

Town of Lovettsville

Town Council Minutes of the May 11, 2017 Regular Meeting and Public Hearing

Call to Order/Pledge of Allegiance

Mayor Zoldos called the meeting to order at 7:33 p.m. The meeting was held at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

Council Members Present

- Mayor Robert Zoldos II
- Council Member Jim McIntyre
- Council Member Rob Gentile
- Council Member Mike Senate
- Vice Mayor Tiffany Carder
- Council Member Kimberly Allar

Council Members Absent

- Council Member Jennifer Jones

Staff Present

- Town Clerk Harriet West
- Town Manager Laszlo Palko
- Zoning Administrator Joshua Bateman
- Town Attorney Elizabeth Whiting

Planning Commission Chairman Frank McDonough was in the audience.

Mayor Zoldos announced that the Council would be going into closed session to discuss personnel matters.

Pledge of Allegiance

Mayor Zoldos led those assembled in the Pledge of Allegiance.

Presentations

There were none.

Comments from the Public

Mayor Zoldos called for comments from the public. Vice Mayor Carder read the rules for public comment.

Matt Dehler, 9 Cooper Run Street, expressed his concerns about the Town's water; specifically the reading and billing and recent high bills that were not very well explained. In speaking with his neighbors it seems they got different explanations for why this happened. His water usage is pretty consistent but he had a 10,000 gallon increase in usage this past billing cycle. He was told it was it could have been due to a faulty flapper in one toilet. He is concerned about the estimating of the bills. He didn't even know that the Town did that, he thought it was always based on the reading. He said a lot of residents are concerned with the way this was done and many of them are here tonight because they have the same concerns.

Mayor Zoldos asked the Town Manager to explain the process of estimating bills. Mr. Palko said the Town has estimated the readings in the past, typically during the winter when snow is covering the meters and staff cannot get to them. He explained that, in this instance, the bills were estimated because the hand-held device used to read the meters was not functioning. The estimates were based on prior history. He said the only way to eliminate doing the estimates it to go to all radio read meters. Staff is also exploring other options as well so residents can get more timely information about their usage. He

explained that staff follows up on every call to check for leaks. He referenced a report he prepared in January which showed there was no systemic problem with the Town's system. He said that until residents have a plumber assess the issue, it's hard to determine the cause. He noted that if the meter is faulty, it would show less usage, not more. The use of the blue dye tablets is one step to help identify the cause of the problem. Mr. Palko said the Town now has a back-up hand-held device. A discussion ensued about the Town's process for responding to complaints about high water bills, switching out to all radio read meters, and ways to inform residents about high usage in a timelier manner.

Councilman Harry Lashley, with the City of Brunswick, said he is making the rounds through some of the Frederick County municipalities and wanted to come to Lovettsville in order to re-engage the working relationship between the Town and the City. He asked Mayor Zoldos to reach out to the Mayor of Brunswick so that they can begin working together again. Mr. Lashley noted that water and sewer is a common issue and they average 50 to 100 people per cycle who think their water bill is too high. He said they use radio readers in Brunswick and their Public Works Director may be able to provide some assistance with the transition in Lovettsville. He said he'd like to see a mutual agreement to help each other out. He stated that the new Weis Market is opening for Thanksgiving.

Dijon Jones, said he was here because of water too. He said that when technology fails, the Town needs to communicate. He said his sprinkler system hasn't been on in years and when he sees a 10,000 gallon increase in usage, that's an issue for him. His bill has gone up \$400 over the past year. He stressed the importance of communication. Mayor Zoldos said the Council wasn't aware of the estimation either and that is something the Council would speak about tonight. Mr. Palko clarified that the Town has done estimates every winter since he's been here and it has not been a problem before; however, he understands the importance of communicating this information to the public.

Stacy Evans asked for clarification regarding enforcement for decals and abandoned vehicles. Mr. Palko explained that decals are enforced by the County Sheriff. He further explained that if the Council passes the inoperable vehicle ordinance tonight, the Town can begin enforcement; however, if it is not passed, then there is no enforcement mechanism.

Nicholas Frederickson, 25 Mills Court, said he was here to speak against the inoperable vehicle amendment. He said he was taught that this is the land of the free and that we can do pretty much any think we want, as long as we're not harming other people. Vehicles are not a safety issue; if it's sitting in his yard, it doesn't matter. No harm being done. The Town and the County government should not in any way be dictating aesthetic issues; that should be left up to the Home Owners Associations. He has his late grandfather's car in his yard. He could put historic tags on it, but that would make no aesthetic difference, it would only prevent the Town from enforcing the inoperable vehicle laws. There would be no point in paying for tags and insurance while he's waiting for funds to restore the car. He also referenced the Virginia Constitution, Article 1, Section 11 regarding fundamental rights for private property, and 18 USC 241 and 242, that provides penalties for creating or enforcing an ordinance that violates the basic rights of Americans. He encouraged the Council to look up those laws and not infringe on the public's rights.

Jose Gestile, 18 Church Street, spoke against the government's enforcement of inoperable vehicles.

David Frederickson, 25 Mills Court, said the vehicles are personal property and because someone doesn't like the way they look does not give the Town the right to say what he can and cannot do on his property.

Chris Hornbaker, 15 Black Forest Lane, spoke about the history of the inoperable vehicle ordinance with a vehicle on his street. He said that the proposed amendment it to correct the state code, but that everything else is currently adopted by the Town Code almost verbatim from the County Ordinance. As the HOA President for Town Center, there are some other ordinances he has asked the Town Council to consider because the County cannot enforce them unless they have been adopted by the Town. He also asked the Council to consider his previous request for use of the Town Hall by HOAs.

Stacy Evans, 16 S. Loudoun Street, added that she has no problem with people having things on their property but she just had her house appraised and they took \$11,000 off the appraised value due to her neighbor's house and the two abandoned cars in their yard. She does not live in an HOA and there's nothing else to enforce it. She said the cars weren't there when she bought her house and it does effect tax values.

Damien Teague, 42 E. Broad Way, asked what is being amended regarding vehicles.

Staff explained that this is simply a technical correction to the Town's existing code, which adopts the state and county code by reference. Ms. Whiting stated that the proposed ordinance amendment is to reference the correct statute in the state code. Mr. Palko explained the process once he receives evidence regarding an inoperable vehicle, which includes notifying the resident and giving them a reasonable amount of time to comply before submitting the complaint the Sheriff's Office for enforcement. A discussion ensued regarding whether covering vehicles is acceptable and what is adequate for shielding them from view. This item was rescheduled for further discussion at the meeting on June 8.

Larry Woodland, 23 S. Loudoun Street, said he was unable to click on the agenda for tonight's meeting so he was unable to get a clear view of what the Council would be discussing regarding the ordinances. He asked the Council to make sure they follow the state code as well as Loudoun County. He said the penalty is pretty exorbitant, especially if people don't have any money. In his case, he likes restoring old cars. He made the distinction between collectible cars and inoperable vehicles.

Isabel Brito, 4 Joel Way, spoke about the Town's zoning ordinance for in-home day care. She said that Lovettsville is the only town in Loudoun County that allows 9 children, instead of 12. She currently has 6 children on the waiting list. She said Lovettsville needs to change its zoning so she can help more families.

Community Presentations

A. Lovettsville Library

Vice Mayor Carder reported on upcoming events at the library.

Town Commission and Committee Reports

A. Lovettsville Planning Commission

Chairman McDonough reported on items coming before the Commission at their next meeting, the reappointment of two Commissioners whose terms will expire June 30, and the need to fill Commissioner Mueller's position.

B. Events Committee & Subcommittees

Councilman McIntyre reported that the Ambassador Program will be launched at the May 20 event in Purcellville.

- Love America – Councilwoman Allar reported on the Memorial Day Ceremony.
- Love Spring – Vice Mayor Carder gave an update on preparations for MayFest.
- Love Summer – Mayor Zoldos reported on the movies and concerts.
- Love Fall – Councilman McIntyre reported on the July 1st concert and Oktoberfest Committee assignments.
- Love Winter – There was no report.

C. Business & Tourism

There was no report.

D. Parks & Beautification

Councilman Senate reported on the bike repair station and selling ornaments at MayFest.

E. Infrastructure, Environment & Utilities Committee

There was no report.

F. Information Flow Committee

Ms. West stated that the video recording system will be launched soon.

Additions/Deletions/Modifications to the Agenda

The following items were added to the agenda:

- Advertising for new Planning Commissioner.
- Change in three-way stop at Milltown Road, Lovettsville Road, and E. Broad Way.
- HOA use of Town Hall.

Report from the Town Attorney

There was no report.

Report from the Town Manager

There was no report.

Minutes

A. July 7, 2016 Special Meeting

Motion: I move to accept the minutes of the July 7, 2016 special meeting.
By: Carder
Second: Senate
Aye: McIntyre, Gentile, Senate, and Carder
Nay: None
Abstain: Allar
Absent: Jones

B. July 14, 2016 Regular Meeting

Motion: I move to accept the minutes of the July 14, 2016 regular meeting.
By: Carder
Second: Senate
Aye: McIntyre, Gentile, Senate, Carder, and Allar
Nay: None
Abstain: None
Absent: Jones

Action/Discussion Items:

A. LVZA 2016-0004 Public Hearing on Article XI (Sign Regulations) to Comply with Reed v. Town of Gilbert.

Zoning Administrator Bateman presented this item. The Council is being asked to conduct a public hearing on and determine whether to adopt the proposed amendment to Article XI of the Zoning Ordinance in order to bring the Town sign regulations into compliance with the decision established by the U.S. Supreme Court in *Reed v. Town of Gilbert*. Attorney Whiting explained that this does not apply to license plates because that would be considered governmental speech.

Mayor Zoldos suspended the regular meeting and opened the public hearing at 8:38 p.m. Vice Mayor Carder read the notice for public hearing. Mayor Zoldos called for comments from the public. There were none. Mayor Zoldos closed the public hearing at 8:38 p.m. Councilman McIntyre made the following motion:

Motion: I move to adopt Ordinance No. 2017-05-0001 (Attachment 1) approving Case No. LVZA 2016-0004 as presented.
Second: Gentile
Aye: McIntyre, Gentile, Carder, and Allar
Nay: Senate
Abstain: None
Absent: Jones

B. LVZA 2017-0003 Public Hearing on Zoning Ordinance Amendment for Child Care Homes

Zoning Administrator Bateman presented this item. The Council is being asked to conduct a public hearing and decide whether to adopt a zoning ordinance amendment requested by M. Isabel Brito-Rodriguez of 4 Joel Way (Kingsridge Subdivision) to amend the definition of "child care home" in Section 42-2 (b) of the zoning ordinance. The amendment increases the allowable capacity of such homes, in terms of number of children, from nine to twelve and amends the requirements of Section 42-199 (home occupations) and Section 42-197 (child care home and child care centers) to support the change in the definition (as further amended by the Planning Commission).

Following Mr. Bateman's presentation, a discussion ensued regarding the basis for the Town's limitation on nine children, monitoring of the state's point system, and proposed hours of operation.

Vice Mayor Carder read the notice of public hearing. Mayor Zoldos suspended the regular meeting and opened the public hearing at 8:50 p.m. He called for comments from the public. Hearing none, the Mayor Zoldos closed the public hearing at 8:50 p.m. Councilman Senate made the following motion:

- Motion:** I move that the Town Council adopt Ordinance No. 2017-05-0002 (Attachment 2) amending Section 42-2 (b), Section 42-197, and Section 42-199 as set forth in LVZA 2017-0003 attached hereto.
- Second:** McIntyre
- Aye:** McIntyre, Gentile, Senate, Carder, and Allar
- Nay:** None
- Abstain:** None
- Absent:** Jones

C. Loudoun West Bond Approval

Zoning Administrator Bateman presented this item. The Council is being asked to consider acceptance of the performance bond for installation of public improvements for the Loudoun West Subdivision (27 lots) located at 14 West Broad Way and 16 Cooper Run Street. Councilman McIntyre made the following motion:

- Motion:** I move to approve Resolution 2017-05-0001 (Attachment 3), as attached, to accept the performance agreement and bond for the Loudoun West Subdivision in the amount of \$1,584,098.
- Second:** Gentile
- Aye:** McIntyre, Gentile, Senate, Carder, and Allar
- Nay:** None
- Abstain:** None
- Absent:** Jones

D. Inoperable Vehicle Ordinance Amendment

This item was postponed.

D. HOA Use of Town Hall

Mayor Zoldos introduced this item regarding the use of the Town Hall by HOAs. Following discussion, the Council agreed to have the Town Manager prepare a staff report and to bring this item back for further consideration.

E. Advertising for Planning Commission Vacancy

Following discussion, the Council agreed to advertise the vacancy for two weeks and to schedule interviews with the applicants the first week of June 1.

F. Three-Way Stop at Milltown Road, Lovettsville Road, and East Broad Way

Mayor Zoldos introduced this item. He noted a three-way stop was originally planned for this intersection; however, this has somehow changed and the three-way stop has now been eliminated. He explained that this creates serious concerns about pedestrian safety at the Community Center and the Community Park.

Following discussion, the Council agreed to have the Mayor prepare a resolution supporting the previous method of traffic calming that the Town was promised and to take this to Supervisor Higgins.

Information Items

Mr. Palko reported that an agreement has been reached on North Church Street and work should be completed by the end of August.

Comments from the Mayor and Town Council

This item was delayed so the Council could convene in closed session.

Closed Session

Mayor Zoldos announced the Council would be convening in closed session. Vice Mayor Carder made the following motion:

Motion: I move that the Lovettsville Town Council convene in closed session pursuant to VA. Code section 2.2-3711A1 for discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; for discussion of possible resignation by specific public officers, appointees or employees and options for reconfiguring the staffing or affected operations if such resignations occurs; and thereafter reconvene in open session for action as appropriate.

Second: McIntyre

Aye: McIntyre, Gentile, Senate, Carder, and Allar

Nay: None

Abstain: None

Absent: Jones

The Council went into closed session at 9:20 p.m. The Mayor, Council Members present, and the Town Manager met in the trailer adjacent to the Town Hall. They reconvened in the Council Chambers at 9:45 p.m. Mayor Zoldos read the certificate of closed session aloud: Do you certify that to the best of your knowledge (1) only public business matters lawfully exempted from open meeting requirements under this chapter and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the meeting? Council Members McIntyre, Gentile, Senate, Carder, and Allar certified to the above. The Council took no action following the closed session.

Comments from the Mayor and Town Council

Vice Mayor Carder discussed the Potomac Partnership, the recent positive article about Lovettsville, and the need for additional volunteers for MayFest.

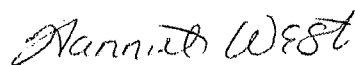
Councilwoman Allar said she is the Captain for the local March of Dimes team, which raised \$4,400.

Mayor Zoldos reminded everyone about Cliff Walker's celebration of life on May 21 at the fire house.

Adjournment

There being no further business before the Council, the meeting was adjourned at 9:51 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Attachments:

1. Ordinance No. 2017-05-0001
2. Ordinance No. 2017-05-0002
3. Resolution 2017-05-0001

Town of Lovettsville

ORDINANCE NO. 2017-05-0001
AMENDMENT TO ARTICLE XI (SIGN REGULATIONS) OF THE ZONING
ORDINANCE TO COMPLY WITH U.S. SUPREME COURT DECISION IN
REED V. TOWN OF GILBERT

MOTION: McIntyre
SECOND: Gentile

WHEREAS, Article XI of Chapter 42, Zoning, of the Town Code establishes the zoning requirements and restrictions on signs erected on private property for exterior display; and

WHEREAS, The Town Council on June 16, 2016 voted to accept the zoning administrator's proposed zoning amendments list for 2016-2017 including an amendment to the sign ordinance necessary to comply with the 2015 United States Supreme Court decision in *Reed v. Town of Gilbert* and, in so doing, referred such amendment to the Planning Commission for its formal recommendation; and

WHEREAS, the Planning Commission on October 19, 2016 initiated an amendment (Case No. LVZA 2016-0004) to Article XI, Section 42-399 (Definitions), Section 42-400 (Purpose and Intent), Section 42-401 (Applicability), Section 42-402 (Sign Permit Required), Section 42-403 (Sign standards), Section 42-404 (Signs in residential districts), Section 42-405 (Signs in commercial and light industrial districts), Section 42-406 (Comprehensive signage plan), Section 42-407 (Temporary signs), and Section 42-408 (Administration and enforcement) in order to eliminate content-based definitions and limitations on signs in accordance to the United States Supreme Court decision in *Reed v. Town of Gilbert* and directed staff to draft the amendment to Article XI for consideration by the Commission; and

WHEREAS, the Comprehensive Plan as amended on February 9, 2017 contains Land Use Policy 19 which states that the Town will seek to "design sign ordinance regulations that help businesses attract customers while ensuring that the area, height and illumination of signs are appropriate to the scale of the buildings on the sites where they are located" and the Planning Commission applied this policy when considering proposed changes to Article XI; and

WHEREAS, the Planning Commission reviewed, discussed and made further revisions to the amendment drafted by staff at meetings on December 7, 2016 and March 1, 2017, and on April 5, 2017 conducted a public hearing on LVZA 2016-0005 before voting to recommended approval of the amendment as further modified by the Planning Commission on that date; and

WHEREAS, the Town Council has conducted a public hearing on LVZA 2016-0004 on May 11, 2017, such public hearing having been duly advertised as required by Section 42-34 of the Zoning Ordinance and §15.2-2204 of the Code of Virginia; and

WHEREAS, the Town Council has determined that adoption of the ordinance will promote the health, safety and welfare of the citizens of the Town.

The German Settlement

NOW, THEREFORE, BE IT ORDAINED that Chapter 42, Zoning, of the Code of the Town of Lovettsville be amended as set forth in the attachment hereto.

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

VOTE:

Ayes: McIntyre, Gentile, Carder, Allar

Nays: Senate

Abstentions: None

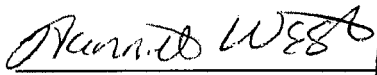
Absent for Vote: Jones

Approved: May 11, 2017



ROBERT ZOLDOS, MAYOR

CERTIFIED:



HARRIET WEST, TOWN CLERK

ARTICLE XI. - SIGN REGULATIONS

Sec. 42-399. Definitions.

The following definitions for signs shall apply in the administration of this article:

A-frame sign means a two-faced sign with supports that are connected at the top and separated at the base, forming approximately an "A" shape. Such signs are also referred to as "sandwich board" signs and are included in the term "portable sign."

Awning means a sign that is imprinted upon or affixed to a roof-like cover comprised of vinyl, canvas, or other type of fabric or similar flexible material, whether retractable or not, and affixed to and extending from a building with open air underneath. An awning is designed and intended for sheltering occupants of or visitors to a building from the elements.

Banner means a sign made of a flexible material designed to be installed at each of four corners, or along one or more edges, on poles, posts or other framework, or affixed to a flat surface such as the exterior wall of a building. A banner flag and "teardrop" flag shall be considered banners, and not flags or pennants, for the purposes of administering this article.

Bulletin board means a sign having one or more sign faces comprised of corkboard, fabric, vinyl or similar material, whether enclosed within a cabinet or unenclosed, designed or used for the display of information or messages, typically using changeable copy.

Canopy means a sign that is imprinted upon or affixed to a canopy, including a fuel canopy. A canopy is a freestanding structure, whether temporary or permanent, which contains four or more poles or posts for structural support extending from the roof to the ground, provides a roof, but not walls, over a specific area and is designed and intended for overhead cover to protect people from the elements.

Changeable copy means letters, symbols and numbers that appear on a sign that can be rearranged manually.

Flag or pennant means a sign made of a flexible material, typically oblong or square, attachable by one edge to a pole or rope and designed to move under the force of the wind. A banner flag and "teardrop" flag shall be considered banners, and not flags or pennants, for the purposes of administering this article. The official flag of any state or political subdivision thereof, or any sovereign nation, including but not limited to the flag of the United States of America, shall not be considered a flag subject to the regulations of this article.

Freestanding.

- (1) The term "freestanding" means a sign that is not affixed to a building or similar structure but is anchored into the ground or a structure specifically designed to hold the sign in place. Pole and monument signs are considered freestanding signs.
- (2) The term "freestanding" does not include a wall, projecting, canopy or awning sign.

Government means a sign erected and maintained by a governmental entity or any public property, or on private property upon which the governmental entity has an obtained an easement, written agreement or other written permission from the property owner, pursuant to or in the discharge of any governmental function or required by law, ordinance, or other governmental regulation, or for the purpose of providing other official information to the public. Such signs shall include signs affixed to or mounted upon mailboxes or mailbox posts by residents for the purposes of facilitating U.S. mail delivery.

Ground mounted. See Monument sign.

Individual establishment. For purposes of this article, the term "individual establishment" means one or more uses or activities that occupy the same physical space within a building or on a lot containing non-residential uses, whether said space is leased or owned by the proprietor of the establishment. The space, and not the number of uses or activities within or upon said space, shall constitute an individual establishment for the purposes of administering this article.

Model home office or sales trailer means signs means a sign attached to, or a freestanding sign located on the property of, a model home or sales office, whether the office is located in a permanent structure or modular building.

Monument means a sign which is designed so its entire bottom edge is in contact with or is within six inches of the ground upon which it is installed.

Pole means a freestanding sign that is mounted on or affixed to one or more posts or poles.

Portable means any sign that can be moved from one location to another by one person without the aid of a machine. A portable sign shall not be considered a temporary sign for the purposes of administering this article.

Projecting means a sign that hangs or extends from a building or a structure.

Seasonal produce stand or modular food service establishment means a sign attached to an outdoor, open air tent, a stand or similar structure made of wood or other solid material, or a trailer or cart from which locally-grown or other food products are sold to the public.

Sign means a name, identification, description, display or illustration, which is affixed to, painted or represented directly upon a building or other outdoor surface which directs attention to or is designed or intended to direct attention to the sign face or to an object, product, place, activity, person, institution, organization or business. Signs located completely within an enclosed building, and not exposed to view from a street, shall not be considered a sign for the purposes of this ordinance. Each display surface of a sign or sign face shall be considered a sign or integral component thereof.

Sign area means the space enclosed within the extreme edges of the sign for each sign face, not including the supporting structure or, where the copy is attached directly to a building wall or surface, the space within the outline enclosing all of the characters of the words, numbers or design.

Sign copy or message means any letter, word, numeral, figure, symbol, logo, insignia, emblem, graphic, device or combination thereof which constitutes the message of the sign and communicates the information thereon.

Sign face means the entire display surface area of a sign upon, against or through which the copy is placed.

Suspended. See Projecting.

Temporary sign means any sign that is designed or intended to be displayed for limited period of time. Temporary signs shall be subject to the provisions of Section 42-407 in addition to any other applicable provisions of this article applicable to the specific sign type. A portable sign shall not be considered a temporary sign for the purposes of administering this article.

Wall means a sign affixed to, imprinted upon, or projecting from or onto an exterior building wall or structure.

Window means a sign that is affixed, painted, stenciled or otherwise imprinted within or upon the flat surface of a window or door, or placed immediately behind the window or door so as to attract the attention of persons outside the building, but excluding merchandise in a window display.

Yard or lawn sign means a sign displayed in a front, side or rear yard and typically comprised of corrugated plastic, polystyrene, polyvinyl chloride, vinyl, cardboard, aluminum or similar material, whether attached to an "H-stake" wire frame mounted in the ground or not. Any such yard sign, unless attached to one or more posts or poles anchored at a depth of at least twelve (12) inches below the ground and comprised of treated, painted and/or sealed wood, aluminum or similar metal, high-density polyethylene, or similar durable, weatherproof material, shall be considered a temporary sign subject to the provisions of Section 42-407.

(Ord. of 9-21-2006, § 7-4; Ord. No. 2011-02-002, 2-24-2011)

Sec. 42-400. Purpose and intent.

- (a) In general, the purpose of this article is to regulate the size, illumination method, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus furthering and ensuring the protection of property values, the character of the Town's neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment upon historic buildings and areas, the safety and welfare of pedestrians and vehicular traffic, and the objectives of the Town's comprehensive plan. This article is intended to allow adequate communication through signage in a manner consistent with the First Amendment guarantee of free speech, while encouraging aesthetic quality in the design, location, size and purpose of signs.

Any sign placed on land or on a building for the purpose of identification or directing persons to a use conducted thereupon or therein shall be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified herein. These regulations do not regulate every form and instance of visual speech that may be displayed anywhere within the jurisdictional limits of the Town, nor do they entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth herein, as well as to strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

The provisions of this article are intended to permit signs that are:

- (1) Compatible in appearance with the landscape, streetscape and architecture of surrounding buildings;
 - (2) Legible and appropriate to the activity to which they pertain;
 - (3) Not distracting to pedestrians, bicyclists and motorists; and
 - (4) Constructed and maintained in a structurally-sound and attractive condition.
- (b) Specifically, this article is intended to:

- (1) Reduce traffic hazards caused by unregulated signs that may distract, confuse and impair the visibility of motorists, bicyclists and pedestrians;
- (2) Promote the safety of public streets, highways, and other public facilities for users;
- (3) Provide convenience to businesses and citizens;
- (4) Protect property values; and
- (5) Further economic development.

(Ord. of 9-21-2006, § 7-1; Ord. No. 2011-02-002, 2-24-2011)

Sec. 42-401. Applicability.

Signs shall constitute a separate and distinct use of the land to which they are appurtenant. For purposes of this chapter, signs are considered as accessory uses of real property and shall only be located on the property to which they pertain. With the exception of government signs, signs not expressly permitted as being allowed by right or by conditional use permit under this article, by specific requirements in another section of this chapter, or otherwise expressly allowed by the Town Council or Board of Zoning Appeals, are prohibited. Government signs shall be exempt from the requirements of this article.

(Ord. of 9-21-2006, § 7-2; Ord. No. 2011-02-002, 2-24-2011)

Sec. 42-402. Sign permit required.

Any sign that is erected, installed, affixed, relocated, or replaced in any zoning district shall require a sign permit, except as otherwise provided in this article. Installation of any signage regulated by this article shall be in conformance with the approved sign permit.

(Ord. of 9-21-2006, § 7-3; Ord. No. 2011-02-002, 2-24-2011)

Sec. 42-403. Sign standards.

(a) *General sign standards.* Except where further specifically limited or restricted, the following standards generally apply to signs as set forth in this section:

- (1) *Determination of sign height.* The height of a sign shall be measured from the ground level to the top-most portion of the sign structure.
- (2) *Number of sign faces.* No sign shall have more than two sign faces.
- (3) *Determination of monument sign area.* The surface area of the sign face or the space enclosing lettering or logo, not the structure upon which the sign may be mounted, shall determine the total square footage of the monument sign.
- (4) *Determination of sign area.* The sign area is a measure of the surface area which encompasses any regular geometric figure (square, circle, rectangle, or triangle-) enclosing all parts of the sign face.
- (5) *Area of sign with two sign faces.* The area of a sign with two sign faces shall be computed according to the following:
 - a. Sign faces separated by an interior angle of 45 degrees or greater, both sign faces shall be included in the sign area.

- b. Sign faces separated by an interior angle of less than 45 degrees, one sign face shall be included; provided, however, the area of the largest sign face shall be used when two faces are unequal in areas.
- (6) *Roof placement prohibited.* No sign shall be located on a roof of any type, provided that this provision shall not apply to canopy signs.
 - (7) *Public right-of-way.* No sign shall be located in a public street right-of-way without written permission of the Virginia Department of Transportation and evidence of such permission provided to the town. In addition, no sign shall be attached to any public street sign or traffic control sign in such a way as to cause confusion to motorists or otherwise impede and disrupt traffic or the safety thereof within or along such public street. Any employee of the Town shall be authorized to remove any sign so located in violation of this subsection without notice to the owner or party who installed the sign.
 - (8) *Sign illumination.* These standards apply to all signs:
 - a. Internally illuminated signs, including backlit or neon signs or signs comprised of light-emitting diodes (LEDs), shall be prohibited, except where expressly permitted in this article.
 - b. The exterior illumination of signs shall be focused only upon the sign face and shall not cast distracting glare or reflect light beyond the property upon which the sign is located.
 - c. Illumination of signage shall not, nor shall it cause the sign or copy to appear to, move, flash or be animated.
- (b) *Standards by sign type.* Signs are to be considered permanent and permits required, unless otherwise stated.
- (1) *Awning.* The area of a sign shall not exceed ten (10) square feet.
 - (2) *Banner.* A banner sign shall only be allowed on parcels containing a nonresidential use in any district. The total area of a banner sign shall not exceed 30 square feet. A freestanding banner sign shall be set back at least five (5) feet from the property boundary. The sign shall only be a temporary sign, and shall be subject to the applicable requirements of Section 42-407.
 - (3) *Bulletin board.* The sign area shall not exceed ten (10) square feet.
 - (4) *Canopy.* No more than one sign on a side is allowed and signs are allowed on no more than two sides of a single canopy. The area of each sign on each side of a canopy shall not exceed 20 square feet. The canopy fascia and signage thereon shall be non-illuminated.
 - (5) *Changeable copy.* No standards apply to the copy. No permit is required. Standards apply to the types of signs upon which the changeable copy is affixed, as set forth in this article.
 - (6) *Flag or pennant.* The area of such signs shall not be included in the total square footage allowed for a use, business or development. Such signs must hang at least eight feet above grade if hanging over a pedestrian walkway, and such signs shall not hang over any portion of a public street right-of-way. No permit is required.

(7) *Freestanding*. See monument and pole signs.

(8) *Ground mounted*. See monument sign.

(9) *Model home office or sales trailer*. One freestanding or pole sign is permitted. The area of such sign shall not exceed ten square feet.

(10) *Monument*.

- a. Maximum height: Ten feet for sites with multiple businesses; and six feet for sites with single businesses and residential subdivisions.
- b. Maximum sign area: 15 square feet.
- c. Maximum number of signs per lot: One, except as allowed in section 42-405, commercial and light industrial districts.
- d. Number of sign faces: No sign shall have more than two faces.
- e. Illumination: White external lights only.
- f. Minimum setback of monument signs: Ten feet from any public right-of-way, service drive or entrance.

(11) *Pole*.

- a. Maximum height: Six feet.
- b. Maximum sign area: 15 square feet, except where otherwise specifically provided.
- c. Maximum signs per lot: One, except where otherwise specifically provided in this article.
- d. Number of sign faces: No sign shall have more than two faces.
- e. Illumination: White external lights only.
- f. Setbacks:
 1. Five feet for front yard.
 2. No less than five feet from a residential district for a side yard.
 3. No less than 20 feet from a residential district for a rear yard.

(12) *Portable*. Such signs are allowed up to 12 square feet for a single-sided sign and 24 square feet for a two-sided sign or A-frame sign. The maximum height shall be four (4) feet. Such signs shall not be displayed after business hours and shall not be placed in the public right-of-way or public access easement in a manner that blocks pedestrian travel on the public sidewalk. Portable signs are authorized on a continuous basis and shall not be considered temporary signs subject to the time restrictions set forth in Section 42-407. No permit is required.

(13) *Projecting*.

- a. A projecting sign may extend horizontally from the building to which it is mounted no more than three feet.
- b. If located over a pedestrian walkway, the bottom of a projecting sign shall be at least eight feet above the walking surface of the walkway and may not overhang a public right-of-way or walkway or private access easement or obstruct any walkway, window, or balcony of an adjoining property.

- c. The area of a projecting sign may be one square foot per linear foot of building frontage on which the sign is to be attached, up to 12 square feet.
 - d. Setbacks: None.
- (14) *Seasonal produce stand or modular food service establishment.* No more than two signs allowed. Sign area shall not exceed ten square feet per sign. The maximum height of any such sign shall not exceed six feet. Signs shall only be posted during the period of time when such establishment is open for business.
- (15) *Suspended.* See projecting sign.
- (16) *Temporary.* Such signs shall be subject to the requirements of Section 42-407 in addition to any other requirements of this article which apply to the specific sign type.
- (17) *Wall.*
- a. No wall sign shall cover, cross, or otherwise hide windows, columns, or other architectural features of a building.
 - b. The maximum area of any wall sign shall not exceed one square foot for each linear foot in length of the building facade, or facade of an individual business space, to which such sign is attached up to a maximum aggregate of 100 square feet.
 - c. No part of a wall sign shall
be located at height exceeding 25 feet above the finished grade directly beneath the sign.
 - d. Setbacks: None.
- (18) *Window.* Such signs shall cover no more than 20 percent of the total window area in which they are placed and shall be located no higher than the first floor of a building, unless permitted under an approved comprehensive signage plan or as authorized by section 42-405. Any such window sign may include not more than one (1) internally-illuminated (e.g., backlit, neon or LED-type) sign per individual establishment, not to exceed a maximum area of two (2) square feet, which may be displayed on a continuous basis, provided such sign shall be illuminated only during hours of operation and shall be subject to the restrictions of Section 42-403(a.)8(c.).

(Ord. of 9-21-2006, § 7-5; Ord. No. 2011-02-002, 2-24-2011; Ord. No. 2012-01-001, 1-26-2012)

Sec. 42-404. Signs in residential districts.

- (a) *Individual residential lots.* One permanent sign affixed to the front of a structure for the purpose of directing or assisting police, fire or other emergency personnel to that structure, or otherwise assisting such personnel in locating the same, shall be permitted not to exceed two (2) square feet. No sign permit shall be required for such sign. Not more than two (2) flags, and not more than one (1) additional sign, shall be permitted per lot, and the maximum area of any such sign shall not exceed the maximum allowed for the specific sign type, as applicable. Permitted sign types are flag, pole, wall, and any of the temporary sign types authorized in residential districts in accordance with Section 42-407.

(b) *Residential developments.* The following standards apply to residential communities or subdivisions that are developer-owned or that have homeowners' associations, as well as to the common areas within these communities or subdivisions. These standards shall not apply to individual lots within such communities or subdivisions. The Town Center (T-C) Planned Development District residential area, as represented on the adopted concept plan for the T-C District, as amended, shall be considered a residential zoning district for the purpose of administering the requirements of this article.

- (1) One monument sign shall be authorized per external street entrance into the subdivision or community. No other type of sign shall be permitted at these locations, except for temporary signs as described in Section 42-407.
- (2) The height of the monument sign shall not exceed six feet.
- (3) Signs shall only be located on commonly-owned land within the subdivision or community owned by the developer or homeowners' association.
- (4) Signs located on the property of or attached to accessory or community buildings or uses in residential neighborhoods, including but not limited to community centers, club houses, tennis courts and swimming pools, shall have an area not exceeding four square feet, provided that a monument sign shall not exceed the maximum area or height allowed for such signs. Such signs shall be limited to pole, monument or wall signs, with the exception of temporary signs, which shall be subject to the requirements set forth in Section 42-407 as well as any other requirements applicable to the specific sign type. No permit is required, except for a monument sign which exceeds four (4) square feet in area.
- (5) Signs not otherwise addressed in this section, other than temporary signs, shall have a maximum area of two square feet. The permitted sign types are pole and wall. Only one (1) such sign shall be permitted per parcel. No permit is required.
- (6) Security or warning signs authorized by local, state or federal laws shall be permitted as provided therein. No permit is required.

(c) *Nonresidential uses in residential districts.*

- (1) Type of signs permitted:
 - a. Banner;
 - b. Bulletin board;
 - c. Flag or pennant;
 - d. Model home office or sales trailer;
 - e. Monument;
 - f. Pole;
 - g. Portable;
 - h. Projecting;
 - i. Temporary; and
 - j. Wall.
- (2) Maximum number of signs: One per street frontage up to a maximum of two per lot. No more than one of any type of sign shall be permitted per lot.

- (3) Area of an individual signs: Monument and wall signs shall be no more than ten square feet. Projecting signs shall be no more than five square feet.
- (4) Total area of signage per lot: 30 square feet.
- (5) Height of monument sign: No more than six feet from the ground.
- (6) Height of wall sign: No more than ten feet from the ground.
- (7) Setbacks and yards: Signs in front yards shall have no setback. Signs shall not be placed in side or rear yards, except for through lots, which may have a sign in each of the front yards. A corner lot may only have a sign in one front yard.
- (8) Illumination: See section 42-403(a)(8).

(Ord. of 9-21-2006, § 7-6; Ord. No. 2011-02-002, 2-24-2011; Ord. No. 2012-01-001, 1-26-2012)

Sec. 42-405. Signs in commercial and light industrial districts.

(a) *Generally.*

- (1) *Development and construction standards.* All signs erected within the commercial and light industrial zoning districts shall comply with the requirements of sections 42-402 and 42-403. The Town Center (T-C) Planned Development District core and fringe areas, as represented on the adopted concept plan for the T-C District, as amended, shall be considered commercial zoning districts for the purpose of administering the requirements of this article.
 - (2) *Signs facing residential districts.* Any sign erected within 100 feet of either an existing residential use or a residential district shall be non-illuminated and limited to 16 square feet in area.
- (b) *Signs for individual establishments.* An individual establishment located on a single lot that is not part of a development containing multiple establishments is allowed the following signs:
- (1) Maximum number of signs: Three, comprised of two permanent and one portable sign.
 - (2) Types of signs permitted:
 - a. Awning;
 - b. Banner;
 - c. Bulletin board;
 - d. Canopy;
 - e. Flag or pennant;
 - f. Monument;
 - g. Pole;
 - h. Portable;
 - i. Projecting;

- j. Seasonal produce stand and modular food service establishment, provided such uses are authorized in the commercial or industrial zoning district so located;
- k. Wall; and
- l. Window.

(3) Height of sign: See section 42-403(a)(1).

(4) Area of sign: See section 42-403(a)(3)(4) and (5).

Individual establishments within developments containing multiple establishments shall be governed by the provisions of subsection (c)(6) below.

(c) *Signs for buildings or lots containing multiple establishments.* The following sign standards apply to all lots, or multiple contiguous lots under the same ownership, containing multiple establishments, or any building(s) containing multiple establishments, including but not limited to mixed-use buildings, office parks, light industrial parks and shopping centers:

- (1) Multiple establishment sign: One monument or pole sign shall be permitted within 25 feet of the primary vehicular entrance to a public street, as measured from the center of one of the radii of said entrance, for developments having frontage on such public street and a front yard setback of 25 feet or more from the property line adjoining such street. Such signs shall be permitted to have an area of one (1) square foot per five (5) linear feet of frontage for the lot(s) comprising the development not to exceed a maximum of 100 square feet of sign area and a maximum height of 12 feet.
- (2) Maximum number of signs per establishment: Three, not more than two of which may be permanent signs.
- (3) Types of signs permitted: Awning, banner, bulletin board, canopy, flag or pennant, monument, pole, portable, projecting, wall, and window.
- (4) Maximum size of signs: See section 42-403, sign standards.
- (5) Maximum height of signs: See section 42-403, sign standards.
- (6) Signs for individual establishments within developments containing multiple establishments: All standards are the same as for individual establishments, except that pole or monument signs for individual establishments as authorized by paragraph (1) of this section shall not be permitted, and provided further that establishments located on the second floor or higher of a multi-story building shall display signage permitted by this chapter at a height not exceeding the floor level of the second floor of the building upon which such signage is attached.

(Ord. of 9-21-2006, § 7-7; Ord. No. 2011-02-002, 2-24-2011; Ord. No. 2012-01-001, 1-26-2012)

Sec. 42-406. Comprehensive signage plan.

- (a) A comprehensive signage plan for a single lot or multi-lot development of over two acres with multiple businesses is required and such a plan is meant to provide unified, internally harmonious signage for the entire project.
- (b) Applications for comprehensive signage plans shall indicate the type of signs, location on the ground or building, size, height, area, design, materials and color.

- (c) Comprehensive signage plans shall be evaluated in terms of the relationship of the signs to the architecture of the buildings.
- (d) All signs for single lot or multi-lot developments shall comply with the applicable standards in this article in addition to the standards herein.
- (e) No modifications shall be made to an approved comprehensive signage plan for any single sign or tenant unless the entire comprehensive signage plan is the subject of amendment.

(Ord. of 9-21-2006, § 7-8; Ord. No. 2008-08-01, 8-28-2008; Ord. No. 2011-02-002, 2-24-2011)

Sec. 42-407. Temporary signs.

- (a) Any sign that is otherwise permitted on a permanent basis in accordance with the provisions of this article may be displayed as a temporary sign. In addition, the specific temporary signs authorized hereunder may be displayed on a temporary basis in accordance with the applicable provisions of this section.
- (b) Temporary signs shall not be displayed for more than 60 days during any calendar year unless otherwise provided in this article.
- (c) The maximum sign area and height shall comply with the standards in this article applicable to the specific type of sign unless otherwise provided in this section.
- (d) With the exception of individual residential lots located in residential districts regulated by Section 42-404(a), not more than two (2) temporary signs, including not more than one (1) freestanding temporary sign, shall be displayed on any property at any one time.
- (e) One freestanding, temporary sign may be located on a property in a residential zoning district, without the need to obtain a permit required by this article, when the owner consents and that property is being offered for sale or lease, and subject to any other applicable provisions of this article, provided:
 - (1) The sign area shall not exceed six (6) square feet, except within a common area or other such property owned in common by a homeowners' association in a residential zoning district whereby the homeowners' association has been lawfully established pursuant to this chapter and/or Chapter 30, Subdivisions, and one or more parcels is being offered for sale or lease within such subdivision or development wherein the homeowners' association has been established, in which case the sign area shall not exceed fifteen (15) square feet and not more than one (1) sign shall be permitted at each entrance of the subdivision or development to a public street;
 - (2) The sign height shall not exceed six (6) feet;
 - (3) The sign is not illuminated;
 - (4) The sign shall not overhang a public right-of-way or private access easement; and
 - (5) The sign shall be removed within 30 days after sale or lease of the property.
- (f) One freestanding, temporary sign may be located on a property in commercial and light industrial zoning districts without the need to obtain a permit required by this article, when the owner consents and that property is being offered for sale or lease, provided:
 - (1) The sign area shall not exceed fifteen (15) square feet;
 - (2) The sign height shall not exceed six (6) feet;

- (3) The sign, if illuminated, shall be externally illuminated with white light only;
 - (4) The sign shall not overhang a public right-of-way or private access easement; and
 - (5) The sign shall be removed within 30 days after sale or lease of the property.
- (g) One or more freestanding, temporary signs may be located on a property for a period of time during which site development or building construction is occurring on said property, without the need to obtain a permit required by this article, provided:
- (1) Not more than one sign shall be erected per public street frontage of the property, not including any streets which may be internal to the development site;
 - (2) A freestanding sign not exceeding six (6) square feet in area and five (5) feet in height may be installed at not more than two (2) street intersections for streets internal to the subdivision or development site;
 - (3) Unless otherwise provided herein, each sign permitted shall not exceed an area of 20 square feet nor a height of six feet, nor shall any such sign be illuminated; and
 - (4) Such signs shall be removed within 30 days after issuance of the final occupancy permit for the building(s) or development.
- (h) One freestanding, temporary yard or lawn sign may be located on a property for a period of time not exceeding a total of ninety (90) days during any calendar year. No sign permit shall be required for such sign.
- (i) One temporary wall sign meeting all of the requirements of this article applicable to the specific sign type(s), may be attached to a building wherein a new non-residential establishment or use occupies the building or portion thereof in accordance with the applicable provisions of this chapter and/or Chapter 30, Subdivisions of the Town Code, for not more than fourteen (14) days prior to and not more than 120 days after the date such establishment or use opens to the public.

(Ord. of 9-21-2006, § 7-9; Ord. No. 2011-02-002, 2-24-2011)

Sec. 42-408. Administration and enforcement.

- (a) *Application for a sign permit.* Sign permit applications and sign permits shall be governed by the same provisions of this chapter applicable to zoning permits pursuant to this chapter.
- (1) *Filing of application and fees.* Applications for sign permits shall be filed on a form provided by the town, and shall be accompanied by the appropriate fee stated in the town schedule of fees.
 - (2) *Applicants.* Applicants can be property owners or tenants.
 - (3) *Information required.* All applications for sign permits shall contain the information requested on the sign permit application form in order to be processed.
- (b) *Sign compliance.*
- (1) No sign shall be constructed, installed, moved, enlarged, illuminated, or substantially altered unless in accordance with the provisions of this chapter, except as specifically provided in subsection (b)(2) of this section.
 - (2) Wherever the building size, location, or orientation results in a circumstance which is not adequately addressed in this article, a modification to the standards provided

herein may be permitted in accordance with the provisions of this subsection. The applicant for any such modification must demonstrate to the satisfaction of the town council that compliance with the purpose and intent of the sign regulations will not be compromised. Any modification approved by the town council shall be included in a sign permit issued by the zoning administrator.

- (c) *Expiration of sign permits.* A sign permit shall expire and become null and void if the approved sign is not erected within a period of 12 months from the date the permit was originally issued. The zoning administrator may grant one extension of the sign permit for a period of up to six months, and in no case shall a permit be valid for more than a total of 18 months. Extensions may only be granted when the proposed sign is in compliance with all current applicable regulations. When approved permits become void or expire a new application is required if a sign is to be allowed.
- (d) *Revocation.* The administrator may revoke a permit or approval if it is found that there has been concealment or misrepresentation of material facts in either the application or plans, or the sign has not been constructed as approved.
- (e) *Nonconforming signs.* Except as otherwise authorized by this section, nonconforming signs may not be reconstructed, enlarged, extended, structurally altered, or moved except in accordance with Division 2 of Article II adopted pursuant to Code of Virginia, § 15.2-2307. A nonconforming sign destroyed by an act of God may be repaired, reconstructed, or replaced in accordance with the applicable provisions of Division 2 of Article II of this chapter.
- (f) *Construction and maintenance standards.*
 - (1) *Building code compliance.* All signs shall be constructed in compliance with the uniform statewide building code.
 - (2) *Condition of signs.* All signs and components shall be maintained in good repair and in a safe, clean and attractive condition.
- (g) *Removal of unsafe signs.*
 - (1) Whenever, in the opinion of the zoning administrator, a sign becomes structurally unsafe or endangers the safety of a structure or the public, the zoning administrator shall order such sign to be made safe or comply with this chapter, as the case may be, or be removed. The order shall be sent registered or certified mail and shall be complied with within five days from the date of the mailing. Failure to comply with the order shall constitute grounds for the zoning administrator to have the sign removed, and the cost of the removal shall be added to any penalty assessed for the violation under this chapter.
 - (2) Whenever, in the opinion of the zoning administrator, an unsafe sign poses an imminent threat of serious injury to person or property, and the zoning administrator is unable to contact the property owner, the zoning administrator may cause the sign immediately to be made safe or removed, and the cost thereof shall be charged to the owner.
- (h) *Removal of illegal or abandoned signs.* An illegal sign is any sign that does not comply with any provision of this chapter. The zoning administrator may order the removal of any illegal sign at the expense of the property owner. Nonconforming signs that have been abandoned may be removed in accordance with the provisions of Code of Virginia, § 15.2-2307.

(Ord. of 9-21-2006, § 7-10; Ord. No. 2011-02-002, 2-24-2011)

Secs. 42-409—42-420. Reserved.

Town of Lovettsville

ORDINANCE NO. 2017-05-0002 AMENDMENT TO ZONING REQUIREMENTS ON CHILD CARE HOMES

MOTION: Senate
SECOND: McIntyre

WHEREAS, on February 10, 2017, Ms. M. Isabel Brito-Rodriguez of 4 Joel Way applied to amend the definition of child care home in Section 42-2 (Definitions) of the Zoning Ordinance in order to increase the number of children who may be afforded care in any child care home from nine to twelve; and

WHEREAS, the Planning Commission on March 15, 2017 conducted a public hearing on the amendment (Case No. LVZA 2017-0003) requested by the applicant after giving public notice in accordance with Section 42-34 of the Zoning Ordinance and §15.2-2204 of the Code of Virginia; and

WHEREAS, the Planning Commission postponed action until April 5, 2017 to allow time for staff to draft additional amendments to the original amendment by incorporating changes requested by the Planning Commission to Section 42-197 (Child care home and child care centers) and Section 42-199 (Home occupations) which the Commission deemed necessary to support the change in the definition of "child care home", and subsequently voted on April 5, 2017 to recommend approval of the amendment as modified; and

WHEREAS, the Town Council has conducted a public hearing on LVZA 2017-0003 on May 11, 2017, such public hearing having been duly advertised as required by Section 42-34 of the Zoning Ordinance and §15.2-2204 of the Code of Virginia; and

WHEREAS, the Town Council has determined that adoption of the ordinance will promote the health, safety and welfare of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED that Chapter 42, Zoning, of the Code of the Town of Lovettsville be amended as set forth in the attachment hereto.

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

VOTE:

Ayes: McIntyre, Gentile, Senate, Carder, Allar

Nays: None

Abstentions: None

Absent for Vote: Jones

Approved: May 11, 2017



ROBERT ZOLDOS, MAYOR



HARRIET WEST, TOWN CLERK

The German Settlement

Sec. 42-2. Definitions and rules of construction.

(b) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Child care home means a single-family detached, duplex or townhouse dwelling which offers care, protection and supervision for compensation to more than four (4), but not more than twelve (12), children at a time during any 24-hour period, and then only for part of any 24-hour day.

Sec. 42-197. Child care home and child care centers.

Child care homes and centers (collectively, facilities are permitted, provided they comply with the following standards):

- (1) Child care facilities shall be registered with the county pursuant to the county code. Child care homes shall close to the public not later than 7:00 p.m. each day and shall not reopen to the public earlier than 6:00 a.m. the following day.
- (2) When calculating the total number of children cared for, resident children under the age of 14 shall be included.
- (3) The home shall be the principal residence of the operator of the child care home.
- (4) The facility shall comply with any and all requirements of the county and state codes.
- (5) Unless exempted by subsection (6) of this section, a minimum of 75 square feet per child of outdoor play space shall be provided on the lot the child care facility is located on and shall be shown on a schematic plan of the lot at the time of issuance of a zoning permit. A fence at least 3½ feet in height shall completely enclose the play area so that children are safely contained inside, and that all persons entering the play area are within direct line of sight from the child care center classroom areas.
- (6) No play area shall be required on site when it is demonstrated that the child care home or center is located with 1,000 feet of an existing park or play space of at least two times the size required for the child care home, providing that such park or play space may be accessed without crossing an arterial or collector road. Such park or play space shall either be a public park or play space or shall be dedicated to such uses as part of a local community association.
- (7) No play equipment at child care facilities shall be located within any required front yard setback or within five feet of any side or rear lot line. All play areas at child care facilities shall be safely segregated from parking, loading or service areas.
- (8) Parking areas at child care facilities shall be designed to enhance the safety of children as they arrive at and leave the facility.
- (9) Child care facilities shall have a designated pickup and delivery zone located on the property of or adjacent to the child care facility structure in such a way that children do not have to enter or cross vehicular travel ways in order to enter or exit the facility. Such areas, parking spaces or zones designated for pickup and delivery of children shall not be located within vehicular travel ways, but may be located within on-street parking areas provided the requirements of this subsection and subsection (8) above are met.

- (10) Persons operating child care facilities shall obtain a business license and pay the business license tax as described in article IV of chapter 18, business license taxes. Child care homes operated as home occupations shall be subject to section 42-199.

(Ord. of 9-21-2006, § 3-1(b)(iii))

Sec. 42-199. Home occupations.

Home occupations may be conducted in a residence provided:

- (1) Residents of the dwelling and one nonresident employee shall be permitted to be engaged in a home occupation business, provided that for child care homes, not more than two (2) staff caregivers, as required by and subject to the regulations of 22 VAC 40-180-110 of the Virginia Administrative Code, who are not residents of the dwelling shall be engaged or employed in the home occupation business.
- (2) The use of a dwelling for home occupations shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area may be used in the conduct of the home occupation.
- (3) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation. Internal alterations or construction modifications not customary on dwellings shall be prohibited.
- (4) No outside storage shall be used in conjunction with the home occupation.
- (5) Signs shall not be permitted.
- (6) The preparation of food or the hand manufacture of other products is permitted if it complies with other standards in this section.
- (7) No goods, products or commodities made on the premises or bought or secured for the express purpose of resale shall be sold on the premises directly to customers who come to the premises. This prohibition does not apply to the sale of goods, products or commodities over the internet from the premises by residents of the premises in which case customers do not come to the premises.
- (8) No traffic shall be generated by such home occupation in greater volume than would normally be anticipated in a residential neighborhood. No expansion of parking areas on the site shall be permitted for home occupation activity.
- (9) Deliveries or pickups shall be allowed only between the hours between 9:00 a.m. and 6:00 p.m. Not more than two trips per day shall be permitted for such purposes. Regular pickups and deliveries shall not be made by tractor-trailer trucks.
- (10) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond limits of the parcel of property. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage.
- (11) No hazardous materials may be manufactured, stored, processed or disposed of on the premises.
- (12) Persons conducting a home occupation shall obtain a business license and pay the business license tax as described in article IV of chapter 18, business license taxes.

(13) An application for home occupation shall be completed by the applicant and approved by the zoning administrator prior to the commencement of the home occupation.

(Ord. of 9-21-2006, § 3-1(b)(v))

Town of Lovettsville

Resolution: 2017-05-0001: APPROVING BOND SECURING PUBLIC IMPROVEMENTS IN THE LOUDOUN WEST SUBDIVISION

MOTION: McIntyre

SECOND: Gentile

WHEREAS, Stanley Martin Homes (hereinafter "the applicant") has submitted for approval construction drawings for the Loudoun West Subdivision in the Town of Lovettsville and desires to commence construction of site improvements; and

WHEREAS, the Town has forwarded the drawings to and received comments from reviewing agencies, and all such comments have been addressed by the applicant through revisions to the construction drawings; and

WHEREAS, the Town's engineering consultant, Christopher Consultants, Ltd., has reviewed the construction drawings and bond estimate forms furnished by the applicant and agrees that the amount of the bond securing proper installation of the public improvements is \$1,584,098.00 provided that the appropriate performance agreement is entered setting a completion date not later than 24 months from the date of the agreement and secured by surety acceptable to the Town.

NOW, THEREFORE, BE IT RESOLVED that the Lovettsville Town Council hereby approves the recommendation of the Town's engineering consultant referenced above and authorizes the Mayor to sign the performance agreement and bond when tendered in a form acceptable to the Town Attorney.

VOTE:

Ayes: McIntyre, Gentile, Senate, Carder, Allar

Nays: None

Abstentions: None


Absent for Vote: Jones

APPROVED: May 11, 2017



Robert Zoldos II, Mayor

CERTIFIED:



Harriet West, Town Clerk

The German Settlement