

**MOTION: NOHE**

**October 6, 2015  
Regular Meeting  
Ord. No. 15-46**

**SECOND: PRINCIPI**

**RE: ADOPT ZONING TEXT AMENDMENT #DPA2015-20019, OFF-SITE  
SEPTIC SYSTEM – COUNTYWIDE**

**ACTION: APPROVED**

**WHEREAS**, in accordance with Title 15.2-2285 of the Code of Virginia, Ann., the Board of County Supervisors may amend the Zoning Ordinance whenever it determines that public necessity, health, safety, convenience, general welfare and good zoning practice necessitate such change; and

**WHEREAS**, this zoning text amendment is intended to reflect County Code Section 23-40(b), which provides that if a private septic system fails, a new system may be located on an adjacent or nearby lot with Prince William County Health Department's approval; and

**WHEREAS**, under Section 32-300.03.2 of the Zoning Ordinance, septic systems and drain fields are considered accessory structures and may be permitted without regard to setback or yard requirements; and

**WHEREAS**, the definition of accessory structure is a structure subordinate to the principal structure on the same lot; and

**WHEREAS**, the proposed amendment will amend the Zoning Ordinance to allow off-site septic systems in accordance with Section 23-40(b); and

**WHEREAS**, on June 16, 2015, the Board of County Supervisors initiated a zoning text amendment to allow a replacement septic system serving a single-dwelling to be located off site if there is no capacity on the property to locate a replacement septic system after the existing system fails, via Resolution Number 15-418; and

**WHEREAS**, the Prince William County Planning Commission duly ordered, advertised and held a public hearing on September 2, 2015, and recommends adoption as stated in Planning Commission Resolution Number 15-072; and

**WHEREAS**, the Board of County Supervisors duly ordered, advertised and held a public hearing on October 6, 2015, at which time public testimony was received and the merits of the above-referenced Zoning Text Amendment were considered; and

October 6, 2015  
Regular Meeting  
Ord. No. 15-46  
Page Two

**WHEREAS**, the Board of County Supervisors believes that public general welfare, as well as, good zoning practices are served by the adoption of this Zoning Text Amendment;

**NOW, THEREFORE, BE IT ORDAINED** that the Prince William Board of County Supervisors does hereby adopt Zoning Text Amendment #DPA2015-20019, Off-Site Septic System.

ATTACHMENT: Text Amendment

**Votes:**

**Ayes:** Caddigan, Candland, Jenkins, Lawson, May, Nohe, Principi, Stewart

**Nays:** None

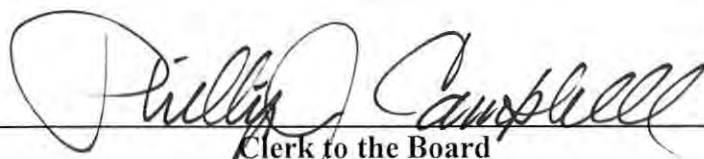
**Absent from Vote:** None

**Absent from Meeting:** None

**For Information:**

Planning Director  
County Attorney

ATTEST: \_\_\_\_\_

  
Clerk to the Board

ARTICLE I. - TERMS DEFINED

PART 100. - DEFINITIONS

**ARTICLE I. - TERMS DEFINED**

**PART 100. - DEFINITIONS**

*Abandonment* shall mean to cease or discontinue a use or activity, excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

*Abutting/adjoining* shall mean having a common point or border with; having property or district lines in common. See "adjoining", also.

*Accessory structure* shall mean a subordinate structure located on the same lot as the principal use, and the use of which is customarily associated with and incidental to the principal use, except for off-site septic systems allowed pursuant to section 23-40(b) of the County Code.

**Sec. 32-300.03. - Accessory buildings and structures.**

2. Accessory structures other than buildings shall be permitted in all agricultural and residential zoning districts, provided they are designed and located so as to minimize any adverse impact on streets or other public places, and on the full use and enjoyment of adjacent properties subject to the following limitations:
  - (a) Retaining walls greater than three feet height in height as measured by the building code shall require zoning approval.
  - (b) No accessory structure shall be constructed, erected or otherwise placed on a lot that is not occupied by a principal building, provided that an accessory structure shall be permitted when a valid building permit has been issued for a principal building and construction of that principal building is diligently pursued. Notwithstanding the previous sentence, drainfields and septic systems may be located on a lot without a primary use when serving a parcel in accordance with Section 23-40(b) of the County Code.
  - (c) In-ground swimming pools on lots of more than three acres shall be permitted in any yard and are subject to setbacks unless otherwise provided in this chapter. Other in-ground pools shall be governed by the provisions of subsection 1(a)(7), above.
  - (d) Subject to the provisions of sections 32-250.75 and 32-250.93, drainfields and septic systems shall be permitted without regard to setbacks or yard restrictions, provided that health department approval shall be secured for any drainfield or septic tank.

**Sec. 32-250.75. - Development to be on public sewer.**

1. When available to the site, connection to the public sewer system shall be required for development of:
  - (a) Newly created lots for residential development in the urban or suburban areas (as defined in the comprehensive plan);
  - (b) Nonresidential uses within the urban or suburban areas (as defined in the comprehensive plan).
2. Residential and nonresidential uses within the semi-rural areas (as defined in the comprehensive plan) may connect to the public sewer system.
3. Residential and nonresidential uses within the rural areas (as defined in the comprehensive plan) shall not connect to the public sewer system, except in accordance with the comprehensive plan.
4. Minimum lot size for any lot not served by public sewerage facilities shall be one acre.
5. For the purposes of this section, public sewer shall be deemed available if located within 1,000 feet of the site and capable of being connected to in accordance with the comprehensive plan and other applicable law.
6. Existing structures with failed septic systems that have and no on-site remediation, or no off-site remediation pursuant to Section 23-40(b) of the County Code, and that are within three hundred (300) feet of public sewer with available capacity, shall connect to the public sewer system.



Melissa S. Peacor  
County Executive

## COUNTY OF PRINCE WILLIAM

OFFICE OF EXECUTIVE MANAGEMENT

1 County Complex Court, Prince William, Virginia 22192-9201  
(703) 792-6600 Metro 631-1703 FAX: (703) 792-7484

### BOARD OF COUNTY SUPERVISORS

Corey A. Stewart, Chairman  
Maureen S. Caddigan, Vice Chairman  
Pete Candland  
John D. Jenkins  
Jeanine M. Lawson  
Michael C. May  
Martin E. Nohe  
Frank J. Principi

September 28, 2015

**TO:** Board of County Supervisors

**FROM:** Christopher M. Price, AICP  
Director of Planning

**Thru:** Melissa S. Peacor  
County Executive

**RE:** Adopt Zoning Text Amendment, #DPA2015-20019 – Off-Site Septic System

**I. Background** is as follows:

- A. Purpose of the Zoning Ordinance – Section 15.2-2283 of the Code of Virginia states that zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public.
- B. Purpose of Amendment – Section 23-40(b) of the County Code regarding Sewers and Sewage Disposal allows an off-site septic system to be located on an adjacent or nearby lot after approval by the Prince William County Health Department. This provision is inconsistent with the Zoning Ordinance. The purpose of #DPA2015-20019 is to amend the Zoning Ordinance to be consistent with Section 23-40 of the County Code (See Attachment A – Section 23-40 of the County Code). The zoning text amendment would allow a replacement septic system serving a single dwelling to be located off-site if there is no capacity on the property for a replacement septic system after the existing system fails. Pursuant to Section 32-300.03.2(d) of the Zoning Ordinance, septic systems are considered accessory structures. As provided in the definitions, an accessory structure is defined as a subordinate structure located on the same lot as the principle use, which prevents property owners from installing a replacement septic system off-site.
- C. Proposed Remedy – The proposed zoning text amendment establishes consistency in the Zoning Ordinance and the provisions of Section 23-40(b) of the County Code so that a replacement septic system after an existing system has failed can be located off-site on a nearby property as an alternative if there is no capacity on the existing property (See Attachment B – Proposed Text Amendment).

**II. Current Situation** is as follows:

- A. Zoning Text Amendment Initiated – On June 16, 2015, the Board of County Supervisors initiated a zoning text amendment to allow a replacement septic system serving a single dwelling to be located off-site if there is no capacity on the property to locate a replacement septic system after the existing system fails through Res. No. 15-418 (See Attachment C – BOCS Initiating Resolution).
- B. Development Ordinance Advisory Committee – The committee reviewed the proposed text amendment on July 31, 2015 and is in support of the proposed text amendment.
- C. Planning Commission Recommendation – A public hearing before the Planning Commission was held on September 2, 2015, where they recommended amending the Zoning Ordinance to allow an off-site septic system to replace an existing failing system (See Attachment D – Planning Commission Resolution).
- D. Planning Office Recommendation – The Planning Office recommends recommended amending the Zoning Ordinance to allow an off-site septic system to replace an existing failing system, as proposed in Attachment B.
- E. Board of County Supervisor Public Hearing – A public hearing before the Board of County Supervisors has been properly advertised for October 6, 2015.
- F. Board Action Requested – Board of County Supervisors’ action is requested to adopt Zoning Text Amendment #DPA2015-20019 – Off-Site Septic System.

**III. Issues** in order of importance are:

- A. Policy – Does the amendment further the purposes of the Zoning Ordinance?
- B. Community Input – Have members of the community raised any issues?
- C. Legal – Are there any legal implications associated with this zoning text amendment?
- D. Timing – What are the timing considerations of the zoning text amendment?
- E. Fiscal Impact – Are there budget or financial impacts?

**IV. Alternatives** beginning with the staff recommendation are as follows:

- A. Adopt Zoning Text Amendment #DPA2015-20019, Off-Site Septic System.

1. Policy – The proposed text provides consistency between the Zoning Ordinance and Section 23-40(b) of the Prince William County Code to allow an off-site septic system to replace an existing failing system.
  2. Community Input – The Planning Office has been contacted by property owners whose septic system failed, and would like to install an off-site septic system in accordance with Section 23-40(b) and during the Planning Commission hearing held on September 2, 2015, two members of the community provided comments in support of the zoning text amendment.
  3. Legal – The amendment of the zoning text amendment will incorporate the proposed restrictions and requirements into the Zoning Ordinance, which is enforceable by the County. Legal issues resulting from the Board of County Supervisors action would be appropriately addressed by the County Attorney's Office.
  4. Timing – There is no time requirement for the Board of County Supervisors to take action on zoning text amendments.
  5. Fiscal Impact – There is no direct fiscal impact associated with this zoning text amendment.
- B. Do Not Amend the Zoning Ordinance to allow an off-site septic system to replace an existing failing system.
1. Policy – Not adopting Zoning Text Amendment #DPA2015-20019 – Off-Site Septic System would result in inconsistencies within the Zoning Ordinance and the County Code regarding where replacement septic-systems can be located.
  2. Community Input – The Planning Office has been contacted by property owners whose septic system failed, and would like to install an off-site septic system in accordance with Section 23-40(b) and during the Planning Commission hearing held on September 2, 2015, two members of the community provided comments in support of the zoning text amendment.
  3. Legal – Legal issues resulting from Board of County Supervisors action would be appropriately addressed by the County Attorney's Office.
  4. Timing – There is no time requirement for the Board of County Supervisors to take action on zoning text amendments.
  5. Fiscal Impact – There is no direct fiscal impact associated with this zoning text amendment.
- V. Recommendation is that the Board of County Supervisors concurs with Alternative A and adopt the attached Ordinance.



**Staff:** Angelica Gonzalez, x8132

**Attachments:**

- A. Section 23-40 of the County Code
- B. Text Amendment
- C. BOCS Initiating Resolution
- D. Planning Commission Resolution

## Attachment A – Section 23-40 of the County Code

### Sec. 23-40. - General lot and area requirements.

- (a) Lots proposed for development utilizing individual sewage disposal systems shall conform to the minimum area requirements of chapter 32 of this Code. The lot size shall further be sufficient to permit the proper location, installation and operation of the sewage system's septic tank, or other similar pretreatment components, and wastewater dispersal area and there shall be sufficient suitable area set aside to permit repair or extension of the system's wastewater dispersal area until such time as a public sewer is available. For purposes of this section, sewer lines and conveyance lines are not pretreatment components nor are they part of a wastewater dispersal system or area. A conveyance line is the piping used to transport effluent from a pretreatment system to a point where the flow is split for distribution to a wastewater dispersal system. The area for installation of the wastewater dispersal system and the area for its repair or extension shall be clearly defined as reserved for such use and shall be located entirely on the parcel or lot which they are to serve. It shall be unlawful for any person to change, alter or use for another purpose, any area established and defined as an area reserved for the installation, repair or extension of a wastewater dispersal component of an individual sewage disposal system without first receiving written authorization from the health director or the director's designee.
- (b) In the event that a parcel or lot served by an individual sewage disposal system experiences a failure of that system and does not qualify for a permit for a new wastewater dispersal system due to inadequate wastewater dispersal area on the parcel, an alternate area for installation, of a replacement wastewater dispersal system, located off of the lot or parcel to be served, may be approved, subject to the general provisions of sections 12 VAC 5-610-700.E.2 and 12 VAC 5-610-700.E.3 of the state sewage handling and disposal regulations.

The owner of the lot or parcel proposing the alternate off-site wastewater dispersal area must agree in writing to be solely responsible for maintenance and repair of the wastewater dispersal system, and all appurtenances associated therewith, and must file with the permit application a deed of easement or other instrument of title exhibiting the right to use the off-site wastewater dispersal area and a deed of easement or other instrument of title, or VDOT permit, exhibiting the right to use any other areas needed to access the wastewater dispersal area.

- (c) Areas reserved for future repair or extension of the wastewater dispersal component of an individual sewage disposal system shall, as a minimum, be as follows:
  - (1) Where estimated or actual percolation rates are determined to be 45 minutes per inch or less, a 50 percent reserve in excess of the original wastewater dispersal area shall be required; and
  - (2) Where estimated or actual percolation rates are greater than 45 minutes per inch, a 100 percent reserve wastewater dispersal area shall be required.

The provisions of section 23-40(c)(1) above shall not apply to lots required to have 100 percent reserve area pursuant to the Chesapeake Bay Overlay District of Chapter 32 of this Code and sections 550.03 and 741.01 of the Design and Construction Standards Manual.

The area for repair or extension shall not be required only when it can be established to the health director's satisfaction that public sewer will be available within five years.

## **Attachment A – Section 23-40 of the County Code**

- (d) It shall be unlawful for any person to subdivide, redivide or change an existing approved parcel or lot in any manner which will reduce, or alter the ownership of, any part of an individual sewage disposal system or area reserved for repair or extension of that individual sewage disposal system, until such time as connection to a public sewer is made or unless written permission is obtained from the health department showing such changes or alterations to the parcel or lot will have no effect on the existing system and area available for repair or extension.

(Ord. No. 77-16-24, § 19-6, 4-19-77; Ord. No. 82-21-36, 7-20-82; Ord. No. 86-145, 10-7-86; Ord. No. 87-22, 4-7-87; Ord. No. 11-44, Atch., 9-13-2011)

**ARTICLE I. - TERMS DEFINED**

**PART 100. - DEFINITIONS**

**ARTICLE I. - TERMS DEFINED**

**PART 100. - DEFINITIONS**

*Abandonment* shall mean to cease or discontinue a use or activity, excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

*Abutting/adjoining* shall mean having a common point or border with; having property or district lines in common. See "adjoining", also.

*Accessory structure* shall mean a subordinate structure located on the same lot as the principal use, and the use of which is customarily associated with and incidental to the principal use, except for off-site septic systems allowed pursuant to section 23-40(b) of the County Code.

**Sec. 32-300.03. - Accessory buildings and structures.**

2. Accessory structures other than buildings shall be permitted in all agricultural and residential zoning districts, provided they are designed and located so as to minimize any adverse impact on streets or other public places, and on the full use and enjoyment of adjacent properties subject to the following limitations:
  - (a) Retaining walls greater than three feet height in height as measured by the building code shall require zoning approval.
  - (b) No accessory structure shall be constructed, erected or otherwise placed on a lot that is not occupied by a principal building, provided that an accessory structure shall be permitted when a valid building permit has been issued for a principal building and construction of that principal building is diligently pursued. Notwithstanding the previous sentence, drainfields and septic systems may be located on a lot without a primary use when serving a parcel in accordance with Section 23-40(b) of the County Code.
  - (c) In-ground swimming pools on lots of more than three acres shall be permitted in any yard and are subject to setbacks unless otherwise provided in this chapter. Other in-ground pools shall be governed by the provisions of subsection 1(a)(7), above.
  - (d) Subject to the provisions of sections 32-250.75 and 32-250.93, drainfields and septic systems shall be permitted without regard to setbacks or yard restrictions, provided that health department approval shall be secured for any drainfield or septic tank.

(Ord. No. 04-78, 12-21-04; Ord. No. 06-50, 5-2-06; Ord. No. 07-33, 5-1-07; Ord. No. 09-30, 5-19-09)

**Sec. 32-250.75. - Development to be on public sewer.**

1. When available to the site, connection to the public sewer system shall be required for development of:
  - (a) Newly created lots for residential development in the urban or suburban areas (as defined in the comprehensive plan);
  - (b) Nonresidential uses within the urban or suburban areas (as defined in the comprehensive plan).
2. Residential and nonresidential uses within the semi-rural areas (as defined in the comprehensive plan) may connect to the public sewer system.
3. Residential and nonresidential uses within the rural areas (as defined in the comprehensive plan) shall not connect to the public sewer system, except in accordance with the comprehensive plan.
4. Minimum lot size for any lot not served by public sewerage facilities shall be one acre.
5. For the purposes of this section, public sewer shall be deemed available if located within 1,000 feet of the site and capable of being connected to in accordance with the comprehensive plan and other applicable law.
6. Existing structures with failed septic systems that have ~~and~~ no on-site remediation, or no off-site remediation pursuant to Section 23-40(b) of the County Code, and that are within three hundred (300) feet of public sewer with available capacity, shall connect to the public sewer system.

## Attachment C – BOCS Initiating Resolution

**MOTION: LAWSON**

**June 16, 2015  
Regular Meeting  
Res. No. 15-418**

**SECOND: CANDLAND**

**RE: INITIATE A ZONING TEXT AMENDMENT TO ALLOW A REPLACEMENT SEPTIC SYSTEM SERVING A SINGLE DWELLING TO BE LOCATED OFF SITE IF THERE IS NO CAPACITY ON THE PROPERTY TO LOCATE A REPLACEMENT SEPTIC SYSTEM AFTER THE EXISTING SYSTEM FAILS – COUNTYWIDE**

**ACTION: APPROVED**

**WHEREAS**, in accordance with Section 15.2-2285 of the Code of Virginia, the Prince William Board of County Supervisors may amend the Zoning Ordinance whenever it determines that public necessity, convenience, general welfare and good zoning practice necessitate such change; and

**WHEREAS**, this Zoning Text Amendment is intended to reflect County Code Chapter 23, which provides that if a private septic system fails, a new system may be located on an adjacent or nearby lot with Prince William County Health Department's approval; and

**WHEREAS**, under Section 32-300.03.2 of the Zoning Ordinance, septic systems and drain fields are considered accessory structures and may be permitted without regard to setback or yard requirements; and

**WHEREAS**, the definition of accessory structure is a structure subordinate to the principal structure on the same lot; and

**WHEREAS**, the proposed amendment will synchronize the Zoning Ordinance with Chapter 23 and make applicants aware that a replacement septic system can be located on a nearby off-site property; and

**WHEREAS**, consideration of an amendment to the Zoning Ordinance for this issue is required by public necessity, convenience, general welfare and good zoning practice, and is consistent with Section 15.2-2283 of the Code of Virginia; and

**WHEREAS**, on April 21, 2015, Chairman Stewart (DIR 15-58) requested that staff review the Zoning Ordinance to provide language that would allow a replacement septic system serving a single dwelling to be located off site if there is no capacity on the property to locate a replacement septic system after the existing system fails; and

## Attachment C – BOCS Initiating Resolution

June 16, 2015  
Regular Meeting  
Res. No. 15-418  
Page Two

**WHEREAS**, the Prince William Board of County Supervisors finds that public general welfare and good zoning practices are served by the initiation of this zoning text amendment;

**NOW, THEREFORE, BE IT RESOLVED** that the Prince William Board of County Supervisors does hereby initiate an amendment to the Prince William County Zoning Ordinance to allow a replacement septic system serving a single dwelling to be located off site if there is no capacity on the property to locate a replacement septic system after the existing system fails.

**Votes:**

**Ayes:** Caddigan, Candland, Jenkins, Lawson, Nohe, Principi, Stewart

**Nays:** None

**Absent from Vote:** May

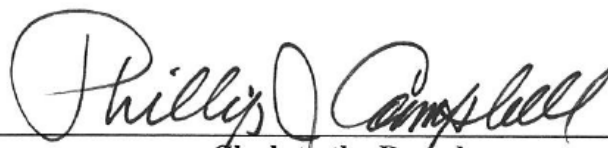
**Absent from Meeting:** None

**For Information:**

Planning Director

County Attorney

ATTEST: \_\_\_\_\_

  
Clerk to the Board



## Attachment D – Planning Commission Resolution

### PLANNING COMMISSION RESOLUTION

**MOTION: HAYNES**

**September 2, 2015  
Regular Meeting  
Res. No. 15-072**

**SECOND: FRY**

**RE: AMEND THE ZONING ORDINANCE TO ALLOW AN OFF-SITE  
SEPTIC SYSTEM TO REPLACE AN EXISTING FAILING SYSTEM –  
COUNTYWIDE**

**ACTION: RECOMMEND APPROVAL**

**WHEREAS**, in accordance with Title 15.2-2285 of the Code of Virginia, Ann., the Board of County Supervisors may amend the Zoning Ordinance whenever it determines that public necessity, health, safety, convenience, general welfare and good zoning practice necessitate such change; and

**WHEREAS**, this zoning text amendment is intended to reflect County Code Section 23-40(b), which provides that if a private septic system fails, a new system may be located on an adjacent or nearby lot with Prince William County Health Department approval; and

**WHEREAS**, under Sec. 32-300.03.2 of the Zoning Ordinance, septic systems and drainfields are considered accessory structures and may be permitted without regard to setback or yard requirements; and

**WHEREAS**, the definition of accessory structure is a structure subordinate to the principal structure on the same lot; and

**WHEREAS**, the proposed amendment will amend the Zoning Ordinance to allow off-site septic systems in accordance with Sec. 23-40(b); and

**WHEREAS**, on June 16, 2015 the Board of County Supervisors initiated a zoning text amendment to allow a replacement septic system serving a single dwelling to be located off site if there is no capacity on the property to locate a replacement septic system after the existing system fails through Res. No. 15-418; and

**WHEREAS**, the Prince William County Planning Commission duly ordered, advertised, and held a public hearing on September 2, 2015 at which time public testimony was received and the merits of the above-reference zoning text amendment were considered; and

**WHEREAS**, the Prince William County Planning Commission believes that public general welfare, as well as, good zoning practices are served by the adoption of this Zoning Text Amendment;

**NOW, THEREFORE, BE IT RESOLVED**, that the Prince William County Planning Commission does hereby recommend adoption of Zoning Text Amendment #DPA2015-20019, Off-Site Septic System to the Prince William County Zoning Ordinance.

## Attachment D – Planning Commission Resolution

**September 2, 2015**

**Regular Meeting**

**Res. No. 15-072**

**Page Two**

**Votes:**

**Ayes:** Arnold, Bryant, Fry, Haynes, Holley, Hosen, McKay, Vanegas


**Nays:** None

**Absent from Vote:** None

**Absent from Meeting:** None

**MOTION CARRIED**

Attest: \_\_\_\_\_

  
Rebecca Horner, AICP, CZA  
Acting Clerk to the Planning Commission