A separate room in which there will be a water closet and a lavatory.
- 3-15A BED AND BREAKFAST INN/TOURIST HOME: A facility within an owner occupied single-family dwelling for the housing of persons on a transient basis for compensation for not more than seven consecutive nights, containing not more than eight lodging units for such persons, which are provided with private or semi-private baths, and within which facilities no meals other than breakfast are served to the guests. All bed and breakfast inns/tourist homes shall comply with the following development standards:<sup>44</sup>
1. No more than eight (8) guest sleeping rooms shall be utilized for any one bed and breakfast inn service. No cooking shall be allowed in guest rooms. Breakfast shall be the only meal served to the guest. Owners of the dwelling unit housing a bed and breakfast inn service

shall keep a log of the names, addresses, number in party, and dates of stay for each adult guest and unaccompanied minor guest.

2. Notwithstanding any other provisions, the bed and breakfast inn/tourist home use may be identified by a sign of no more than six (6) square feet or as determined by Article XXI. This sign may be attached or free standing.
3. The bed and breakfast inn shall be continued only where the owner and/or operator and his/her family are living and occupying it as his/her principal residence. Should the owner or operator cease occupancy of the dwelling as his/her principal residence, the bed and breakfast inn permit shall become void, and the bed and breakfast inn service shall cease immediately.
4. The bed and breakfast inn shall be operated in a detached single-family dwelling.
5. Parking for guests shall not be designated in a public street or closer to the adjacent street than the plane established by the front of the structure. In addition to those spaces required for a dwelling unit, there shall be provided for a bed and breakfast inn service parking spaces as scheduled. The design materials and standards of construction of parking spaces for bed and breakfast inn service shall be in accordance with General Provisions, Section 16-6.6.
6. Approval of bed and breakfast inn service does not constitute approval for the installation or construction of a new dwelling unit.<sup>44</sup>

7. The successful applicant is responsible for complying with all local, state, and federal licensing, taxing, health, fire, building, and safety laws, regulations, and codes.
8. A driveway entrance meeting the standards for residential construction shall be provided for bed and breakfast inn use. A commercial driveway entrance shall not be required for bed and breakfast inn use.
9. The bed and breakfast inn service shall have available at least one bathroom for each two sleeping rooms or the number of such facilities as may be required by the applicable Building code, whichever is the more strict.
10. Bed and breakfast inns shall comply with the following chart:

NUMBER OF BOARDING ROOMS	MINIMUM SQ. FOOT OF RESIDENCE	MINIMUM REQUIRED LOT AREA	MINIMUM REAR YARD AREA	MINIMUM SIDE YARD AREA	MINIMUM NUMBER OF BATHS	MINIMUM NUMBER OF PARKING SPACES
4	2,000	Based on R-3 zoning requirements where facility is proposed	Based on R-3 zoning requirements where facility is proposed	Based on R-3 zoning requirements where facility is proposed	2	6
5	2,400	Based on R-3 zoning requirements where facility is proposed	Based on R-3 zoning requirements where facility is proposed	Based on R-3 zoning requirements where facility is proposed	3	7
6	2,800	Based on R-3 zoning requirements where facility is proposed	Based on R-3 zoning requirements where facility is proposed	Based on R-3 zoning requirements where facility is proposed	3	8
7	3,200	Based on R-3 zoning requirements where facility is proposed	Based on R-3 zoning requirements where facility is proposed	Based on R-3 zoning requirements where facility is proposed	4	9
8	3,600	Based on R-3 zoning requirements where facility is proposed	Based on R-3 zoning requirements where facility is proposed	Based on R-3 zoning requirements where facility is proposed	4	10

3-16

**BOARDING/ROOMING HOUSE:** A residential building, where for compensation, lodging and/or meals, are provided for no more than eight (8) non-transient guests in R-2 Residential districts, and no more than twelve (12) non-transient guests in R-3 Residential districts, all subject to the allowable dwelling unit occupancy. For the purpose of determining density, each four (4) roomers shall be considered one dwelling unit. Boarding/rooming houses must be approved by the zoning administrator and must conform to the following criteria:

1. The minimum floor area shall be 1,600 square feet.
2. For each person being lodged in the boarding/rooming house, the minimum floor area shall be as follows:
  - a. R-2 Residential districts - 400 square feet per boarder/roomer.
  - b. R-3 Residential districts - 300 square feet per boarder/roomer.
3. Boarding/rooming houses shall conform to the following minimum criteria:

Floor Area	Maximum No. of Roomers		Minimum Yard Area		Minimum Rear Yard		Minimum Side Yard		Minimum Toilets Required		Off-Street Parking Spaces	
	R-2	R-3	R-2	R-3	R-2	R-3	R-2	R-3	R-2	R-3	R-2	R-3
1600	4	5	10,000	9,000	25	25	15	12	1	2	2	4
1700	4	5	10,000	9,000	25	25	15	12	1	2	2	4
1800	4	5	10,000	9,650	25	27	15	13	1	2	2	4
1900	4	6	10,000	9,650	25	27	15	13	1	2	2	4
2000	5	6	10,500	9,650	27	27	16	13	2	2	4	4
2100	5	7	10,500	10,300	27	29	16	14	2	2	4	4
2200	5	7	10,500	10,300	27	29	16	14	2	2	4	4
2300	5	7	10,500	10,300	27	29	16	14	2	2	4	4
2400	6	8	11,000	10,950	29	31	17	15	2	2	4	4
2500	6	8	11,000	10,950	29	31	17	15	2	2	4	4
2600	6	8	11,000	10,950	29	31	17	15	2	2	4	4
2700	6	9	11,000	11,600	29	33	17	16	2	3	4	6
2800	7	9	11,500	11,600	31	33	18	16	2	3	4	6
2900	7	9	11,500	11,600	31	33	18	16	2	3	4	6
3000	7	10	11,500	12,250	31	35	18	17	2	3	4	6
3100	7	10	11,500	12,250	31	35	18	17	2	3	4	6
3200	8	10	12,000	12,250	33	35	18	17	2	3	4	6
3300		11		12,900		37		18		3		6
3400		11		12,900		37		18		3		6
3500		11		12,900		37		18		3		6
3600		12		13,500		37		18		3		

4. Individual lodging rooms shall not contain facilities for food preparation.
5. Boarding/rooming houses shall provide off-street parking spaces as required herein, plus one additional off-street parking space for a resident manager, if any.
6. All environmental, lighting, heating, plumbing, mechanical, electrical and fire safety requirements for boarding/rooming houses shall conform to the BOCA Building Code.<sup>21</sup>

3-17 BUILDING: Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals or chattels.

3-18 BUILDING, ACCESSORY: A subordinate building, customarily incidental to and located upon the same lot occupied by the main building. No such accessory building shall be used for housekeeping purposes.

3-19 BUILDING, HEIGHT OF: The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the building to the highest point of the roof if a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

3-20 BUILDING, MAIN: The principal building or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use of the lot.

- 3-21 CARPORT: An open sided shelter for an automobile. The roof may be separate, or formed by the extension of a roof from the side of a building.
- 3-22 CELLAR: A story having more than one-half (2) of its height below grade.
- 3-22A CERTIFIED HISTORIC STRUCTURE OR BUILDING: A building or structure whose age, architecture, or history has caused it to be individually listed on the National Register of Historic Places, or whose age, architecture, or history has caused it to be considered as contributing to the historic district in the nomination to the National Register of Historic Places. Such buildings or structures are indicated in the nomination document with a “**C.**”<sup>54</sup>
- 3-23 COMMISSION, THE: The Planning Commission of the Town of Wytheville, Virginia.
- 3-24 DAIRY: A commercial establishment for the manufacture of retail sale of dairy products.
- 3-25 DISTRICTS: Districts as referred to in the State Code, Section 15-968, as amended.
- 3-26 DWELLING: Delete.<sup>21</sup>
- 3-27 DWELLING, MULTIPLE-UNIT: A residential building containing three (3) or more dwelling units.<sup>21</sup>
- 3-28 DWELLING, TWO UNIT OR DUPLEX: A residential building containing two (2) dwelling units.<sup>21</sup>
- 3-29 DWELLING, SINGLE-UNIT: A building arranged or designed to be occupied by one (1) family, the structure having only one (1) dwelling unit.<sup>21</sup>

3-30 DWELLING UNIT: A room or rooms connected together containing independent cooking and sleeping facilities constituting a separate, independent housekeeping establishment, physically separated from any other dwelling units which may be in the same structure.<sup>21</sup>

3-30A DWELLING UNIT OCCUPANCY: The maximum number of persons that may reside within a dwelling unit are as follows:

R-1 Residential districts - A family or no more than three (3) unrelated persons.

R-2 Residential districts - A family plus two (2) persons unrelated to the family or no more than four (4) unrelated persons.

R-3 Residential districts - A family plus two (2) persons unrelated to the family or no more than five (5) unrelated persons.<sup>21</sup>

Any conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall be punishable by a fine of up to \$2,000. Failure to abate the violation within the specified time period shall be punishable by a fine of up to \$5,000, and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of up to \$5,000.<sup>75</sup>

3-30A.1 EMPLOYEE (RELATED TO ADULT USES): An individual working or performing services for any adult business, including any independent contractor who provides services on behalf of any adult business to the

patrons of such business, whether or not the individual receives any remuneration, gratuity, or tips of any kind, or pays the permittee or manager for the right to perform or entertain in the adult business.

3-30A.2 ESCORT AGENCY: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

3-30B EXISTING DWELLING: A structure designed for residential use which is occupied, or has been issued a certificate of occupancy or a building permit prior to the date on which a completed application for an intensive livestock facility has been received.<sup>56</sup>

3-30C FAA: The Federal Aviation Administration.<sup>49</sup>

3-30D FCC: The Federal Communications Commission.<sup>49</sup>

3-31 FAMILY: A group of persons related by blood, marriage, adoption or legal guardianship including foster children.<sup>21</sup>

3-32 FRONTAGE: The minimum width of a lot measured from one side of the lot line to the other along a straight line. For lots not having a uniform width, the width shall be taken as width along the front or rear of a proposed building, whichever is the lesser.

3-33 GARAGE PRIVATE: Accessory building designed or used for the storage of not more than four (4) automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of two (2) times as many automobiles as there are dwelling units.

- 3-34 GARAGE, PUBLIC: A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling or storing motor-driven vehicles.
- 3-35 GENERAL STORE: A single store, the ground floor area of which is 4,000 square feet or less and which offers for sale primarily, most of the following articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, candy, papers and magazines, and general hardware articles.
- 3-36 GOLF COURSES: Any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein.
- 3-37 GOLF DRIVING RANGE: A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.
- 3-38 GOVERNING BODY: The governing body of the Town of Wytheville, Virginia.
- 3-39 GUEST ROOM: Delete.<sup>21</sup>
- 3-40 HEALTH OFFICIAL: Director of the Wythe County Health Department or his delegated representative.
- 3-40A HEIGHT: When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if the highest point is an antenna or lightning rod.<sup>49</sup>
- 3-41 HOME GARDEN: A garden in a residential district for the production of vegetables, fruits and flowers generally of use and/or consumption by the occupants of the premises.

HOME OCCUPATION: The accessory use of a dwelling unit for limited occupational purposes. The use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Such use must be entirely contained within the main dwelling and involve no outside storage or work. Where permitted home occupations are restricted or limited as follows:

- (a) No persons other than the immediate family residing in the dwelling shall be engaged in such occupation.
- (b) The use of the dwelling unit for the limited home occupations shall be clearly incidental to the use of the dwelling for residential purposes. In no case shall more than twenty-five (25) percent, or the equivalent to twenty-five (25) percent of the ground area of the habitable portion of dwelling be used in conducting the limited home occupations, including any related storage; and, there shall be no display of goods and/or stock in trade outside the dwelling. In addition to the off-street parking requirements of the residence, one off-street parking space shall be provided for each 200 square feet of area, or fraction thereof, used in connection with the home occupation. Not more than one (1) vehicle may be used in connection with the home occupation and such vehicle shall not carry advertising or identification as to the home occupation.
- (c) No equipment or process shall be used in the limited home occupation which creates noise, vibration, glare, fumes, odors,

electrical, radio, or television interference, detectable to persons off the premises. Electrical or mechanical equipment normally associated with a business operation shall not be permitted.

- (d) There shall be no change in the exterior of the structure to indicate the use.
- (e) Commercial sale of items not produced as part of the home occupations is prohibited, except that a qualified resident salesperson may engage in selling items which are not sold at the home nor stored in the home of such salesperson.
- (f) No advertising of any type, including telephone book listing that shall make use of the street address.
- (g) No signs shall be erected.
- (h) There shall be no group instruction, group assembly or group activity on the premises.
- (i) The keeping of more than five children (which does not include children residing in the home) in any type child care facility cannot be considered as a home occupation.
- (j) No automotive or garage type service or repairs will be permitted.
- (k) No large appliance, radio or television service or repairs will be permitted.
- (l) Professional type offices or work places of professions in which clients must, or do normally, visit the office or work place one or more times, will not be permitted. Professional type offices or work places

in which clients need not, and do not normally, visit the office, or work places are permitted subject to the provisions of this section.

An application must be made for a permit, and a permit secured prior to any proposed home occupation being established. The application must fully describe the nature of the proposed home occupation. A permit will be issued when all conditions of the Zoning Ordinance, including the above, are met. However, any such permit will not in any way modify or rescind any building or building related code requirements. The business license appropriate to any permitted home occupation must also be secured.<sup>12</sup>

3-43 HOSPITAL: An institution rendering medical, surgical, obstetrical, or convalescent care, including nursing homes, homes for the aged and sanatoriums, but in all cases excluding institutions primarily for mental or feeble-minded patients, alcoholics or drug addicts.<sup>15</sup>

3-44 HOSPITAL--SPECIAL CARE: A special care hospital shall mean an institution rendering care primarily for mental or feeble-minded patients, alcoholics or drug addicts.

3-45 HOTEL OR MOTEL: A building designed or occupied as the more or less temporary abiding place for thirteen (13) or more individuals who are, for compensation, lodged with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.<sup>21</sup>

3-45A INDUSTRIALIZED BUILDING UNIT: Means a combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating and other service systems,

manufactured off-site and transported to the point of use for installation or erection, with or without specified components, to comprise a finished building. Manufactured homes defined in §36-85.3 of the Code of Virginia, 1950, as amended, and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act shall not be considered industrialized buildings for the purpose of this law.<sup>70</sup>

3-45B INTENSIVE LIVESTOCK FACILITY: A livestock operation with accessory uses or structures which at any one time has at least 300 animal units as referenced in the below chart and where such animals are or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period, and crops, vegetation, forage growth or post-harvest residues are not sustained over any portion of the lot or facility.<sup>56</sup>

<b>Type of Facility</b>	<b>Equivalent of 300 Animal Units</b>
Livestock	300 slaughter and feeder cattle
Livestock	750 swine each weighing over 55 pounds
Livestock	150 horses
Livestock	3,000 sheep or lambs
Dairy	200 mature dairy cattle (whether milked or dry cows)
Poultry	16,500 turkeys
Poultry	30,000 laying hens or broilers

3-46 JUNK YARD: The use of any area of land lying within one hundred (100) feet of a State highway, a public street or the use of more than two hundred (200) square feet of land area in any location for the storage, keeping or abandonment of junk including scrap metals or other scrap materials. The

term "junk yard" shall include the term "automobile graveyard" as defined in Section 33-279.3 Code of Virginia of 1950, as amended in 1968.

3-47 KENNEL: A place prepared to house, board, breed, handle, or otherwise keep or care for dogs for sale or in return for compensation.

3-48 KITCHEN: A separate room containing the necessary storage, equipment and utilities for the storage and preparation of food, for the cleaning of materials and utensils and for the disposal of food and waste.

3-48A LIVE ENTERTAINMENT: Entertainment provided in person including, but not limited to, musical performances, music played by disc jockeys, public speaking, dramatic performances, dancing, modeling, or comedy performances.

3-48B LIVESTOCK: Includes all domestic or domesticated: bovine animals, including but not limited to cattle; equine animals, including but not limited to horses; ovine animals, including but not limited to sheep; porcine animals, including but not limited to hogs; poultry, including but not limited to turkeys, laying hens, or broilers.<sup>56</sup>

3-49 LIVESTOCK MARKET: A commercial facility that is intended for regular and continual delivery, showing and sale or auction, and shipping of domestic animals. This shall include all incidental facilities and structures including parking lots, barns, show rinks, bleachers, silos, holding pens, animal waste management system, etc.<sup>56</sup>

3-50 LOT: A parcel of land occupied or to be occupied by a main building or group of main buildings and accessory buildings, together with such yards,

open spaces, lot width and lot areas as are required by this ordinance, and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

3-51 LOT, CORNER: A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot the front may be deemed to be either of the two sides fronting on streets.<sup>15</sup>

3-52 LOT, DEPTH OF: The average horizontal distance between the front and rear lot lines.

3-53 LOT, DOUBLE FRONTAGE: An interior lot having frontage on two (2) streets.

3-54 LOT, INTERIOR: Any lot other than a corner lot.

3-55 LOT, WIDTH OF: The horizontal distance between side lot lines. For lots not having a uniform width, the width shall be taken as the width along the front or rear of a proposed building, whichever is the lesser. However, in the application of this definition, the width of a lot measured at the street line may not be less than 60 feet.<sup>15</sup> Also where, on date of this Ordinance, an existing public street, unrestricted alley, or permanent unrestricted easement anyone of which is not less than 15 feet in width, extends to an individual lot, the lot width shall be taken as the width along the front or rear of a proposed building, whichever is the lesser. This latter provision is for purposes of allowing a single dwelling on an isolated lot which has only an access as described. It is not intended that new lots could be created along such an accessway, nor could such a limited accessway be extended for the purpose

of serving any other lot.<sup>7</sup> The required frontage measured along the right of way line for a lot in which any portion abuts a cul-de-sac in all residential areas shall be a minimum of 70 feet.<sup>15</sup>

3-56 LOT OF RECORD: A lot as shown on a plat which has been recorded in the Clerk's office of the Circuit Court of Wythe County, Virginia.

3-57 MANUFACTURE AND/OR MANUFACTURING: The processing and/or converting of raw, unfinished materials, or products, or either of them, into articles or substances of different character, or for use for a different purpose.

3-58A MANUFACTURED HOME: A structure subject to federal regulation, which is transportable in one or more sections; is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning and electrical systems contained in the structure.<sup>41</sup>

3-58 MOBILE HOME: A transportable, single-family dwelling unit suitable for year round occupancy containing the same water supply, toilet facilities, waste disposal and electrical conveniences as an immobile home. It will have a body width of not less than eight (8) feet and a body length of not less than thirty-six (36) feet, and built prior to the effective date of the Federal Manufactured Housing Construction and Safety Standards Acts of 1974.

- 3-59 MOBILE HOME LOT: A parcel of land designed, constructed and equipped for the placement of a single mobile home, and for the exclusive use of its occupants.
- 3-60 MOBILE HOME PARK: An area or tract of land designed, constructed and equipped to accommodate five (5) or more mobile homes.
- 3-61 MOTOR HOME: A portable, temporary dwelling to be used for travel, recreation and vacation, and constructed as an integral part of a self-propelled vehicle.
- 3-62 NONCONFORMING ACTIVITY: The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance.
- 3-63 NONCONFORMING LOT: An otherwise legally platted lot that does not conform to the minimum area or width requirements of this Ordinance for the district in which it is located either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance.
- 3-64 NONCONFORMING STRUCTURE: An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this Ordinance, or is designed or intended for a use that does not conform to the use regulations of this Ordinance, for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance.

- 3-65 OFF-STREET PARKING AREA: Space provided for vehicular parking outside the dedicated street right of way. Each off-street parking space shall be not less than nine (9) feet in width or one hundred eighty (180) square feet in area, exclusive of access drives and aisles.<sup>38</sup>
- 3-65A ON-FRAME MODULAR: Modular structure or industrialized building designed and built with its steel frame to remain under the building to become part of the supporting structure or foundation for the building when placed on site.<sup>70</sup>
- 3-66 PICKUP COACH: A structure to be mounted on a truck bed, or chassis for use as a temporary dwelling for travel, recreation and vacation.
- 3-67 PORCH: A covered or uncovered structure forming an entrance to a building, outside and usually with a separate roof, or as a recess in the interior as a veranda.
- 3-68 PUBLIC WATER AND SEWER SYSTEMS: A water or sewer system owned and operated by a municipality or county, or owned and operated by a private individual or a corporation approved by the governing body and properly licensed by the State Corporation Commission, and subject to special regulations as herein set forth.
- 3-68A RADIO AERIALS: Structures and equipment designed specifically for the reception of land based radio broadcasts for residential use.<sup>49</sup>
- 3-68B RECYCLING FACILITIES: Locations for storage, sorting, compacting, repackaging, or preprocessing of goods for eventual processing into new material or recycled products. Recycling operations shall not include

processes or operations that involve smelting, burning, or other chemical reactions or changes, and shall involve operations or processes that are not likely to be dangerous or offensive because of odor, dust, fire, explosion, or other reasons, and which employ processes or operations or equipment that do not produce objectionable noise, vibration, smoke, gas, waste, or the like.<sup>39</sup>

3-69        **REQUIRED OPEN SPACE:** Any space required in any front, side or rear yard.

3-70        **RESTAURANT:** Any building in which for compensation, food or beverages are dispensed for consumption on the premises, including, among other establishments, cafes, tea rooms, confectionery shops, or refreshment stands.

3-71        **RETAIL STORES AND SHOPS:** Buildings for display and sale of merchandise at retail or for the rendering of personal service, (but specifically exclusive of coal, wood and lumber yards), such as the following, which will serve as illustration: drug store, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop and beauty parlor.

3-71A      **SATELLITE DISHES/DISH ANTENNAS:** Dish shaped structures for the reception of satellite broadcasts for television predominantly for private residential use or any dish shaped antenna for receiving broadcasts.<sup>49</sup>

3-71B SEMI-TRAILER: A freight trailer that when attached is supported at its forward end by the fifth wheel device of the truck tractor, which shall include semi-trailer as defined by Virginia Code Section 46.2-100, as amended. In Agricultural Districts, semi-trailers shall be permitted to be parked no longer than twelve (12) months, unless the trailer is currently licensed or is used for hauling livestock, hay, silage, etc., and is permitted on the public right-of-way by a "farm use" designation. In Industrial Districts, semi-trailers shall be permitted with no restrictions. In Agricultural Districts, no advertising shall be permitted on the semi-trailer. Advertising shall not be construed to mean the name and location of the trucking company that owns the semi-trailer. In matters pertaining to the judgment relative to advertising, the Zoning Administrator shall review the advertising and make the final decision.<sup>57</sup>

3-71C SEMI-TRAILER, LICENSED: A freight trailer that when attached is supported at its forward end by the fifth wheel device of the truck tractor and carries a current motor vehicle trailer license and inspection to be legally towed on public streets and roads, which shall include semi-trailer as defined by Virginia Code Section 46.2-100, as amended. In Business Districts, semi-trailers which are licensed shall be permitted to be parked for no more than sixty (60) days and shall be parked to the rear or side of the business building. In Industrial Districts, semi-trailers which are licensed shall be permitted with no restrictions. In Residential Districts, semi-trailers which are licensed shall be permitted to be parked no longer than thirty (30) days, unless they are connected with a construction project at that site. In the case

of a construction project, the semi-trailer shall be permitted to be parked until final completion of the construction project. In Residential Districts, all semi-trailers shall be parked off of all public rights-of-way, streets, and alleys. In Agricultural and Residential Districts, no advertising shall be permitted on the semi-trailers. Advertising shall not be construed to mean the name and location of the trucking company that owns the semi-trailer. In matters pertaining to the judgment relative to advertising, the Zoning Administrator shall review the advertising and make the final decision.<sup>57</sup>

- 3-72           **SETBACK:** The minimum distance by which the main building or structure line of any building or structure must be separated from the front lot line.
- 3-72A          **SEXUAL ENCOUNTER CENTER:** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration: (a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (b) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
- 3-72B          **SEXUALLY ORIENTED BUSINESS:** An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, adult model studio, or sexual encounter center.
- 3-72C          **SHIPPING CONTAINER:** A large box, usually fabricated of corrugated steel used for enclosing goods during shipping. In Agricultural Districts, shipping containers shall be permitted only if they are used as storage facilities for

livestock feed, farm supplies, or farm products. The shipping containers in Agricultural Districts shall be setback from any public right-of-way or adjacent property no less than five hundred (500) feet. In Business Districts, shipping containers shall be permitted to be parked to the rear or side of the business building. Shipping containers in Business Districts shall also be screened from view by means of fencing, landscaping, earth berms, or other means of no less than the height of the shipping container. In Residential Districts, shipping containers shall be treated as accessory structures and shall have a permanent foundation constructed of masonry, treated wood, steel piers, or continuous masonry. Units supported on piers shall be anchored by mobile home anchors or similar devices. In Industrial Districts, shipping containers shall be permitted with no restrictions.<sup>57</sup>

3-72D SHOOTING RANGE, COMMERCIAL: The use of land for the discharging of firearms for the purposes of target practice, skeet and trap shooting, mock war games, or temporary competitions, such as a turkey shoot, for a fee, prize, or other remuneration to the owner on a continuing or continuous basis. Excluded from this use type shall be private target practice areas established by individuals for their personal target practice on their own property as permitted by the Town Code, and general hunting, and unstructured and nonrecurring discharging of firearms on private property with the property owner's permission. No firearms shall be discharged within three hundred (300) feet of any street or highway, railroad, residence, or any structure which is normally used to house machinery, tools, livestock or

animals, feed, or any other related agricultural/domestic activity.<sup>78</sup>

3-72E SHOOTING RANGE, INDOOR: The use of a structure for the discharging of firearms for the purpose of target practice or temporary competitions. Appropriate and industry standard measures shall be taken to prevent the penetration of any projectile outside the structure, and appropriate prevention of ricochet of projectiles within the structure. The noise generated by the firearms shall be contained within the structure.<sup>78</sup>

3-72F SHOOTING RANGE, OUTDOOR: The use of land for the discharging of firearms for the purposes of target practice, skeet and trap shooting, mock war games, or temporary competitions such as a turkey shoot. Excluded from this use type shall be private target practice areas established by individuals on their own property as permitted by the Town Code, and general hunting, and unstructured and nonrecurring discharging of firearms on private property with the owner's permission. No firearms shall be discharged within three hundred (300) feet of any street or highway, railroad, residence, or any structure which is normally used to house machinery, tools, livestock, or animals, feed, or any other related agricultural/domestic activity.<sup>78</sup>

3-73 SIGN: Any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, whether such display be made on, attached to, or as a part of a structure, surface or any other thing, including, but not limited to, the ground,

any rock, tree, or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is made. A display of less than one (1) square foot in area is excluded from this definition.

3-73.1 Business--A sign which directs attention to a product, commodity or service available on the premises.

3-73.2 Home Occupation--A sign directing attention to a product, commodity or service available on the premises, but which product, commodity or service is clearly a secondary use of the dwelling.

3-73.3 General Advertising--A sign which directs attention to a product, commodity, or service available, other than on the premises, generally throughout the country.

3-73.4 Location--A sign which directs attention to the approximate location of an establishment from which the advertised product may be obtained.

3-73.5 Directional--A directional sign is one (one end of which may be pointed, or on which an arrow may be painted, indicating the direction to which attention is called) two (2) square feet or less in area, giving the name only of the farm, or business responsible for the erection of the same.

3-73.6 Temporary--A sign applying to a seasonal or other brief activity, such as, but not limited to, summer camps, horse shows, auctions, or sale of land. Temporary signs shall conform in size and type to directional signs.

3-74 SIGN STRUCTURE: Includes the supports, uprights, bracing and/or framework of any structure, be it single-faced, double-faced, v-type or otherwise, exhibiting a sign.

- 3-74A SPECIFIED ANATOMICAL AREAS: (a) less than complete and opaquely covered human genitals, pubic region, buttock, and female breasts below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered; (b) human genitals in a state of sexual stimulation or arousal; sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts, including masturbation.
- 3-74B SPECIFIED SEXUAL ACTIVITIES: Human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse or sodomy, fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts.
- 3-75 STOOP: A platform at the door of a building as a place for waiting before entering. It may have steps and be covered or uncovered. A stoop shall not be deemed to exceed six (6) feet by six (6) feet.
- 3-76 STORE: See Item 3-71 Retail Stores and Shops.
- 3-77 STORY: That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there be no floor above it, the space between the floor and the ceiling next above it.
- 3-78 STORY, HALF: A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use.

- 3-79 STREET, ROAD: A public thoroughfare which affords principal means of access to abutting property.
- 3-80 STREET LINE: The dividing line between a street or road right of way and the contiguous property.
- 3-81 STRUCTURE: Anything constructed or erected, the use of which requires a permanent location on the ground, or attachment to something having a permanent location on the ground.
- 3-81A TELEVISION ANTENNA: Structures designed specifically for the reception of land based television broadcasts for predominantly residential use.<sup>49</sup>
- 3-82 TERRACE: A relatively leveled paved or planted area, usually adjoining a building.
- 3-82A TOWER: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, include self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, personal communications systems towers, alternative tower structures, and the like.<sup>49</sup>
- 3-83 TOURIST COURT, AUTO COURT, MOTEL, ATEL, CABINS OR MOTOR LODGE: One or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.
- 3-84 TRAILER, AUTOMOBILE: See Sections 3-61, 3-66, 3-86, 3-88.

- 3-85 TRAILER, CAMPING: A canvas, folding structure mounted on wheels and designed for travel, recreation and vacation use.
- 3-86 TRAILER COURT: See Section 3-60.
- 3-87 TRAILER, TRAVEL: A vehicular, portable structure built on a mobile chassis, designed as a temporary dwelling for travel, recreation and vacation. The width of the body will not exceed eight (8) feet, and the length will not exceed thirty-six (36) feet.
- 3-88 USE, ACCESSORY: A subordinate use, customarily incidental to and located upon the same lot occupied by the main use.
- 3-89 VARIANCE: A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts.
- 3-90 WAREHOUSE--TYPE I: A completely enclosed structure to be used for the purpose of storing wares, merchandize and personal goods. Sales of stored goods is prohibited from the warehouse. The warehouse shall conform to the following regulations:

- a. All goods, wares, merchandise and personal goods stored shall be within the structure and not subject to public view.
- b. The structure shall consist of not less than five (5) designated and secured areas of storage.
- c. The designated areas of storage shall not exceed two hundred fifty (250) square feet of floor area.
- d. The structure shall be situated such that loading and unloading of goods is performed entirely off of public streets and rights-of-way.
- e. Off-street parking shall be provided at the rate of one (1) space per two hundred fifty (250) square feet of storage area.
- f. Each designated area of storage shall have means of ingress and egress separate from the ingress/egress of another designated area within the storage.
- g. No advertising structures or signs will be permitted with exception of such sign as may be required for identification and information of the structure as a whole.
- h. Outside storage of any articles is strictly prohibited.
- i. Type I warehouses are permitted only in the B-2 Business, M-1 and M-2 Industrial zoning districts.
- j. Motorized lifting and loading devices are not permitted and the warehouse shall not serve as the point of interchange of goods between commercial carriers.
- k. Storage of hazardous, toxic or explosive materials are prohibited.

I. No operations or work activities of any type shall be conducted in any storage area.<sup>20</sup>

3-91 WAYSIDE STAND, ROADSIDE STAND, WAYSIDE MARKET: Any structure or land used for the sale of agricultural or horticultural produce.

3-92 YARD: An open space on a lot other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

3-92.1 Front--An open space on the same lot as a building between the front line of the building (exclusive of steps, stoops and terraces) and the front lot or street line, and extending across the full width of the lot.

3-92.2 Rear--That land area of a lot located to the rear of a main structure or dwelling, lying between the rear-most portion of the main structure or dwelling and the rear property line. The rear-most portion of the main structure, or dwelling shall include porches, garages and carports, but does not include terraces or steps.

3-92.3 Side--That land area of a lot located on the side of a main structure or dwelling, lying between the side of the main structure or dwelling and the side property line. The side of the main structure or dwelling shall be considered to include porches, garages and carports, but not to include terraces or steps.

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