

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

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**Planning Commission**

**April 4, 2022**

**5:30PM Council Chambers**

**Agenda**

- 1) Call to Order
- 2) Attendance/ Establish Quorum
- 3) Review meeting minutes from March 7, 2021, meeting
- 4) Review March through June discussion topics.

The purpose of laying out the next few months topics is to allow Commissioners time to adequately read and ask technical questions about the content before the meeting. The discussions should result in a recommendation to Town Council for changes (or not) to these ordinances that move the town forward toward the Comprehensive Plan and a clear vision of Onancock's future.

- (a) March: Zoning General ~ Article I, Article XVIII, Article XV, and §38-499
- (b) April: B1 – Business Downtown District
- (c) May: B2 – Business Highway District
- (d) June: Chapter 32 - Subdivisions
- 5) Chapter 34 – Utilities

Over the next few months, changes in Chapter 34 will be necessary to update for the new structure with HRSD.

- 6) Commissioner requests for future agenda items
- 7) Adjourn

**Town of Onancock  
Planning Commission Meeting  
Monday, March 7<sup>th</sup>, 2022  
5:30 PM**

**1) Call to Order and Roll**

Chairperson Schreiber called the meeting to order at 5:30 PM.

Chairperson Schreiber, Commissioner Brockmeier, Commissioner Byrd, Commissioner Frey, Commissioner Tunstall were present. Commissioner Fosque was present via Zoom.

A quorum was established.

Town Manager Matt Spuck and Town Clerk Debbie Caton were present.

**2) Minutes**

Chairperson Schreiber asked for a motion to approve November 16, 2021 minutes as presented.

Commissioner Byrd made a motion to approve. Commissioner Brockmeier seconded the motion. The motion was approved by 6-0 vote.

**3) Special Use Permit (Homestay) applications**

Upon approval by Town Council of the Homestay ordinance on February 27, 2022, (3) applications were submitted for review. Matt Spuck expressed his concerns over phone calls from citizens applying for applications to preclude their neighbors from applying.

- a) Suzanne Johnson – 49 King St. – wants to renovate the upstairs into 3 small apartments to help with family members of long-term hospital stays. Commissioner Fosque noted short term rentals are only zoned for R1. 49 Market St is zoned B1. The Commissioner agreed to table the discussion to research if B1 allowed by right and if a special use permit is required. Matt Spuck to discuss with applicant.
- b) George & Linda Phillips – 3 White St – Commissioner Tunstall motioned for approval. Commissioner Frey seconded. Vote was to recommend council to consider application.
- c) Susan McGuire – 12 Joynes St – Chairperson Schreiber motioned for approval. Commissioner Byrd seconded. Vote was to recommend council to consider application.

**4) Conceptual conversations:**

- a) Performance venue at School – the facility will present issues with the structure being in RPA. Zoning may need to approve and present a proper mitigation plan. Current code only allows for mitigation plan with a hardship. Accessory structures can not have exemptions. The recommendation to relocate the structure will be discussed with Rick, Ray and HOS.
- b) Master plan – Matt Spuck will ask for up to \$100,000 in unappropriated funds to develop a master plan.
- c) 120 Market St – zoning request from B-2 to R2. Owner wants to renovate the building from business use into apartments. Commissioner Fosque expressed concerns that the Town cannot spot zone. The property owner may request change to ordinance 38.178 to include apartments by right in B2.
- d) Hookah Lounge – wait for applicant to apply. No exceptions as this type of business falls under special exemption 38.179.

Meeting adjourned at 7:16 PM

## **ARTICLE I. IN GENERAL**

### **Sec. 38-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory use or structure* means a subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building.

*Acreage* means a parcel of land, regardless of area, described by metes and bounds which is not numbered lot on any recorded subdivision plat.

*Administrator*, means the official charged with the enforcement of this chapter. He may be any appointed or elected official who is, by formal resolution, designated to the position by the town council. He may serve with or without compensation as determined by the town council.

*Agriculture* means the tilling of the soil, the raising of crops, horticulture, forestry and gardening, including the keeping of animals and fowl, and including any agricultural industry or business, such as fruit packing plants, dairies, or similar uses.

*Alteration* means any change in the total floor area, use, adaptability or external appearance of an existing structure.

*Antenna* means any apparatus designed for telephonic, data, radio or television communications through the sending and/or receiving of radio frequency waves.

*Apartment* means one or more rooms designed for living and sleeping purposes by a family and having at least one kitchen and one bathroom.

*Apartment house* means a building used or intended to be used as the residence of three or more families living independently of each other.

*Attached structure* means a structure which is otherwise complete in itself and depends for structural support or complete enclosure upon a division wall and roofline shared in common with an adjacent structure, such that such attachment is not able to be removed without significant damage to either or both structures. Typically, an attached structure should open directly unto the rest of the dwelling via a doorway such that entry between structures is made without going outside.

*Automobile graveyard* means any lot or place which is exposed to the weather upon which more than five motor vehicles of any kind, incapable of being operated, and which is would not be economically practical to make operative, are placed, located or found.

*Basement* means a story having part but not more than one-half of its height below grade.

*Bed and breakfast house* means a dwelling where lodging and breakfast is provided for compensation for up to five guest rooms (in contradistinction to hotels, boardinghouses and tourist homes) and open to transients. One person may be hired to assist in the operation of the establishment.

*Boardinghouse* means a building where, for compensation, lodging and meals are provided for up to 14 persons.

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*Building* means any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattels.

*Building, accessory*, means a subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for residential purposes, unless it meets the definition of an attached structure as defined in this section. For the purposes of this definition, the term "residential purposes" means designed for living and sleeping purposes and having at least one kitchen and one bathroom. Garages or other accessory structures, such as carports, porches, and stoops attached to the main building, shall be considered as part of the main building.

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

*Building, main*, means the principal structure or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

*Cellar* means a story having more than one-half of its height below grade and which may not be occupied as a single-family dwelling.

*Commission* means the planning commission of the town.

*Condominium* means ownership of single units in multiple unit structure or complex.

*District* means the same as that term is defined in Code of Virginia, § 15.2-2280.

*Dwelling* means any structure which is designed for use for residential purposes, except hotels, boardinghouses, tourist cabins, apartments, automobile trailers, mobile homes and manufactured homes.

*Dwelling, garden style*, means a structure arranged or designed to be occupied by three or four families, the structure having three or four attached dwelling units sharing a common landscaped garden entryway and grounds.

*Dwelling, multifamily*, means a structure arranged or designed to be occupied by five or more families, the structure having five or more attached dwelling units.

*Dwelling, single-family*, means a structure arranged or designed to be occupied by one family, the structure having only one dwelling unit. The term "single-family dwelling" excludes the term "manufactured home," as defined in this section.

*Dwelling, townhouse*, means one of a series of from three to eight attached single-family dwelling units, under single or multiple ownership, separated by continuous vertical firewalls without openings from basement floor to roof. A townhouse dwelling may have diversified architectural facades, rooflines, and/or treatment of materials and may have varied front and rear setbacks.

*Dwelling, two-family*, means a structure arranged or designed to be occupied by two families, with the structure having only two dwelling units.

*Dwelling unit* means one or more rooms in a dwelling designed for living or sleeping purposes, and having at least one kitchen and one bathroom.

*Family* means:

- (1) An individual living alone in a dwelling unit;
- (2) Any of the following groups of persons, living together and sharing living areas in a dwelling unit;
- (3) Two or more persons related by blood, marriage, adoption, or approved foster care;

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- (4) A group of not more than four persons (including servants) who need not be related by blood, marriage, adoption or approved foster care;
  - (5) A group of not more than eight mentally ill, mentally retarded or developmentally disabled persons residing with one or more resident counselors or other staff persons and licensed by the department of mental health, mental retardation and substance abuse services, provided that mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia, § 54.1-3401.
  - (6) A group of not more than two adults, who need not be related by blood or marriage, and the dependent children of each of the two adults, provided that the children are under the age of 19 years or are physically or developmentally disabled.

*Fence* means a barrier, intended to prevent escape or intrusion or to mark a boundary, especially such a barrier made of posts and wire or boards. For the purposes of this chapter, a fence shall not be construed as a structure.

*Frontage* means the minimum width of a lot measured from one side lot line to the other along a straight line on which no point shall be further away from the street upon which the lot fronts than the building setback line as defined and required herein.

*Garage, private*, means an accessory building designed or used for the storage of automobiles owned and used by the occupants of the building to which it is accessory.

*Garage, public*, means a building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor-driven vehicles.

*Guest room* means a room which is intended, arranged, or designed to be occupied, or which is occupied, by one or more guests paying direct or indirect compensation therefor, but in which no provision is made for cooking. Dormitories are excluded.

*Historical area* means an area indicated on the zoning map to which the provisions of this chapter apply for protection of a historical heritage.

*Home garden* means a garden in a residential district for the production of vegetables, fruits and flowers generally for use and/or consumption by the occupants of the premises.

*Home occupation* means any occupation or profession carried on in a dwelling unit or accessory building in accordance with the article III of this chapter.

*Hospital* means an institution rendering medical, surgical, obstetrical or convalescent care, including nursing homes, homes for the aged and sanatoriums, but in all cases excluding institutions primarily for mental patients, epileptics, alcoholics, or drug addicts. Certain nursing homes and homes for the aged may be home occupations if they comply with the definition herein.

*Hotel* means a building containing six or more bedrooms designed or occupied as a temporary abiding place open to the public, where for compensation, transient persons are lodged, with or without meals, but in which no provision is made for cooking in individual rooms or suites.

*Inns* means to allow for the renting of rooms to transients.

*Junk yard* means an establishment or place of business, which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

*Kennel* means any place in which more than three dogs, more than six months of age are kept, or any number of dogs are kept for the purpose of sale or rental or in connection with boarding, care, or breeding, for which any fee is charged.

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*Lot* means a parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width, and lot areas as are required by this chapter, and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

*Lot, corner*, means a lot abutting on two or more streets at their intersection. Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets.

*Lot, depth of*, means the average horizontal distance between the front and rear lot lines.

*Lot, double frontage*, means an interior lot having frontage on two streets.

*Lot, interior*, means any lot other than a corner lot.

*Lot of record* means a lot which has been recorded in the clerk's office of the circuit court.

*Lot, width*, means the width of any lot at the setback line, calculated by measuring back a uniform distance from the street line. The setback line shall also curve or angle uniformly with the street line and the lot width shall be calculated along the said curve or angle setback line.

*Manufacture and/or manufacturing* means the processing and/or converting of raw, unfinished materials, or products, or either of them, into articles or substances of different character, or for use for a different purpose.

*Manufactured home* means a structure subject to federal regulation, which is:

- (1) Is transportable in one or more sections;
- (2) Is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on the site; is built on a permanent chassis;
- (3) Is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and
- (4) Includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

*Mobile home, automobile trailer or tent* means any vehicle, tent or similar easily moveable or portable structure, supported on wheels, jacks, skids or skirting, or on any other type of foundation, and so designed or constructed as to permit occupancy for dwelling or sleeping purposes, but does not include manufactured homes as that term is defined in this section and the Code of Virginia.

*Mobile home park or subdivision* means any area of ten acres or more designed to accommodate 50 or more mobile homes intended for residential use where residence is in mobile homes exclusively.

*Motor home* means fully self-contained unit which is built on a truck or bus chassis and designed as temporary living accommodations for recreation, camping, and travel use.

*Nonconforming activity or use* means the otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of the ordinance from which this chapter is derived or as a result of subsequent amendments to this chapter.

*Nonconforming lot* means an otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located, either at the effective date of the ordinance from which this chapter is derived or as a result of subsequent amendments to this chapter.

*Nonconforming structure* means an otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this chapter, or is designed or intended for a use that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of the ordinance from which this chapter is derived or as a result of subsequent amendments to this chapter.

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*Noxious materials* mean any materials which are injurious to health upon casual human exposure without protective clothing or other protective equipment.

*Parking space* means an area with an all-weather surface, enclosed or unenclosed, sufficient in size to store one automobile together with a surfaced driveway connecting the parking space with a street or alley and permitting ingress or egress by an automobile. The surface material may be gravel, shell, or any other similar material, or asphalt.

*Parking area, off-street*, means parking space provided for vehicles outside the dedicated street right-of-way.

*Principal use or structure* means the main use of a lot or structure as distinguished from a secondary or accessory use on the same lot.

*Public water and sewer systems* means a water or sewer system owned and operated by the town or owned and operated by a private individual or a corporation approved by the town council and properly licensed by the state corporation commission, and subject to special regulations as herein set forth.

*Recreational vehicle* means vehicular-type structure designed as temporary living accommodations for recreation, camping, and travel use. There are four basic types of recreational vehicles, including travel trailers, motor homes, truck campers and camping trailers.

*Required open space* means any space required in any front, side, or rear yard.

*Restaurant* means any building in which, for compensation, food or beverages are dispensed for consumption on the premises including, among other establishments, cafes, tea rooms, confectionery shops, or refreshment stands.

*Retail stores and shops* mean buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards) such as the following which serve as illustration: drug store, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and electronics store, tailor shop, barbershop and beauty shop.

*Roominghouse* means a building where, for compensation, lodging, but not meals, is provided for up to 14 persons.

*Setback* means the minimum distance by which any building or structure must be separated from the front lot line.

*Sign* means any display of any letters, words, numerals, figures, device, emblems, pictures, or any parts of combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, where such display be made on, attached to, or as a part of a structure, surface, or any other thing including, but not limited to, the ground, any rock, tree or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is made.

*Sign structure* means and includes the supports, uprights, bracing, and framework of any structure, be it single-faced, double-faced, V-type, or otherwise exhibiting a sign.

*Sign, temporary*, means a sign applying to a seasonal or other brief activity, such as, but not limited to, real estate, summer camps, horse shows, auctions, or sale of land. Temporary signs shall conform in size and type to directional signs.

*Special exception* means a use of land authorized by a special use permit issued by the town council as a legislative action pursuant to Code of Virginia, § 15.2-2286A3. The term "special exception" includes the terms "special use" or "special use permit."

*Spot zoning* means a form of discriminatory zoning whose sole purpose is to serve the private interests of one or more landowners instead of furthering the welfare of the entire community as part of an overall zoning

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plan. Although changing the zoning classification of any parcel of land to permit a more intensive use could possibly constitute spot zoning, the test lies in its relationship to the existing zoning pattern and guidelines of the local comprehensive plan. Spot zoning is based on the arbitrary and inappropriate nature of a rezoning change rather than, as is commonly believed, in the size of the area being rezoned.

*Store.* See *Retail stores and shops.*

*Story* means that portion of a building, other than the cellar or basement, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, the space between the floor and the ceiling next above it.

*Street, road,* means a public thoroughfare which affords principal means of access to abutting property.

*Street line* means the dividing line between a street or road right-of-way and the contiguous property.

*Structure* means anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. The term "structure" includes, among other things, dwellings, buildings, signs, etc.

*Tourist court, auto court, motel, cabin or motor lodge* means one or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

*Tourist home* means a dwelling where only lodging is provided or compensation for up to 14 persons (in contradistinction to hotels and boardinghouses) and open to transients.

*Tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term "tower" includes, but is not limited to, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone and wireless communication towers and alternative tower structures.

*Travel trailer* means a vehicular structure mounted on wheels which is designed as temporary living accommodations for recreation, camping, and travel use and can be easily towed by automobile or small truck and does not require special highway movement permits.

*Truck camper* means a portable structure designed to be loaded onto or affixed to the bed or chassis of a truck, and designed to be used as temporary living accommodations for recreation, camping and travel use.

*Use, accessory,* means a subordinate use customarily incidental to and located upon the same lot occupied by the main use.

*Variance* means a reasonable deviation from those provisions regulating the size or area of a lot or parcel of land or the size, area, bulk, or location of a building or structure when the strict application of this chapter would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided that such variance is not contrary to the intended spirit and purpose of this chapter, and would result in substantial justice being done.

*Waste, waste-related materials* means any refuse, rubbish, trash, by-products from any mechanical, construction, health or energy producing process, and materials or products for recycling.

*Waterborne commerce* means any activity that involves the transshipment of goods and commodities by water.

*Wireless communication facility (WCF)* means any unstaffed facility for the transmission and/or reception of wireless communications services, usually consisting of antennas, transmission cables, equipment facilities and a support structure or tower.

*Yard* means an open space on a lot other than a courtyard unoccupied and unobstructed from the ground upward, except as otherwise provided in this section.



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*Front yard* means an open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line and extending across the full width of the lot.

*Rear yard* means an open, unoccupied space on the same lot as a building, between the rear line of the building (excluding steps) and the rear line of the lot, and extending the full width of the lot.

*Sideward* means an open, unoccupied space on the same lot as a building, between the sideline of the building (excluding steps) and the sideline of the lot, and extending from the front yard line to the rear yard line.

(Code 1989, § 24-1; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Ord. of 7-14-1997; Ord. of 2-9-1998; Ord. of 1-10-2000; Ord. of 6-24-2002; Ord. of 4-28-2003; Ord. No. O-01-2012, § 24-1, 8-28-2012; Ord. of 7-26-2018(1), § 24-1; Ord. of 4-22-2019)

### **Sec. 38-2. Purpose and authority to zone.**

- (a) Whereas, by act of the state general assembly as provided in Code of Virginia, title 15.2, ch. 22, art. 7 (Code of Virginia, §§ 15.2-2280 through 15.2-2316), the governing body of any county or municipality may, by ordinance, divide the territory under its jurisdiction into districts of such number, shape and area as it may deem best suited to carry out the purposes of this chapter, and in each district it may regulate, restrict, permit, prohibit and determine the following:
- (1) The use of land, buildings, structures, and other premises for agricultural, commercial, industrial, residential and other specific uses;
  - (2) The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing or removal of structures;
  - (3) The areas and dimensions of land, water, and air space to be occupied by buildings, structures and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used;
  - (4) The excavation of mining or soil or other natural resources.
- (b) This chapter is aped as the zoning ordinance of the town, together with the accompanying map council, for the purpose of promoting the health, safety, and general welfare of the public and to accomplish the objectives of Code of Virginia, § 15.2-2200. This chapter has been designed:
- (1) To provide for adequate light, air, convenience of access, and safety from fire, flood, and other dangers;
  - (2) To reduce or prevent congestion in the public streets;
  - (3) To facilitate the creation of a convenient, attractive and harmonious community;
  - (4) To expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
  - (5) To protect against destruction of or encroachment upon historic areas;
  - (6) To protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation or loss of life, health, or property from fire, flood, panic or other dangers;

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- (7) To encourage economic development activities that provide desirable employment and enlarge the tax base;
  - (8) To be in accord with and to implement the goals, objectives and policies set forth in the town plan, as adopted by the town council.

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

### **Sec. 38-3. Standard fee.**

All applications for relief under this chapter which require an advertised public hearing before being considered or granted shall be accompanied by a fee in the amount as provided for in the fee schedule on file in the town clerk's office at the time of filing, and any portions of this chapter which are in conflict with this standard fee are, to the extent of such conflict only, repealed

(Code 1989, § 24-3; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Ord. of 7-14-1997; Ord. No. O-05-2012, 10-22-2012)

### **Sec. 38-4. Chapter sets minimum standards.**

Whenever the standards set forth in this chapter are at variance with the requirements of any other lawfully adopted statutes, rules, regulations, deed restrictions, covenants or ordinances, the most restrictive, or that imposing the highest standards shall govern.

(Code 1989, § 24-4; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Ord. of 7-14-1997)

### **Sec. 38-5. Town liability.**

The zoning of any land and the granting of any permit or certificate for the use of land and/or structure shall not be interpreted as a guarantee by the town of the suitability of such land or structure for developing or use.

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

### **Sec. 38-6. Nonexclusionary intent.**

It is not the intent of this chapter to exclude any economic, racial, religious or ethnic group from enjoyment or residence, landownership or tenancy within the town, nor is it the intent of this chapter to use public powers in any way to promote the separation of economic racial, religious, or ethnic groups except as may be the incidental result of meeting the purpose outlined in section 38-2.

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

### **Sec. 38-7. Provisions for official zoning map.**

The boundaries of the zoning districts are shown on the official zoning map of the town adopted by reference as though fully included in this section, together with all of the following notations and amendments:

- (1) *Changes or amendments.*
  - a. If, in accordance with the provisions of this chapter, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official

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zoning map promptly after the change has been approved by the town council, or no more than 30 days after approval. Such changes shall be attested by the initials of the zoning administrator and the date of entry. A paper copy of such map shall be maintained in the office of the zoning administrator and/or the town hall.

- b. Changes to this chapter which involve matters portrayed on the official zoning map shall become effective immediately upon being entered onto the official zoning map or matter shown thereon except in conformity with the procedure set forth in this chapter. Any unauthorized change of whatever kind by any person shall be considered a violation of this chapter and punishable as provided under section 1-14.
- (2) *Replacement.* In the event that any or all of the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the town council may by resolution adopt a new official zoning map. The new official zoning map may correct drafting or other errors, or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be attested by the signature of the mayor and shall be witnessed. Unless the prior official zoning map or maps have been lost or totally destroyed, the prior maps or any significant parts thereof remaining shall be preserved, together with all available records pertaining to the adoption and amendment, if any, of the prior maps.
- (3) *Application and interpretation of district boundaries.* Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:
- a. Unless otherwise indicated, district boundaries indicated as approximately following the centerlines of existing or proposed roads, streets, highways, alleys, or railroads; mean low water or centerlines, as indicated, of streams, ponds, drainage ditches or other natural and manmade bodies of water; property lines; or civil boundaries shall be construed to follow such lines.
  - b. Boundaries indicated as parallel to or extensions of features indicated in subsection (3)a of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
  - c. If no distance, angle, curvature description, or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the size of the scale shown on the official zoning map.
  - d. Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter and upon request of property owner or property agent, the board of zoning appeals shall hear and decide the exact location of the district line.
  - e. Where the exact location of district boundaries is not clear after application of the rules presented, the board of zoning appeals shall hear and decide such questions.

(Code 1989, § 24-8; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Ord. of 7-14-1997)

### **Sec. 38-8. Application of district regulations.**

The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

- (1) No building or land shall hereinafter be used or occupied, and no building or part thereof shall be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located or is to be located.

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- (2) No building shall hereinafter be erected, constructed or altered so as to exceed height or bulk limits, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower to smaller rear yards, front yards, side yards or other open spaces than herein required.
  - (3) No new yard or lot shall hereinafter be created nor shall any yard or lot existing at the time of enactment of this chapter be altered so that width, depth, or area requirements; front, side or rear requirements; or other requirements of this immediately are not maintained, except when a portion of a lot is acquired for public use.
  - (4) Nothing contained herein shall require any changes in the plans or construction of any building for which a building permit was granted prior to the effective date of the ordinance from which this chapter is derived. However, if such construction does not commence within six months or less after this immediately becomes effective, construction shall be in conformity with the provisions of this chapter for the district in which the activity is located.

(Code 1989, § 24-9; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Ord. of 7-14-1997)

### **Sec. 38-9. Zoning permits/certificates of occupancy.**

Land may be used or occupied, and buildings structurally altered or erected may be used or changed in use, only after a zoning permit has been issued by the zoning administrator. Such a permit shall state that the building or the proposed use, or the use of the land, complies with the provisions of this chapter. A similar certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use. A certificate of occupancy shall be applied for simultaneously with the application for a zoning permit. The certification of occupancy shall be issued within ten days after the erection or structural alteration of such building or part has conformed with the provisions of this chapter.

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

### **Sec. 38-10. Uses not provided for in district regulations.**

If, in any district established under this chapter, a use is not specifically permitted, and an application is made by a property owner to the administrator for such use, the administrator shall refer the application to the planning commission, which shall make its recommendations to the town council within 30 days. If the recommendation of the planning commission is adopted by the town council, this chapter shall be amended to permit the use thenceforth.

(Code 1989, § 24-11; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Ord. of 7-14-1997)

### **Sec. 38-11. Newly annexed areas.**

Newly annexed portions of the town shall be zoned or rezoned immediately to the residential R1-A classification until the town planning commission and town council have had an opportunity to conduct appropriate studies for a period not to exceed six months and take the steps necessary to place the land in the most suitable category.

(Code 1989, § 24-12; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Ord. of 7-14-1997)

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**Sec. 38-12. Application requirements.**

- (a) Prior to the initiation of an application by the owner of real property within the town by the owner, the owner's agent or any entity in which the owner holds an ownership interest greater than 50 percent whether such application is for a special exception, special use permit, variance, rezoning or for clearance to obtain a build permit from the county, the zoning administrator shall, on behalf of the council, require the applicant to produce satisfactory evidence that any delinquent town real estate taxes or any other town charges which constitute a lien against the subject property, including, but not limited to, liens for unpaid water and/or sewer charges, have been paid in full.
- (b) Prior to the initiation of an application by the owner of real property within the town, whether such application is for a special exception, special use permit, variance, amendment to this chapter or for clearance to obtain a build permit from the county, the zoning administrator shall, on behalf of the council, the planning commission or the board of zoning appeals, require the applicant to make complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders officers, directors, and, in any case, the names and addresses of the real parties of interest. However, this requirement shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 stockholders.

(Ord. No. O-01-2012, § 14-12.1, 8-27-2012)

**Secs. 38-13—38-42. Reserved.**

## **ARTICLE XVIII. ZONING GUIDELINES**

### **Sec. 38-574. Statement of intent.**

In the process of considering the rezoning of land it is the intent that in order to meet the test of reasonableness and the test of like land treated alike, the following factors shall be considered before zoning of a particular category:

- (1) Character of the area.
- (2) Land use and activities.
- (3) Suitability for proposed use.
- (4) Availability of public facilities.
- (5) Compliance with the town comprehensive plan.

(Code 1989, § 24-106; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997)

### **Sec. 38-575. General.**

- (a) *Supplemental considerations and regulations.* Rapid development and employment of residential and commercial facilities in the town and the resulting impact on existing public facilities, highways and other necessary public facilities and services and natural resources could exceed the ability of the town to provide for such facilities. Therefore, under authority of article XV of this chapter and Code of Virginia, § 15.2-2286, as amended, the town council may impose conditions, including reasonable use limitations, to ease the effect of rezoning land on the general public and on the natural resources of the town.
- (b) *Conditions.* In addition to the regulations provided for the respective zoning districts, the town council may adopt as a part of an amendment to the zoning map reasonable conditions, provided that said conditions shall have been proffered in writing in advance to the public hearing on said amendment to the zoning map by the applicant for rezoning and provided that said conditions are accepted by the town council as a condition to said amendment of the zoning map. Such accepted conditions shall be recorded in the records of the circuit court and run with the land until changed as a result of another rezoning approval or amended with the approval of the landowners and town council.

(Code 1989, § 24-107; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Amd. of 2-9-1998)

### **Sec. 38-576. Conditional zoning procedure.**

- (a) Upon the receipt by the zoning administrator of a rezoning petition, it shall be reviewed by the zoning administrator in accordance with the guidelines found in this article. The zoning administrator shall prepare a report for presentation to the planning commission.
- (b) The planning commission, within 30 days of receiving the zoning administrator's report, shall consider the zoning administrator's recommendations and discuss same with the applicant. The applicant shall be advised of the possibility of proffered conditions in a rezoning decision, which conditions are not meant to change

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the character of a fundamentally unsound rezoning, but are meant to be responsive to town growth pressures not specifically foreseen in the existing district regulations.

- (c) The planning commission shall forward the report of the zoning administrator, along with a report summarizing the content of the planning commission public hearing, to the town council.
- (d) After the town council has received the reports from the zoning administrator and the planning commission, the applicant for the rezoning under consideration may proffer a set of conditions for consideration along with the rezoning. Such a proffer shall be addressed to the mayor of the town.
- (e) The town council shall hold a public hearing on the requested rezoning in accordance with Code of Virginia, § 15.2-2204, as amended. The rezoning request and the proffered condition shall be considered at this time.
- (f) In the event that a request for rezoning is approved and the proffered conditions accepted, these same conditions shall be recorded in the clerk of circuit court office as a lien on such property involved in the rezoning petition and shall run with the land until removed by the town council as a result of an amendment to the original application or as a result of a subsequent rezoning petition.

(Code 1989, § 24-108; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Amd. of 7-14-1997; Amd. of 2-9-1998)

**Secs. 38-577—38-600. 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)



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### **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 this chapter.
- (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.

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(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.**

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**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 this chapter.
- (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)

## **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.

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- (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)

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### **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)

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**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.**