

## ARTICLE IV. PROCEDURE

### **20.0 ADMINISTRATION, ENFORCEMENT AND INTERPRETATION**

#### 20.1 PLANNING COMMISSION

There shall be a Planning Commission as provided for in Title 15.2, Chapter 22, Article 2 of the Code of Virginia.

#### 20.2 BOARD OF ZONING APPEALS

There shall be a Board of Zoning Appeals (BZA) as provided for in Title 15.2, Article 7, of the Code of Virginia. (Reference section 22, *Board of Zoning Appeals*.)

#### 20.3 PERMITS

##### 20.3.1 BUILDING PERMITS REQUIRED; CONFORMANCE

Buildings or structures shall be started, reconstructed, enlarged or altered only after a building permit has been obtained from the Zoning Administrator. No building permit or certificate of occupancy shall be issued in violation of zoning or other local ordinances.

##### 20.3.2 BUILDING PERMITS

The Zoning Administrator shall review each application for a building permit to ensure that the building or structure proposed is in accordance with the terms of this ordinance. No permit shall be issued for any construction for which a site development plan is required to be approved by the Planning Commission in accordance with section 24, *Site Development Plan*, of this ordinance unless and until such plan shall have been so approved. Thereafter, any item shown on such plan as approved shall be deemed *prima facie* in accordance with the terms of this ordinance.

20.3.2.1 Each applicant shall provide a copy of the most recent plat of record of the land to be built upon unless no such plat exists, in which case the applicant shall provide a copy of the most recent deed description thereof.

20.3.2.2 Any other information which the Zoning Administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this ordinance, a permit shall be issued to the applicant by the Zoning Administrator. One (1) copy of the building plan shall be returned to the applicant with the permit.

##### 20.3.3 CERTIFICATES OF OCCUPANCY; ZONING COMPLIANCE CLEARANCE

20.3.3.1 It shall be unlawful to use or permit the use of any building or premises, or part thereof, hereafter created, erected, changed, converted, altered or enlarged, wholly or partly in its use or structure, until a certificate of occupancy shall have been issued therefor by the Zoning Administrator. Such certificate shall show that such building, premises or part thereof, and the proposed use thereof is in conformity with the provisions of this ordinance; provided that where structures are completed and ready for occupancy prior to the completion of all improvements required by the site development plan, and the Zoning Administrator shall determine that the site may be occupied consistently with the public health, safety and welfare, the owner may provide bond with surety adequate to guarantee the completion within a period not to exceed one (1) year of such site development plan improvements as related to the building for which the permit is sought, and upon

the providing of such bond with surety, a permit may be issued for the occupancy of those structures already completed. The Town Council may extend such period of bonding provided hereinabove upon demonstration by the applicant of adverse weather conditions or other extreme circumstance beyond the control of the applicant as opposed to lack of industry or exercise of good faith on behalf of the applicant.

Improvements deemed directly related to health and safety such as fire hydrants and safe and convenient access to public roads shall not be bonded and occupancy shall not be permitted until such improvements have been installed and are operational. The Zoning Administrator is authorized to accept, in place of corporate surety, a letter of credit, joint savings account or other like security.

20.3.3.2 Subsequent to issuance of a certificate of occupancy by the Zoning Administrator as set forth in section 20.3.3.1 hereinabove, it shall be unlawful to use or permit the use of any building or premises in a manner more intensive than described on such issued certificate or to change the use of any building or premises contrary to such issued certificate, until the Zoning Administrator shall issue a zoning compliance clearance for such intensification or change of use. Such clearance shall show that such building, premises or part thereof, and the proposed use thereof is in conformity with the provisions of this ordinance.

20.3.3.3 The provisions of sections 20.3.3.1 and 20.3.3.2 notwithstanding, nothing contained herein shall be deemed to obligate the Zoning Administrator, following review of any building or premises, to issue a certificate of occupancy or zoning compliance clearance in any case in which the Zoning Administrator determines that additional improvements are necessary as precedent to such issuance to protect the public health or safety, whether or not such improvements are shown on the approved site development plan.

#### 20.3.4 SPECIAL USE PERMITS

##### 20.3.4.1 RESERVED TO TOWN COUNCIL

The Town Council hereby reserves unto itself the right to issue all special use permits permitted hereunder. Special use permits for uses as provided in this ordinance may be issued upon a finding by the Town Council that such use will not be of substantial detriment to adjacent property, that the character of the district will not be changed thereby and that such use will be in harmony with the purpose and intent of this ordinance, with the uses permitted by right in the district, with additional regulations provided in section 5, *Supplementary Regulations*, of this ordinance, and with the public health, safety and general welfare.

##### 20.3.4.2 APPLICATION

Application for a special use permit shall be made by the filing thereof by the owner or contract purchaser of the subject property with the Zoning Administrator, together with a fee as set forth in section 25, *Fees*, of this ordinance. No such permit shall be issued unless the Town Council shall have referred the application therefor to the Planning Commission for its recommendations. Failure of the Planning Commission to report within ninety (90) days after the first meeting of the Commission after the application has been referred to the Commission shall be deemed a recommendation of approval. No such permit shall be issued except after notice and hearing as provided by section 15.2-2204 of the Virginia Code. Also, a notification sign shall be posted by the applicant upon the subject property and adjacent to the nearest state highway at the point of access to the subject property for a period of twenty-one (21) days prior to the first public hearing of the Planning Commission.

##### 20.3.4.3 CONDITIONS

The Town Council may impose upon any such permit such conditions relating to the use for which such permit is granted as it may deem necessary in the public interest and may require a bond with surety or other approved security to ensure that the conditions so imposed shall be complied with. Such conditions shall

relate to the purposes of this ordinance, including, but not limited to, the prevention of smoke, dust, noise, traffic congestion, flood and/or other hazardous, deleterious or otherwise undesirable substance or condition; the provision of adequate police and fire protection, transportation, water, sewerage, drainage, recreation, landscaping and/or screening or buffering; the establishment of special requirements relating to the building setbacks, front, side and rear yards, off-street parking, ingress and egress, hours of operation, outside storage of materials, duration and intensity of use, building height and/or other particular aspects of occupancy or use. Except as the Town Council may otherwise specifically provide in a particular case, any condition imposed under the authority of this section shall be deemed to be essential to and nonseverable from the issuance of the permit itself.

#### 20.3.4.4 REVOCATION (Amended 4-17-02)

Any permit issued pursuant to this ordinance may be revoked by the Town Council, after notice and hearing pursuant to section 15.2-2204 of the Virginia Code, for willful noncompliance with this ordinance or any conditions imposed under the authority of this section. In the event that the use, structure or activity for which any such permit is issued shall not be commenced within eighteen (18) months, unless subject to a shorter period in the applicable section of this ordinance, after the issuance of such permit, the same shall be deemed abandoned and the authority granted thereunder shall thereupon terminate. For purposes of this section, the term *commenced* shall be construed to include the commencement of construction of any structure necessary to the use of such permit.

#### 20.3.4.5 REVIEW OF PUBLIC USES FOR COMPLIANCE WITH THE COMPREHENSIVE PLAN

No street, park or other public area, or public structure, or public utility, public building or public service corporation other than railroads, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character and extent thereof has been submitted to and approved by the Planning Commission as being substantially in accord with the adopted comprehensive plan or part thereof. In connection with any such determination, the Commission may establish such conditions of approval as deemed necessary to ensure compliance with the comprehensive plan.

Widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas shall likewise be submitted for approval, but paving, repair, reconstruction, improvement, drainage or similar work and normal service extensions of public utilities or public service corporations shall not require approval unless involving a change in location or extent of a street or public area.

The foregoing notwithstanding, the provisions of section 15.2-2232 of the Virginia Code shall apply to any such review.

#### 20.4 ENFORCEMENT, ZONING ADMINISTRATOR

This ordinance shall be administered and enforced by an officer to be known as the Zoning Administrator who shall be appointed by the Town Council. The Zoning Administrator shall have all necessary authority on behalf of the Town Council to administer and enforce the zoning ordinance, including the ordering in writing of the remedying of any condition found in violation of this ordinance and the bringing of legal action to ensure compliance with this ordinance, including injunction, abatement or other appropriate action or proceeding. The Zoning Administrator is empowered by the Town Council who reserves authority to review and approve all actions related to enforcement of this ordinance. The Council authorizes the Mayor to act on behalf of the Council in reviewing and approving such emergency matters as the Zoning Administrator may be required to carry out by this ordinance if such action is required prior to the next scheduled meeting of the Town Council. The Mayor shall inform the Council at the next regular meeting of the Town Council of all such actions requested and approved.

The Zoning Administrator shall be guided in all of his/her actions pursuant to this ordinance by the purposes, intent and spirit of this ordinance and the standards set forth in sections 1.4 through 1.6 of this ordinance. The Zoning Administrator may be assisted in the enforcement of this ordinance by the local office of the Virginia Department of Health, sheriff and all officials of the Town pursuant to their respective fields.

In addition, the Zoning Administrator shall maintain the zoning map, and such map shall be kept current and shall reflect amendments as soon as practicable after adoption by the Town Council.

#### 20.4.1 ENFORCEMENT OF BOARD OF ZONING APPEALS DECISIONS

It shall be the duty of the Zoning Administrator to see that the decisions of the Board of Zoning Appeals are complied with.

#### 20.4.2 ENFORCEMENT OF MINIMUM REQUIREMENTS

In enforcing the minimum requirements in districts, the Zoning Administrator shall notify by registered mail any person responsible for an alleged violation, stating the reason why it is believed that a violation exists in fact.

#### 20.4.3 INTERPRETATION BY ZONING ADMINISTRATOR

In case of any dispute over the meaning of a word, phrase or sentence, whether defined herein or not, the Zoning Administrator, in consultation with the Town Attorney, is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this ordinance as set forth in section 1, *Authority, Establishment, Purpose and Official Zoning Map*; provided however, that an appeal may be taken from any such determination as provided in section 22.3, *Appeal to the Board of Zoning Appeals*.