

## **ARTICLE IV DEVELOPMENT APPROVAL**

### **Part I Building and Zoning Permits**

#### **Section 1. Permits Required**

- 1.** No building or other structure shall be erected, nor shall any existing building or structure be moved, added to, enlarged, or structurally altered, and no excavation for any building or other structure shall begin until a Zoning Permit, certifying compliance with these regulations, has been issued therefor by the Zoning Administrator.
- 2.** No building or other structure shall be erected, nor shall any existing building or structure be moved, added to, enlarged, or structurally altered, and no excavation for any building or other structure shall begin without the issuance of a Building Permit therefor by the Building Inspector.
- 3.** In addition to the building permit and zoning permit, the following permits may be required by the Zoning Administrator and/or Building Inspector:
  - a.** Permits Authorized by the Board of Appeals. The Zoning Administrator shall issue permits in conformance with the written authorization of the Board of Appeals concerning administrative review appeals, special exception permit appeals, dimensional variance appeals, or other appeals as authorized in this Zoning Ordinance.
  - b.** Mobile Home Location Permits. Prior to any placement or relocation of any mobile home, a location permit shall be required for determination of compliance with this Zoning Ordinance.
  - c.** Demolition Permits. No building or other structures shall be razed, demolished, or removed, either entirely or in part, nor shall any of said activities be commenced, without a wrecking permit therefore.
  - d.** Grading Permits. As provided in Elkton Sediment and Erosion Control Ordinance.
  - e.** Sign Permits. No sign shall be created, erected, moved, added to, or structurally altered, nor shall any of said activities be commenced without a sign permit.
  - f.** Forest Conservation. Applicants under this Ordinance are hereby given notice that all projects that ultimately require approval of subdivision, sediment and erosion control, site plan approval or grading permits must comply with the requirements of the Forest Conservation Ordinance.
  - g.** Subdivision Plat. If the permit involves the subdivision of land, an approved subdivision plat shall be required as provided in the Elkton Subdivision Regulations.

- h.** Other Permits. Additional permits, including approvals by other agencies, may be required to enforce the provisions of this Ordinance.
- 4.** Permits are issued under this Ordinance only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, all development shall occur strictly in accordance with such approved plans and applications.
- 5.** Physical improvements to land to be subdivided shall not be commenced without a signed, recorded final plat, a Bond, or Letter of Credit and a public works agreement approved by the Mayor and Commissioners of the Town of Elkton.
- 6.** In the discharge of his/her duties, the Zoning Administrator and/or Building Inspector shall have the authority to enter at any reasonable hour any building, structure, or premise in the Town to enforce the provisions of this Ordinance. For this purpose a badge of office for the Zoning Administrator and/or Building Inspector assistants may be adopted and shall be displayed for the purpose of identification. The assistance and cooperation of sheriffs and/or police, fire, and health departments and all other Town officials shall be available to the Administrator as required in the performance of his/her duties.

**Section 2. Severability**

- 1.** Compliance with Other Codes, Statutes, and Regulations. Nothing in this section or other sections of the Zoning Ordinance shall be construed to exempt any applicant for a permit from compliance with all local, state, and federal codes, statutes, and regulations.
- 2.** Prior Permits. No building permit which was lawfully issued prior to the original effective date of this Ordinance and which is in full force and effect at said date shall be invalidated by the passage of this Ordinance - provided that all such permits shall expire not later than 120 days from the effective date of this Ordinance, unless actual construction shall have begun and continued pursuant to the terms of said permit.
- 3.** Conflict with Other Permits. Except as provided herein, no permit pertaining to the use of land or buildings shall be issued by any agency, department or employee unless a Zoning Permit has been issued by the Zoning Administrator. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

**Section 3. Computation of Time**

- 1.** Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.

2. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

**Section 4. Time Limits for Zoning and Building Permits**

Any building or zoning permit issued shall become invalid if the authorized use or construction for which the permit was issued is not commenced within six (6) months of the date of issuance, or is suspended or abandoned for a period of six (6) months. The Zoning Administrator or Building Inspector may, upon good cause shown, extend a permit without additional charge for an additional period not exceeding six (6) months.

**Section 5. Permit Application Requirements and Procedures**

1. All applications for permits shall be accompanied by such plans and information as the Town of Elkton deems to be necessary to determine compliance and provide for enforcement of this Zoning Ordinance. The application materials listed in Appendix A shall be the minimum. Additional information may be required.

2. Site Plans Required:

- a. **Minor Site Plan.** A minor site plan shall be filed for a single-family dwelling, a duplex, a residence with an accessory apartment, any accessory building, an addition or change of a commercial or industrial structure, or for a special exception use which does not require a building permit.

Upon determination by the Zoning Administrator, in those above cases where a field inspection indicates that the scope of the proposed building, addition, accessory use, or special exception is of such a nature that the provisions for the handling of natural and stormwater, sediment control, off-street parking, set-backs, water and sewerage, and other requirements cannot be adequately addressed with a minor site plan, a major site plan shall be required.

- b. **Major Site Plan.** All applications for building permits, other than those accompanied by a minor site plan, or those that are considered minor or major subdivisions (see definitions), shall be accompanied by a major site plan.

- c. **General Development Plan.**

- (1) A general development plan is a site plan by which, at the early stages of development design, the Planning Commission may consider, approve, or restrict major aspects of the development without requiring an undue amount of final design work on the part of the developer. The general development plan is less detailed and specific than a major site plan in terms of exact arrangement of buildings, parking areas, open spaces, access

points, and any other site design features. No building permits can be issued based upon a general development plan.

- (2)** General development plans shall be required as follows:

  - (a)** All applications for zoning map amendments shall be accompanied by a general development plan.
  - (b)** General development plans shall be required to permit more than one principal structure and its accessory structures on a lot or parcel of land.
- d.** Mobile Home Location Permits. All applications for mobile home location permits shall be accompanied by plans showing the location of the mobile home, as well as any permanent structure, on the lot, the location and dimension of all required yards, and the location and dimension of the required parking.
- e.** Grading Permits. Requirements for grading permits shall be as required by the Cecil County Soil Conservation.
- f.** Subdivision Plat. If the permit involves the subdivision of land, an approved subdivision plat shall be required as provided in Subdivision Regulations.
- g.** Sign Permits. Requirements for sign permits shall be as provided in Article XVI.
- h.** Transportation Plan

  - (1)** No building or part of a building shall be permitted to be erected within the lines of highway or street shown on the Town's Transportation Plan Map.
  - (2)** The owner of the property so affected, however, shall have the right to appeal the refusal of a building permit to the Board of Zoning Appeals, and the Board may grant a permit to build if it should find, upon the evidence and arguments presented to it upon such appeal:

    - (a)** That the entire property of the appellant of which the area affected by the Transportation Plan forms a part, cannot yield a reasonable return to the owner unless such appeal be granted; and
    - (b)** That balancing the interest of the general public in preserving the integrity of the plan and the interest of the owner of the property in the use and benefits of his property, the granting of such permit is required consideration of reasonable justice and equity.

- (3)** Before taking any action, the Board of Zoning Appeals shall hold a public hearing at which time the parties in interest shall have an opportunity to be heard. In the event the Board grants a building permit in any such appeal, it shall have the power to specify the exact location, extent, area, height, duration, and other details and conditions to govern the building, structure, or part thereof for which the permit is granted.
- i.** Stormwater Management Plan. A permit may not be issued for any parcel or lot unless a stormwater management plan meeting all the requirements of the Stormwater Management Ordinance has been approved.
  - j.** Forest Conservation. Projects that ultimately require approval of subdivision, sediment control, site plan approval or grading permits must comply with the requirements of the Forest Conservation Ordinance (Article XVIII, Part III)
  - k.** All walls, including retaining walls, shall have plans sealed by a Maryland licensed architect or engineer.
- 3.** The following additional requirements shall be applicable to site plans required under this section:

  - a.** Compliance with applicable established design criteria, construction standards, and specifications for all improvements as may be required by the Planning Commission and this Zoning Ordinance. The Planning Commission may require that the proposed development comply with some or all of the applicable design requirements contained in the Elkton Subdivision Regulations.
  - b.** The building permit shall not be issued unless and until the Maryland Department of Transportation has approved the site plan as it relates to access point design details and parking lot circulation layout on a state highway.
  - c.** Other Approvals. If this Zoning Ordinance requires approval by another agency of certain site plan features, such approval shall be obtained prior to issuance of a building permit.
  - d.** Development Plan as Site Plan. In any case, where the Zoning Administrator has approved a detailed final development plan showing essentially the same information as required above for the property seeking a building permit, no separate site plan shall be required to be prepared. The applicant shall be required to supply such supplementary information as necessary to comply with all requirements of this Section.
  - e.** Any or all of the information required for a minor or major site plan may be waived if the Zoning Administrator finds that it is not needed to make a determination of zoning compliance.

- f. The basic information required with building permit applications is shown in Appendix A.
- g. Compliance with the requirements as set forth in Article IV, Section 1.2.b(4) and 1.2.b(5) of the Elkton Subdivision Regulations. (Amended effective 3/21/06 Ordinance 3-2006)

## **Section 6. Certificate of Occupancy**

Certificate of Occupancy Required. No person shall use or permit the use of any structure or premises or part thereof hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, until a certificate of occupancy shall have been issued by the Building Inspector. Such certificates shall show that the structure or use, or both, or the premises, or the affected part thereof, are in conformity with the provisions of the Building Code of America (BOCA), as amended.

## **Section 7. Inspection And Supervision During Installation**

1. Unless specifically provided in this Ordinance , the construction standards for all off-site improvements and on-site improvements required by this article shall conform to the Town design and construction standards. Appropriate Town authorities shall approve the plans and specifications for all required improvements and shall inspect the construction of such improvements to assure conformity thereto.
2. Inspection during the installation of the off-site improvements shall be made by the department responsible for such improvements as required to certify compliance with the approved site plan and applicable standards.
3. The owner shall notify the appropriate Town agencies in writing three (3) days prior to the beginning of all street, water, sewer, or storm sewer work shown to be constructed on.
4. The owner shall provide adequate supervision on the site during the installation of all required improvements and have a responsible superintendent or foreman together with one (1) set of approved plans, profiles, and specifications available at all times when work is being performed.
5. Upon satisfactory completion of the required improvements and after having received verification by the appropriate Town approving authorities, the Superintendent of Buildings and Inspections shall recommend to the Town Manager the release of any bond which may have been furnished for the guarantee of satisfactory installation of such improvements of parts thereof. This release shall provide for ten (10) percent of the total bond to be retained for a period of 12 months after completion of all work. Bond retention period may be extended for an additional 12 months if major failures or deficiencies occur as determined by the Zoning Administrator. Said retainer shall be for the protection of the Town to cover failures, discrepancies, etc., in the previously approved improvements.
6. The installation of improvements as required in this article shall in no case serve to bind the Town to accept such improvement for the maintenance, repair, or operation thereof.

**Section 8. As-Built Site Plan**

Upon satisfactory completion of required improvements as shown on the approved site plan or a section thereof, the developer shall submit to the Superintendent of Buildings and Inspections four (4) copies of the "as built" site plan, certified by the engineer before occupancy of any building, for the review and approval for conformity with the approved site plan by the appropriate Town departments (as designated in this section). The Superintendent of Buildings and Inspections shall not process the occupancy permit until the appropriate "as built" site plan has been reviewed and approved by the appropriate agencies. As-built site plan should indicate any deviations from site improvements shown on final approved site plan.

**Section 9. No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled**

Issuance of a special exception or zoning permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or to make necessary improvements to a subdivision. However, except as provided in Sections 14 and 15 of this Part, the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this ordinance and all additional requirements imposed pursuant to the issuance of a special exception permit have been complied with.

**Section 10. Who May Submit Permit Applications**

1. Applications for zoning, special exception, sign permits, other permits, or minor subdivision plat approval will be accepted only from persons having the legal authority to take action in accordance with the permit or the minor subdivision plat approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).
2. The Zoning Administrator shall require an applicant to submit evidence of his/her authority to submit the application in accordance with Subsection 1. whenever there appears to be a reasonable basis for questioning this authority.

**Section 11. Applications To Be Complete**

1. All applications for zoning, special exception, sign permits, or other permits must be complete before the permit-issuing authority is required to consider the application.
2. Subject to Sections 1 and 5 of this Part, an application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance.
3. In this Ordinance, detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.) are set forth the Department of Public Works Specifications and Design Standards Manual, and/or in one or more of the appendices to this Ordinance. It is not necessary that the

application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information to allow the permit-issuing authority to evaluate the application in the light of the substantive requirements set forth in this text of this Ordinance.

However, whenever this Ordinance requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in one or more of these appendices, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the Administrator. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in Article VI.

4. The presumption established by this Ordinance is that all of the information set forth in the Appendix A is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the permit-issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the Board of Appeals, the applicant may rely in the first instance on the recommendations of the Administrator as to whether more or less information than that set forth in the Appendix A should be submitted.
5. The Administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In classes of cases where a minimal amount of information is necessary to enable the Administrator to determine compliance with this Ordinance, such as applications for zoning permits to construct single-family or two-family houses, or applications for sign permits, the Administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

## **Section 12. Staff Consultation Before Formal Application**

1. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, a pre-application meeting between the developer and the Zoning Administrator is encouraged or required as provided in this section.
2. Before submitting an application for a zoning permit authorizing a development that consists of or contains a major subdivision, the developer shall submit to the Planning Commission a pre-application concept plan of such subdivision, drawn approximately to scale (1 inch = 100 feet). The concept plan shall contain the information set forth in Appendix A.

The applicant will be placed on the agenda for the next available Planning Commission meeting.

**Section 13. Staff Consultation After Application Submitted**

1. Upon receipt of a formal application for a zoning, or special exception permit, the Administrator shall review the application and confer with the applicant to ensure that he understands the Town staff's interpretation of the applicable requirements of this Ordinance, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.
2. If the application is for a special exception permit, the Administrator shall place the application on the agenda of the appropriate board when the applicant indicates that the application is as complete as he intends to make it. However, if the Administrator believes that the application is incomplete, he shall recommend to the appropriate board that the application be denied on that basis.

**Section 14. Authorizing Use or Occupancy Before Completion of Development Under Zoning Permit**

1. In cases when, because of weather conditions or other factors beyond the control of the zoning-permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning-permit recipient to comply with all of the requirements of this Ordinance prior to commencing the intended use of the property or occupying any buildings, the Administrator may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this Ordinance are concerned) if the permit recipient provides a performance bond or other security satisfactory to the Building Inspector to ensure that all of the requirements of this Ordinance will be fulfilled within a reasonable period (not to exceed twelve (12) months) determined by the Building Inspector.
2. With respect to subdivisions in which the developer is selling only undeveloped lots, the Planning Commission may authorize final plat approval and the sale of lots before all the requirements of this article are fulfilled if the subdivider provides a performance bond from a local lending source or other security satisfactory to the Town to ensure that all of these requirements will be fulfilled within not more than twelve (12) months after final approval.

**Section 15. Completing Developments In Phases**

1. As a prerequisite to taking advantage of constructing the development in phases, the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this Ordinance that will be satisfied with respect to each phase or stage.
2. If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land

may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved.

#### **Section 16. Expiration Of Permits**

- 1.** Zoning, sign, and other permits shall expire automatically if, within six (6) months after the issuance of such permits:
  - a.** The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use, or
  - b.** Less than ten (10) percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development (see Section 15 of this Part), this requirement shall apply only to the first phase.
- 2.** If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of six (6) months, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 15 of this Part.
- 3.** The permit-issuing authority may extend for a period up to six (6) months the date when a permit would otherwise expire pursuant to Subsections a. or b. if it concludes that (1) the permit has not yet expired, (2) the permit recipient has proceeded with due diligence and in good faith, and (3) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to six (6) months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.
- 4.** For purposes of this section, the permit within the jurisdiction of the Board of Appeals is issued when such board votes to approve the application with or without conditions (written minutes of such Board action will state conditions in full) and issue the permit. A permit within the jurisdiction of the Zoning Administrator is issued when the earlier of the following takes place:
  - a.** A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand-delivered or mailed to the permit applicant; or
  - b.** The Zoning Administrator notifies the permit applicant that the applicant has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required.
- 5.** Notwithstanding any of the provisions of Article VIII, this section shall be applicable to permits issued prior to the date this section becomes effective.

## **Section 17. Effect Of Permit On Successors And Assigns**

- 1.** Zoning, special exception, sign, and other permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable, however, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:
  - a.** No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and,
  - b.** The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued.
- 2.** Whenever a zoning, special exception, or variance permit is issued to authorize development, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgement that the permit has been issued so that the permit may be recorded in the Elkton Town Hall and indexed under the record owner's name as grantor.

## **Section 18. Amendments to and Modifications of Permits**

- 1.** Insignificant deviations from the permit (including approved plans) issued by the Board of Appeals or the Administrator are permissible and the administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- 2.** Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- 3.** All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Appeals, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.
- 4.** The Administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in Subsections 1., 2., and 3.

5. A developer requesting approval of changes shall submit a written request for such approval to the Administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

**Section 19. Reconsideration Of Board Action**

1. Whenever the Board of Appeals disapproves an application for a special exception permit or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective Board for a period of not less than one (1) year unless the applicant clearly demonstrates that:
  - a. Circumstances affecting the property that is the subject of the application have substantially changed, or
  - b. New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Administrator within the time period for an appeal to the Court (see Article VII, Section 6.). However, such a request does not extend the period within which an appeal must be taken.
2. Notwithstanding Subsection 1., the Board of Appeals may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

**Section 20. Maintenance of Common Areas, and Facilities**

The recipient of any zoning, special exception, sign, or other permit, or his successor, shall be responsible for maintaining all improvements, or facilities required by this Ordinance or any permit issued in accordance with its provisions and in the case of apartments, all common areas, except those improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the Town. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines must be properly maintained so that they can be used in the manner intended, and require vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

**Section 21. Records of Zoning Administrators**

The Zoning Administrator shall keep records of all zoning permits issued under this Ordinance; maintain permanent and current records related to the Ordinance, including zoning maps, amendments, special exceptions, variances, appeals, and planned unit development site plans; and make annual reports and recommendations to the Planning Commission and Town Commissioners on matters pertaining to this Ordinance.

**Section 22. Structures And Uses To Be As Provided In Building Permits, Plans, And Certificates of Occupancy**

Building permits or certificates of occupancy issued on the basis of plans and applications approved by the Building Inspector authorize only the use, arrangement, and construction set

forth in such permits, plans, and certificates, and no other. The use, arrangement or construction at variance with that authorized shall be deemed a violation of this Zoning Ordinance.

## **Part II           Special Exception Permits**

### **Section 1.       Intent**

1.     The development and execution of this Ordinance are based upon the division of the Town into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.
2.     The intent of this Article is to establish procedures and minimum standards to be used as guidelines for the consideration and authorization of those uses classified as special exceptions under the respective District regulations.
3.     The granting of a special exception does not exempt the applicant from complying with all other requirements of this Ordinance or of the law.

### **Section 2.       Initiation of Special Exceptions**

Any property owner or other person with an enforceable legal interest in a property may file an application to use such land for one or more of the special exceptions provided in the zoning district in which the land is located.

### **Section 3.       Application for Special Exception**

Such application for special exception shall be filed with the Zoning Administrator on a form prescribed by the Zoning Administrator. The application shall be accompanied by such plans and/or data as necessary, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed use will conform to the standards hereinafter set forth. Such application shall be forwarded from the Zoning Administrator to the Planning Commission for recommendation to the Board of Appeals for review within forty-five (45) days of receipt of the application by the Zoning Administrator. The Board of Appeals shall, within sixty (60) days of receipt of application from the Zoning Administrator, render a decision on the application.

### **Section 4.       Hearing on Application**

1.     The Board of Appeals shall hold a public hearing on each application for a special exception at such time and place as shall be established by the Board of Appeals. The hearing shall be conducted and a record of such proceedings shall be preserved in such a manner as the Board of Appeals shall, by rule, prescribe from time to time.
2.     Notice is required as provided in Article VI.

### **Section 5.       Authorization**

For each application for a special exception, the Board of Appeals shall normally, within sixty (60) days of receipt of the application, conduct its public hearing and report its findings and decisions, including the stipulations or additional conditions and guarantees deemed necessary for the protection of the public interest.

## **Section 6. Standards - General**

No special exception shall be approved by the Board of Appeals unless such Board shall find:

1. That the establishment, maintenance, and operation of the special exception will not be detrimental to or endanger the public health, safety, convenience, morals, order or general welfare.
2. That the special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.
4. That adequate utilities, water, sewer or septic system, access roads, storm drainage and/or other necessary public facilities and improvements have been or are being provided.
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the Town of Elkton.
7. That the special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located or to the special requirements established for the specific use.
8. Town Need. The following special exceptions may be granted when the Board, Planning Commission, or members of the Commissioners, as the case may be, finds from a preponderance of the evidence of record that for the public convenience and service a need exists for the proposed use for service to the population in the general neighborhood considering the present availability of such uses to that neighborhood:
  - a. Medical clinics.
  - b. Swimming pools, public.
  - c. Swimming pools, private.
  - d. Educational institutions, private.
  - e. Funeral parlors and undertaking establishments.
  - f. Nursing and care homes.
9. Conditions and Guarantees. Prior to the granting of any special exception, the Board of Appeals shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special exception as is deemed necessary

for the protection of the public interest and to secure compliance with the standards and requirements specified in Article XII. In all cases in which special exceptions are granted, the Board of Appeals shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such proof shall be filed with the board on or before March 15th of each year. The first filing shall not be made unless and until at least twelve (12) months have elapsed since the date of the grant of the special exception.

#### **Section 7. Effect of Denial of a Special Exception**

No application for a special exception (conditional use) which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Board of Appeals.

#### **Section 8. Complaints**

Notice of complaints received by any representative of the Town concerning the operation of any special exceptions shall be transmitted promptly to the Board which shall take appropriate action as provided by law. The complainant shall be notified of the action taken.

#### **Section 9. Revocation**

- 1.** Failure to Comply with Conditions. Whenever the Board shall find, in case of any permit heretofore or hereafter granted pursuant to the provisions of this Article that any of the terms, conditions, or restrictions upon which such permit was granted are not being complied with, the Board is authorized, after due notice to all parties concerned and granting full opportunity for a public hearing, to suspend or revoke such permit or take other action as it deems necessary to ensure compliance. The Board is authorized to request and obtain investigations and reports as to compliance from such Town or state agencies or administrative officers as may be appropriate.
- 2.** Abandonment, etc. Whenever the Board shall determine that a special exception appears to have been abandoned, that an approved special exception is not initiated within one (1) year after the date of approval, that its annual proof referred to above has not been filed within forty-five (45) days of its due date, or that all of the terms and conditions of its grant are not being complied with, the Administrator shall notify the board and the Town attorney's office. Upon receipts of notice of such determination by the Board, the board shall issue an order to show cause why such special exception should not be revoked. Notice thereof shall be given to the party to whom the special exception has been granted and to all parties who would be entitled to receive notice of a new application for special exception concerning the property. The applicant shall have sixty (60) days from the date of written notice of expiration to file an appeal of said notice.

#### **Section 10. Standards for Specific Special Exceptions**

Certain buildings, structures, and uses of land developed as special exceptions are of such substantially different character from other special exceptions that they require specific and additional standards to guide the decision of the Board of Appeals. See Article XII for minimum standards for special exceptions.

**Section 11. Reserved**

**Section 12. Reserved**

**Section 13. Reserved**