

ARTICLE H. Development Review Procedures

SECTION 10-3-96. Required Permits and Approvals

- A. **Applicability and General Prohibition.** No person may construct, alter, move, or demolish a structure, excavate or fill land, construct or expand a parking lot, or change the use of any building or land without first obtaining any required approval under this Ordinance.
- B. **Administrative Approvals.** Depending on the scope of the project, the following administrative approvals may be required:
 - 1. **Zoning Permit.** A zoning permit must be obtained before constructing, moving, or altering any structure, or before changing the use of any building or land. The Zoning Administrator must issue a zoning permit before any required building permits will be issued.
 - 2. **Building Permit.** A building permit must be obtained before any work covered by the Virginia Uniform Statewide Building Code is commenced.
 - 3. **Site Plan.** Where a site plan is required, site plan approval must be obtained before any building permits will be issued.
 - 4. **Floodplain Development Permit.** A floodplain development permit must be obtained before any development or construction begins within a Floodplain Overlay District.
 - 5. **Certificate of Occupancy.** A certificate of occupancy must be obtained before any building or structure may be used or occupied.
 - 6. **Certificate of Zoning Compliance.** A certificate of zoning compliance must be obtained upon completion of any work that requires a zoning permit for which no certificate of occupancy is issued.
- C. **Legislative Approvals.** The following approvals require public hearings and are a decision of City Council:
 - 1. **Zoning Map Amendment (Rezoning).** A zoning map amendment must be obtained if the proposed development is not allowed in the property's current zoning district.
 - 2. **Special Exception.** Whenever this Ordinance requires a special exception for a proposed use or a modification to a standard, the special exception must be obtained before any review for an administrative approval may occur or any administrative approval may be issued.

SECTION 10-3-97. Notice and Public Hearings

- A. **Applicability.** This Section establishes the standard procedures and rules for providing public notice of all matters subject to a public hearing before Planning Commission, City Council, or the Board of Zoning Appeals.
- B. **Notice.** Notice of a public hearing must be conducted at least in accordance with the standards set forth in § 15.2-2204 of the Code of Virginia, and such other state law provisions that may apply. Public hearings required by this Ordinance or the Code of Virginia will be held only once all required notices have been satisfied.
- C. **Posting of Property.** In addition to Subsection B, notice of a public hearing must be posted on the applicable property as follows:
 - 1. At least 14 days prior to the public hearing, the Zoning Administrator must erect signs on the subject property notifying the public of the upcoming hearing and indicating where additional information may be obtained. The signs must remain in place until a final decision on the matter has been made.
 - 2. At least one sign must be posted along each public street abutting the property.
 - 3. No decision associated with the public hearing may be invalidated solely because of failure to post the property.
- D. **Limitation on Rehearing.** If an application is denied or withdrawn after City Council has begun a public hearing on it, City Council will not hear a substantially similar application concerning any of the same property within 12 months, unless this restriction is waived by City Council.

SECTION 10-3-98. Review Procedures

- A. **Applicability.** This Section establishes the standard procedures and rules for all applications and appeals under this Ordinance, unless superseded by a more specific provision of this Ordinance.
- B. **Application Processing.**
 - 1. Applications and appeals required under this Ordinance must be filed with the Zoning Administrator.
 - 2. An application or appeal will not be accepted unless it complies with this Ordinance. An application or appeal is officially filed only after it and all required accompanying submissions are submitted to and accepted by the Zoning Administrator. All

applications and appeals provided for in this Ordinance must be submitted in the manner prescribed by the applicable official or body.

3. No application may be scheduled for a public hearing or acted upon by any body until the Zoning Administrator has accepted it as complete.

C. **Amendment of Application.** A request to amend an application must be submitted in writing to the Zoning Administrator. Depending on the nature and extent of the amendment, the request may result in rescheduling of any required public hearing.

D. **Withdrawal of Application.** An application may be withdrawn by giving written notice to the Zoning Administrator.

E. **Administrative Withdrawal.**

1. The Zoning Administrator may administratively close an application before acceptance where the Zoning Administrator has provided notice of the incomplete application and the applicant fails to make a needed correction, addition, or other change within 30 days of the notice. This notice will be sent by mail to the applicant's last known address.
2. The Zoning Administrator may close an application where the applicant requests postponement of a public hearing and takes no further action on the application within 12 months. Notice will be sent by mail to the applicant's last known address.

F. **Postponement of Public Hearing.**

1. **Applicant-Requested Postponement.** An applicant may request that a scheduled public hearing be postponed by submitting a written request to the Zoning Administrator. Upon such a request, the hearing will be postponed. Where any costs associated with required notice have been incurred, the applicant must pay the required fee for rescheduling a hearing.
2. **Postponement by Planning Commission or City Council.** The Planning Commission or City Council may postpone or continue a scheduled public hearing on its own initiative or at the request of the Zoning Administrator. No additional fee applies unless the need for postponement is caused by the applicant.

DIVISION 1. Administrative Approvals

SECTION 10-3-99. Zoning Permits

- A. **Purpose.** A zoning permit verifies that a proposed building, structure, or use will comply with all dimensional, use, and development standards of this Ordinance before construction begins.
- B. **Applicability.** A zoning permit must be obtained from the Zoning Administrator prior to:
 - 1. Constructing, reconstructing, moving, or altering any building or structure;
 - 2. Commencing any excavation or filling operation;
 - 3. Constructing a parking lot, or undertaking a parking lot expansion or parking lot alteration;
 - 4. Changing the use of any land or building;
 - 5. Erecting, altering, relocating, or replacing a sign for which a permit is required; or
 - 6. Establishing, conducting, or maintaining any use, activity, or accessory use for which a zoning permit is expressly required elsewhere in this Ordinance.
- C. **Unified Application Process.** To avoid redundant filings, the zoning permit application is integrated into other approvals as follows:
 - 1. **Integrated Reviews.** If an activity requires a zoning permit and also requires a building permit or site plan, the submission of a building permit or site plan application satisfies the requirement to apply for a zoning permit.
 - 2. **Standalone Permit.** If an activity requires a zoning permit but does not require a building permit or site plan, a standalone zoning permit application is required.
- D. **Plan Requirements.** Every application must include a plan demonstrating compliance with this Ordinance.
 - 1. **Site Plan Sufficiency.** If a site plan is submitted, it may serve as the basis for the zoning permit; however, if the site plan does not reflect all information necessary to determine compliance with this Ordinance, a zoning plan must also be submitted.
 - 2. **Zoning Plan.** A zoning plan is required for all activities that do not require a site plan, or where a site plan is insufficient to determine compliance with this Ordinance.
- E. **Zoning Plan Standards.**

1. **Residential Additions and Accessory Structures.** For additions to, or accessory structures for, any single-family detached, single-family attached, duplex, or townhouse dwelling, applicants may submit hand-drawn sketches alongside an existing, certified foundation location survey or plat.
 - a. **Reuse of Surveys.** An existing, certified survey or plat may be used for multiple applications over time, provided that any existing additions or accessory structures not shown on the certified survey or plat were lawfully established.
 - b. **Sketch Standards.** Sketches do not need to be to scale, provided they include written dimensions of the proposed improvements and sufficient information for the Zoning Administrator to verify compliance with this Ordinance.
 - c. **Survey Reliability.** The Zoning Administrator may require a new certified foundation location survey or plat before acting on an application if the Zoning Administrator determines the submitted survey or plat does not reliably show current conditions on the lot.
2. **All Other Activities.** In all other situations, a Zoning Plan must be a scaled drawing prepared and certified by a land surveyor, engineer, landscape architect, or architect licensed in Virginia.

F. Issuance.

1. **Integrated Issuance.** If an activity requires a building permit or site plan, the issuance of the building permit or the approval of the site plan constitutes the issuance of the zoning permit, and no separate zoning permit document is required.
2. **Standalone Issuance.** For all other activities, the Zoning Administrator will issue a standalone zoning permit upon determining that the proposal complies with this Ordinance.

G. **Expiration.** A standalone zoning permit expires 12 months after issuance if the authorized work or use has not commenced. A zoning permit issued as part of a site plan or building permit remains valid for the life of the underlying approval.

H. **Waiver of Requirements.** The Zoning Administrator may waive or modify any requirements of this Section where the information is not necessary to determine compliance with this Ordinance.

SECTION 10-3-100. Site Plans

- A. **Purpose.** The purpose of a site plan is to ensure that proposed development complies with all applicable zoning, subdivision, and development standards, including that

necessary public facilities and infrastructure are provided when a property is developed or redeveloped, even when the land is not being subdivided.

- B. **Applicability.** Any activity that requires a zoning permit also requires site plan approval, unless expressly exempted by this Section.
- C. **Exemptions.** The following activities do not require a site plan. These activities remain subject to all other applicable requirements of this Ordinance:
 - 1. Construction of or expansion to single-family detached dwellings, single-family attached dwellings, and duplexes;
 - 2. Construction of accessory buildings or structures associated with single-family detached dwellings, single-family attached dwellings, duplexes, and townhouses;
 - 3. Internal renovations that do not alter the gross floor area of existing buildings or structures;
 - 4. A change of use that does not require the construction of additional parking spaces and does not alter the gross floor area of existing buildings or structures;
 - 5. An addition or expansion to an existing building, provided that the gross floor area of the addition or expansion does not exceed the lesser of 10 percent of the gross floor area of the existing buildings or structures or 2,500 square feet; or
 - 6. A parking lot expansion or parking lot alteration that does not create a new point of vehicular access to a public street.
- D. **Standards.** Site plans are subject to all requirements of the Subdivision Ordinance and the Design and Construction Standards Manual, applied as if the development were a subdivision.
- E. **Site Plan Revisions.** The City Engineer may authorize minor revisions to an approved site plan. Any other changes to an approved site plan must be resubmitted as a new application. The following revisions are considered minor:
 - 1. Up to a 10 percent increase in the gross floor area of a single building;
 - 2. Any decrease in the gross floor area of a single building;
 - 3. Up to a 10 percent reduction in the setbacks from the street or lot lines; and
 - 4. A parking lot expansion or parking lot alteration that does not create a new point of vehicular access to a public street.

- F. **Expiration of Site Plan.** An approved site plan will be valid for 5 years from the date of approval, or for a longer period determined by the Zoning Administrator at the time of approval, taking into consideration the size and phasing of the proposed project.
- G. **Site Plan Extension.** Upon application filed prior to the expiration of a site plan, the Zoning Administrator may grant an extension of such approval, taking into consideration the size and phasing of the proposed site and the laws, ordinances, and regulations in effect at the time of the request for an extension.

SECTION 10-3-101. Certificate of Occupancy and Zoning Compliance

- A. **Purpose.** A certificate of occupancy or certificate of zoning compliance ensures that a building, structure, or site complies with all applicable approvals prior to its use or occupancy.
- B. **Applicability.** A certificate of occupancy or certificate of zoning compliance must be obtained before any person may do any of the following:
 - 1. Occupy or use any new building or structure;
 - 2. Occupy or use any addition or alteration to an existing building; or
 - 3. Change the use of any building, structure, or land.
- C. **Foundation Location Survey.** Prior to the issuance of a certificate of occupancy for any new building or structure, or for any addition or alteration to an existing building's footprint, a foundation location survey prepared and certified by a land surveyor licensed in Virginia must be submitted to verify compliance with all approved plans and permits. The following are exempt from this requirement:
 - 1. Residential additions and accessory structures permitted under Section 10-3-99.E.1.
 - 2. Where an acceptable as-built survey has already been submitted.
- D. **Issuance.**
 - 1. **Certificate of Occupancy.** The Building Official will issue a certificate of occupancy only after confirming that all work, including site improvements, landscaping, stormwater management facilities, and any other requirements of this Ordinance or conditions of approval, is completed and complies fully.
 - 2. **Certificate of Zoning Compliance.** When any activity requires zoning approval but does not require a building permit or certificate of occupancy, the Zoning Administrator will issue a certificate of zoning compliance only after confirming that all requirements of this Ordinance or conditions of approval are met.

- E. **Temporary Certificate of Occupancy.** The Building Official may issue a temporary certificate of occupancy before full completion of all work, provided that:
1. The building or structure, or portion of the building or structure, may be occupied safely without endangering life or public safety;
 2. Any remaining work is not essential to safe occupancy;
 3. Surety in an amount sufficient to cover the estimated cost of completing the remaining work has been provided in a form acceptable to the City Attorney;
 4. A written agreement is executed specifying the incomplete items, estimated completion costs, reasonable timeline for completion, and provisions for forfeiture of the surety if not completed timely; and
 5. The temporary certificate specifies a set expiration date, after which the temporary certificate of occupancy will expire if work remains incomplete, subject to renewal for good cause.

DIVISION 2. Legislative Approvals

SECTION 10-3-102. Legislative Application Requirements

- A. **Applicability.** This Section applies to each special exception application and each zoning map amendment application not initiated by City Council or Planning Commission.
- B. **General Requirements.** Each application must include the following:
1. A completed application form signed by each owner of the property or by the owner's authorized representative;
 2. The written consent of each owner, if the applicant is a contract purchaser or tenant;
 3. A survey or plat showing the boundaries of any area subject to the application that is not an entire existing lot;
 4. A written statement explaining the proposed use of the property and how the request is consistent with the Comprehensive Plan;
 5. A traffic impact analysis, or a written determination by the Department of Public Works that no traffic impact analysis is required; and
 6. Any other materials identified on the application published by the Zoning Administrator.

SECTION 10-3-103. Zoning Text Amendments

- A. **Applicability.** Whenever public necessity, convenience, general welfare, or good zoning practice requires, the City Council may by ordinance amend, supplement, or change the regulations of this Ordinance.
- B. **Procedure.** Only the following may initiate an amendment to this Ordinance:
 - 1. Resolution of City Council; or
 - 2. Motion of Planning Commission.

SECTION 10-3-104. Zoning Map Amendments

- A. **Applicability.** Whenever public necessity, convenience, general welfare, or good zoning practice requires, the City Council may by ordinance amend, supplement, or change the boundaries of the zoning districts or classifications of property established on the City's zoning map, subject to this Section.
- B. **Procedure.** Only the following may initiate an amendment to the Official Zoning Map:
 - 1. Resolution of City Council;
 - 2. Motion of Planning Commission; or
 - 3. Application of the owner, a contract purchaser with the owner's written consent, or the owner's representative.

SECTION 10-3-105. Conditional Zoning Map Amendments (Proffers)

- A. **Applicability.** As part of a zoning map amendment application, the applicant may voluntarily proffer, and City Council may accept, conditions that apply in addition to the underlying zoning district regulations, subject to Virginia Code §§ 15.2-2303 and 15.2-2303.4, and this Section.
- B. **Proffer Statement.** The applicant's proposed proffers must be provided in writing. For the purpose of this Ordinance, "proffered conditions" shall be interpreted to include written statements, development plans, profiles, elevation or other demonstrative materials. Materials of whatever nature and intended as conditions shall be annotated with the following statement signed by the owner or owners of the subject property:

"I (we) hereby proffer that the development of the subject property on this application shall be in strict accordance with the conditions set forth in this submission."
 - C. **Standards for Proffered Conditions.** Any proposed proffers must comply with the following:

1. The rezoning itself must give rise to the need for the conditions;
2. Such conditions must have a reasonable relation to the rezoning;
3. All such conditions must be in conformity with the Comprehensive Plan; and
4. For zoning map amendments that propose new residential development or new residential uses as defined in and subject to Virginia Code § 15.2-2303.4, any proposed proffers addressing the impacts resulting from the new residential development or new residential uses must comply with Virginia Code § 15.2-2303.4.

D. Proffer Submission Deadlines.

1. **Before the Planning Commission’s Public Hearing.** Any proffers the applicant intends to be presented to and considered by the Planning Commission must be submitted in writing prior to the first publication of any notice of public hearing on the associated zoning map amendment application.
2. **Before the City Council’s Public Hearing.** After the Planning Commission public hearing but prior to the first publication of any notice of public hearing by the City Council, the applicant may submit new proffers, which must be submitted in writing.
3. **Further Amendments.** At any point after the first publication of any notice of public hearing by City Council, City Council may accept amended proffers prior to closing the public hearing. At such time, if City Council determines in its sole discretion that the amended proffers do not materially affect the overall proposal, City Council may take action on the application; however, should City Council determine that the amended proffers are a material change, City Council must schedule another public hearing, subject to the same notice and publication requirements as the first.

E. Severability of Proffered Conditions. Where an applicant proffers multiple conditions, such conditions are severable and City Council may, in its sole discretion, choose to accept all, some, or none of the proffered conditions when acting on the associated zoning map amendment.

F. Effect of Proffered Conditions. Any proffered condition accepted by the City Council becomes a part of the zoning regulations applicable to the property in question, in addition to all applicable zoning regulations, regardless of changes in ownership or operation, unless subsequently changed by an amendment to the zoning map.

G. Annotation of Zoning Map. Each conditional zoning map amendment will be designated on the Official Zoning Map by an appropriate symbol designated by the Zoning

Administrator. Additionally, the Zoning Administrator will keep and make available for public inspection a conditional zoning index as provided in Virginia Code § 15.2-2300.

- H. **Amendment of Accepted Conditions.** City Council may consider and act on amendments to and variations of accepted proffered conditions, including amendments eligible for waiver of a public hearing, in accordance with Section 15.2-2302 of the Code of Virginia.

SECTION 10-3-106. Special Exceptions

- A. **Purpose.** Special exceptions provide a process for considering uses that may be appropriate within a zoning district but that require individual consideration of the impacts of the use. When a use requires a special exception, it may be established or expanded only upon approval by City Council, subject to any conditions City Council may impose to address potential impacts.
- B. **Procedure.** Only the following may apply for a special exception:
1. An owner of the subject property, an owner's representative, or with the owner's written consent, either a contract purchaser or tenant; or
 2. An eligible easement holder applying for a special exception related to its easement.
- C. **Concurrent Applications.** An applicant may request a special exception concurrently with a zoning map amendment for the same property. When filed concurrently, the applications will be reviewed, advertised, and considered as a single, unified request. When a special exception is approved concurrently with a zoning map amendment, the special exception is nevertheless subject to the period of validity.
- D. **Stipulations.**
1. **Generally.** An applicant may voluntarily submit written stipulations regarding the use, design, or development of the property as part of an application.
 2. **Signature.** Each owner of the property must sign the stipulations.
 3. **Effect.** Stipulations accepted by City Council carry the same force as a condition imposed by City Council.
- E. **Standards of Review.** In reviewing a special exception application, the Planning Commission and City Council must consider whether the proposed use or modification, together with any stipulations and conditions:
1. Is consistent with the Comprehensive Plan;

2. Is compatible with the existing and planned character of the surrounding area, including the scale, intensity, and design of nearby development;
3. Will avoid substantial adverse impacts on neighboring properties, including impacts from traffic, noise, lighting, odor, hours of operation, and stormwater;
4. Can be adequately served by public facilities and services, including streets, water and sewer, and fire and emergency services; and
5. Will not adversely affect the public health, safety, and welfare.

F. **Conditions and Restrictions.** The Planning Commission may recommend, and City Council may impose conditions and restrictions to accomplish the objectives of this Ordinance and to address impacts arising from the requested special exception to protect the public health, safety, or welfare.

G. **Period of Validity.**

1. **Residential Projects.** An approved special exception for a residential project remains valid for 36 months from the date of approval, unless City Council specifies a longer timeframe.
2. **All Other Projects.** An approved special exception for any other project remains valid for 12 months from the date of approval, unless City Council specifies a different timeframe.
3. **Residential Use.** For the purposes of this Subsection, a residential project includes any special exception application containing any residential component.

H. **Expiration.**

1. **Generally.** An approved special exception expires if the authorized use is not established, or any construction authorized is not commenced and diligently pursued, during the period of validity.
 2. **Other Required Approvals.** Where construction requires additional administrative approvals under this Ordinance before construction may be commenced, applying for such approvals satisfies this requirement. The special exception remains valid so long as the required application or approval does not lapse.
- I. **Termination.** Once established, a special exception remains valid for an indefinite period of time; however, if the special exception is not established during the period of validity, or the use or activity ceases for a continuous period of 2 years or more, the special exception automatically terminates without notice.

- J. **Revocation.** City Council may revoke a special exception due to the owner or operator's failure to comply with the conditions or restrictions of the special exception. Before revoking a special exception, City Council must hold a public hearing in the same manner as a public hearing for a new special exception application; provided, however, that City Council may, in its sole discretion, waive the requirement for a public hearing before the Planning Commission and proceed directly to a public hearing before the City Council.