

21.0 AMENDMENTS

The Town Council may amend, supplement, or change the regulations in the zoning ordinance, or the zoning boundaries or classifications of property on the zoning map, in conformity with the provisions of Title 15.2, Article 7, Chapter 22 of the Code of Virginia and the provisions and purposes of this section.

21.1 STATEMENT OF PURPOSE AND INTENT

The Town Council finds that a portion of the police power of the Commonwealth has been delegated to each municipality to be exercised reasonably in determining the manner of its development. The Virginia Legislature has left much discretion to the Town in making such determinations, relying on the local governing body's knowledge of local conditions and the needs of its individual communities. Public necessity, health, safety, convenience, general welfare, good zoning practice and the aesthetic values and priorities of the local citizenry provide guiding factors for the Town Council in its quest to exercise its legislative mandate in formulating a reasonable policy of county planning for the general good and welfare.

21.2 INITIATION OF AMENDMENTS

The Town Council may amend this ordinance by amending the text thereof, or by changing any district boundary shown on the adopted zoning map, provided that proceedings for any amendment shall be initiated only in the following manner.

21.2.1 PROPERTY OWNER PETITION

By the filing with the Town Council of a petition of any owner or owners of land proposed to be rezoned, which petition shall be addressed to the Town Council and submitted to the Town Clerk's Office and shall be on a standard form and accompanied by a fee as set forth in section 25, *Fees*, of this ordinance.

21.2.2 TOWN COUNCIL RESOLUTION

By the adoption by the Town Council of a resolution of intention to amend, which resolution, upon adoption, shall be referred to the Planning Commission for consideration pursuant to section 15.2-2285 of the Code of Virginia.

21.2.3 PLANNING COMMISSION RESOLUTION

By the adoption by the Planning Commission of a resolution of intention to propose an amendment.

21.3 USE PLAN REQUIRED

If the initiation of an amendment to this ordinance is by property owner petition, then such property owner shall submit to the Planning Commission, at least forty-five (45) working days prior to the public hearing of the Planning Commission, a plan, including narrative statements and map, of proposed development and use for the property and adjacent properties (if appropriate). The use plan shall be at such scale, and in such form, and contain such information, as determined by the Planning Commission to be necessary to serve as sufficient information for an evaluation as specified in section 24, *Site Development Plan*.

21.4 PROFFER OF CONDITIONS

Prior to any public hearing before the Town Council any applicant for rezoning may voluntarily proffer, in writing, reasonable conditions to be applied to such rezoning as part thereof. Such conditions shall comply

with the provisions of section 15.2-1298 of the Code of Virginia; provided that the proffering thereof by the applicant shall be deemed *prima facie* evidence of such compliance.

21.4.1 CONDITIONS

In the processing of requests for amendments to this zoning ordinance, the Planning Commission may recommend, and the Town Council may impose, such special conditions as it may deem desirable when it finds the following conditions to prevail:

- a. The special conditions recommended by the Planning Commission do not restrict the use of the property any more than do conditions imposed by this ordinance for the zoning classification sought in the petition.
- b. The special conditions imposed are for the protection of other properties in the area.
- c. The inclusion of special conditions in the rezoning action is not arbitrary, but is with due regard to public health, safety, welfare, and is in accordance with the comprehensive plan for the Town.

21.4.2 EFFECT OF CONDITIONS

Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions; however, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. All such conditions shall be in addition to the regulations provided for the district by the ordinance.

21.4.3 ZONING MAP NOTATION

Each such rezoning shall be designated on the zoning map by an appropriate symbol designed by the Zoning Administrator. In addition, the Zoning Administrator shall keep and maintain the conditional zoning index which shall provide ready access to the ordinance creating such conditions.

21.4.4 AUTHORITY OF ZONING ADMINISTRATOR

The Zoning Administrator shall be vested with necessary authority on behalf of the Town Council to administer and enforce conditions attached to a rezoning including the ordering in writing of the remedy of any noncompliance with such conditions and the bringing of legal action for injunction, abatement or other appropriate action or proceeding. However, the Zoning Administrator is required to consult with the Mayor and obtain his/her approval before initiating any action affecting anyone within the Town's jurisdiction.

21.5 PUBLIC HEARING – NOTICE

The Planning Commission shall hold a public hearing on any such petition or resolution as provided by section 15.2-2285 of the Virginia Code, after notice as required by section 15.2-2204 of said Code.

21.6 REPORT BY PLANNING COMMISSION TO TOWN COUNCIL AFTER HEARING

After the conclusion of the hearing provided for in this section, unless the proceedings are terminated as provided herein, the Planning Commission shall report to the Town Council its recommendation with respect to the proposed amendment. Failure of the Planning Commission to report to the Town Council within ninety (90) days after the first meeting of the Commission following the date the proposed amendment has been referred to the Commission shall be deemed approval by the Commission. In acting favorably with respect to

a proposed amendment initiated by the petition of a property owner or owners, the Planning Commission need not confine its recommendation to the proposed amendment as set forth in the petition, but may reduce or enlarge the extent of land that it recommends be rezoned or may recommend that land be rezoned to a different zoning classification than that petitioned for, if, the Commission is of the opinion that such revision is in accord with public necessity, convenience, general welfare and good zoning practice and is in furtherance of the purposes of this ordinance and section; provided that before recommending an enlargement of the extent of land or a rezoning to a less restricted classification than was set forth in the petition, the Commission shall hold a further hearing on the matter, pursuant to the requirements of section 15.2-2204 of the Virginia Code. No amendment to the zoning map shall be approved for a change in zoning classification different from that applied for and contained in the public notice of hearing nor for any land not included therein without referring said change to the Planning Commission for its review and recommendations and proceedings pursuant to this section and section 21.3; provided, however, that an amendment may be approved for only a portion of the area proposed for rezoning if the portion rezoned is accurately and sufficiently delimited in the approval action, or if a portion is reclassified pursuant to section 21.3.

21.7 LIMITATION ON FILING NEW PETITION AFTER ORIGINAL DENIAL

Upon the denial by the Town Council of any petition filed pursuant to section 21.2.1 above, substantially the same petition shall not be reconsidered within twelve (12) months of the date of denial.

21.8 WITHDRAWAL OF PETITIONS

Any petition filed pursuant to section 21.2.1 above, may be withdrawn upon written request by the applicant any time prior to the submission of any public hearing notice for advertisement; provided, that if the request for withdrawal is made after the publication of the notice of hearing, such withdrawal shall be only with the consent of either the Planning Commission or the Town Council, whichever body has advertised the hearing, and substantially the same petition shall not be reconsidered within twelve (12) months of the date of action, unless the respective body approving withdrawal specifies that the time limitation shall not apply.

21.9 POSTING OF PROPERTY

Additional notice of public hearings involving zoning map amendments initiated pursuant to section 21.2.1 above shall be provided by means of signs posted on the property proposed for rezoning, in the manner prescribed in this section and by means of written notice to the owner or owners or their agent, the occupants of all abutting properties and property or properties immediately across a street or road from the property affected, and all property owners within two hundred (200) feet of the subject property. Said written notice shall be given at least five (5) days before the hearing. The applicant shall certify in writing that notice was given pursuant to this section before a public hearing may be held on the application, and such certification shall set forth the persons receiving said notice.

21.9.1 POSTING OF PROPERTY – PLANNING COMMISSION HEARING

At least fifteen (15) days preceding the Planning Commission's public hearing on a zoning map amendment, the applicant shall erect on the property proposed to be rezoned, a sign or signs furnished by the Town Clerk indicating the change proposed and the date, time and place of the public hearing. The sign shall be erected by the applicant within ten (10) feet of whatever boundary line of such land abuts a public road and shall be so placed as to be clearly visible from the road with the bottom of the sign not less than two and one-half (2½) feet above the ground. If more than one (1) such road abuts the property, then a sign shall be erected in the same manner as above for each such abutting roads. If no public road abuts thereon, then signs shall be erected in the same manner as above on at least two (2) boundaries of the property abutting land not owned by the applicant.

21.9.1.1 POSTING OF PROPERTY – TOWN COUNCIL HEARING

Upon receipt of written notice that a public hearing has been scheduled before the Town Council for his or her zoning map amendment, the applicant shall erect, at least fifteen (15) days preceding such hearing a sign or signs furnished by the Town Clerk indicating the change proposed and the date, time, and place of the public hearing. Such sign or signs shall be erected in the same manner as prescribed in section 21.9.1 above.

21.9.1.2 MAINTENANCE AND REMOVAL OF SIGNS

Any sign erected in compliance with this article shall be maintained at all times by the applicant up to the time of the hearing and it shall be the duty of the applicant at the hearing to prove by affidavit that he has fully complied with the requirements of this section and has continuously maintained the sign or signs up to the time of hearing. It shall be unlawful for any person, except the applicant or the Town Clerk or an authorized agent of either, to remove or tamper with any sign furnished during the period it is required to be maintained under this section. All signs erected under this article shall be removed by the applicant within fifteen (15) days following the public hearing for which it was erected.

21.9.2 ADDITIONAL PROCEDURES

The Town Clerk may authorize the preparation of required legal notices of the Town Council public hearing after he has received the Planning Commission report required in section 20.3.2, *Building Permits*, and containing the signature of the secretary to the Planning Commission. At least seven (7) working days prior to the Town Council public hearing, the applicant shall submit to the Town Attorney the proposed Final Order which shall require the signature of the Town Attorney verifying the accuracy of form and substance.

21.9.3 MATTERS TO BE CONSIDERED IN REVIEWING PROPOSED AMENDMENTS

Proposed amendments shall be reviewed in regard to sections 1.4, *Purpose and Intent*; 1.5, *Relationship to the Town of Scottsville Comprehensive Plan and Compatibility with the Zoning Ordinance of Albemarle County, Virginia*; and 1.6, *Relationship to Comprehensive Plan* of this ordinance. In addition, proposed amendments shall be reviewed with reasonable consideration for the existing use and character of the property, the suitability of the property for various uses, the trends of growth or change, the current and future requirements of the Town as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, and the requirements for schools, parks, playgrounds, recreation areas, and other public services; for the conservation of properties and their value and the encouragement of the most appropriate use of land throughout the Town. These considerations shall include, but shall not be limited to, timing of development, relation of development to major roads, relation of development to utilities and public facilities, and the net public costs of the development.

21.9.4 COORDINATION WITH COUNTIES

In matters affecting land use or impacting the comprehensive plans or zoning ordinances of Albemarle or Fluvanna Counties, consideration should be given to coordinating Town zoning issues with the affected County's officials. Harmonious, cooperative, and constructive relations should be promoted and practiced for the mutual benefit of the residents of Scottsville and citizens within to greater Scottsville community.

21.9.5 TIMING OF DEVELOPMENT

The Town Council, in promoting the general welfare and good zoning practice and the purposes of this article and ordinance, as part of an amending action, may specify a certain date for future consideration of possible changes to the zoning classification of the particular parcel of land which is a subject of an amending action. Said future consideration shall be for the purpose of determining whether subdivision or site development

plans have been submitted, whether development has in fact begun on the affected parcel, and whether there have been changes in the matters considered by the Town Council under this section or any other section, which may necessitate changes in the zoning classification. In no case shall the date set be less than two (2) years from the date of the original amending action.

21.9.6 CHANGE IN COMPREHENSIVE PLAN – ADOPTED

At such time as the comprehensive plan may be amended and officially adopted, either as part of the five (5) year review period or during interim periods, the Planning Commission shall prepare recommendations for corresponding amendments to the zoning ordinance, if such amendments are made necessary by the character of amendments or changes in the comprehensive plan.

21.10 SCHEDULE OF REVIEW

For the purposes of providing for orderly growth and reasoned consideration of the potential impact of proposed rezonings, zoning text amendments and special use permits upon the comprehensive plan, the Town Council may establish timing procedures for consideration of rezoning applications.

22.0 BOARD OF ZONING APPEALS

22.1 BOARD OF ZONING APPEALS: APPOINTMENT AND ORGANIZATION

A Board of Zoning Appeals (BZA), consisting of five (5) members, shall be appointed in accordance with the provisions of section 15.2-2308 of the Virginia Code, and shall have such powers and duties as set forth in section 15.2-2309 of the Code.

Within the limits of funds appropriated by the Town Council, the Board of Zoning Appeals may employ or contract for such secretaries, clerks, legal counsel, consultants and other technical and clerical services as the Board of Zoning Appeals may deem necessary for transaction of its business.

Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him, after hearing held after at least fifteen (15) days notice.

The Board of Zoning Appeals shall have the authority to request the opinion, advice or other aid of any officer, employee, board, bureau or commission of the Town within the scope of his/her or its respective competence.

The Board of Zoning Appeals may, from time to time, adopt such rules and regulations consistent with the ordinances of the Town and laws of the Commonwealth as it may deem necessary to carry out the duties imposed by this ordinance. The meetings of the Board shall be held at the call of its chairman or at such times as a quorum of the Board may determine. The Board shall choose annually its own chairman and vice-chairman, who shall act in the absence of the chairman. The chairman, or, in his/her absence, the acting chairman, may administer oaths and compel the attendance of witnesses. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. All records of official actions shall become part of the permanent records of the Board. A quorum shall be a majority of all the members of the Board.

22.2 POWERS AND DUTIES OF THE BOARD OF ZONING APPEALS

The Board of Zoning Appeals shall have the following powers and duties in accordance with section 15.2-2309 of the Virginia Code.

- a. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this ordinance or of any regulation adopted pursuant hereto.
- b. To authorize upon appeal or original application in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest, when owing to special conditions a literal enforcement of the provision will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:
 1. When a property owner can show that his property was acquired in good faith and where, by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this ordinance, or where, by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of this ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by

the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this ordinance.

2. No such variance shall be authorized by the board of zoning appeals unless it finds:
 - (a) that the strict application of this ordinance would produce undue hardship;
 - (b) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
 - (c) that the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
 3. No such variance shall be authorized except after notice and hearing as required by section 15.2-2204 of the Code of Virginia.
 4. No variance shall be authorized unless the Board of Zoning Appeals finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.
 5. In authorizing a variance, the Board of Zoning Appeals may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.
- c. To hear and decide appeals from the decision of the Zoning Administrator.
 - d. To hear and decide applications for interpretation of the zoning map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by section 15.2-2204 of the Code of Virginia, the Board of Zoning Appeals may interpret the map in such way as to carry out the intent and the purpose of this ordinance for the particular section or district in question. The Board of Zoning Appeals shall not have the power, however, to rezone property or substantially to change the locations of district boundaries as established by this ordinance and the zoning map.

22.3 APPEAL TO THE BOARD OF ZONING APPEALS

Appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the Board of Zoning Appeals, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Zoning Appeals that by reason of facts stated in the certificate a stay would in his/her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board of Zoning Appeals or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

22.4 APPLICATION FOR VARIANCES

Application for variances may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the Zoning Administrator in accordance with the provisions of this section and with rules adopted by the Board of Zoning Appeals. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the Board of Zoning Appeals who shall place the matter on the docket to be acted on by the Board of Zoning Appeals. No such variance shall be authorized except after notice and hearing as required by section 15.2-2204 of the Code of Virginia. The Zoning Administrator shall also transmit a copy of the application to the Planning Commission which may send a recommendation to the Board of Zoning Appeals or appear as a party at the hearing.

22.5 PROCEDURE

Appeals and applications for variances shall be filed with the Zoning Administrator, together with a fee as set forth in section 25, *Fees*.

The Board of Zoning Appeals shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof pursuant to section 15.2-2204 of the Code of Virginia, as well as due notice to the parties in interest and decide the same within sixty (60) days. In exercising its powers, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of three (3) members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from this ordinance.

22.6 DECISION OF BOARD OF ZONING APPEALS

Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer, or any officer, department, board or bureau of the Town, may present to the circuit court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the Board of Zoning Appeals, which petition shall proceed in accordance with section 15.2-2314 of the Code of Virginia.