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5 SPECIAL USE PERMITS

5-A GENERAL

Special Use Permits may be granted by the Town Council for any of the uses for which a permit is required by the provisions of this Ordinance.

5-B PROCEDURE

5-B-1 Application:

- 5-B-1-a Application for a Special Use Permit may be made by the record owner of the property, or contract owner with written approval of the record owner. If application is made by the contract owner, a copy of the contract shall be filed with and made a part of the application.
- 5-B-1-b Such application shall be filed with the Zoning Administrator and shall be accompanied by fifteen copies of the following:
 - 1. A site development plan in accordance with Article 6 of this Ordinance.
 - 2. Front, side, and rear elevations and floor plans of proposed buildings.
 - 3. The applicable filing fee.
- 5-B-1-c The Zoning Administrator may require such other information to be submitted as the Zoning Administrator deems necessary for a proper and intelligent consideration of the application.

5-B-2 Recommendation by Planning Commission

- 5-B-2-a **Public Hearing Requirements**
Upon receipt of the application and all required information, the Zoning Administrator shall refer same to the Planning Commission for consideration at the next regular monthly meeting.

The Planning Commission shall hold a public hearing on said application after giving public notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.
- 5-B-2-b Within one hundred days of the referral the application to the Planning Commission, at their next regular monthly meeting, the Planning Commission shall make a recommendation on said application to the Town Council. The recommendation of the Planning Commission may include recommendations for conditions to be applied to the Special Use Permit should it be granted by the Town Council.
- 5-B-2-c Before making a recommendation, the Commission may require the applicant to furnish such information, as it may deem necessary in order to determine whether the proposed special use permit is detrimental to the public health, safety, or general welfare. Such a determination shall be based on the specific findings listed in 5-B-4. The Commission may make any additional findings it may deem appropriate.

5-B-3 Action by Town Council

- 5-B-3-a **Public Hearing Requirements**
Public Hearing: Within one hundred days of receiving the recommendation of the Planning Commission, at their next regular meeting, and before action on the application for a Special Use Permit, the Town Council shall hold a public hearing on said application, after giving

public notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.

- 5-B-3-b **Burden of Proof**
The burden of proof shall be on the applicant to show reasonableness of the proposed special use permit, the lack of adverse effect, and compliance with the elements of public health, safety, and general welfare as set forth in Section 5-B-4.
- 5-B-4-c Upon the granting of a Special Use Permit, one copy of the site development plan submitted with the application shall be certified by the Zoning Administrator and returned to the applicant, together with a statement in writing of the conditions, if any, imposed by the Council in granting the permit. The applicant shall use the property for the proposed use only in such manner as provided in the site development plan and only in accordance with the conditions, if any, provided by the Council.

5-B-4 **Criteria for Action on Special Use Permit**

Before taking action, the Council may require the applicant to furnish such information, as it may deem necessary in order to determine whether the proposed special use permit is detrimental to the public health, safety, or general welfare. Such a determination shall be based on the following specific findings. The Council may make any additional findings it may deem appropriate. The use requiring the special use permit:

- 5-B-4-a Will be consistent with the Comprehensive Plan of the Town.
- 5-B-4-b Will be consistent with the Purposes and Intent of this Ordinance.
- 5-B-4-c Will not have an undue adverse impact on the short-term and long-term fiscal resources of the Town of Boyce or Clarke County for education, water, sewage, fire, police, rescue, solid waste disposal or other services, and will be consistent with the capital improvement goals and objectives of the Comprehensive Plan, to the end that growth of the community will be consonant with the efficient and economic use of public funds.
- 5-B-4-d Will not cause an undue adverse effect on neighboring property values without furthering the goals of the Comprehensive Plan to the benefit of the Town.
- 5-B-4-e Will not cause unreasonable traffic congestion or unsafe conditions on existing or proposed public roads and has adequate road access.
- 5-B-4-f Will not cause destruction of or encroachment upon historic or archeological sites, particularly properties under historic easement.
- 5-B-4-g Will have sufficient water available for its foreseeable needs.
- 5-B-4-h Will not cause unreasonable depletion of or other undue adverse effect on the water source(s) serving existing development(s) in adjacent areas.
- 5-B-4-i Will not cause undue surface or subsurface water pollution.
- 5-B-4-j Will not cause an undue adverse effect on existing or proposed septic systems in adjacent areas.

- 5-B-4-k Will not cause unreasonable soil erosion.
- 5-B-4-l Will have adequate facilities to provide safety from flooding, both with respect to proposed structures and to downhill/downstream properties.
- 5-B-4-m Will not cause undue air pollution.
- 5-B-4-n Will not cause undue noise, light or glare, dust, odor, fumes, or vibration.
- 5-B-4-o Will not cause a detrimental visual impact.

5-C REVOCATION

The Town Council may, by resolution, initiate the revocation of any active Special Use Permit. The consideration of the revocation shall proceed following the procedure set forth for approving a new Special Use Permit. Following a recommendation by the Planning Commission, the Council may revoke an active Special Use Permit for the following reasons:

1. Failure to establish or discontinuance of the approved Special Use. If the approved Special Use has not been established within two years of its approval or if it has been discontinued for one year, the Special Use Permit may be revoked. A Special Use Permit approved before [adoption date of ordinance] shall be eligible for revocation if it has not been established by [two years after the adoption date of ordinance] or if it has been discontinued for one year as of [one year after the adoption date of ordinance].
2. Repeated or continuing violations of the conditions placed on the Permit.
3. Fraudulent, false, or misleading information supplied by the applicant in applying for the Special Use Permit.