

# Town of Lovettsville

## Town Council Minutes of the June 27, 2013 Public Hearings and Regular Meeting

### Call to Order/Pledge of Allegiance

Mayor Robert Zoldos II called the Regular Meeting of the Lovettsville Town Council to order at 7:33 p.m. on Thursday, June 27, 2013 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

### Pledge of Allegiance

Mayor Zoldos led those assembled in the Pledge of Allegiance.

Mayor Zoldos left the meeting at 7:34 p.m. due to illness and turned the meeting over to Vice Mayor Senate.

### Additions/Deletions/Modifications to the Agenda

Vice Mayor Senate asked if there were any changes to the agenda. Councilman Burden asked to add an action item to discuss the purchase of a projector and ancillary equipment for the Movies on the Green.

### Presentations

There were none.

### Comments from the Public

Vice Mayor Senate asked if there were any comments from the public. There were none.

### Community Presentations

#### A. Loudoun County Sheriff's Office

Deputy Sheriff Lopreto reported on the following:

- There was one larceny on West Broad Way.
- He will continue to work radar at various locations in Town.
- He recently met with the Mayor and representatives from the Lovettsville Volunteer Fire and Rescue Company and the local amateur radio group to coordinate communication for Oktoberfest.

Vice Mayor Senate said speeding on South Loudoun Street has decreased, but the amount of truck traffic has increased.

There were no other community presentations.

### Present at Meeting

- Vice Mayor Mike Senate
- Council Member Jack Burden
- Council Member Tiffaney Carder
- Council Member Rodney Gray
- Council Member James McIntyre

### Staff

- Town Manager Keith Markel
- Town Attorney Elizabeth Whiting
- Project Manager Karin Fellers
- Town Clerk Harriet West

### Absent

- Mayor Robert Zoldos II
- Council Member Kimberly Allar

### **Town Commission and Committee Reports**

#### **A. Lovettsville Planning Commission**

Manager Markel said the Planning Commission met last week to review the Comprehensive Plan since there are several new members of the Planning Commission. He added that AT&T's application for a Conditional Use Permit will be coming before the Planning Commission in July.

#### **B. "We're In" Committee**

Councilwoman Carder gave updates on the next meeting. Manager Markel said "We're In" will be participating in the July 3<sup>rd</sup> parade.

#### **C. Oktoberfest Committee**

Councilman McIntyre gave updates on safety and security for the event, plans for communicating with the volunteer force, and entertainment. Oktoberfest will also be participating in the July 3<sup>rd</sup> parade. They are also working with one of the bands on a submission for the Guinness Book of World Records.

#### **D. Parks Committee**

Project Manager Fellers said they need to schedule a meeting for the Parks Committee to discuss signage and 2014 budgeted projects. She gave an update on the site work for the Quarter Branch Park facility.

### **Minutes**

#### **A. Town Council Public Hearing and Regular Meeting – April 11, 2013**

**Motion:** I move to accept the minutes of April 11, 2013 Public Hearing and Regular Meeting as amended.

**By:** Council Member McIntyre

**Second:** Council Member Gray

**Aye:** Council Members Burden, Carder, Gray, McIntyre, and Senate

**Nay:** None

**Abstain:** None

**Absent:** Mayor Zoldos and Councilwoman Allar

#### **B. Town Council Special Budget Meeting – April 18, 2013**

**Motion:** I move to approve the minutes of the April 18, 2013 Special Budget Meeting as amended.

**By:** Council Member McIntyre

**Second:** Council Member Burden

**Aye:** Council Members Burden, Carder, Gray, McIntyre, and Senate

**Nay:** None

**Abstain:** None

**Absent:** Mayor Zoldos and Councilwoman Allar

### **Report from the Treasurer**

There was no report from the Treasurer.

### **Staff Reports**

#### **A. Report from the Project Manager**

Project Manager Fellers spoke to the Council about scheduling the next Parks Committee meeting. The meeting was scheduled for July 10 at 10:00 a.m. She also discussed scheduling a work session to get the Council's direction on next steps for the Fats, Oils & Grease program and to update them on the East Broad Way Sidewalk Project. The work session was scheduled for July 2 at 7:30 p.m.

#### **B. Report from the Zoning Administrator**

Manager Markel said there has been a high volume of Ryan Homes being built.

#### **C. Report from the Town Attorney**

Attorney Whiting said she will not be available for the meeting on July 11 but will coordinate with Staff in advance.

**D. Report from the Town Manager**

Manager Markel gave updates on the distribution of the Consumer Confidence Report and getting Lovettsville included on the Visit Loudoun Wine Touring Guide. He said the map has been updated and includes two local destinations, Market Table Bistro and the Mad Horse Brew Pub. He also spoke with County staff about including other connecting roads, such as Mountain Road and Milltown Road. Lovettsville will be more prominently featured in the next edition of the Touring Guide map.

He distributed information about a new initiative known as the Healthy Eating Active Living (HEAL) Cities & Towns Campaign and said he would discuss this further under Information Items.

Councilwoman Carder asked if Mayfest and Oktoberfest are on the Visit Loudoun calendar. Manager Markel said Oktoberfest is listed. He noted that an event must have at least three years of history to qualify as an annual event for Visit Loudoun.

Vice Mayor Senate said that Mountain Road is becoming extremely popular with bicyclists and runners, which will bring more people to Town.

**Action/Discussion Items**

**A. Business Hours of Operation Ordinance Amendment (LVZA-2013-0004)**

**Presentation**

Manager Markel presented this item. The Council is being asked to consider a text amendment to the Hours of Operation requirement within the Zoning Ordinance Section 3-11(c) and 13-2. The amendment would allow businesses to be open past the Town's standard business hours with a Conditional Use Permit.

Manager Markel said this request was brought forward by the owner of the 7-Eleven who asked the Council to consider allowing his business to be open 24 hours a day. The Lovettsville Planning Commission held a Public Hearing and recommended approval to the Town Council. Manager Markel reviewed the current ordinance and proposed changes to the Hours of Operation Requirements under Section 3-11(c) and 13-2 (Attachment 1). Staff supports the proposed changes.

**Public Hearing LVZA-2013-0004 Hours of Operations Requirements**

Vice Mayor Senate read the Notice of Public Hearing (Attachment 2) and called the public hearing to order at 8:14 p.m. Councilman McIntyre read the rules for public comment. The Vice Mayor called for comments from the public. Hearing none, he closed the Public Hearing at 8:15 p.m. and reopened the Regular Meeting.

Vice Mayor Senate discussed what criteria would be used for approval. Manager Markel said the criteria would be established on a case-by-case basis through the Conditional Use Permit process. The Council Members discussed how this might apply to the commercial businesses in Town based on the unique features of each business and property. Attorney Whiting said the Council should ask Staff to document the findings for each business through the ordinance adoption process so there is a record of the factors used to evaluate each request.

Councilman Gray said the Council needs an objective way to evaluate each request. Attorney Whiting said this is customary with the Conditional Use Permit process.

Councilman Gray asked about the 9:00 a.m. limitation on Saturday construction hours under item (e). Manager Markel said this is what the Planning Commission recommended and that there had been no opposition from local builders indicating this was too restrictive.

Hearing no further discussion, Vice Mayor Senate called for a motion.

Attorney Whiting said she had prepared enacting ordinances, but noted the Council's Rules and Procedures prohibited them from adopting an ordinance or ordinance change at the same meeting at which the ordinance is introduced, unless it is declared an emergency ordinance.

Vice Mayor Senate moved on to Action/Discussion Item C while Manager Markel retrieved the enacting ordinances and distributed them to the Council Members.

**C. PMA Scope Approval**

Project Manger Fellows presented this item. The Council is being asked to select an Architect/Engineering Team to design and oversee construction of the Town Office expansion.

**Motion:** I move that Town Council select PMA to provide design services for Town Office Expansion Project as described in Phases 1 and 2 of the Proposed Scope of Work – Lovettsville Town Hall Expansion dated June 13, 2013 for an amount of \$57,170 plus a \$5,000 contingency and authorize the Mayor or Town Manager to sign all paperwork once in a form acceptable to the Town Attorney.

**By:** Council Member Burden

**Second:** Council Member Carder

Vice Mayor Senate called for discussion. Councilman Gray asked what the Town would have after the completion of Phase 1 and 2. Project Manager Fellers said they would have a concept and general design. The Council Members and Staff discussed other aspects of the consultant's Scope of Work. Vice Mayor Senate called for additional discussion. Hearing none, he called for the vote.

**Aye:** Council Members Burden, Carder, Gray, McIntyre, and Senate

**Nay:** None

**Abstain:** None

**Absent:** Mayor Zoldos and Councilwoman Allar

Project Manager Fellers said the next step is to schedule the kick off meeting for PMA to meet with the Facilities Committee and each of the Council Members individually. The Council agreed to schedule the meetings on July 25 and 26.

**A. Business Hours of Operation Ordinance Amendment (LVZA-2013-004) continued**

Manager Markel provided copies of enacting Ordinance No. 2013-06-003.

**Motion:** I move to approve Ordinance No. 2013-06-003: Repeal and Reenact Sections 3-11(c) and 13-2 of the Zoning Ordinance, Business Hours of Operation and definition of "Construction" in connection therewith LVZA 2013-004 (Attachment 3).

**By:** Council Member Gray

**Second:** Council Member Burden

Vice Mayor Senate called for discussion. Councilmember McIntyre asked for clarification if they should act on this at the same meeting as presented. Attorney Whiting said it was arguable if this was the first time it was presented since the Council had originally referred this to the Planning Commission. Staff said the Council could vote to suspend the Rules and Procedures. Councilman McIntyre asked if there was a rush on approving this tonight. Manager Markel said it would help with the code codification process and that it would benefit the Applicant who had initiated the discussion.

Councilman McIntyre made the following motion: I move to temporarily suspend the Rules and Procedures for meetings of the Mayor and Town Council of Lovettsville, Virginia for the motion that is on the table. The motion was seconded by Councilwoman Carder and approved by Council Members Burden, Carder, Gray, McIntyre, and Senate. Mayor Zoldos and Councilwoman Allar were absent.

Vice Mayor Senate called for the vote on the motion to approve Ordinance No. 2013-06-003.

**Aye:** Council Members Burden, Carder, Gray, McIntyre, and Senate

**Nay:** None

**Abstain:** None

**Absent:** Mayor Zoldos and Councilwoman Allar

D. Open Space Ordinance Amendment (LVZA-2013-0003)

Presentation

Manager Markel presented this item. The Council is being asked to amend the open space requirements of the Zoning Ordinance under the following related sections: 3-3 (d) (viii), 3-4 (d) (viii), 3-5 (d) (viii) and 5-2 (b).

Manager Markel reviewed the background for this ordinance amendment, which was initiated by several property owners in Town who own small parcels that they wish to develop. He noted that the open space requirements are very restrictive for small developments and landowners wishing to subdivide only a small number of lots. The Planning Commission recommended that the open space requirements be applied to developments of 20 lots or more and that projects under that threshold would be exempt from these requirements. He also reviewed two other proposed changes to strike language regarding lot size, which is covered elsewhere in the Zoning Ordinance, and exemptions for tot lot requirements.

Councilman McIntyre asked what would keep a developer from doing several small projects rather one large project, in order to bypass the open space requirements. Manager Markel said the full build out would have to be 20 lots or less and that Staff would be able to determine the developer's intent based on a review of the master plan and project phasing.

Councilman Gray asked how the Planning Commission came up with the 20 lot threshold. Manager Markel said it was a number the Planning Commission felt was appropriate based on when a Home Owners Association can become self-sustaining.

Public Hearing LVZA- 2013-0003 Open Space Requirements

Vice Mayor Senate opened the Public Hearing at 9:04 p.m. Councilman McIntyre read the rules for public comment. Vice Mayor Senate called for public comments. Hearing none, he declared the Public Hearing closed at 9:05 p.m. and reconvened the Regular Meeting. Vice Mayor Senate called for a motion.

**Motion:** I move to suspend the Town Council Policies and Procedures pertaining to acting upon ordinances in the same meeting.

**By:** Council Member Carder

**Second:** Council Member McIntyre

**Aye:** Council Members Burden, Carder, Gray, McIntyre, and Senate

**Nay:** None

**Abstain:** None

**Absent:** Mayor Zoldos and Councilwoman Allar

**Motion:** I move to approve Ordinance No 2013-06-004: Repeal and Reenact Sections 3-3(d)(viii), 3-4(d)(viii), 3-5(d)(viii) and 5-2(b) of the Zoning Ordinance, Open Space Requirements, LVZA 2013-0003 (Attachment 4).

**By:** Council Member Gray

**Second:** Council Member Carder

**Aye:** Council Members Burden, Carder, Gray, McIntyre, and Senate

**Nay:** None

**Abstain:** None

**Absent:** Mayor Zoldos and Councilwoman Allar

E. Kingsridge Section 1 & 2 Bond Release

Manager Markel presented this item. The developer of Kingsridge, J.G.S. Residential LLC, has requested a full bond release for Sections 1 and 2 of the development. The request for bond release was submitted to the Town on October 22, 2012. Staff recommends approving the resolutions to fully release the performance bond and accept the new warranty bonds for each section.

**Motion:** I move to approve Resolution 2013-06-001 to release the performance bond for Kingsridge Section 1 and replace it with the new, one year, Warranty Agreement and Bond (Attachment 5).

**By:** Council Member McIntyre  
**Second:** Council Member Burden

Vice Mayor Senate called for discussion. Councilman McIntyre asked about the cost to repair the lateral connection that failed. Manager Markel said it cost several thousand dollars to repair the lateral connection and to compensate the effected homeowners. The Town has had the area checked using sophisticated listening devices and found no evidence that there are any additional defects in the line. This one issue has been corrected and the 12-month warranty bond will cover any additional problems.

Vice Mayor Senate called for further discussion. Hearing none, he called for the vote.

**Aye:** Council Members Burden, Carder, Gray, McIntyre, and Senate  
**Nay:** None  
**Abstain:** None  
**Absent:** Mayor Zoldos and Councilwoman Allar

Vice Mayor Senate called for a motion for Section 2.

**Motion:** I move to approve Resolution 2013-06-002 to release the performance bond for Kingsridge Section 2 and replace it with the new, one year, Warranty Agreement and Bond (Attachment 6).  
**By:** Council Member McIntyre  
**Second:** Council Member Gray

Vice Mayor Senate called for discussion. Hearing none, he called for the vote.

**Aye:** Council Members Burden, Carder, Gray, McIntyre, and Senate  
**Nay:** None  
**Abstain:** None  
**Absent:** Mayor Zoldos and Councilwoman Allar

F. Reappointment of Planning Commission Members

Manager Markel presented this item. The Council is being asked to consider reappointing three current members of the Planning Commission. The current terms for Planning Commissioner's Robert Gentile, Jennifer Jones, and Joseph Mueller all expire on June 30, 2013. All three have agreed to continue serving on the Commission and are eligible for reappointment. The new terms would be for a full, four year, term.

**Motion:** I move to appoint Robert Gentile, Jennifer Jones, and Joseph Mueller to new, four year terms, on the Town's Planning Commission to expire on June 30, 2017.  
**By:** Council Member Carder  
**Second:** Council Member McIntyre  
**Aye:** Council Members Burden, Carder, Gray, McIntyre, and Senate  
**Nay:** None  
**Abstain:** None  
**Absent:** Mayor Zoldos and Councilwoman Allar

G. Movie Projector

**Motion:** I move that the Town Council approve funds for the purchase of a projector and ancillary equipment for the Movies on the Green program in the amount not to exceed \$2,000 worth of funds from the event line in the budget.  
**By:** Council Member Burden  
**Second:** Council Member Carder  
**Aye:** Council Members Burden, Carder, Gray, McIntyre, and Senate  
**Nay:** None  
**Abstain:** None  
**Absent:** Mayor Zoldos and Councilwoman Allar

**Information Items**

Manager Markel distributed information about the Healthy Eating Active Living Campaign and explained the program. He also provided a draft resolution for the Council to review.

**Comments from the Mayor and Town Council**

Councilman McIntyre said he is looking forward to the July 3<sup>rd</sup> festivities.

Councilman Gray said the Game Club carnival was well attended. He did not hear any noise during the overnight tear down of the carnival equipment.

Vice Mayor Senate said he has made arrangements to use an antique fire truck for the July 3<sup>rd</sup> parade and Council Members are invited to join him and Mayor Zoldos. He also reminded everyone to be careful with fireworks – they can pose a fire hazard and many people get hurt each year.

**Closed Session**

There was no Closed Session.

**Adjournment**

There being no further business before the Council, the meeting was adjourned at 9:33 p.m.

Respectfully submitted,



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Harriet West, Town Clerk

Date Approved: August 22, 2013

**Attachments:**

1. Revised Hours of Operation Draft Text Amendment
2. Notice of Public Hearing
3. Ordinance No. 2013-06-003: Repeal and Reenact Sections 3-11(c) and 13-2 of the Zoning Ordinance, Business Hours of Operation and definition of "Construction" in connection therewith LVZA 2013-004
4. Ordinance No 2013-06-004: Repeal and Reenact Sections 3-3(d)(viii), 3-4(d)(viii), 3-5(d)(viii) and 5-2(b) of the Zoning Ordinance, Open Space Requirements, LVZA 2013-0003
5. Resolution 2013-06-001: Approve Warranty Agreement and Acceptance of Warranty Bond No. 585734S; Release of Performance Bond No. 585734S-Kingsridge Estates, Section 1
6. Resolution 2013-06-002: Approve Warranty Agreement and Acceptance of Warranty Bond No. 586491S; Release of Performance Bond No. 586491S-Kingsridge Estates, Section 2

# Revised Hours of Operation Draft Text Amendment

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## 3-11 COMMERCIAL AND LIGHT INDUSTRIAL ZONING DISTRICTS - GENERAL

### (a) PURPOSE:

Commercial zoning districts are established to accommodate a variety of commercial and service related activities within the existing and historic commercial areas of Lovettsville. All properties within the Commercial Zoning Districts shall be subject to the following standards:

### (b) LIGHTING REQUIREMENTS:

- (i) No canopy or roof fascia of any size or dimension shall be constructed, reconstructed, or altered in such manner as to have internal lighting of any kind.
- (ii) All site lighting, if any, shall utilize fully shielded cut-off fixtures and be designed and located so as to prohibit glare onto adjacent properties.

### (c) HOURS OF OPERATION: Any business located within one hundred (100) feet of the nearest property line of a residential use, located within a residential district, shall close to the public not later than 11:00 p.m. each day and shall not reopen earlier than 7:00 a.m. All businesses within the Town limits shall close to the public not later than 12:00 midnight and shall not reopen earlier than 6:00 a.m.

(i) Hours of Operation may be extended by the Town Council with a Conditional Use Permit. Such application shall specifically define the need for the modification.

(ii) All business and commercial uses must meet the following requirements:

(a) All deliveries shall only occur during permitted public business hours.

(b) All outdoor business related activities shall only occur during permitted public business hours.

(c) All business activity that is audible at the property line shall only occur during permitted public business hours.



- (d) Refuse and dumpster collection shall only occur between 7:00 a.m. and 7:00 p.m. Monday through Friday and between 9:00 a.m. and 7:00 p.m. Saturday and Sunday.
  - (e) Construction shall only occur between 7:00 a.m. and 7:00 p.m. Mondays through Fridays, construction shall only occur between 9:00 a.m. and 7:00 p.m. on Saturdays. No construction shall occur on Sundays.
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- (d) OUTDOOR STORAGE: All exterior storage areas of goods and materials where permitted, shall be fenced and shall be setback a minimum of ten (10) feet from side and rear property lines. Exterior storage of goods and materials shall not be permitted within required front yards. Type A landscape buffering shall be provided to exterior storage areas and shall comply with the landscaping, buffering and screening requirements contained in Article 6.
  - (e) HAZARDOUS MATERIALS: Businesses located within any commercial zoning district shall not store hazardous chemicals in excess of the threshold levels established by SARA Title III.

New Definition: Section 13-2

“CONSTRUCTION: Any site preparation, assembly, erection, substantial repair, alteration, demolition, or similar action.”

## Public Hearing/Legal Notices

### PUBLIC HEARING NOTICE TOWN OF PURCELLVILLE

The **Purcellville Town Council and Purcellville Planning Commission** will hold a joint public hearing in the Town Council Chambers located at 221 South Nursery Avenue, Purcellville, Virginia on **July 9, 2013 at 7:00 PM** for the purpose of receiving comments on, considering, and possibly voting on the following items:

**SUP13-01 – Eating Establishment #1 in Excess of 4,000 sq. ft. –** A special use permit application submitted by Jordan River Acquisitions LLC c/o Roadside Development LLC for the construction of an eating establishment in excess of 4,000 sq. ft. to be located within the northeast corner of the existing Purcellville Gateway Shopping Center. The Purcellville Gateway Shopping Center is located at 100-165 Purcellville Gateway Drive, Purcellville, Virginia, and is identified in Loudoun County Land Records as Tax Map Number /3611111/261 and Parcel Identification Number 453-37-7269.

**SUP13-02 – Eating Establishment #1 with Drive Thru –** A special use permit application submitted by Jordan River Acquisitions LLC c/o Roadside Development LLC to construct a two-lane drive thru as part of the eating establishment in excess of 4,000 sq. ft. applied for in special use permit application number SUP13-01. The two-lane drive thru is proposed to be located within the northeast corner of the existing Purcellville Gateway

Shopping Center, which is located at 100-165 Purcellville Gateway Drive.

### Notice of Public Hearing Town of Lovettsville Town Council

The Lovettsville Town Council will hold a public hearing on the following items at their meeting on Thursday, June 27, 2013 at 7:30pm at the Lovettsville Town Hall, 6 East Pennsylvania Avenue:

**LVZA-2013-0003 Open Space Requirements:** To amend the open space requirements of the Zoning Ordinance under the following related sections: 3-3 (d) (viii), 3-4 (d) (viii), 3-5 (d) (viii) and 5-2 (b).

**LVZA-2013-0004 Hours of Operation Requirements:** To amend the hours of operation requirements of the Zoning Ordinance under the following sections: 3-11 (c) and 13-2

The draft text amendments being considered are available for review at the Town Hall between the hours of 8:30am and 4:30pm weekdays or by special appointment, holidays excepted. Call 540-822-5788 for more information or visit [www.lovettsvilleva.gov](http://www.lovettsvilleva.gov).

# Town of Lovettsville

**ORDINANCE NO. 2013-06-003: REPEAL AND REENACT SECTIONS 3-11(c) AND 13-2 OF THE ZONING ORDINANCE, BUSINESS HOURS OF OPERATION AND ADD DEFINITION OF "CONSTRUCTION" IN CONNECTION THEREWITH  
LVZA 2013-0004**

**MOTION:** Gray  
**SECOND:** Burden

**WHEREAS**, the a recent rezoning application for operation of a coffee shop and request by new owners of a convenience store suggested that the provisions of Section 13-11(c) of the zoning ordinance may unreasonably restrict operations of businesses within the Town and deprive citizens of desired services; and

**WHEREAS**, the Town Council referred the matter to the Planning Commission for their review and recommendation of modifications to the zoning ordinance, as appropriate; and

**WHEREAS**, the Planning Commission held a public hearing on the matter on May 15, 2013, pursuant to notice given in accordance with Va. Code section 15.2-2204, and recommends amendment of the ordinance; and

**WHEREAS**, the Lovettsville Town Council conducted a public hearing on the ordinance on June 27 2013, pursuant to notice given in accordance with Va. Code section 15.2-2204; and

**WHEREAS**, the Town Council has determined that adoption of the ordinance is consistent with good zoning practice and will promote the health, safety and welfare of the citizens of the Town.

**NOW, THEREFORE, BE IT ORDAINED** that Sections 3-11(c) and 12-3 of the Zoning Ordinance be repealed and reenacted as set forth in the ordinance amendments attached hereto.

**BE IT FURTHER ORDAINED** that the Zoning Administrator and Town Attorney are hereby authorized to make corrections of misnumberings or misspellings found in the said attachment without further action by the Council.

**VOTE:**

**Ayes:** Burden, Carder, Gray, McIntyre, and Senate

**Nays:** None

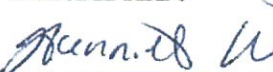
**Abstentions:** None

**Absent for vote:** Zoldos and Allar

**APPROVED:** June 27, 2013

  
Robert Zoldos II, Mayor

**CERTIFIED:**

  
Harriet West, Clerk

*The German Settlement*

# Town of Lovettsville

## ORDINANCE NO. 2013-06-004: REPEAL AND REENACT SECTIONS 3-3(d)(viii), 3-4(d)(viii), 3-5(d)(viii) AND 5-2(b) OF THE ZONING ORDINANCE, OPEN SPACE REQUIREMENTS, LVZA 2013-0003

**MOTION:** Gray  
**SECOND:** Burden

**WHEREAS**, Sections 3-3(d)(viii), 3-4(d)(viii), 3-5(d)(viii) and 5-2 impose open space requirement upon subdivisions of land in the R-1, R-2 and R-3 districts that are difficult to administer and unduly burdensome on small subdivision projects; and

**WHEREAS**, the Town Council referred the matter to the Planning Commission for their review and recommendation of modifications to the zoning ordinance, as appropriate; and

**WHEREAS**, the Planning Commission held a public hearing on the matter on May 15, 2013, pursuant to notice given in accordance with Va. Code section 15.2-2204, and recommends amendment of the ordinance; and

**WHEREAS**, the Lovettsville Town Council conducted a public hearing on the ordinance on June 27 2013, pursuant to notice given in accordance with Va. Code section 15.2-2204; and

**WHEREAS**, the Town Council has determined that adoption of the ordinance is consistent with good zoning practice and will promote the health, safety and welfare of the citizens of the Town.

**NOW, THEREFORE, BE IT ORDAINED** that Sections 3-3(d)(viii), 3-4(d)(viii), 3-5(d)(viii) and 5-2 of the Zoning Ordinance be repealed and reenacted as set forth in the ordinance amendments attached hereto.

**BE IT FURTHER ORDAINED** that the Zoning Administrator and Town Attorney are hereby authorized to make corrections of misnumberings or misspellings found in the said attachment without further action by the Council.

**VOTE:**

**Ayes:** Burden, Carder, Gray, McIntyre, and Senate

**Nays:** None

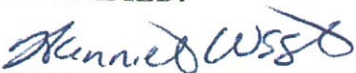
**Abstentions:** None

**Absent for vote:** Zoldos and Allar

**APPROVED:** June 27, 2013

  
Robert Zoldos II, Mayor

**CERTIFIED:**



Harriet West, Town Clerk

*The German Settlement*

# Town of Lovettsville

**Resolution 2013-06-001: APPROVE WARRANTY AGREEMENT AND  
ACCEPTANCE OF WARRANTY BOND NO. 585734S;  
RELEASE OF PERFORMANCE BOND NO. 585734S-  
KINGSRIDGE ESTATES, SECTION 1**

**MOTION:** McIntyre  
**SECOND:** Burden

**WHEREAS**, JGS Residential, LLC, entered an Agreement dated August 31, 2005 requiring it to construct certain public improvements within Section 1 of a project known as Kingsridge Estates and dedicate them to the Town or other public bodies upon completion and acceptance; and provided as security for its performance a certain Performance Bond issued by Developers Surety and Indemnity Company; and

**WHEREAS**, JGS Residential, LLC, completed the public improvements for Section 1 as required and has obtained their acceptance by appropriate public bodies and further has tendered a warranty agreement, secured by Maintenance Bond No. 585734S issued by Developers Surety and Indemnity Company, guarantying the said public improvements for a period of 12 months, and has asked that the Town release the Performance Bond No. 585734S, securing the original construction obligations within Section 1.

**NOW, THEREFORE, BE IT RESOLVED** that the Lovettsville Town Council hereby accepts the Physical Improvements Warranty Agreement dated June 12, 2013, and authorizes signature thereto by the Mayor, and accepts as security therefore the Maintenance Bond No. 585734S issued by Developers Surety and Indemnity Company.

**BE IT FURTHER RESOLVED** that the Town Council hereby acknowledges that the obligations of JGS Residential, LLC under the agreement of August 31, 2005, have been satisfied and merged into the warranty agreement and its associated Maintenance Bond No. 585734S and the Mayor is hereby authorized to release the existing Performance Bond No. 585734S issued by Developers Surety and Indemnity Company, referenced above to JGS Residential, LLC.

**VOTE:**

**Ayes:** Burden, Carder, Gray, McIntyre, and Senate

**Nays:** None

**Abstentions:** None

**Absent for vote:** Zoldos and Allar

**APPROVED:** June 27, 2013

  
\_\_\_\_\_  
Robert Zoldos II, Mayor

**CERTIFIED:**

  
\_\_\_\_\_  
Harriet West, Town Clerk

*The German Settlement*

# Town of Lovettsville

**Resolution 2013-06-002: APPROVE WARRANTY AGREEMENT AND  
ACCEPTANCE OF WARRANTY BOND NO. 586491S;  
RELEASE OF PERFORMANCE BOND NO. 586491S --  
KINGSRIDGE ESTATES, SECTION 2**

**MOTION:** McIntyre  
**SECOND:** Gray

**WHEREAS**, JGS Residential, LLC, entered an Agreement dated October 4, 2006 requiring it to construct certain public improvements within Section 2 of a project known as Kingsridge Estates and dedicate them to the Town or other public bodies upon completion and acceptance; and provided as security for its performance a Performance Bond issued Developers Surety and Indemnity Company, numbered 586491S; and

**WHEREAS**, JGS Residential, LLC, completed the public improvements for Section 1 as required and has obtained their acceptance by appropriate public bodies and further has tendered a warranty agreement, secured by Maintenance Bond No. 586491S issued by Developers Insurance and Indemnity Company, guarantying the said public improvements for a period of 12 months, and has asked that the Town release the performance bond No. 586491S, securing the original construction obligations within Section 2.

**NOW, THEREFORE, BE IT RESOLVED** that the Lovettsville Town Council hereby accepts the Physical Improvements Warranty Agreement dated June 12, 2013, and authorizes signature thereto by the Mayor, and accepts as security therefore the Maintenance Bond No. 586491S issued by Developers Surety and Indemnity Company.

**BE IT FURTHER RESOLVED** that the Town Council hereby acknowledges that the obligations of JGS Residential, LLC under the agreement of October 4, 2006, have been satisfied and merged into the warranty agreement and its associated Maintenance Bond No. 586491S and the Mayor is hereby authorized to release the Performance Bond No. 586491S issued by Developers Surety and Indemnity Company, referenced above to JGS Residential, LLC.

**VOTE:**

**Ayes:** Burden, Carder, Gray, McIntyre, and Senate

**Nays:** None

**Abstentions:** None

**Absent for vote:** Zoldos and Allar

**APPROVED:** June 27, 2013

  
\_\_\_\_\_  
Robert Zoldos II, Mayor

**CERTIFIED:**



\_\_\_\_\_  
Harriet West, Town Clerk

*The German Settlement*