Chapter 84

ARTICLE XV – PUBLIC HEARING; NOTICE

**PART 1500. - PUBLIC HEARING**

Sec. 84-1500.01. – **Meetings, general**

All non-work session Planning Commission, Architectural Review Board, and Board of Zoning Appeals meetings shall be open to the public. The meeting place shall be the Council Chambers of the Town Hall, or such other place as a meeting may be adjourned to if a need to do so arises. The Chairman or any two (2) members may call a special meeting by giving written notice to every other member of the Planning Commission stating the date, time and location of such meeting and by placing a written notice as required for a regular meeting. The timing of the posed notice shall be reasonable under the circumstances.

Sec. 84-1500.02. – **Rules of Order.**

The Reviewing Body shall develop and adopt rules of procedure which shall govern the conduct of its business, development of criteria and procedural matters subject to the approval of the body. Such rules of procedure shall be a matter of public record.

Sec. 84-1500.03. – **Applications.**

Reviewing bodies shall investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action. These decisions involve two key elements:

(a) The finding of facts regarding the specific proposal; and

(b) The exercise of discretion in applying the standards of this chapter.

Sec. 84-1500.04. – **Conduct.**

The conduct at public hearings shall be as follows:

(a) Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative. Each person who appears at a public hearing shall state, for the record, his/ her name, address, and, if appearing on behalf of an organization or group, the name and mailing address of the organization or group:

(b) Members of the Reviewing Body conducting the hearing may ask questions of the Applicant, staff, or public, or of any witness, and may require questions be submitted to the chairman of the Reviewing Body who will direct the question to the appropriate party:

(c) Testimony may be presented by the Applicant, and any member of the public, but need not be submitted under oath or affirmation. The Reviewing Body may establish a time limit for testimony and may limit testimony where it is repetitive or irrelevant.

Sec. 84-1500.05. – **Order of Proceedings.**

The order of proceedings is as follows:

(a) The Zoning Administrator or designees shall present a description of the proposed development and the relevant sections of plans and ordinances involved, and set forth the legal or factual issues to be determined. A written or oral recommendation may be given at the opening of the hearing or, in complex cases, may be reserved by the Zoning Administrator to review the testimonial and document any evidence. The recommendation shall address each factor required by this ordinance to be considered prior to development approval;

(b) The Applicant shall present such information or evidence that the Applicant deems appropriate, subject to reasonable time limits established by the Reviewing Body;

(c) Public testimony, including expert or lay witnesses on the Applicant’s behalf, and relevant evidence shall be received;

(d) The Zoning Administrator or other staff member shall not be required to respond to any statement made by the Applicant or any public comment during the hearing, but may respond to questions from the Reviewing Body concerning any statements or evidence received during the deliberations;

(e) The Applicant may reply to any testimony or evidence presented by staff or the public; and

(f) The body conducting the hearing shall close the public portion of the hearing and conduct deliberations.

Sec. 84-1500.06. – **Review and Approval.**

(a) The Planning Commission shall make a recommendation on an application per Section 84-1100.12.

(b) Town Council shall act on an application per Section 84-1100.13

**PART 1501. – NOTICES**

Sec. 84-1501.01. - **Generally.**

(a) The notice requirements for a zoning text amendment, zoning map amendment, Special Use Permit, and Administrative Appeal are defined within this Section, however, that to the extent of any inconsistency between the provisions of this section and any state statute, the Code of Virginia governs, specifically § 15.2-2204, § 15.2-2205, and § 15.2-2206.

(b) Proof of notice shall waive the right of that person to challenge the validity of the proceeding.

(c) Costs of any notice required pursuant to this ordinance or the Code of Virginia, § 15.2-2204 shall be taxed to the Applicant.

(d) Nothing in this ordinance shall be construed as to invalidate any final decision because of the inadvertent failure to give written notice to the owner, owners or their agent of any parcel involved. The Town Council may provide that, 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. Whenever the notices required hereby are sent by an agency, department or division of the Town Council, or its representative, such notices may be sent by first class mail; however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

(e) The notice shall be required as identified in Code of Virginia § 15.2-2204

Sec. 84-1501.02. – **Sign Notice.**

(a) The sign shall measure at least 2 feet x 2 feet and shall contain;

(1) Public Hearing Notice

(2) Contact information to request additional information

(3) Designation on the sign to identify the location of inquiry

(b) Sign posting requirements:

(1) The posted notice must be erected at least fifteen (15) days before the public hearing, and remain until after a final determination on the application has been made.

(2) The posted notice is erected within ten (10) feet of a boundary of the parcel abutting a street and must be placed so that it is clearly visible from the street.

Sec. 84-1501.03. – **Action to be consistent with notice.**

The Reviewing Body may take any action on the application that is consistent with the notice given, including approval of the application, conditional approval (if applicable) of the application, or denial of the application.

Sec. 84-1501.04. – **Minor amendments exempt from re-notification.**

This section governs to the extent consistent with provisions relating to minor amendments for a specific type of application. The Reviewing Body may allow minor amendments to the application without re-submittal of the entire application. For purposes of this section, “minor amendments” are amendments that do not:

(a) Increase the number of dwelling units, floor area, height, impervious surface development, or any additional land-use disturbance;

(b) Introduce different land uses than that requested in the application;

(c) Request larger land area than indicated in the original application;

(d) Request greater variance than that requested in the application;

(e) Allow any diminution in buffer or transition areas, reduction in landscaping, reduction of required yards, or any change in the design characteristics or materials used in construction of the structures; or

(f) Reduce or eliminate conditions attached to a legislative or quasi-judicial Approval unless a new notice is provided.