

CHAPTER 18

ZONING

Article I. In General

- Sec. 18-1.** Authority to establish Zoning.
Sec. 18-2. Duties of Zoning Administrator.

Article II. Application of Regulations

- Sec. 18-3.** Application of Regulations.
Sec. 18-4. Interpretation.

Article III. Districts

- Sec. 18-5.** Districts defined.
Sec. 18-6. Districts incorporated in Land Use Regulations.

Article IV. Administration and Enforcement

- Sec. 18-7.** Zoning Administrator; general enforcement.
Sec. 18-8. Administrative procedures.
Sec. 18-9. Conditional uses, variances and rezoning.

Article V. Provisions for Appeal

- Sec. 18-10.** Board of Zoning Appeals.
Sec. 18-11. Powers and duties of Board of Zoning Appeals.
Sec. 18-12. Rules of procedure.
Sec. 18-13. Appeals to Board of Zoning Appeals.
Sec. 18-14. Appeal Procedure.
Sec. 18-15. Certiorari to review decisions of Board of Zoning Appeals.

Article VI. Violations and Penalties

- Sec. 18-16.** Violations and Penalties.
Sec. 18-17. Remedies not exclusive.
Sec. 18-18. Complaints regarding violations.

Article VII. Amendments Procedures.

- Sec. 18-19.** Procedures.

Article VIII. Definitions

- Sec. 18-20.** General usage of certain words.
- Sec. 18-21.** Interpretation by enforcement official.

ARTICLE 1. IN GENERAL

Sec. 18-1 Authority to establish Zoning.

Whereas, by act of the General Assembly of Virginia, as recorded in Title 15.2, Chapter 22, Article 7, Sections 15.2-2280 through 15.2-2316, Code of Virginia, 1950, as amended, the Governing Body of any county or municipality may, by ordinance, classify the territory under its jurisdiction into districts of such number, shape, and size as it may deem best suited to carry out the purpose of zoning, and in each district it may regulate the following:

- 18-1.01 The use of land, buildings, structures, and other premises for agricultural, business, industrial, residential, floodplain, and other specific uses.
- 18-1.02 The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures.
- 18-1.03 The areas and dimensions of land, water, and air space to be occupied by buildings, structures, and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and in use.
- 18-1.04 The excavation or mining of soil or other natural resources.

Sec. 18-2. Duties of Zoning Administrator.

The Zoning Administrator is authorized and empowered on behalf of and in the name of the Governing Body to administer and enforce the provisions set forth herein to include receiving applications, inspecting premises, issuing Zoning Permits and other duties as appropriate for uses and structures which are in conformance with the provisions of these Land Use Regulations. The Zoning Administrator shall have all necessary authority on behalf of the Governing Body to administer and enforce these Land Use Regulations, including the ordering, in writing, the remedy for any condition found in violation of these Land Use Regulations, the issuance of stop work orders and the bringing of legal actions, including injunction, abatement, or other appropriate action or proceeding, to insure compliance with these Land Use Regulations. The Zoning Administrator does not have the authority to take final action on applications or matters involving variances nor on conditional uses or other variances, on which final action is reserved to the Board.

ARTICLE II. APPLICATION OF REGULATIONS

Sec. 18-3. Application of regulations.

The regulations set by this chapter within each district shall apply uniformly to each class or kind of structure of land, except as follows:

(1) Use, occupancy and construct. No building, structure or land shall be used or occupied and no building or structure or part thereof shall be constructed except in conformity with the regulations specified in the Bath County Land Use Regulations for the district in which it is located.

(2) Use of required yard, open space, area, parking or loading space for one structure or use to meet requirement for another. No other part of a yard or other open space, area, or off-street parking or loading space require about or in connection with any structure for the purpose of complying with this chapter shall be included as part of a yard, open space, area or off-street parking or loading space similarly required for any other structure.

(3) Reduction of lots or areas below minimum prohibited. No lot or area existing shall be reduced in dimension or area below the minimum requirements set forth in this chapter except for the purpose of meeting or exceeding standards set forth in this chapter. Lots or areas created after the date of the adoption of this chapter shall meet at least the minimum requirements established by this chapter and shall not be platted and recorded unless the minimum requirements are met.

(4) Reduction of yards below minimum. No yards existing shall be reduced in dimensions below the minimum requirements set forth in this chapter, unless such yard restrictions would constitute an unreasonable and undue hardship. In such cases, the owner of the lot or parcel may apply to the Board of Zoning Appeals for a variance, and if granted the Board shall determine the minimum requirements consistent with provision of adequate light and air; prevention of loss of life, health or property from fire or other dangers; and prevention of danger in travel.

(5) Modified yard requirements. The setback requirements of this chapter for yards facing streets shall not apply to any lot where the average setback on developed lots within 400 feet of the parcel and fronting on the same street is less than the minimum. In such cases, the setback on such lot may be less than the required setback but not less than the average of the existing setbacks on the existing developed lots.

Sec. 18-4. Interpretation.

Where uncertainty exists with respect to the boundaries of any of the districts as shown on the zoning map, the following rules apply:

(1) Where district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys or railroad main tracks, such

centerlines or lines at right angles to such centerlines shall be construed to be the boundaries, as the case may be.

(2) Where a district boundary is indicated to follow a river, creek or branch or other body of water, the boundary shall be construed to follow the centerline of low water or the limit of jurisdiction of the county.

(3) If no distance, angle, curvature description or other means is given to determine a boundary line accurately, the boundary line shall be determined by the use of the scale shown on the zoning map, and in case of dispute in the use thereof, the determination of the Zoning Administrator shall be final unless overturned by the Board of Zoning Appeals.

(4) Such determination of district boundaries shall be made by the Zoning Administrator. If uncertainty exists as to the location of such boundaries and the owner or his authorized representative wishes to challenge or contest the Zoning Administrator's interpretation, the matter shall be referred to the Board of Zoning Appeals for final decision.

ARTICLE III. DISTRICTS

Sec. 18-5. Districts defined.

(1) Division of Bath County into Districts

(a) Bath County is divided into zoning districts named and described in the Bath County Land Use Regulations. The boundaries of said zoning districts are established and shown on the Official Zoning Map maintained in the Office of the Zoning Administrator.

Sec. 18-6. Districts incorporated in Land Use Regulations.

(a) The zoning map entitled the "Official Zoning Districts Map for Bath County, Virginia," dated May 12, 1981, as amended, hereinafter referred to as the Official Zoning Map, with all notations, references, amendments, and dates thereof, and other information shown thereon, shall constitute a part of the Zoning regulations. Said map shall be made a public record and shall be kept permanently in the Office of the Zoning Administrator, where it shall be accessible to the general public.

ARTICLE IV. ADMINISTRATION AND ENFORCEMENT

Sec. 18-7. Zoning Administrator; general enforcement.

This chapter shall be administered and enforced by an officer to be known as the Zoning Administrator, who shall be appointed by the Board of Supervisors. The Zoning Administrator shall have all necessary authority on behalf of the Board of Supervisors to administer and enforce this chapter, including the ordering in writing of the remedying of any condition found in violation of this chapter and the bringing of legal action to ensure compliance with this chapter, including injunction, abatement or other appropriate action or proceeding.

Sec. 18-8. Administrative procedures.

(a) Zoning permits generally. Under this chapter, no acceptable principal or accessory building or structure or use or buildings and uses permissible by conditional use permit shall be constructed, reconstructed, moved, added to or structurally altered or otherwise allowed without a permit.

(b) Forms and information required. An application for a zoning permit shall be made to the Zoning Administrator on forms to be provided by the Zoning Administrator, who shall require and be furnished with all such plans and documents as may be required to determine whether the proposed structure and facilities will be in compliance with this chapter. Each such application for a zoning permit shall be accompanied by the following items or as much thereof as the Zoning Administrator deems pertinent and such additional information as the Zoning Administrator may require as being pertinent:

(1) Certificate from the health officer that the proposed location meets the requirements of the department of health from the standpoint of water supply and sewage disposal or, where a public water or sewer system is involved, a statement from the Bath County Service Authority that all applicable regulations and requirements have been complied with.

(2) An Erosion and Sediment permit, if required.

(3) The intended use.

(4) If a dwelling, the number of families or housekeeping units.

(5) A plan signed drawn to scale or a freehand drawing providing actual dimensions of the structure with respect to property lines including the width of required yards or open space areas and distances from public highways, provided no part of which is to be located less than the setback distance from any property line or right-of-way of any public highway.

(6) Floodplain designation.

(7) Prior to the initiation of an application for a conditional use permit, variance, rezoning or other land use permit, the applicant shall produce satisfactory evidence that any delinquent real estate taxes owed to the locality which have been properly assessed against the subject property have been paid.

(c) Interpretation of uses. The Zoning Administrator is empowered by this chapter to interpret whether a proposed use is allowed within a zoning district. In no case shall the Zoning Administrator interpret a use as permitted in one district when the proposed use is more similar in impact and characteristics to land uses in another district. Appeal of the Zoning Administrator's use interpretation may be made to the Board of Zoning Appeals. If the Zoning Administrator finds a new or unusual use that cannot appropriately fit into an existing district, it shall be deemed a "use not provided for" and shall fall under the authority of subsection (d) of this section.

(d) Use not provided for. When application is made for a use and the Zoning Administrator determines, in accordance with subsection (c) of this section, that the use does not fit within any of the zoning districts listed in the Bath County Land Use Regulations, it shall be deemed a “use not provided for.” The Zoning administrator shall refer the application to the Planning Commission, which shall make its recommendation to the Board of Supervisors within 100 days after giving notice and holding a public hearing. The Board of Supervisors shall hold a public hearing before granting or denying any application for such use.

(e) Structures in violation. No zoning permit shall be issued where it appears that the structure to be constructed or the use contemplated would be in violation of this chapter or any other applicable law, ordinance or regulation. The issuance of such zoning permit, however, shall not afford protection to any owner who is found to be violating this chapter or any other applicable law, ordinance or regulation.

(f) Issuance of zoning permit. If it appears that the proposed structure and use of land or structure is in conformity with this chapter, a zoning permit shall be issued to the applicant by the Zoning Administrator.

1. Certificate. Whenever a zoning permit is issued, the Zoning Administrator shall also furnish the Building Official with a certificate indicating that the zoning permit has been issued and is valid for the period stipulated therein.

2. Time limits. Any zoning permit issued shall conform to the time limits set forth by the building official in the building permit.

(g) Refunds. There shall be no refund of zoning application fees if the application is withdrawn after advertisement has occurred or if the application has been denied.

Sec. 18-9. Conditional uses, variances, and rezoning.

(a) A conditional use is a use not permitted in a particular zoning district except by a conditional use permit granted by the Board of Zoning Appeals in accordance with the Bath County Land Use Regulations.

(b) A variance is a right granted by the Board of Zoning Appeals to deviate from the strict terms of this chapter insofar as yards, areas, heights and sizes of structures are concerned where a literal enforcement of this chapter would result in an unnecessary and undue hardship.

(c) A conditional use permit requires a review by the Board of Zoning Appeals before approval is granted. Conditions specified for approval shall be defined by the Board of Zoning Appeals as necessary elements to carry out the intent of the Bath County Land Use Regulations.

ARTICLE V. PROVISIONS FOR APPEAL

Sec. 18-10. Board of Zoning Appeals.

(a) Pursuant to Code of Virginia, § 15.2-2308, a board consisting of five members shall be appointed by the Circuit Court.

(b) The members shall serve for five-year staggered terms of office. One of the five members may be an active member of the planning commission.

(c) Members may be removed for cause by the appointing authority upon written charges and after a public hearing.

(d) 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 an interest.

(e) The board shall choose annually its chairman and vice-chairman, who shall act in the absence of the chairman.

Sec. 18-11. Powers and duties of Board of Zoning Appeals.

(a) As stated in the Code of Virginia, § 15.2-2309, the Board of Zoning Appeals are granted certain powers. Those powers are set forth in the Bath County Land Use Regulations.

Sec. 18-12. Rules of Procedure.

(a) The rules of procedure are set forth in the Bath County Land Use Regulations.

Sec. 18-13. Appeals to Board of Zoning Appeals.

(a) Procedures for appeals to the Board of Zoning Appeals shall be in accordance with Code of Virginia, § 15.2-2311, which section is adopted and made a part of this chapter as if set out fully in extensor.

Sec. 18-14. Appeal Procedure.

(a) The procedure for appeal is set forth in the Bath County Land Use Regulations.

Sec. 18-15. Certiorari to review decisions of the Board of Zoning Appeals.

(a) Review of decisions of the Board of Zoning Appeals shall be in accordance with Code of Virginia, § 15.2-2314, which section is adopted and made a part of this chapter as if set out fully in extensor.

ARTICLE VI. VIOLATIONS AND PENALTIES

Sec. 18-16. Violations and penalties.

(a) Penalties. Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the sections of this chapter or who permits any such violation or who fails to comply with any of the requirements of this chapter or who erects any building on any land in violation of any detailed statement or plan submitted by him and approved under this chapter or the Bath County Land Use Regulations shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$10.00 or more than \$1,000.00. Each day upon which such violation continues shall constitute a separate offense.

(b) Violations. Any building erected contrary to any of the sections of this chapter and any use of any building or land which is conducted, operated or maintained contrary to any of the sections of this chapter or the Bath County Land Use Regulations, shall be a violation and such is declared to be unlawful. The Zoning Administrator may initiate injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate or remove such erection or use in violation of this chapter or the Bath County Land Use Regulations.

(c) Notice of violation. Upon his/her becoming aware of any violation of any sections of this chapter or the Bath County Land Use Regulations, the Zoning Administrator shall serve notice of such violation on the person committing or permitting the violation. If such violation has not ceased within such reasonable time as the Zoning Administrator has specified in such notice, he/she shall institute such action as may be necessary to terminate the violation.

Sec. 18-17. Remedies not exclusive.

(a) The remedies provided for in this article are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Sec. 18-18. Complaints regarding violations.

(a) Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the cause and basis thereof and shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, shall immediately investigate and shall take action thereon as provided by this chapter and the Bath County Land Use Regulations.

ARTICLE VII AMENDMENTS

Sec. 18-19. Procedures.

(a) The regulations, restrictions and boundaries established in this chapter and the Bath County Land Use Regulations may, from time to time, be amended, supplemented, changed, modified or repealed by the Board of Supervisors, as provided in this section.

(b) The Planning Commission shall hold at least one public hearing on such proposed amendment after notice as required by the Code of Virginia, § 15.2-2204, and may make appropriate changes in the proposed amendment as a result of such hearing. Upon the completion of its work, the commission shall present the proposed amendment to the Board of Supervisors together with its recommendations and appropriate explanatory materials.

(c) Before approving and adopting any amendment, the Board of Supervisors shall hold at least one public hearing thereon, after public notice, as required by the Code of Virginia, § 15.2-2204, after which the Board of Supervisors may make appropriate changes or corrections in the proposed amendment; provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public hearing after required notice. An affirmative vote of at least a majority of the members of the Board of Supervisors shall be required to amend this chapter.

(d) All amendments of this chapter shall be maintained in proper format consistent with the format of this chapter and as specified by the County Attorney. The Zoning Administrator shall be responsible for seeing that such adopted amendments are properly filed with the clerk to the Board of Supervisors and the secretary to the Planning Commission and that a record of such amendments is maintained on or attached to the official zoning maps.

ARTICLE VIII DEFINITIONS

Sec. 18-20. General usage of certain words.

(a) For the purpose of this chapter, certain words and terms are defined as follows:

(1) The term "*used*" or "*occupied*" includes the phrase "*intended, designed or arranged to be used or occupied.*"

(2) The term "*lot*" includes the term "*plot*" or "*parcel.*"

(3) The term "*building*" includes the term "*structure.*"

(4) The terms "*land use*" and "*use of land*" shall be deemed also to include the terms "*building use*" and "*use of a building.*"

(5) The term "*construction standards*" means those construction standards as approved by the County Board of Supervisors and the County Building Official or Inspector and included in the Uniform Statewide Building Code.

(6) The term "*adjacent*" means nearby, and not necessarily contiguous.

Sec. 18-21. Interpretation by enforcement official.

(a) If any dispute occurs over the meaning of a word, phrase or a sentence of this chapter, whether defined in this chapter or not, the Zoning Administrator is designated as the enforcement official and is authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this chapter and the Bath County Land Use Regulations; provided, however, that an appeal may be taken from any such determination as provided for herein.