

ARTICLE 2: General Provisions

2-10 Intent

The basic intent of the Town of Orange's Zoning Ordinance is to implement the goals and objectives of the adopted Town of Orange *Comprehensive Plan*, hereafter referred to as the Comprehensive Plan. The Comprehensive Plan is the basis for the text of this Zoning Ordinance and the accompanying Zoning Map and it is intended that physical development within the Town proceed according to the regulations outlined herein.

The Zoning Ordinance is also intended to achieve the objectives of §15.2-2200 of the Code of Virginia, namely, to encourage the Town to improve the public health, safety, convenience and welfare of its citizens and to plan for the future development of land within the Town to the end that transportation systems be carefully planned; that new community centers be developed with adequate highway, utility, health, educational, and recreational facilities; that the need for mineral resources and the needs of agriculture, industry and business be recognized in future growth; that residential areas be provided with healthy surroundings for family life; that agricultural and forestal lands be preserved; and that the growth of the community be consonant with the efficient and economical use of public funds.

This Zoning Ordinance is not intended to interfere with, abrogate or annul any existing easements, covenants, or other agreement between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, easements, covenants or agreements, the provision of this Ordinance shall govern.

2-20 Zoning Ordinance, Generally

2-20.10 Zoning Ordinance, Certified Copy

A certified copy of the Zoning Ordinance including the Zoning Map and all proffers, as adopted by Town Council, shall be filed in the office of the Zoning Administrator and in the office of the Clerk of the Circuit Court of Orange County, Virginia.

2-20.20 Maximum Density

The maximum density specified for a particular use within a given zoning district shall not be exceeded except as specified elsewhere in this Ordinance. Maximum density shall be calculated on the gross area of the lot, and expressed in the number of dwelling units per acre.

2-20.30 Conflicting Provisions

- a) Conflict with State or Federal Laws and Regulations: If any provision of this Zoning Ordinance is inconsistent with Virginia or federal law, the more restrictive provision shall control, to the extent permitted by law.
- b) Conflict with Other Town Laws and Regulations: If the provisions of this Zoning Ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the Town, the more restrictive provision, or that imposing higher standards, shall control.
- c) Conflict with Private Easements, Agreements or Covenants: This Zoning Ordinance is not intended to abrogate, annul, or otherwise interfere with any private easement, agreement, covenant, restriction or other private legal relationship. The Town is responsible for enforcing this Zoning Ordinance; it does not enforce private agreements, easements, covenants or restrictions.
- d) Conflict with Court Decisions: Should any section or provisions 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 decided to be unconstitutional or invalid.
- e) Conflict with Permits Issued By Other Town Officials: All departments, officials, and public employees of the Town of Orange which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance and shall issue permits for uses, structures, or facilities only when they are in harmony with the provisions of this Ordinance. Any such permit, if issued in conflict with the provisions of this Ordinance, shall be null and void.

2-20.40 Effective Date

The effective date of this Ordinance shall be from and after the passage and legal application, and its provisions shall be in force thereafter until repealed.

2-30 Streets and Highways

2-30.10 Effects of Widening on Setbacks

Whenever official plans or maps for the widening of any street or highway have been duly adopted by either the Virginia Department of Transportation (VDOT) and/or the Town Council, the Planning Commission may recommend and the Town Council may impose additional front yard setbacks for any new construction, or for the expansion of an existing structure, adjacent to the future planned right-of-way in order to preserve and protect the rights-of-way for such proposed street or highway widening.

2-30.20 Obstruction to Vision at Intersections

No structure, plant material, sign, fence or other object shall be permitted to obstruct clear and safe visibility at a traffic intersection.

2-30.30 Traffic Impact Analysis

Prior to the submission of any required site plan, plan of development, rezoning request, conditional zoning request, special use permit or comprehensive plan amendment, the requestor/developer shall receive from the Town Zoning Administrator a written determination as to whether the request or submission requires, under Va. Code §15.2-2222.1 and regulations promulgated thereunder, a Traffic Impact Analysis by the Virginia Department of Transportation (VDOT). If the determination by the Town Zoning Administrator is that such a review is required by state law, the developer/requestor shall, along with any and all other requirements under this Chapter, prepare the necessary package to be submitted to VDOT, along with payment to VDOT and the Town, of any required review fees, and submit these to the Town's Zoning Administrator along with all other zoning ordinance requirements. No application for site plan approval, plan of development, rezoning, conditional zoning, special use permit or comprehensive plan amendment, shall be deemed complete until the developer/requester has either (1) obtained a written determination by the Zoning Administrator that no Traffic Impact Analysis review is required by state law or (2) filed with the Town the necessary package for review required by Va. Code §15.2-2222.1 and regulations thereunder and presented to the Town payment to VDOT and the Town, in a form acceptable under the regulations. All VDOT payments will be promptly forwarded to VDOT upon receipt. It will also be the further responsibility of the developer/requestor to comply with any follow-up requirements for meetings and/or submission of additional information, if any, under Va. Code §15.2-2222.1 and VDOT regulations thereunder, including payment, if necessary, of any additional review fees to VDOT.

2-40 Public Facilities

2-40.10 Handicapped Access

All public facilities required by this Ordinance, including recreational areas, parking lots, sidewalks, and the like, shall meet minimum standards of the American Disabilities Act and Virginia BOCA Code for barrier-free access.

2-40.20 Compliance with Public Facilities Standards

All public facilities included but not limited to streets, bridges, culverts, sidewalks, drainage channels, pipes, and structures, and water and sewer facilities required or proposed to service any development or use regulated by this Ordinance, shall be constructed in conformance with the Town of Orange Public Facilities Manual, latest edition, and with any other standards of any state, local or federal government agency having regulatory authority or jurisdiction over the subject improvements, including Orange County, if applicable.

2-50 Vested Rights and Nonconformities

2-50.10 Applicability

The regulations of this article govern nonconforming uses, nonconforming structures and nonconforming lots that came into existence legally but that do not comply with one or more requirements of this Zoning Ordinance.

2-50.20 Purpose and Scope

It is the general policy of the Town to allow uses, structures and lots that came into existence legally in conformance with then applicable requirements to continue to exist and be put to productive use, but to bring as many aspects of such situations into compliance with existing regulations as is reasonably possible. This article establishes regulations governing uses, structures and lots that were lawfully established but that do not conform to one or more existing requirements of this Zoning Ordinance. The regulations of this article are intended to:

- a) Recognize the interests of property owners in continuing to use their property;
- b) Promote reuse and rehabilitation of existing buildings; and
- c) Place reasonable limits on the expansion and alteration of nonconformities that have the potential to adversely affect surrounding properties or the community as a whole.

2-50.30 Authority to Continue

Any nonconformity that legally existed on the date of adoption of this Ordinance or that becomes nonconforming upon the adoption of any amendment to this Zoning Ordinance may be continued only in accordance with the provisions of this article. Unless otherwise expressly stated, any variation from these standards shall require review and approval as a Modification or Variance in accordance with the procedures set forth in of Section 3-50 or Special Exceptions (Special Use Permits) in accordance with the procedure of Section 3-30.

2-50.40 Repairs and Maintenance

Normal repairs and routine maintenance of nonconformities shall be permitted unless such repairs increase the extent of nonconformity or are otherwise expressly prohibited by this Zoning Ordinance. Nothing in this article shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

2-50.40 Change of Tenancy or Ownership

The status of nonconformity is not affected by changes of tenancy, ownership or management.

2-50.50 Nonconforming Uses

- a) Effect of Procedural Changes: Any use that was legally established at a time when no special form of approval was required for the subject use (e.g. special use permit review and approval) shall not be deemed nonconforming merely as a result of not having obtained such approval. Any enlargement or expansion of such use shall be subject to the procedures and standards in effect at the time of such expansion.
- b) Change in Use: A nonconforming use may be changed to any use that is allowed in the zoning district in which it is located, subject to the all applicable standards and requirements applicable to the new use. Once a nonconforming use is converted to a conforming use it may not be changed back to a nonconforming use.
- c) Abandonment: Once abandoned, a nonconforming use shall not be reestablished or resumed. Any subsequent use or occupancy of the structure or open land must comply with the regulations of the district in which it is located and all other applicable requirements of this Zoning Ordinance. A nonconforming use shall be presumed abandoned when any one of the following has occurred:
 - 1) The owner has in writing or by public statement indicated intent to abandon the use;
 - 2) A conforming or less intensive nonconforming use has replaced the nonconforming use;
 - 3) The building or structure housing the nonconforming use has been removed through the applicable procedures for the condemnation of unsafe structures;
 - 4) The owner has physically changed the building or structure or its permanent equipment in a manner that clearly indicates a change in use or activity to something other than the nonconforming use; or
 - 5) The use has been discontinued, vacant or inactive for a continuous period of at least 2 years.
- d) Overcoming Presumption of Abandonment: A presumption of abandonment based on the evidence of abandonment stated in paragraph (c) of this subsection may be rebutted upon a showing, to the satisfaction of the Board of Zoning Appeals, that the owner:
 - 1) Has been maintaining the land and structure in accordance with all applicable regulations, including the Building Code, and did not intend to discontinue the use;
 - 2) Has been maintaining all applicable licenses; and
 - 3) Has filed all applicable tax documents.
 - 4) In addition, the owner of the nonconforming use shall be required to demonstrate, to the satisfaction of the Board of Zoning Appeals, that during the period of inactivity or discontinuance the owner:
 - i) Has been actively and continuously marketing the land or structure for sale or lease;
 - ii) Or has been engaged in other activities that would affirmatively prove there was no intent to abandon.
- e) Expansion and Enlargement: A building or area of land devoted to a nonconforming use may be expanded or enlarged to an extent not exceeding 50% of the area in existence at the time the use became non-conforming.
- f) Manufactured Homes: A manufactured home existing as of May 14, 2001 may be replaced with a manufactured home of similar character, that is, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. Any such replacement shall comply with the current HUD manufactured housing code.

- g) Loss, Damage or Destruction: If a building or structure containing a nonconforming use is destroyed or damaged by any means, the owner may re-establish the nonconforming use under the following circumstances:
- 1) If the building or structure is damaged to an extent equal to or less than 50% of its appraised value, the nonconforming use may be re-established by-right; or
 - 2) If the building or structure is damaged to an extent exceeding 50% of its appraised value, the nonconforming use may be re-established provided a special use permit is granted by the Town Council.

2-50.60 Nonconforming Buildings and Structures

- a) Effect of Variances: If a variance is approved from otherwise applicable zoning district dimensional standards, the subject structure shall still be deemed nonconforming.
- b) Expansion: A nonconforming structure may be enlarged or expanded without a variance if the expansion does not increase the extent of nonconformity. With regard to building setbacks, all new construction must meet existing setback requirements.
- c) Moving: A nonconforming structure may be moved if the movement or relocation eliminates or reduces the extent of the nonconformity.
- d) Loss, Damage or Destruction: If a nonconforming structure is destroyed by any means, the owner may replace such structure without obtaining a variance for the nonconforming features provided there is no increase in the extent of the nonconformity and provided that the repairs or reconstruction shall be undertaken within 2 years of the date of destruction and diligently carried on to completion.

2-50.70 Nonconforming Lots

- a) Vacant Parcels: If a nonconforming lot was vacant at the time it became nonconforming, it may be used for any use allowed in the underlying zoning district provided (1) all applicable dimensional standards are met; or (b) a variance is obtained for any building or portion thereof which will not comply with the applicable dimensional standards.
- b) Developed Lots: If a nonconforming lot contained a building or structure at the time it became nonconforming, then the building or structure may be maintained and expanded in accordance with all applicable dimensional standards of the underlying zoning ordinance.

2-50.80 Density Credits to residue when land dedicated to Town for public use (Adopted- December 16, 2013)

In order to deal fairly with owners of property part of which is severed for a public purpose, in zoning districts involving computation of maximum number of dwelling units per acre or maximum lot coverage for commercial uses, any reduction in same caused by the conveyance (by gift, sale or taking under eminent domain) to the Town of a parcel served for public purposes (i.e., park, school site, utility structures, roads, sidewalks or other road improvements or any other public purpose) will be restored, in whole or in part, to the residue if the following conditions are met:

1. There is an effective irrevocable dedication to public use or conveyance in fee to the Town by gift, sale, or taking at the initiative of or with the explicit consent of the Town and evidence of the dedication or conveyance is recorded among the land records for Orange County; and
2. The need for such public facility or use was not created by the subdivision or development of the property; and
3. The area dedicated or conveyed is necessary for the installation or improvement of the public use which is in accord with the adopted comprehensive plan; and
4. The Director of Community Development has specifically approved density credit for the lot, lots or parcels in question prior to completion of dedication or conveyance.

(B) This credit is available in full for conveyances of two acres or less or for conveyances of less than 10% of the original parcel, whichever is greater. Partial credits may be approved by the Director of Community Development of conveyances exceeding these maximums where special hardship would otherwise exist.

(C) The transfer of density credits does not otherwise affect the owner's obligation to conform to other requirements of the Town's zoning ordinance, including but not limited to setbacks, height restrictions, etc., unless a variance is obtained under the Town's code.

2-60 Zoning Administrator

The provisions of the Ordinance shall be enforced by the designated agent of the Town of Orange who shall be known as the Zoning Administrator. His authority shall include:

- 1) Receipt and Review of Applications: To receive and/or review all applications, certifications, statements or materials required by this Zoning Ordinance;
- 2) Permits: To issue all permits, certifications and statements and to approve all plans as required by this Ordinance;
- 3) Occupancy Clearance: To authorize the issuance of zoning clearance for Occupancy Permits or Certificates of Occupancy upon demonstration by the owner-applicant that a use or structure complies with all applicable Zoning Ordinance and Town Code requirements, such clearance to be authorized by issuance of a Certificate of Zoning Compliance for the use or structure;
- 4) Interpretations: To issue written interpretations of this Zoning Ordinance upon written request. Such interpretations shall be binding as to the specific facts presented in the request for interpretation after completion of the thirty (30) day appeal period specified in the Code of Virginia. The Zoning Administrator shall respond within ninety (90) days of a request for a decision or determination on zoning matters within the scope of his authority unless the requester has agreed to a longer period.

- 5) Uses Not Specifically Listed: Where a specific proposed use is not listed in the Zoning Ordinance, to issue an interpretation regarding whether the use is a permitted use, special use, or prohibited use within various zoning districts.
- 6) Maintain Zoning Ordinance: To maintain a true and accurate copy of this Zoning Ordinance, including all amendments and interpretations and shall make the same available for public inspection.
- 7) Maintain and Interpret the Official Zoning Map: To interpret the Official Zoning Map as it relates to specific properties within the Town. The Zoning Administrator shall also maintain the Official Zoning map by indicating all rezonings and indicating proffered conditions associated with any such rezoning by an appropriate symbol, and shall make the same available for public inspection.
- 8) Maintain Records: To maintain permanent and current records required by this Zoning Ordinance, including but not limited to zoning permits and all official actions on administrative appeals, variances, special use permits, ordinance amendments, rezonings, proffer amendments and other related land records. A separate index of proffered conditions shall also be maintained in accordance with Section 15.2-2300 of the Code of Virginia, 1950, as amended.
- 9) Conduct Inspections: To conduct appropriate and lawful inspections of properties, including buildings, structures, landscaping and uses of land to determine compliance with this Zoning Ordinance. When a violation is identified the Zoning Administrator shall notify in writing the person or persons responsible specifying the nature of the violation and ordering appropriate corrective action.
- 10) Enforce the Zoning Ordinance: To enforce the provisions of this Zoning Ordinance, the decisions of the Board of Zoning Appeals, and proffers and conditions approved by the Town Council.
- 11) Establish Forms and Procedures: In addition to the regulations and requirements herein contained concerning the administration of this Ordinance, the Zoning Administrator may establish reasonable additional administrative forms and procedures deemed necessary for the proper administration of this Ordinance.
- 12) Other Duties: To perform such other duties and responsibilities as authorized by the Town Manager or Code of Virginia in order to fulfill the purpose and intent of this Zoning Ordinance.

2-70 Decision-Making Bodies

2-70.10 Town Council

The Town Council shall have the following powers and duties under this Zoning Ordinance:

- 1) Zoning Ordinance: To initiate, consider and make final decisions upon proposed amendments to this Zoning Ordinance;
- 2) Zoning Map Amendments. To initiate, consider and make final decisions upon proposed amendments to the Official Zoning Map, including amendments to proffered conditions;
- 3) Special Use Permits: To consider and make final decisions regarding special use permits, as specified by this Zoning Ordinance;
- 4) Establish Fees: To establish fees, charges and other expenses for permits, plans, applications and authorizations required by this Zoning Ordinance;

- 5) Appoint Commissions and Boards: To appoint members of the Planning Commission, recommend appointments to the Board of Zoning Appeals, and appoint members of any other board or commission as now or as may be required by the Zoning Ordinance;
- 6) Conduct Public Hearings: To conduct such public hearings as may be required under the provisions of this Zoning Ordinance; and
- 7) Other: Any other powers and duties established by the Town Code, Code of Virginia, as amended, or any by-laws duly established with respect to reviewing, administering, enforcing, interpreting, or amending the Zoning Ordinance and Zoning Map.

2-70.20 Planning Commission

- a) Purpose: The Planning Commission shall advise the Town Council on all matters relating to the orderly growth and development of the Town of Orange.
- b) Establishment: The Planning Commission heretofore established pursuant to the provisions of Section 15.2-2210 of the Code of Virginia, 1950, as amended, and Chapter 2 of the Town Code shall continue as the Planning Commission and hold regular meetings in compliance all applicable laws and by-laws duly established. The Planning Commission shall consist of the number of members set forth in the Town Code.
- c) Powers and Duties: In addition to those powers and duties established for the Planning Commission in Section 15.2-2210, Section 15.2-2217 and Section 15.2-2221 of the Code of Virginia, 1950, as amended, and Chapter 2 of the Town Code or as otherwise lawfully assigned, the Planning Commission shall have the following powers and duties:
 - 1) Prepare Ordinance and Map: To initiate, prepare and recommend amendments to the Zoning Ordinance and Zoning Map;
 - 2) Recommendations on Rezonings: To consider whether or not proposed Zoning Map amendments and proffered amendments are consistent with the Zoning Ordinance and overall goals and objectives of the Comprehensive Plan, and to make recommendations regarding all such amendments to the Town Council;
 - 3) Review Comprehensive Plan: To review the Town Comprehensive Plan at least once every 5 years and recommend amendments;
 - 4) Recommendations on Special Use Permits: To receive, hear and investigate applications for special use permits authorized under this Zoning Ordinance and, if the facts and conditions required by this Zoning Ordinance for the approval of such uses are found to be present, to recommend to the Town Council that the application be granted;
 - 5) Prepare Capital Improvements Plan: To prepare and revise annually a capital improvement plan for the ensuing five years based on the Town Comprehensive Plan;
 - 6) Prepare Official Map: To prepare and revise an official map for any legally established or future public street, alley, walkway, waterway, and public area;
 - 7) Subdivision Plats and Site Plans: To review and make recommendations regarding subdivision plats and site development plans as authorized by the provisions of the Zoning Ordinance and Subdivision Ordinance;
 - 8) Conduct Public Hearings: To conduct such public hearings as may be required to gather information for the drafting, establishment and maintenance of the various components of the Comprehensive Plan, and such additional public hearings as are specified under the provisions of this Zoning Ordinance; and
 - 9) Other: To perform any other duties which may be lawfully assigned to it.

- d) Coordination: The Planning Commission shall have the authority to request and receive information, cooperation, assistance, or studies from any Town departments, boards, agencies or commissions in carrying out its designated powers and duties.

2-70.30 Board of Zoning Appeals

- a) Membership: A Board consisting of five (5) members all residents of the Town shall be appointed by the Circuit Court of Orange County. The Town Council may make recommendations to the Circuit Court for appointees. The Board shall serve without pay other than for traveling expenses and official meetings and education events as approved by Town Council.
- b) Terms, Vacancies, and Removal: Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the un-expired term. The term of office shall be for five (5) years and one (1) member's term shall expire each year. Members may be re-appointed to successive terms. One (1) of the five (5) appointed members may be an active member of the Planning Commission. Members may be removed for cause by the appointing authority upon written charges and after a public hearing.
- c) Conflict of Interest: Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has a personal interest.
- d) Officers: The Board shall choose annually its own chairman and vice-chairman who shall act in the absence of the chairman.
- e) Quorum: For the conduct of any hearing and the taking of any action, a quorum shall be not less than three (3) members of the Board.
- f) Powers and Duties: The powers and duties of the Board of Zoning Appeals shall be governed by §15.2-2308 through §15.2-2214 of the *Code of Virginia*, as amended.
- g) Rules and Procedures. The Board of Zoning Appeals may adopt such rules and procedures as it may consider necessary. The meeting of the Board shall be held at the call of its chairman or at such times as a quorum of the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator and shall be a public record. The Board shall submit a report of its activities to the Town Council at least once a year. All meetings of the Board shall be open to the public. A favorable vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the owner-applicant on any matter upon which the Board is required to pass.