

Town Council: Bob Bloxom, Ray Burger, Thelma Gillespie, Joy Marino, Sarah Nock and Maphis Oswald
Mayor: Fletcher Fosque | **Town Manager:** Matt Spuck

Town of Onancock

Planning Commission Meeting

November 16, 2021 at 5:30 p.m.

Agenda

1. Call to order and roll call
2. Consideration and approval of meeting minute from:
 - a. October 19, 2021 meeting
3. Commissioner Business:
 - a. Appoint a new chairperson
 - b. Discuss existing and possible changes to ordinances related to B districts (B1, B2, BW)
 - i. Discuss mixed use
 - ii. Homestay
 - iii. Businesses allowed in district
 - iv. Parking for residential dwellings
 - v. Signage
 - vi. Any other strategic use or restriction
4. Adjourn

Town of Onancock
Planning Commission Meeting
Tuesday
October 19, 2021
5:30 P.M.

Call to Order and Roll Call:

Chairman Judith Grier called the meeting to order at 5:30 P.M.

Commission members Bill Bagwell, Robert Bloxom, Brandon Brockmeier, T. Lee Byrd, Larry Frey, Scott Schreiber and Carol Tunstall were present. A quorum was established.

Town Manager Matt Spuck and Deputy Clerk Mariellen Mearsheimer were present. See Attendance Sheet (attached) for others present at the meeting.

Minutes:

Chairman Grier asked for a motion to approve the September 21, 2021 meeting minutes.

Commission member Bill Bagwell made a motion to approve the September 21, 2021 meeting minutes as presented. Commission member Scott Schreiber seconded the motion. Discussion followed. The motion was approved by unanimous voice vote.

Chairman Grier shared with the Commissioners that she would be resigning from the Planning Commission after this meeting. (See attached letter)

Items of Business:

- a. Brief update on status of Comprehensive Plan Review
Mr. Spuck stated he had asked for comments on the Comprehensive Plan from Town Council members by October 06, 2021 and has not received any comments to date and added that Town Council has the Comprehensive Plan on its' agenda for adoption at the October 25, 2021 meeting.
- b. Review zoning for Pine Street
Mr. Spuck shared with Commission members an Accomack County tax map with highlighted parcels on Pine Street that do not meet setback requirements for Residential 1A (R1A) zoning because of the size of the lots (see attached) and recommended a change from R1A to Residential 1C (R1C) zoning. Discussion followed. Commission member Bloxom stated there was only one lot not developed and asked if the owner of that lot should be asked what he wanted to do about the zoning change. The consensus was that the Planning Commission proceed with the process to possibly change the zoning of these parcels to R1C to align with neighboring properties more closely.
- c. Recommendation to rezone four parcels to Cultural, Recreational and Community Facilities
Town Manager Spuck made a recommendation to the Planning Commission that they rezone the following four parcels to Cultural, Recreational and Community Facilities: the entrance to the new dog park, the dog park, the entrance to town at the corner of Market Street and Fairgrounds Road and the Town property on Parker Street. This change more closely aligns with the current actual use. Discussion followed and the Commission members agreed unanimously to move forward with the process.
- d. Paper road construction standards and requirements

Town Manager Spuck brought to the Commission members the need to discuss paper road construction and standards due to potential development on a paper road at Merry Lane and shared with them the Virginia Department of Transportation's (VDOT) specifications. Discussion followed. It was agreed that the developer of any land on a paper road would need to build the road first and it would have to meet VDOT specifications which would allow the road to be turned over to VDOT at some point in the future.

These specifications are eighteen feet minimum width, tar, and chip with a slurry seal on a compacted base of crusher run. The Town would require a performance bond from the developer to ensure the slurry seal (which does not get installed for two to three years), is completed. Stormwater drainage system to be installed, the design of which shall be reviewed by VDOT before construction begins. No decision was made as to when to put in the ordinance.

- e. Review most recent version of Homestay ordinance – preliminary, for discussion purposes only
Town Manager Spuck presented the most recent version of the Homestay ordinance with a change in verbiage in section h dealing with the number of children allowed under the age of eighteen in a nuclear family and section i dealing with insurance. Discussion followed.

Commission member Byrd made a motion to recommend this version to Town Council for consideration. Commission member Frey seconded the motion. The motion was approved by unanimous voice vote.

Adjourn:

Chairman Grier asked for a motion to adjourn.

Commission member Carol Tunstall made a motion to adjourn. Commission member Brandon Brockmeier seconded the motion. The motion was approved by unanimous voice vote.

The meeting adjourned at 6:10 P.M.

Judith Grier, Chair

Mariellen Mearsheimer, Deputy Clerk

ARTICLE V. - BUSINESS, DOWNTOWN, DISTRICT (B-1)

Sec. 38-148. - Statement of intent.

This district is intended to provide for the conduct of limited business which provide convenience, goods and services to town residents and those people living in close proximity to the town.

(Code 1989, § 24-31; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-149. - Principal permitted uses and structures.

The following uses shall be permitted by right:

- (1) Accessory buildings.
- (2) Professional and business offices.
- (3) Banks and lending institutions.
- (4) Theaters
- (5) Restaurants.
- (6) Signs as permitted under article XI of this chapter.
- (7) Retail service stores, such as, but not limited to, barbershops, beauty parlors and shoe repair shops.
- (8) Stores for retail sales, such as, but not limited to, dry goods, pharmaceuticals, gifts, general merchandise, food and food products of any kind, including production of bakery goods for retail sale in the same establishment, hardware, office supplies and similar retail establishments.
- (9) Public utilities. Poles distribution lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewage facilities. Transmission lines, transmission towers and electrical substations are not deemed necessary facilities under this section.
- (10) Virginia ABC Stores.
- (11) Libraries.
- (12) Exercise gyms.

(Code 1989, § 24-32; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-150. - Special exceptions.

The following uses shall be permitted in the Business, Downtown, District (B-1), subject to all of the other requirements of this chapter, only upon obtaining a special use permit, as defined in article XV of this chapter, from the town council:

- (1) Clubs and lodges.
- (2) Churches.
- (3) Apartments on floors above the ground floor with occupants to use off-street parking.
- (4) Public billiard parlors, poolrooms, dance studios and similar forms of public amusement.

(5) Hotels.

(6) Nightclubs, meaning an establishment that provides live amplified music, karaoke, disc jockeys (DJs), and/or dancing between the hours of 9:00 p.m. and 6:00 a.m.; provided, however, that any special exception issued for this use shall be valid for 365 days only, unless further renewed by the town council for successive terms of 365 days, each.

(7) Open air produce and arts and crafts markets.

(Code 1989, § 24-33; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Amd. of 7-27-1998; Amd. of 2-24-2003; Mo. of 2-22-2010; Ord. No. O-06-2012, § 24-33, 10-22-2012)

Sec. 38-151. - Area regulations.

There are no area regulations for the Business, Downtown, District (B-1).

Sec. 38-152. - Setback regulations.

There are no setback regulations for the Business, Downtown, District (B-1).

Sec. 38-153. - Frontage and yard regulations.

There are no frontage and yard regulations for the Business, Downtown, District (B-1).

Sec. 38-154. - Height regulations.

(a) Buildings may be erected to a height not to exceed 2 ½ stories or 35 feet.

(b) Public utility structures, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, television antennas and radio aerials are exempt. Parapet walls may be to four feet above the height of the building on which the walls rest.

(c) No accessory building may be more than 1 ½ stories in height.

(Code 1989, § 24-37; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Secs. 38-155—38-176. - Reserved.

ARTICLE VI. - BUSINESS, HIGHWAY, DISTRICT (B-2)

Sec. 38-177. - Statement of intent.

It is the intent of this district to provide appropriate locations for a broad range of commercial activities which are characterized by heavy truck and vehicle traffic and occasional nuisance factor and which are highway oriented.

(Code 1989, § 24-38; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-178. - Principal permitted uses and structures.

The following uses and structures shall be permitted by right subject to other provisions herein:

- (1) All permitted uses in the Business, Downtown, District (B-1).
- (2) Supermarkets.
- (3) Churches.
- (4) Automobile service stations, with repairs under cover.
- (5) Wholesale and retail plumbing and electrical supply, with storage under cover.
- (6) Marine sales and service, with repairs under cover.
- (7) Machinery sales and services, with repairs under cover.
- (8) Car washes.
- (9) Funeral homes.
- (10) Hospitals and medical clinics.
- (11) Lumber and building supply, with storage under cover.
- (12) Print shops.
- (13) Signs, as permitted under section 38-183.
- (14) Clubs and lodges.
- (15) Apartments on floors above the ground floor, owner-occupied only, with occupants to use off-street parking. For the purposes of this subsection, the term "owner" means the owner of the premises, the owner of the business located on the premises or an employee of the business located on the premises.
- (16) Exercise gyms.
- (17) Mobile food vendors, meaning businesses who sell food stuffs and/or beverages from a non-fixed location.

(Code 1989, § 24-39; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Ord. No. O-01-2011, 9-26-2011)

Sec. 38-179. - Special exceptions.

The following uses shall be permitted in the Business, Highway, District (B-2), subject to all of the other requirements of this chapter, only upon obtaining a special use permit, as defined in article XV of this chapter, from the town council:

- (1) Public billiard parlors, poolrooms, dance studios, and similar forms of public amusement.
- (2) Inns.
- (3) Nightclubs. For the purpose of this section, the term "nightclub" means an establishment that provides live amplified music, karaoke, disc jockeys (DJs) and/or dancing between the hours of 9:00 p.m. and 6:00 a.m.; provided, however, that any special exception issued for this use shall be valid for 365 days only, unless further renewed by the town council for successive terms of 365 days each.

(Code 1989, § 24-40; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Amd. of 7-27-1998; Amd. of 6-24-2002; Ord. No. O-06-2012, § 24-40, 10-22-2012)

Sec. 38-180. - Setback regulations.

Buildings shall be located 45 feet or more from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived to allow the setback line to be the average setback of the structures fronting on either side.

(Code 1989, § 24-41; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-181. - Frontage and yard regulations.

- (a) For permitted uses the minimum side yard shall be ten feet and off-street parking shall be in accordance with the provisions contained in article XII of this chapter.
- (b) Main buildings shall have a ten-foot rear yard setback
- (c) Accessory buildings shall have a ten-foot rear yard setback

(Code 1989, § 24-42; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Amd. of 1-10-2000)

Sec. 38-182. - Height regulations.

Buildings may be erected up to a height of 35 feet, except that:

- (1) Buildings may be erected to a height of more than 35 feet, provided that both required side yards setbacks are increased one foot for each foot in height by which the building exceeds 35 feet. In no case shall the building height exceed 60 feet.
- (2) Public utility structures, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, television antennas and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- (3) No accessory building shall be more than 1 ½ stories high.

(Code 1989, § 24-43; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Amd. of 1-26-2004; Amd. 3-27-2006)

Sec. 38-183. - Signage regulations.

Up to 100 square feet of signage shall be permitted by right only on the specific premises where the business is located, subject to other applicable provisions of article XI of this chapter. A special use permit shall be required for signage over 100 square feet. The zoning administrator shall be required to approve or disapprove the issuance of such permit.

(Code 1989, § 24-44; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Secs. 38-184—38-204. - Reserved.

ARTICLE VII. - BUSINESS-WATERFRONT DISTRICT (B-W)

Sec. 38-205. - Statement of intent.

Certain types of commercial activities either require waterfront location, or are enhanced by such location. The purpose of this district is to provide a multi-use district allowing compatible and complementary water-dependent businesses. Certain limitations may be imposed to protect residential desirability of adjacent neighborhoods and enhance the town's tidal water resources. As a general rule, uses which do not require waterfront locations are not permitted in the B-W District.

(Code 1989, § 24-45; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-206. - Principal permitted uses and structures.

The following uses and structures shall be permitted by right in the Business-Waterfront District (B-W) subject to the provisions herein:

- (1) Marinas and yacht clubs, and servicing facilities for the same, including boat storage, fueling and repair of watercraft.
- (2) Marine sales and services.
- (3) Retail shops and outlets in seafood; marine related equipment and repairs.
- (4) Facilities for the landing, storage and shipment of seafood and shellfish. Specifically, those activities conducted by local waterman.
- (5) Boat ramps, dock, piers and related facilities.
- (6) Waterborne commerce, including docks and areas for the receipt, temporary storage, trans-shipment and freighting of waterborne commerce.
- (7) Recreational activities primarily conducted on a waterfront provided that such uses shall be contiguous to a waterfront.
- (8) Bulk storage and freighting of petroleum.
- (9) Signs, as permitted in article XI of this chapter.
- (10) Public utilities. Poles, lines, transformers, pipes, meters and similar facilities; water and sewer distribution lines.

(Code 1989, § 24-46; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-207. - Special exceptions.

The following uses shall be permitted in the Business-Waterfront District (B-W), subject to all the other requirements of this chapter, only upon the obtaining of a special use permit from the town council:

- (1) Boat buildings.
- (2) Motels, hotels, inns and bed and breakfast type inns.
- (3) Office buildings.
- (4) Restaurants and soda fountains; restaurants in motels, hotels and inns.
- (5) Gift stores and specialty shops; retail business; gift stores, specialty shops and retail businesses in motels, hotels and inns.
- (6) Residential apartments above stores and offices. This shall exclude condominiums, as defined in the Code of Virginia, title 55, ch. 4.2, to § 55.1-1900.
- (7) Libraries and museums.

(Code 1989, § 24-47; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-208. - Setback regulations.

Structures shall be located five feet or more from any street right-of-way.

(Code 1989, § 24-48; Ord. of 6-5-1962; Ord. of 3-24-1997; Ord. of 7-14-1997)

Sec. 38-209. - Height regulations.

Buildings may be erected up to 35 feet or 2 ½ stories high, except that:

- (1) Accessory buildings shall be limited to 1 ½ stories high.
- (2) Public utility structures, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, residential television antennas and residential radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(Code 1989, § 24-49; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-210. - Supplemental regulations.

- (a) No activity which involves the use or handling of any noxious materials (any materials which are injurious to health upon casual human exposure without protective clothing or other protective equipment), no materials which have an offensive odor, no waste and waste-related material, including materials for recycling and no radioactive materials shall be permitted in this district.
- (b) For permitted uses requiring an inventory of materials for onsite construction or repair, such materials shall be stored under cover.

(Code 1989, § 24-50; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Secs. 38-211—38-228. - Reserved.

ARTICLE XI. - SIGN REGULATIONS

Sec. 38-405. - Statement of purpose.

The following sign regulations are established to ensure compatibility of signs with surrounding land usage, to enhance the economy of the town, to protect the public investment in streets and highways, to promote the safety and recreational value of public travel, to preserve natural beauty and to promote the reasonable, orderly and effective display of outdoor advertising.

(Code 1989, § 24-73; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-406. - Advertising outdoors regulated.

No person except a public officer or employee in performance of a public duty, shall paste, post, paint, print, nail, tack, erect, place, maintain or fasten any sign, pennant, flags, outdoor advertising signs, billboard or notice of any kind, or cause the same to be done, facing or visible from any public street or public open space, except as provided in this article.

(Code 1989, § 24-74; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-407. - Signs and flags permitted by right in the various districts.

(a) The following are signs and flags permitted by right in the various districts:

- (1) Memorial tablets or signs.
- (2) Signs required to be maintained by law or governmental order, rule or regulation, with a total surface area not exceeding ten square feet on any lot or parcel.
- (3) Signs which are within a ball park or other similar private recreational use and which cannot be seen from a public street or adjacent properties.
- (4) Flags or emblems of civic, governmental, philanthropic, educational or religious organizations, and corporate designed flags.
- (5) Signs displayed for the direction or convenience of the public, including signs which identify restrooms, location of public telephones, freight entrances, no trespassing and posted signs or the like not exceeding a total area of eight square feet per sign.
- (6) Signs placed by a public utility showing the location of underground facilities.
- (7) Church bulletin board and identification signs with a total surface area not exceeding 20 square feet per sign.
- (8) Home occupation signs with a total surface area not exceeding four square feet per sign.
- (9) Up to four signs, not to exceed four square feet each, advertising the sale or rent of the specific premises where the sign is located.
- (10) Signs or a combination of letters may be attached to a building or structure, where business is conducted on the premises, for the purpose of advertising and displaying the name, address, and/or a business slogan, of the specific business.
- (11) Signs advertising only the price of a product, provided that the sign is attached to a permanent structure

on the specific premises where the business is located. These signs shall be limited to the B-1, B-2 and B-W districts.

(12) In the B-1 and B-W districts, but not in residential districts, up to 32 square feet of signage shall be permitted by right only on the specific premises where the business is located, subject to other applicable provisions of this article. See B-2, Business District Highway for specific provisions relating to that district.

(b) All signs and supporting structures shall be maintained in good repair.

(Code 1989, § 24-75; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-408. - Determination of sign area.

In measuring the area of signs permitted under these regulations, the entire face of the sign (on one side only) shall be included. Where both sides of the sign contain lettering or other allowable display, one side only shall be used to compute the allowable size of the sign. Where the sign consists of individual raised letters or a sign face of irregular shape, the sign area shall include the area of the smallest rectangle that can encompass the letters or sign face.

(Code 1989, § 24-76; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-409. - Height regulations.

Signs shall not exceed a height of 20 feet above ground level or the street to which it is oriented, whichever is higher. In no case will any sign project above the top of the building to which it is attached.

(Code 1989, § 24-77; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-410. - General regulations.

- (a) Except for authorized traffic signs, no sign shall be erected at the intersection of any streets in such a manner as to create a traffic hazard by obstructing vision between heights of 2 ½ feet and eight feet; or at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign.
- (b) No sign will be erected which imitates or resembles any official traffic sign, signal or device or uses the words "stop" or "danger" prominently displayed or presents or implies the need or requirement of stopping or the existence of danger on any street.
- (c) No sign will be erected which advertises any activities which are illegal under state or federal law or regulations in effect at the location of such sign or at the location of such activities.
- (d) No sign will be erected which is inconsistent with state law or the provisions of this chapter.
- (e) No sign will be erected which involves noise, motion or rotation of any part of the structure or displays intermittent or flashing lights
- (f) No sign will be erected which is mobile. Except for signs attached to buildings or permanent structures and those permitted in section 38-407(9) and (10), all other signs of whatever type or size permitted in this chapter shall be permanently anchored in concrete or permanently attached to piling or posts firmly embedded in the ground. All wheels and other portable structural equipment shall be removed from the structure.
- (g) The bottom of an overhanging sign shall be at least eight feet above the ground.

(Code 1989, § 24-78; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-411. - Nonconforming signs.

Any sign lawfully in existence at the time of the effective date of the ordinance from which this chapter is derived may be maintained although it does not conform with the provisions of this chapter. Such nonconforming signs shall comply in all respects with the requirements of article XIII of this chapter relating to nonconforming uses. If such nonconforming sign is destroyed, demolished, or removed due to any reason, it shall not be replaced without complying with all provisions of this article XI.

(Code 1989, § 24-79; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-412. - Off-premises signs.

Off-premises signs are not permitted in any district except for civic, philanthropic or religious organizations. Off-premises signs shall not exceed three square feet in area.

(Code 1989, § 24-80; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Secs. 38-413—38-437. - Reserved.

ARTICLE XII. - OFF-STREET PARKING

Sec. 38-438. - Statement of intent.

The purpose of off-street parking provisions is to ensure adequate access to any part of the town by fire and emergency medical services, and to promote the economic well-being of the town by creating a pleasant living and shopping climate.

(Code 1989, § 24-81; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-439. - Schedule of off-street parking.

- (a) The schedule provided for in subsection (b) of this section shall control the provisions of parking spaces in various town zoning districts.
- (b) The off-street parking requirements for each district are as follows:
 - (1) R-1: Two parking spaces per dwelling unit.
 - (2) R-2: Two parking spaces per dwelling unit.
 - (3) B-D: One parking space for each 100 square feet of gross floor area or fraction thereof.
 - (4) B-H: One parking space for each 100 square feet of gross floor area or fraction thereof.
 - (5) B-W: One parking space for each 100 square feet of gross floor area or fraction thereof.
- (c) Exceptions in the business districts will be decided by the zoning administrator.

(Code 1989, § 24-82; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-440. - Special exceptions.

The following uses are controlled separately from the district-wide off-street parking regulations required by section 38-438:

- (1) For churches, high schools, college and university auditoriums, and for theaters, general auditoriums, stadiums and other similar places of assembly, at least one parking space for every five fixed seats provided in said building.
- (2) For hospitals, at least one parking space for each two bed capacity, including infants' cribs and children's beds.
- (3) For medical and dental offices, at least ten parking spaces. Three additional parking spaces shall be furnished for each doctor or dentist in such offices in excess of three doctors or dentists.
- (4) For fraternal lodges, hunting clubs, golf courses, yacht clubs country clubs, and marinas, at least 25 parking spaces shall be provided. Additional parking (26 or more) may be required by the zoning administrator.
- (5) Post offices. Parking spaces for post offices, one for each 50 box holders but not less than ten spaces.
- (6) Restaurants. One parking space per table or booth plus six for employees.
- (7) For tourist homes, roominghouses, boardinghouses, bed and breakfasts and motels at least one parking space per accommodation.
- (8) For mortuaries and liquor stores, there shall be provided at least 30 parking spaces.
- (9) Parking space as required in this section shall be on the same lot with the main building; except, that in the case of buildings other than dwellings, spaces may be located as far away as 600 feet.
- (10) Parking of more than two commercial vehicles in residential areas is not permitted.

(Code 1989, § 24-83; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Secs. 38-441—38-453. - Reserved.

ARTICLE XIII. - NONCONFORMING USES

Sec. 38-454. - Continuation.

- (a) If at the time of enactment of this chapter, any legal activity is being pursued, or any lot or structure is being legally utilized in a manner or for the purpose which does not conform to the provisions of this chapter, such manner of use or purpose may be continued as herein provided.
- (b) If any change in title of possession or renewal of a lease of any such lot or structure occurs, the use existing may be continued.
- (c) If any nonconforming use (structure or activity) is discontinued for a period exceeding one years after the enactment of this chapter, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this chapter.
- (d) Temporary seasonal nonconforming uses that have been in continual operation for a period of two years or more prior to the effective date of the ordinance from which this chapter is derived are excluded.
- (e) Uses which were allowed prior to the adoption of the ordinance from which this chapter is derived, as a use

by right which under revisions now require a special use permit, are considered uses of right. However, any new use would require a special use permit. Such permit must be obtained within 60 days of enactment of this chapter.

- (f) In the event of a partial or total casualty loss to structure in which a nonconforming use is ongoing, the structure can be rebuilt and the nonconforming use continued, provided that the reconstruction commence within one year of the casualty loss, and the nonconforming use resume within two years of the casualty loss.

(Code 1989, § 24-84; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Amd. of 1-10-2000)

Sec. 38-455. - Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(Code 1989, § 24-85; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-456. - Expansion or enlargement.

- (a) A nonconforming structure to be extended or enlarged shall conform with the provision of this chapter.

- (b) A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this chapter.

(Code 1989, § 24-86; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Secs. 38-457—38-475. - Reserved.

ARTICLE XV. - SPECIAL USE PERMITS

Sec. 38-496. - Statement of intent.

It is recognized in this chapter that certain uses are not necessarily incompatible with the uses traditionally associated with standard zoning districts, if the proper mitigating conditions are enacted along with the proposed exception. Therefore, such uses have been designated as special exceptions. Such uses are allowed in the associated districts upon the issuance of a special use permit by the town council. Opinions of neighbors are strongly considered by the town council.

(Code 1989, § 24-92; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Amd. of 1-26-2004)

Sec. 38-497. - Procedure.

An application for a special use permit may be submitted by the property owner, contract owner, or optionee of the property affected. Procedures for application and review shall be as follows:

- (1) The applicant shall submit an application to the zoning administrator along with a check made out to the town in the amount as provided for in the fee schedule on file in the town clerk's office. Such application

shall be accompanied by evidence that the specific criteria set forth in this chapter for the special use requested will be met. Accompanying maps showing the siting of the proposed use may be required.

- (2) The zoning administrator shall review the application, visit the site, request additional information or review by other agencies, transmit a copy of collected information to the planning commission and formulate a recommendation to the town council.
- (3) Written notice shall be given at least five days before the public hearing to all abutting property owners and property immediately across the street or road from the property affected by certified mail to the last known address.
- (4) The planning commission may make a recommendation to the town council or appear as a party at the hearing.
- (5) The town council shall hold a public hearing in accordance with Code of Virginia, § 15.2-2204, in order to receive public comment and to decide upon the special use permit application. Such public hearing shall be scheduled to coincide with the regularly scheduled town council meeting that most closely follows the council's receipt of the special use permit application. If the requirement for proper notice for a public hearing makes such regularly scheduled town council meeting impractical, the public hearing shall be scheduled for the town council meeting one meeting hence from the meeting most closely following receipt of the application by the town council.

(Code 1989, § 24-93; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Amd. of 2-9-1998; Amd. of 1-26-2004)

Sec. 38-498. - Conditions and bonds.

- (a) The town council may impose conditions, limitations or other special requirements as it deems necessary to protect the public health, safety, and general welfare, such as, but not limited to, the following:
 - (1) Abatement or restriction of noise, smoke, dust, vibration, odors, wastes or other elements that may affect surrounding properties.
 - (2) Establishment of setback, side, front and rear are requirements necessary for orderly expansion and for preventing traffic congestion.
 - (3) Provision for adequate parking and ingress and egress to public streets and roads necessary preventing traffic congestion.
 - (4) Provision for adjoining property with a buffer or shield from view of the proposed use and/or structure.
 - (5) Establishment of a time limit for expiration after which the permit shall no longer be valid or shall require renewal.
- (b) The town council may require a bond, in a reasonable amount determined by the council, to be payable to the zoning administrator to ensure compliance with the terms and conditions of any special use permit.
- (c) After due consideration, the town council shall make a decision and promptly notify the applicant of its decision in writing, along with a justification for denial or special conditions.

(Code 1989, § 24-94; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Sec. 38-499. - Review standards.

The zoning administrator, planning commission, and town council shall consider the following in reviewing a special use application:

- (1) The proposed use and/or structure appears on the official schedule of district regulations or elsewhere in the town plan.
- (2) The proposed use and/or structure complies with the regulations governing individual special uses.
- (3) The proposed use and/or structure is consistent with the town plan.
- (4) The proposed use and/or structure will not tend to change the character and established pattern of development of the district in which it will be located.
- (5) The proposed use and/or structure, and accompanying parcel development, are in harmony with the uses permitted by right in the zoning district and with the intent of the zoning district regulations and will not adversely affect the use of neighboring property or impair the value thereof.
- (6) Consideration of neighbor's opinions or concerns.

(Code 1989, § 24-95; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Ord. of 1-26-2004)

Sec. 38-500. - Effect of approval.

The issuance of a special use permit shall authorize the applicant to construct only such structure or conduct only such uses as are specifically made part of the special use permit. No deviations, expansion, or other changes whatsoever shall be made from the term of the special use permit without the express written consent of the town council.

(Code 1989, § 24-96; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

Secs. 38-501—38-523. - Reserved.