

Article II – Administration

CHAPTER 70 – ZONING

DIVISION 1. – GENERALLY

Sec. 70-36. – Authority.

(a) The authority of the zoning administrator shall be vested in the position of Planning Director unless otherwise appointed by the County Administrator. The zoning administrator shall have all necessary authority on behalf of the board of supervisors to administer and enforce the provisions of this chapter, including, but not limited to:

- 1) Interpreting this chapter and the county's zoning maps and zoning district boundaries;
- 2) Making determinations and decisions on matters arising from or related to the provisions of this chapter;
- 3) Ordering in writing the correction of any violation of this chapter and taking all necessary steps, including bringing legal action, to ensure compliance;
- 4) Administering and enforcing all conditions placed on any approved special use permit or special exception; and
- 5) Administering and enforcing proffers accepted as part of any approved conditional zoning application.

(b) The zoning administrator may appoint other staff members to act on his/her behalf in order to assist with the administration of his/her duties.

(c) The specific authority expressly granted to the zoning administrator in other sections of this chapter shall not be

construed to be a limitation on the authority of the zoning administrator to administer and enforce those sections where specific authority is not expressed.

(Ord. of May 10, 2016)

Sec. 70-37. – Violations.

(a) All departments, officials or public employees of the county vested with the duty or authority to issue permits or licenses shall perform their duties in accordance with the provisions of this chapter. They shall issue permits for uses or buildings only when such permits conform to the provisions of this chapter. Any permits issued in conflict with the provisions of this chapter shall be null and void, unless a vested rights claim is substantiated in accordance with applicable provisions of the Code of Virginia. In such cases, the established use(s) and/or building(s) shall be considered a lawful nonconformity in accordance with Article III of this chapter.

(b) Upon receipt of a complaint pertaining to any alleged violation of this chapter, the zoning administrator or his/her appointee shall first verify the legitimacy of the complaint and then serve a written notice of violation to the person committing or permitting the violation(s). The notice shall specify the violation, necessary actions by which to abate the violation, a reasonable timeframe by which the abatement is to be completed, and any right-of-appeal notice required by the Code of Virginia. Should the violation(s) not be abated by the offending party within the timeframe specified by the zoning administrator or his/her designee, then the zoning administrator shall initiate such action as necessary to abate or remedy the violation(s).

(c) Any person to whom a notice of violation has been issued may file with the board of zoning appeals an application for

administrative appeal pursuant to Sec. 70-68 of this chapter. In such cases, enforcement action shall continue only after the board of zoning appeals reaches a decision to deny the appeal. The determination of a violation shall be final and unappealable if not appealed within thirty (30) days of the date of the notice of violation, pursuant to § 15.2-2311 of the Code of Virginia.

(Ord. of May 10, 2016)

Sec. 70-38 – Violation of provision of Zoning Ordinance; notice of violation.

A. Any person, whether the owner, lessee, principal, agent, employee or otherwise, who violates or fails to comply with any of the provisions or requirements of this zoning chapter including, but not limited to, provisions of the district regulations, proffers accepted by the board, or conditions of approval imposed by the board, or the improvement, development, or alteration of any site in violation of any plan approved pursuant to this article, shall be subject to the following:

(1) A civil penalty, as provided for in Section 70-38.1; and/or

(2) Criminal penalties, as provided for in Section 70-38.2.

B. The amendment of this Section on December 4, 2019 shall not affect any criminal prosecution under this Section commenced prior to that amendment.

(Ordinance of 12-03-19 – Effective 07/01/20)

Sec. 70-38.1 – Civil penalties.

A. Except as otherwise provided in §§ 70-38 through 70-38.2, any person who violates or fails to comply with any of the

provisions or requirements of the Zoning Ordinance shall be subject to a civil penalty of two hundred dollars (\$200.00) for the initial summons or ticket, and a civil penalty of five hundred dollars (\$500.00) for each additional summons or ticket arising from the same set of operative facts.

B. Each day during which any violation exists shall constitute a separate offense. However, in no event shall any such violation arising from the same set of operative facts be charged more frequently than once in any ten-day period, nor shall a series of such violations arising from the same set of operative facts result in civil penalties which exceed a total of five thousand dollars (\$5,000.00).

C. Proceedings seeking civil penalties for all violations of the Zoning Ordinance shall commence either by the filing of a civil summons in the general district court or by issuance of a ticket by the zoning administrator or his designee. A ticket shall only be issued by the zoning administrator or his designee when, in the judgment of the zoning administrator or his designee, the violation can be corrected without significant delay and the violator has failed to do so after being given a reasonable opportunity to do so.

D. The summons or ticket shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the county treasurer's office at least seventy-two (72) hours prior to the time and date fixed for trial and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such summons shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court; however, an admission shall not be deemed a criminal conviction for any purpose.

E. A civil summons or ticket issued shall contain the following information:

(1) the name and address of the person charged.

(2) the nature of the violation and the section provision(s) being violated.

(3) the location and date that the infraction occurred or was observed.

(4) the amount of the civil penalty assessed for the violation.

(5) the manner, location and time in which the civil penalty may be paid to the county.

(6) the right of the recipient of a civil summons to elect to stand trial for the violation, and either the date scheduled for such trial or the date for scheduling of such trial by the court.

F. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law. A finding of liability shall not be deemed a criminal conviction for any purpose.

G. The total civil penalties from a series of violations arising from the same set of operative facts shall not exceed five thousand dollars (\$5,000.00). After the civil penalties reach the five thousand dollar (\$5,000.00) limit, the violation may be prosecuted as a criminal misdemeanor under section 70-38.2.

H. If the violation remains uncorrected at the time of the admission of liability or finding of liability, the court may

order the violator to abate or remedy the violation in order to comply with the zoning chapter. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within a period of time as determined by the court, but not later than six (6) months of the date of admission of liability or finding of liability. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense.

I. Designation of a particular violation of Chapter 70 for a civil penalty pursuant to this Section shall be in lieu of criminal sanctions; and such designation shall preclude the prosecution of a violation as a criminal misdemeanor, provided, however, that when such civil penalties total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor.

J. This section shall not be construed to allow the imposition of civil penalties for (1) activities related to land development, (2) the violation of any provision of Chapter 70 of the Code of Orange County relating to the posting of signs on public property or public rights-of-way, or (3) any zoning violation resulting in injury to any persons.

K. The existence of a civil penalty shall not preclude action by the zoning administrator under subdivision A(4) of § 15.2-2286 of the Code of Virginia or action by the Board of Supervisors under § 15.2-2208 of the Code of Virginia.

(Ordinance of 12-03-19 – Effective 07/01/20)

Sec. 70-38.2 – Criminal penalties.

A. A person shall be guilty of a misdemeanor offense if he commits any of the following violations of Chapter 70 of the Code of Orange County:

1. any violation of the provisions of Chapter 70 that results in physical harm or injury to any person;2.
2. any violation or failure to comply that occurs after the five thousand dollar (\$5,000.00) maximum aggregate civil penalty provided in § 70-38.1 has been reached;3.
3. any sign posted on public property or in public rights-of-way in contravention of this zoning ordinance;4.
4. any land development activity without applicable permit;5.
5. any violation for which a prosecution under Section 70-38 had already commenced prior to the amendment of that section on December 3, 2019; or6.
6. any violation of the provisions of this chapter or failure to comply with any of its requirements related to the number of unrelated persons in a single-family residential dwelling. Any such violation shall be punishable by a fine of up to \$2,000. Failure to abate the violation within the specified time period shall be punishable by a fine of up to \$5,000, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period, punishable by a fine of up to \$7,500. However, no such fine shall accrue against an owner or managing agent of a single-family residential dwelling during the pendency of any legal action commenced by such owner or managing agent against a tenant to eliminate an overcrowding condition in accordance with Chapter 13.2 of Title 55 of the Code of Virginia, as applicable. A conviction from a violation of provisions regulating the number of unrelated persons in a single-family residential dwelling shall not be punishable by a jail term

B. Except as provided in paragraph 6 of subsection A, misdemeanor offenses described in this Section shall be punishable by a fine of not more than \$1,000. If the violation is uncorrected at the time of conviction, the court shall order

the person convicted to abate or remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate such violation within the time period established by the court shall constitute a separate misdemeanor offense punishable by a fine of not more than one thousand dollars (\$1,000.00); any such failure during a succeeding ten (10) day period shall constitute a separate misdemeanor offense punishable by a fine of not more than one thousand five hundred dollars (\$1,500.00); and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not more than \$2,000.

C. The pursuit of criminal penalties for a violation shall not preclude the zoning administrator from pursuing injunctive action.

(Ordinance of 12-03-19 – Effective 07/01/20)

Sec. 70-39. – Interpretation of zoning district boundaries.

Unless zoning district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any zoning district as shown on the zoning map, the following rules shall apply.

(a) Where zoning district boundaries are indicated as following property lines, such property lines shall be construed to be the zoning district boundaries.

(b) Where zoning district boundaries are indicated as following or being parallel to or at right angles with the centerlines of streets, highways, alleys or railroad main tracks, such centerlines or lines parallel to or at right angles with such centerlines shall be construed to be such boundaries, as the case may be.

(c) Where a zoning district boundary is indicated to follow a river, creek, branch or other body of water, the boundary shall be construed to follow the centerline at low water of such body of water. In the event of change of the centerline, such boundary shall be construed as moving with the actual centerline.

(d) Where a zoning district boundary is indicated to follow the centerline of a public or private right-of-way, the zoning of such areas shall be construed to be the same as the abutting property up to said centerline.

(e) Whenever any public right-of-way is vacated or abandoned, the zoning district applicable to the property to which it is reverted shall apply to such vacated or abandoned right-of-way.

(f) 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 boundary shall be determined by the use of the scale shown on the zoning map. In case of subsequent dispute, the zoning administrator shall refer the matter to the board of zoning appeals, which shall determine the boundary.

(Ord. of 5-2-1996, § 1804, Ord. of May 10, 2016)

Sec. 70-40. – Conflicting ordinances, statutes and regulations.

Whenever any section or provision of this chapter imposes higher standards than are required in any other county ordinance or regulation, the provision of this chapter shall govern. Whenever any section or provision of any federal or state statute or other county ordinance or regulation imposes higher standards than are required by this chapter, the provision of such statute, ordinance or regulation shall govern.

(Ord. of 5-2-1996, § 1805)

Sec. 70-41. Payment of all delinquent taxes and fees prior to filing application

Prior to, or in conjunction with, the initiation of an application by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent, for a special exception, special use permit, variance, rezoning or other land disturbing permit, including building permits and erosion and sediment control permits, or prior to the issuance of final approval, the applicant shall be required to produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the County and have been properly assessed against the subject property, have been paid, in accordance with § 15.2-2286(B) VA Code Ann.

(Ordinance 10-09-12).

Sec. 70-42. Severability.

Should any section or provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so held to be unconstitutional or invalid.

(Ord. of May 10, 2016)

Secs. 70-43–70-60. – Reserved.

DIVISION 2. – BOARD OF ZONING APPEALS

Sec. 70-61. – Appointment and organization.

A board of zoning appeals (BZA) consisting of five members must be appointed by the circuit court in accordance with the provisions of Code of Virginia, § 15.2-2308. It shall have the powers set forth in Code of Virginia, § 15.2-2309. Any member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the circuit court after a hearing held after at least 15 days' notice.

(Ord. of 5-2-1996, § 1601.01; Ord. of 3-9-2010)

Sec. 70-62. – Rules and regulations.

(a) Meetings. The BZA shall adopt such rules and regulations as it deems necessary to carry out the duties imposed by this ordinance [Ordinance of 3-9-2010]. The meetings of the BZA will be held at the call of the chair or at such times as a quorum of its members may determine. All meetings of the BZA must be open to the public. For the conduct of any hearing, a quorum shall be not less than a majority of all the members of the BZA.

(b) Minutes. The BZA must appoint a secretary to the BZA, without vote, to prepare minutes of meetings, keep all records, and conduct official correspondence of the BZA. The BZA may elect as secretary either a member of the BZA or a qualified individual who is not a member of the BZA. If the secretary is not a member of the BZA, then the secretary is not entitled to vote on any matters before the BZA. In the absence of the secretary at any meeting, the BZA must appoint some other person, who may or may not be a member of the BZA, to prepare the minutes. The minutes must show the vote of each member upon each question, or indicate if any member is absent or fails to vote. All records of official actions become part of the permanent records of the BZA.

(c) Voting. The concurring vote of three members is necessary to reverse or modify any order, requirement, decision or determination of the zoning administrator or to grant a variance. No action of the BZA is valid unless authorized by a majority vote of those present and voting. Excluded from the requirements of this section are matters governed by § 15.2-2312, VA. Code Ann.

(d) Conflict. Any member of the BZA is disqualified to act upon a matter with respect to property in which the member has an interest as set forth in the Virginia Conflict of Interests Act, § 2.2-3100 et seq., VA Code Ann.

(Ord. of 5-2-1996, § 1601.02; Ord. of 3-9-2010; Ord. of 6-28-2011(8))

Sec. 70-63. – Officers.

The board of zoning appeals shall choose annually its own chair and a vice-chair who shall act in the absence of the chair. The chair or, in his absence, the acting chair, may administer oaths and compel the attendance of witnesses.

(Ord. of 5-2-1996, § 1601.03)

Sec. 70-64. – Powers, duties.

The board of zoning appeals shall have the power and duty to hear and decide appeals, and to hear and decide applications for variances in accordance with Code of Virginia, § 15.2-2309. The board of zoning appeals shall have no power to grant special exceptions.

(Ord. of 5-2-1996, § 1601.04, Ord. of May 10, 2016)

Sec. 70-65. – Other employees; compensation.

Within the limits of funds appropriated by the board of supervisors, the board of zoning appeals may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical or clerical services. Members may receive such compensation as the board of supervisors authorizes.

(Ord. of 5-2-1996, § 1601.05)

Sec. 70-66 -70-67 Reserved.

Sec. 70-68. – Appeals from decisions of the zoning administrator.

(a) Appeals authorized. An appeal to the BZA may be taken by any person aggrieved or by any officer, department or board of the county affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article or any ordinance adopted pursuant to this ordinance . Such appeals must be made within 30 days after the decision appealed from. Appeals are made by filing a notice of appeal with the zoning administrator and with the BZA. The notice of appeal must specify the grounds for appeal.

(b) Document transmittal. The zoning administrator must immediately transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.

(c) Stay in proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the BZA that, by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

(d) Fee. Appeals must be accompanied by a cash payment to the county in accordance with the established fee schedule set by the board of supervisors.

(e) Time of hearing. Upon receipt of the appeal, the BZA must fix a reasonable time for the hearing, give public notice in accordance with Code of Virginia, § 15.2-2204 and 15.2-2309, as well as due notice to the parties in interest as required by law.

(f) Time of decision. The BZA must make its decision within 90 days of the filing of the appeal.

(g) Decision by BZA. In exercising its powers the BZA may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or determination appealed from.

(h) Withdrawal of appeal. An appeal to the BZA may be withdrawn by the appellant at any time prior to the deadline for cancellation of the newspaper advertisement provided for in this article. After such deadline, an appeal may be withdrawn only with the permission of the BZA. An appeal which is not withdrawn as provided for in this subsection must be either granted or denied on the merits by the BZA, either in whole or in part.

(Ord. of 5-2-1996, § 1604; Ord. of 3-9-2010, Ord. of 05-10-16)

Sec. 70-69. – Appeals from decisions of board of zoning appeals.

Any person or persons jointly or severally aggrieved by any decision of the BZA, or any aggrieved taxpayer, or any officer, department, board or bureau of the county, may file with the circuit court a petition specifying the grounds on which it is aggrieved within 30 days after the final decision of the BZA.

(Ord. of 5-2-1996, § 1605; Ord. of 3-9-2010)

Sec. 70-70. – Fees.

There may be a charge for the examination and hearing of applications for appeals to the board of zoning appeals. Fees shall be established by the board of supervisors and shall be paid at the time the appeal is filed.

(Ord. of 5-2-1996, § 1606)

Sec. 70-71. – Administrative variance.

The Zoning Administrator may grant variances for a reasonable modification to the zoning requirements where such variance request is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. Any such variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability shall expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance.

(State Code Sec. 15.2-2309)

(Ord. of 01-28-2020)

Secs. 70-72-70-90. – Reserved.

DIVISION 3. – APPEALS FROM DECISION OF BOARD OF SUPERVISORS

Sec. 70-91. – Authorized.

Any person aggrieved by any decision of the board of supervisors, or any aggrieved taxpayer, or an officer, department, board or bureau of the county may appeal such decision by presenting to the circuit court a petition

specifying the grounds on which aggrieved. Such appeal shall be taken within 30 days of the decision of the board of supervisors.

(Ord. of 8-11-1998, § 1606.01)

Sec. 70-92. – Reserved.

Sec. 70-93. – Reserved.

Sec. 70-94. – When testimony required.

If upon a hearing under this division it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or modify the decision brought up for review.

(Ord. of 8-11-1998, § 1606.04)

Sec. 70-95. – Costs.

Costs shall not be allowed against the board of supervisors unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from.

(Ord. of 8-11-1998, § 1606.05)

Secs. 70-96–70-115. – Reserved.

DIVISION 4. – ZONING PERMITS AND SITE PLANS.

Sec. 70-116. – Zoning permit requirements.

(a) When required. Except as provided for in the following subsections, a zoning permit shall be required for:

- 1) The erection, construction, reconstruction, or moving of a building and/or structure or part thereof;
- 2) Any alteration of a building and/or structure whereby the physical footprint and/or height is changed;
- 3) For the establishment of any new land use; and
- 4) For any proposed change in use within a structure that is used in whole or in part for nonresidential purposes.

(b) When not required. Unless otherwise regulated by approved proffers or county-imposed conditions, a zoning permit shall not be required for:

- 1) At-grade modifications (e.g. patios, landings, sidewalks, and driveways, but not including pools);
- 2) Below-grade modifications, not including new well and septic drainfield installations;
- 3) Building interior modifications not qualified under Sec. 70-116(a);
- 4) Accessory structures up to one-hundred fifty (150) square feet;
- 5) Graveyards, including crypts/mausoleums up to fifteen-hundred (1,500) square feet;
- 6) Sign “refacing” (i.e. the like-for-like replacement of a permanent, conforming sign’s advertising message whereby the physical dimensions of the sign do not change);

- 7) Fences, handrailing, screening walls, and retaining walls;
- 8) Common residential yard accessories (e.g. LP-gas or oil tanks, air conditioning units, mailboxes, flagpoles, satellite dishes); and
- 9) Home enterprises and home occupations.

(c) Agricultural uses. A zoning permit shall not be required for any bona fide agricultural structure (e.g. a pole barn or silo) or the establishment of any agriculture use as defined in Sec. 70-1, unless the use is identified as having parking requirements in Article V, Division 5 of this chapter. A zoning permit shall be required for any structure or use regulated by Article VIII of this chapter (Intensive Livestock, Dairy, and Poultry Facilities).

(d) Expiration. An approved zoning permit shall expire if construction and/or establishment of the permitted use does not commence within six (6) months from the date of approval.

(e) Temporary uses. A temporary zoning permit shall be required for certain temporary uses permitted in individual zoning districts as provided for elsewhere in this chapter.

(Ord. of 5-2-1996, § 1101; Ord. of 3-9-2010; Ord. of 05-10-2016, Ord. of 01-24-2017)

Sec. 70-117. – Administrative site plans.

(a) Applicability. An administrative site plan shall accompany each application for a zoning permit to establish or modify any of the following:

- 1) Single-family detached dwelling, two-family dwelling, or manufactured home.

2) Any use which is customarily incidental (i.e. accessory) to the above principal uses.

3) Farm stand, wayside stand, or farm enterprise.

4) ADA-accessibility improvements, of up to two-thousand, five-hundred (2,500) square feet, to any existing building or structure.

5) Any nonresidential use which results in total land disturbance under two-thousand, five-hundred (2,500) square feet.

6) Any nonresidential change of use within an existing structure that results in no land disturbance nor necessitates any additional site improvements that may be required by this chapter.

7) Temporary uses.

8) Signs.

(b) Plan preparation. An administrative site plan may be hand-drawn or prepared by a licensed surveyor, engineer, or architect. Hand-drawn plans shall not be accepted for the modification of any nonconforming structure or for any principal use on property zoned Planned Residential (R-3) or Multifamily Residential (R-4).

(c) Contents of plan. Each administrative site plan shall be shown on either a current survey of the property or on the most-current survey of the property on record in the Circuit Court, and shall depict, as appropriate:

a. 1) Property lines and their courses and measurements;

b. 2) The tax parcel number, acreage of the lot,

- scale, and north arrow;
- c. 3) The location, dimensions, height, and proposed setbacks from property lines and from bodies of water for all existing and proposed buildings and structures on the lot;
- d. 4) Existing and proposed driveways, travelways, and parking areas;
- e. 5) The location of streams and other bodies of water on the lot;
- f. 6) Modifications to existing drainageways;
- g. 7) Installation or modification of a stormwater best management practice (BMP);
- h. 8) Compliance with any proffers, variances, and/or county-imposed conditions; and
- i. 9) All public and private rights-of-way (including easements), their name(s), and the width of said rights-of-way.

(d) Exceptions. For properties which have no current plat or survey, or where the plat or survey is of too large a scale so as to inhibit the accurate drawing of the site plan, an illustration of property line locations along with the site plan elements may be accepted in lieu of a plat or survey. This shall be at the sole discretion of the zoning administrator.

(e) Modification of requirements. Any of the administrative site plan elements may be waived or modified in circumstances in which they are not applicable or where they bear no relation to the proposed use. The zoning administrator may require the submission of additional materials necessary to satisfactorily administer the requirements of this ordinance.

(f) Expiration. Administrative site plans shall have the same expiration provisions as the accompanying zoning permit, as specified in Sec. 70-116.

(Ord. of 5-2-1996, § 1101.01, Ord. of May 10, 2016)

Sec. 70-118. – Minor site plans and minor grading plans.

- a. Applicability. Prior to an application for a zoning permit, a minor site plan shall be reviewed and approved by the zoning administrator for the following:
 1. Any use which results in total land disturbance of less than one (1) acre, unless specifically subject to administrative site plan requirements.
- b. Plan preparation. A minor site plan, or a minor grading plan if permitted pursuant to subsection (g) below, shall be prepared by a licensed surveyor, engineer, or architect.
- c. Contents of plan. In addition to the administrative site plan elements specified in Sec. 70-117(c), a minor site plan shall also depict, as appropriate:
 1. Project name, a written description of the proposed use(s), current property owner(s) and address(es), and the plan preparer's information;
 2. A vicinity map;
 3. The zoning classification of the property;
 4. Approval blocks for relevant review departments and/or agencies;
 5. All information necessary to show compliance with the parking, loading/unloading, and landscaping requirements pursuant to Article V, Division 5 of this chapter;
 6. Any required buffer yards and the

- associated fencing and landscaping;
- 7. Any known places of burial;
- 8. Location and description of any planned demolition of existing structures, roads, utilities, and other site fixtures proposed for removal;
- 9. All easements;
- 10. All existing and proposed utilities;
- 11. North, south, east, and west elevation drawings for all principal structures;
- 12. Proposed signage;
- 13. Photometric drawings and fixture/installation details for all exterior lighting;
- 14. Existing topography and proposed final grades;
- 15. The extent of any land disturbance and all erosion control measures and plans pursuant to Chapter 26 of this Code and/or requirements of the Code of Virginia;
- 16. The name, phone number, certification number, and certification expiration date for the designated responsible land disturber(s), pursuant to Chapter 26 of this Code;
- 17. Details for any stormwater management and/or drainage infrastructure to be installed and/or modified;
- 18. An itemized bond estimate for all erosion control measures, including any stormwater management and/or drainage facilities;
- 19. The location of any perennial or

intermittent streams, flood hazard areas, mapped dam break inundation zones, steep slopes (generally exceeding 25% grade), or previously-delineated/identified wetlands present on the site; and

20. All proposed transportation improvements within the site and external to the site.

d. Timeframe for review. Permissible timeframes for review and approval of any minor site plan or minor grading plan shall be in accordance with § 15.2-2259 of the Code of Virginia.

e. Expiration. Minor site plan approval shall expire after five (5) years unless construction has begun and work has been diligently pursued.

f. Zoning compliance certificates. See Sec. 70-119(f).

g. Minor grading plans. Prior to submittal of a minor site plan, and/or for situations where a minor site plan submittal is required per subsection (a) above but no structures and/or uses are immediately proposed, the Zoning Administrator may approve a minor grading plan for the proposed activities.

1. Contents of plan. A minor grading plan shall depict:

i. Project name, current property owner(s) and address(es), the plan preparer's information, and the proposed use of the property, if applicable;

ii. A vicinity map;

- iii. Property lines and their courses and measurements;
- iv. The tax parcel number, acreage of the lot, scale, and north arrow;
- v. Approval blocks for relevant review departments and/or agencies;
- vi. Compliance with any proffers or County-imposed conditions;
- vii. All public and private rights-of-way (including easements), their name(s), and the width of said rights-of-way;
- viii. All existing utilities and associated easements, if applicable;
- ix. Any known places of burial;
- x. Location and description of any planned demolition of existing structures, roads, utilities, and other site fixtures proposed for removal;
- xi. Existing and proposed entrances to the property, and if the proposed activities affect any public road or right-of-way, details sufficient for VDOT review;
- xii. Existing topography and proposed final grades;
- xiii. Any tree-save areas and/or buffer retention areas;
- xiv. The extent of land disturbance and all erosion control measures and plans pursuant to Chapter 26 of

- this Code and/or requirements of the Code of Virginia;
- xv. The name, phone number, certification number, and certification expiration date for the designated responsible land disturber(s), pursuant to Chapter 26 of this Code;
 - xvi. Details for any stormwater management and/or drainage infrastructure to be installed and/or modified;
 - xvii. The location of any perennial or intermittent streams, waterbodies, flood hazard areas, mapped dam break inundation zones, steep slopes (generally exceeding 25% grade), or previously-delineated/identified wetlands present on the site; and
 - xviii. An itemized bond estimate for all erosion control measures, including any stormwater management and/or drainage facilities.
2. Expiration. Minor grading plan approval shall expire after two (2) years unless necessary permits have been obtained and site work has commenced.

(Ord. of 5-2-1996, § 1101.02, Ord. of May 10, 2016; Ord. of 05/08/18; Ord. of 10-09-2018)

Sec. 70-119. – Major site plans and major grading plans.

- i. Applicability. Prior to an application for a zoning permit, a major site plan shall be reviewed and approved by the zoning administrator for the following:
 - 1. Any use which results in total land disturbance of one (1) acre or more, except for single-family detached dwellings, two-family dwellings, and manufactured homes.
- ii. Plan preparation. A major site plan, or a major grading plan if permitted pursuant to subsection (h) below, shall be prepared by a licensed surveyor, engineer, or architect.
- iii. Contents of plan. In addition to the minor site plan elements specified in Sec. 70-118(c), a major site plan shall also depict, as appropriate:
 - 1. The owners, tax parcel numbers, sources of title, zoning classifications, and current uses of all adjacent properties;
 - 2. A current boundary survey of the site;
 - 3. Existing and proposed lot coverage ratios;
 - 4. The estimated daily vehicular trip generation figures for the development;
 - 5. Provisions, details, and best management practices for addressing stormwater requirements;
 - 6. Details for any retaining walls;
 - 7. Tree-save areas and/or areas to remain undisturbed;
 - 8. Any proposed phasing of development;
 - 9. A soils evaluation;
 - 10. A current wetlands delineation;

11. The design and placement of any refuse facilities; and
 12. Any information related to existing archeological or historical resources.
- iv. Additional review. The zoning administrator may refer a major site plan to the planning commission or other appointed or elected review committee if it is determined the proposed project, based on the intensity, potential impacts, or complexity of approved proffers or conditions, would warrant an additional level of review.
 - v. Timeframe for review. Permissible timeframes for review and approval of any major site plan or major grading plan shall be in accordance with § 15.2-2259 of the Code of Virginia.
 - vi. Zoning compliance certificates. A zoning compliance certificate shall be required for all site work and improvements approved via the minor or major site plan approval process, prior to issuance of any permanent certificate of occupancy by the Building Official. The purpose of the zoning compliance certificate is to confirm that all site improvements required pursuant to this chapter, to the approved site plan, to accepted proffers, and/or to other county-imposed conditions are installed in substantial conformance with said requirements. The zoning administrator may rely on any reasonable means necessary to determine "substantial conformance," particularly in circumstances where the professional licensure of others is required to properly confirm the validity of the

installed improvement.

1. Temporary certificates. In situations where the building or structure must be occupied and the use must otherwise commence prior to completion of all required improvements, the zoning administrator may issue a temporary zoning compliance certificate subject to the following:

- i. The period of validity for the temporary certificate may not exceed six (6) months, unless the zoning administrator approves a longer period of time for unusual circumstances.
- ii. The site and building is in a safe and usable condition, free from conditions that might endanger the health, safety, or welfare of persons using the site.
- iii. The property owner or authorized agent submits a written performance guarantee specifying the required improvements yet to be completed and the timeframe required for their completion. The guarantee shall be accompanied by a surety payable to the county in an amount determined by the county to be sufficient to ensure satisfactory completion of all required improvements yet to be completed within the timeframe of the temporary certificate. The

guarantee may be in the form of cash/check, an irrevocable letter of credit, or other collaterally-assigned funds acceptable to the county attorney. The developer shall submit a surety estimate, to be approved by the county, along with a reasonable amount for administrative costs not to exceed ten (10) percent of the estimated costs.

iv. The surety requirement may be waived in instances where the unfinished improvements have an estimated cost of no greater than five-hundred dollars (\$500).

v. The county may make use of the surety if the obligee fails to comply with the terms of the performance guarantee or the county determines the unfinished improvements have not been completed in a timely manner so as to negatively impact the public health, safety, or general welfare. Alternatively, the county may revoke the certificate of occupancy until said terms are fulfilled.

g. Expiration. Major site plan approval shall expire after five (5) years unless construction has begun and work has been diligently pursued.

h. Major grading plans. Prior to submittal of a

major site plan, and/or for situations where a major site plan submittal is required per subsection (a) above but no structures and/or uses are immediately proposed, the Zoning Administrator may approve a major grading plan for the proposed activities provided they are in substantial conformity with the Comprehensive Plan.

1. Contents of plan. In addition to the minor grading plan elements specified in Sec. 70-118(g), a major grading plan shall also depict:

i. Provisions, details, and best management practices for addressing stormwater management requirements;

ii. Generalized areas planned or anticipated to accommodate future development, as well as generalized utility/roadway locations, and a tabulation of the percentage of surface area to be adapted to these uses;

iii. A current wetlands delineation;

2. Expiration. Major grading plan approval shall expire after two (2) years unless necessary permits have been obtained and site work has commenced.

(Ord. of 5-2-1996, " 1101.03, 1101.04; Ord. of 8-11-1998, " 1101.03, 1101.04; Ord. of 5-8-2001; Ord. of 6-14-2011, Ord. of May 10, 2016. Ord. of 05-08-18; Ord. of 10-09-2018)

Sec. 70-120. – Fee for review.

An applicant for a zoning permit shall pay a fee for the review and approval of the site plan and the issuance of the zoning permit in accordance with the schedule of fees adopted by the board of supervisors.

(Ord. of 5-2-1996, § 1101.05)

Sec. 70-121. – Electric service.

It shall be unlawful for any electric company to furnish electricity to any new structure, building or newly located manufactured or mobile home unless a zoning permit has been issued.

(Ord. of 5-2-1996, § 1101.06)

Sec. 70-122. – Temporary use permits.

(a) Permit and application requirements. A zoning permit for a temporary use is required for certain temporary uses permitted in individual zoning districts. Application for such permit shall be made at least one week prior to the date on which the permit is to take effect. The application shall be made on a form provided by the zoning administrator and shall include information about the proposed use, products to be sold, signs, and related licenses and permits.

(b) Revocation of temporary permit. The zoning administrator may revoke a temporary permit at any time subsequent to the failure of the owner or operator of the permitted use to observe all requirements of the law with respect to the maintenance and conduct of the use, and any conditions of the permit that were designated by the zoning administrator when issued. Upon receipt of notice of revocation of the permit, the property owner or operator of such activity shall cease operation of the activity immediately. The foregoing provisions shall not be deemed to

preclude the use of any other remedy prescribed by law with respect to violations of the provisions of this section.

(c) Public uses excluded. Any use located on government-owned property which is approved by the County, shall not be considered a temporary use subject to this section and section 70-940.

(d) Civic or non-profit organization use exempted. The operation of a temporary use by a civic or non-profit organization is exempt from the requirements of this section and section 70-940.

(e) Signs. Notwithstanding other regulations governing signs in this ordinance [Ord. of 3-9-10], only one sign is permitted for each temporary use, which shall be displayed only during the period approved for the temporary use.

(Ord of 3-9-2010)

Secs. 70-123-70-140. – Reserved.

DIVISION 5. – SPECIAL USE PERMITS

Sec. 70-141. – Considerations.

In granting a special use permit, the planning commission and the board of supervisors shall consider whether the proposed use would further the purposes of the comprehensive plan and this chapter; whether it would threaten the public health, safety or welfare; whether it would be compatible with its surroundings; whether it would impact the environment or any natural, scenic, or historic features; and whether it would result in a substantial detriment to the surrounding property.

(Ord. of 5-2-1996, § 1103.01, Ord. of May 10, 2016)

Sec. 70-142. – Conditions authorized.

In granting a special use permit, the planning commission may recommend and the board of supervisors may impose reasonable conditions to protect the public health, safety and general welfare. The board may require the posting of a bond as a reasonable condition to ensure compliance with the approved permit or any part thereof.

(Ord. of 5-2-1996, § 1103.02, Ord. of May 10, 2016)

Sec. 70-143. – Notice and hearing required.

No action to approve, modify, or deny a special use permit may be taken by the governing body except after notice and hearing as provided in Code of Virginia, § 15.2-2204. The Planning Commission shall hear and provide recommendations on all special use permit applications, unless otherwise specified.

(Ord. of 5-2-1996, § 1103.03, Ord. of May 10, 2016)

Sec. 70-144. – Expiration and revocation.

(a) Unless otherwise provided in the conditions of approval, any special use permit shall become void if the applicant does not obtain a building permit for the facility or otherwise commence the use within two (2) years of its issuance. In the event any use allowed by a special use permit is discontinued for a period of two (2) years or longer, the use shall be deemed abandoned and the special use permit shall become void. Renewal and/or reestablishment of such a use shall require a new application, public notice, and subsequent approval by the board of supervisors.

(b) For instances in which the conditions of a special use permit are not met or when complaints have been received and verified, and administrative enforcement procedures have been

pursued without success, the zoning administrator shall bring the matter before the board of supervisors for a public hearing to determine the appropriateness of revoking the special use permit.

(Ord. of 5-2-1996, § 1103.04; Ord. of 3-9-2010, Ord. of May 10, 2016)

Sec. 70-145. – Application submittal requirements and review.

(a) Each application for a special use permit shall contain the following:

1) Application form(s), appropriate fees, and authorization by the property owner, if applicable.

2) A general concept plan, no smaller than 11"x17", illustrated on a plat or survey of the property, which may be hand-drawn or non-engineered, and which clearly shows all existing conditions and proposed changes to the property that will result from the application. These shall include, at a minimum:

- i. Existing roads, driveways, utilities, and easements;
- ii. Existing structures and/or uses and their distances to property lines;
- iii. Proposed structures and/or uses and their orientation on the property;
- iv. Proposed utilities;
- v. Proposed grading;
- vi. General parking and landscaping areas;
- vii. The location of wetlands, floodplains, streams, and

other bodies of water;

viii. Any proposed subdivision of the property;

ix. Any proposed phasing of development;

x. General signage types and locations; and

xi. Proposed roads and driveways.

3) A written narrative describing the scope of the proposal, including at a minimum:

i. A detailed project description and how it aligns with the goals and objectives of the comprehensive plan;

ii. Anticipated traffic volumes and related traffic impacts;

iii. A fiscal impact analysis including expected economic benefits and costs to the county;

iv. Impacts on the provision of public services;

v. An environmental impact analysis;

vi. An analysis of impacts on historic and cultural resources; and

vii. Anticipated impacts to neighboring properties and how those impacts will be mitigated.

4) Any other information, as required in writing upon review of the application by the zoning administrator, that is relevant to the unique characteristics of the application and/or will further assist the governing body in their decision of approval or denial of the application.

(b) An application that provides all of the required

information, in appropriate detail, shall be determined to be complete and be accepted for review. An application omitting any required information shall be deemed to be incomplete and shall not be accepted, unless the zoning administrator determines the missing information is not required to adequately review the application.

1) The zoning administrator shall determine whether an application is complete within ten (10) business days after the application is received. If the application is deemed to be incomplete, the zoning administrator shall inform the applicant, in writing, of the deficiencies in the application.

2) Applications deemed incomplete shall have the required missing information submitted within ninety (90) calendar days of the date of the zoning administrator's notice, as required by the above section, or the application will become void and subject to the provisions of Sec. 70-146.

(c) The zoning administrator shall refer the application to the planning commission only after allowing for a sufficient time period for review, not to exceed forty-five (45) business days, by other county departments and external agencies.

(Ord. of May 10, 2016)

Sec. 70-146. – Limitation on applications.

No application for a special use permit shall be accepted for any lot within one (1) year of the application date for any previously submitted, withdrawn, or denied special use permit application for the same lot. This section however shall not prohibit the board of supervisors from proposing a special use permit by way of their own motion.

(Ord. of May 10, 2016)

Sec. 70-147. – Appeal.

Any person aggrieved by a board decision to approve, modify, deny, or revoke a special use permit may file an appeal in the circuit court within thirty (30) days of the date of the board action.

(Ord. of May 10, 2016)

Secs. 70-148–70-165. – Reserved.

DIVISION 6. – SPECIAL EXCEPTIONS

Sec. 70-166. – Generally.

For the purposes of this chapter, the terms special exception and special use permit are interchangeable. Special exceptions are considered special uses which constitute minor deviations from certain existing ordinance requirements, where specifically authorized in this chapter. Special exceptions shall have the same administrative and procedural requirements as special use permits, as specified by Division 5 of this Article. However, applications for special exceptions shall only necessitate a public hearing by the board of supervisors, unless the board refers an application to the planning commission for their review and recommendation.

(Ord. of May 10, 2016)

Secs. 70-167–70-190. – Reserved.

DIVISION 7. – ZONING MAP AMENDMENTS

Sec. 70-191. -Generally.

The board of supervisors may change the zoning classification of one or more properties, or part(s) thereof, whenever the public necessity, convenience, general welfare, and/or good zoning practice gives need for such action, and whereby a determination of general conformance with the comprehensive plan is found. The planning commission shall hear and provide recommendations on all zoning map amendments, and shall consider these bases when formulating its recommendations. Zoning map amendments may be initiated by the board of supervisors, planning commission, or by the property owner.

(Ord. of May 10, 2016)

Sec. 70-192. – Reserved

Sec. 70-193. – Conditional zoning.

(a) Authority to accept proffers. The board of supervisors is authorized to accept proffers in conjunction with an owner-initiated zoning map amendment pursuant to § 15.2-2296 – 2303 of the Code of Virginia.

(b) Purpose. Proffers (i.e. voluntary conditions submitted by the applicant) are intended to provide for the orderly development of land in situations where a more flexible and adaptable regulatory mechanism is needed to adequately address impacts to the community and locality arising from a proposed zoning map amendment. Such conditions are generally intended to be unique to the property while supplementing the underlying zoning district regulations, and carry the same applicability and enforceability as such.

(c) Form. All proffers to be volunteered shall be in writing and

shall be signed by the applicant. Such proffered conditions shall be made on a standard form approved by the county attorney.

(d) Submittal. Proffers may be submitted in conjunction with an application for a zoning map amendment at any time prior to the public hearing by the board of supervisors. The applicant may amend said proffers as so desired during that timeframe. The board may, at its sole discretion, accept proffer amendments once the public hearing has begun, provided the changes do not materially affect the proposal.

(e) Acceptance and effect. The board may accept proffers in their entirety, only accept certain proffers, and/or accept portions thereof. Once accepted in conjunction with an approved zoning map amendment, the proffers shall remain in full force and effect unless a subsequent amendment to said proffers is approved or the zoning classification is changed.

(f) Amendments to accepted proffers. Once accepted by the board in conjunction with an approved zoning map amendment, proffers may only be further amended via a subsequent owner-initiated zoning map amendment. An application to amend proffers shall be subject to procedural requirements under Sec. 70-194. However, no further recommendation by the planning commission shall be required unless the board refers the proposed proffer amendment to the commission for a public hearing and recommendation. In consideration of an application to amend proffers, the board may, at its sole discretion, waive the public hearing requirement if it determines the proposed amendments do not materially affect conditions relating to allowable uses or density.

(Ord. of May 10, 2016)

Sec. 70-194. – Application submittal requirements and review.

Application submittal requirements and review procedures for an owner-initiated zoning map amendment shall be the same as those for special use permits, as prescribed in Sec. 70-145. Additionally, the owner may choose to volunteer proffers in conjunction with the application, pursuant to Sec. 70-193.

(Ord. of May 10, 2016)

Sec. 70-195. – Limitation on applications.

No application for an owner-initiated zoning map amendment shall be accepted for any lot within one (1) year of the application date for any previously submitted, withdrawn, or denied application. This section however shall not prohibit the board of supervisors from initiating a zoning map amendment by way of their own motion.

(Ord. of May 10, 2016)

Sec. 70-196. – Notice and hearing required.

No action to approve or deny a zoning map amendment or amendment to previously-approved proffers may be taken by the board except after notice and hearing as provided in the Code of Virginia, § 15.2-2204. The Planning Commission shall hear and provide recommendations on all proposed zoning map amendments.

(Ord. of May 10, 2016)

Sec. 70-197. – Appeal.

Any person aggrieved by a board decision to approve or deny a zoning map amendment or proffer amendment may file an appeal in the circuit court within thirty (30) days of the date of the board action.

(Ord. of May 10, 2016)

Secs. 70-198–70-210. – Reserved.

DIVISION 8. – ZONING TEXT AMENDMENTS

Sec. 70-211. – Intent.

Pursuant to Code of Virginia, § 15.2-2285, the board of supervisors may amend, supplement, change, modify or repeal the regulations, restrictions and boundaries established in this chapter, as provided in this division.

(Ord. of 5-2-1996, § 1701)

Sec. 70-212. – Initiation.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the board of supervisors may, by ordinance, amend or repeal the text of this chapter. Such amendments may be initiated by the board of supervisors or the commission, or by a property owner in accordance with procedural requirements and application requirements established by the board of supervisors.

(Ord. of 5-2-1996, § 1702, Ord. of May 10, 2016)

Sec. 70-213. – Report by the planning commission.

Upon initiation to amend the zoning ordinance, the planning commission shall advertise and hold a public hearing pursuant to Code of Virginia, § 15.2-2204 and report to the board of supervisors its recommendation with respect to the proposed amendment.

(Ord. of 5-2-1996, § 1703; Ord. of 10-12-1999, Ord. of May 10, 2016)

Sec. 70-214. – Board of supervisors public hearing.

Before adopting any amendment, the board of supervisors shall hold a public hearing on the amendment, pursuant to Code of Virginia, § 15.2-2204, after which the board of supervisors may make appropriate changes or corrections in the proposed amendment.

(Ord. of 5-2-1996, § 1704, Ord. of May 10, 2016)

Sec. 70-215. – Minimum period for refiling denied applications.

If the board of supervisors shall deny the petition of any property owner, substantially the same petition shall not be reconsidered for a period of one year from the original decision by the board of supervisors unless a change in conditions warrants rehearing.

(Ord. of 5-2-1996, § 1705)

Sec. 70-216. – Withdrawal of petitions.

Any petition filed pursuant to this division may be withdrawn upon written request by the applicant provided that, if the request for withdrawal is made after publication of the notice of hearing, such withdrawal shall be only with the consent of the planning commission or the board of supervisors, whichever body has advertised the hearing.

(Ord. of 5-2-1996, § 1706)

Sec. 70-217. – Fees.

There shall be a charge for the filing, examination, advertising and conducting public hearings by the agent, commission and board of supervisors. Fees shall be established by the board of supervisors and shall be paid at the time of filing. Application

fees are waived for the county school board or any agency, board, division or commission acting in the name of the board of supervisors.

(Ord. of 5-2-1996, § 1707)

Secs. 70-218–70-240. – Reserved.