

DRAFT

At a meeting of the Spotsylvania County Board of Supervisors held on _____ on a motion by _____, seconded by _____ and passed _____, the Board adopts the following ordinance:

AN ORDINANCE No. 23-175

CA18-0001: Development Review Procedures

To amend County Code ("Code Amendment") Chapter 23, Zoning, Article 4, Development Review Procedures, as part of an ongoing effort to review and update the Spotsylvania County Zoning Ordinance. The proposed amendment includes: Section 23-4.2.1 Notices and Section 23-4.2.2 Public Hearings.

PUBLIC HEARING:

WHEREAS, staff has reviewed the Code Amendment and recommends approval as stated in the Executive Summary dated February 27, 2018; and

WHEREAS, the Spotsylvania County Planning Commission held a public hearing on this item on February 7, 2018, which was duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

WHEREAS, the Spotsylvania County Planning Commission recommended approval of the Code Amendment with a vote of 7-0; and

WHEREAS, the Spotsylvania County Board of Supervisors held a public hearing on February 27, 2018, which was duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

WHEREAS, good zoning practice and general welfare are served by approval of the Code Amendment.

NOW, THEREFORE, THE BOARD OF SUPERVISORS FOR THE COUNTY OF SPOTSYLVANIA HEREBY ORDAINS:

§ 1. That Chapter 23, Article 4, Division 2, be and is hereby **amended** and reordained as follows:

ARTICLE 4. – DEVELOPMENT REVIEW PROCEDURES

DIVISION 2. - NOTICES AND PUBLIC HEARINGS

Sec. 23-4.2.1. - Notice requirements.

- (a) Advertisement by reference. When public notice is required by this ~~chapter~~Chapter, any proposed plan, use, amendment or ordinance need not be advertised in full but may be advertised by reference. Every such advertisement shall contain a reference to the place or places within the ~~county~~County where copies of the application and documents pertaining to the proposed plan, use, amendment or ordinance may be examined.
- (b) Publication of notice. Unless other provisions of this ~~chapter~~Chapter specifically provide otherwise, notice of any public hearing that is required under this ~~chapter~~Chapter shall be published once a week for two (2) successive weeks in a newspaper having general circulation in the ~~county~~County. Notice for both the ~~p~~P~~l~~anning ~~e~~Commission and the ~~b~~B~~o~~ard of ~~s~~S~~u~~per~~v~~isors may be published concurrently. Such notice shall specify the time and place of the hearing at which ~~persons affected~~interested citizens may appear and present their views. If a joint hearing is held, then the public notice need be given only by the ~~b~~B~~o~~ard of ~~s~~S~~u~~per~~v~~isors. The first publication of notice shall appear in the newspaper at least six (6) days prior to the publication of the second notice. The second publication shall appear in the newspaper at least ~~six (6)~~ five (5) days but not more than twenty-one (21) days prior to the date of the public hearing at which the matter is to be considered.
- (c) Mailed notice requirements for minor applications. For an application for ~~an amendment to the zoning map or proffered conditions, a special use, a variance~~Variance, or an ~~appeal~~Appeal, or ~~interpretation~~an Interpretation under ~~a~~Article 3, ~~d~~Division 6 of this ~~chapter~~Chapter affecting twenty-five (25) or ~~less fewer~~ parcels of land, then, in addition to the advertising as required by ~~subsection~~Subsection (b) of this ~~section~~Section, written notice shall be given by the ~~planning commission~~Board of Zoning Appeals or its representative at least five (5) days before the hearing to the ~~owner or~~ owners, their agent, or the occupant, of each parcel involved; to the owners, their agent, or the occupant, of all abutting property and property immediately across the street or road from the property affected; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that has members owning property located within two thousand (2,000) feet of the affected property as may be required by the ~~commission~~Board of Zoning Appeals or its agent. Notice shall also be given to the owners, ~~his~~their agent, or the occupant, of all abutting property and property immediately across the street from the property affected, ~~including property~~ which lies in an adjoining county or municipality of the Commonwealth. Notice sent by registered or certified mail to the last known address of such owners, ~~their agent, or the occupant,~~ as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed.

For an application for an amendment to the Zoning Map or Proffered Conditions, or a Special Use Permit affecting twenty-five (25) or fewer parcels of land, then, in addition to the advertising as required by Subsection (b) of this Section, written notice shall be given by the Planning Commission or its representative at least five (5) days before the hearing to the owners, their agent, or the occupant, of each parcel involved and of property located within the County within three thousand (3,000) feet of the affected property; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that has members owning property located within three thousand (3,000) feet of the affected property as may be required by the Planning Commission or its agent. Notice shall also be given to the owners, their agent, or the occupant, of all abutting property and property immediately across the street from the property affected, including property which lies in an adjoining county or municipality of the Commonwealth. Notice sent by registered or certified mail to the last known address of such owners, their agent, or the occupant, as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed.

When a proposed ~~comprehensive~~ Comprehensive plan-Plan or amendment thereto, a proposed change in ~~zoning-Zoning map-Map~~ classification, or an application for ~~special-Special exception~~ Exception-Use Permit or ~~variance-Variance~~ involves any parcel of land located within one-half mile of a boundary of an adjoining county or municipality of the Commonwealth, then, in addition to the advertising and written notification as above required, written notice shall also be given by the ~~local commission~~ appropriate adjudicating body, or its representative, at least ten (10) days before the hearing to the chief administrative officer, or ~~his~~their designee, of such adjoining county or municipality.

Whenever the notices required hereby are sent by an ~~agency~~Agency, ~~department-Department~~ or ~~division-Division~~ of the ~~b~~Board of ~~s~~Supervisors, such notices may be sent out by first class mail; provided, however, a representative of such ~~agency~~Agency, ~~department-Department~~ or ~~division~~ Division shall provide an affidavit that such mailings have been made and file such with the papers in the case.

(d) Mailed notice requirements for major applications. For an application for ~~an amendment to the zoning map or proffered conditions, a special use, a variance~~ a Variance, or an ~~appeal~~ Appeal, or ~~interpretation~~ an Interpretation under ~~a~~Article 3, ~~d~~Division 6 of this ~~chapter~~ Chapter affecting more than twenty-five (25) parcels of land, then, in addition to the advertising as required by ~~subsection~~ Subsection (a) of this ~~section~~ Section, written notice shall be given by the ~~planning commission~~ Board of Zoning Appeals or its representative at least five (5) days before the hearing to the owners, or their agents, of each parcel of land involved. One (1) notice sent by the first class mail to the last known address of such owners or their agent as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that staff of the ~~planning commission~~ Board of Zoning Appeals shall provide an affidavit that such mailings have been made and file such affidavit with the ~~papers in the~~ case. Nothing in this paragraph shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure to give written notice to the owners, ~~or their agents~~ agent, or the occupant of any parcel involved.

For an application for an amendment to the Zoning Map or Proffered Conditions, or a Special Use Permit affecting more than twenty-five (25) parcels of land, then, in addition to the advertising as required by Subsection (b) of this Section, written notice shall be given by the Planning Commission or its representative at least five (5) days before the hearing to the owners or their agent, of each parcel involved and of property located within the County within three thousand (3,000) feet of the affected property. Notice shall also be given to the owners, their agent, or the occupant, of all abutting property and property immediately across the street from the property affected, including property which lies in an adjoining county or municipality of the Commonwealth. One (1) notice sent by the first class mail to the last known address of such owners or their agent, as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that staff of the Planning Commission shall provide an affidavit that such mailings have been made and file such affidavit with the case. Nothing in this paragraph shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure to give written notice to the owners, their agent, or the occupant, of any parcel involved. If the hearing is continued, notice shall be remailed.

- (e) Notice to a condominium or a cooperative. In the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.
- ~~(f) Written notice by applicant. As the representative of the planning commission, the applicant shall give the written notice required by subsections (c) and (d) of this section. At least ten (10) days prior to any public hearing required under this chapter, the applicant shall supply to the county a certification of notice and a listing of the persons to whom notice has been sent on a form provided by the county.~~

(gf) Waiver of written notice. A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this ~~section~~ Section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this ~~section~~ Section.

(hg) Posted notice requirements. At least fifteen (15) days prior to any public hearing required under this ~~chapter~~ Chapter, except for ~~text~~ Text amendments ~~Amendments~~ and applications affecting more than five hundred (500) parcels, the applicant shall post on the property that is the subject of the hearing, a sign or signs provided by the ~~county~~ County stating that zoning action is pending on the property; the sign(s) shall be easily visible from all public streets and public ways abutting the property. An affidavit shall be filed by the applicant at the public hearing certifying that the applicant has complied with this ~~section~~ Section and shall be in the following form:

I, _____, hereby certify that on the day _____/_____/_____,
~~1920~~ _____, a sign or signs stating that zoning action was pending on the property described below was/were posted on the property and that the sign(s) was/were easily visible from all public streets and public ways abutting the property.

Property Description:

Given under my hand this _____ day of _____/_____/_____,
~~1920~~ _____.

Applicant

(ih) Cost of providing notice. The cost of any notice required ~~under this chapter~~ by the Code of Virginia Section 15.2-2204 shall be charged to the applicant.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-73, 8-12-97; Ord. No. 23-175, 2-27-18)

Sec. 23-4.2.2. - Public hearings.

(a) Required ~~number of~~ hearings. ~~Two (2) Both the Planning Commission and the Board of Supervisors shall hold at least one public hearings shall be conducted~~ to consider an application for ~~special~~ Special use ~~Use Permit~~ approval, a ~~map~~ Map amendment ~~Amendment~~ or a ~~text~~ Text amendment ~~Amendment~~ filed under the provisions of this ~~chapter~~ Chapter. The first public hearing shall be conducted by the ~~p~~Planning ~~e~~Commission, and the second shall be conducted by the ~~b~~Board of ~~s~~Supervisors. ~~However, The the p~~Planning ~~e~~Commission and the ~~b~~Board of ~~s~~Supervisors may hold a joint public hearing ~~as an alternative to separately scheduled hearings.~~

(b) Time of hearings. Any public hearing that is required under this ~~chapter~~ Chapter shall be held not less than ~~six (6) five (5)~~ nor more than twenty-one (21) days after the second notice is published in accordance with the provisions of ~~s~~Section 23-4.2.1.

(Ord. No. 23-66, 10-24-95; Ord No. 23-175, 2-27-18)

§ 2. This ordinance shall be in force and effect upon adoption.