

**TOWN OF DAMASCUS, VIRGINIA**  
**AN ORDINANCE TO \_\_\_\_\_**

**WHEREAS,**

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**WHEREAS,** the Town Council and Planning Commission jointly held a public hearing regarding the proposed adoption of this ordinance at **TIME**, on September 3, 2024, in the Damascus Town Hall after duly advertising the hearing in accordance with Virginia Code § 15.2-1427;

**NOW, THEREFORE,** be it hereby **ORDAINED** by the Damascus Town Council after due consideration of the public health, safety, and welfare, that:

1. This ordinance shall be effective immediately upon its adoption.
2. If any provision in this Ordinance is held or made invalid by a court decision, statute or rule, or shall be otherwise rendered invalid, the remainder of the Town's adopted Ordinances shall not be affected thereby.
3. The Code Editor is authorized to revise section numbering and formatting as needed to maintain consistency with the Town of Damascus Code of Ordinances.
4. The following revisions shall be made with the understanding that underlining indicates new text to be inserted and strikethrough indicates existing text to be deleted.

**ARTICLE 16. CONDITIONAL USE PROVISIONS**

**Sec. 16.1. General provisions.**

General requirements are hereby established which shall apply to all applications for conditional use permits, and specific standards listed shall apply to the issuance of a conditional use permit as appropriate. The ~~board of zoning appeals~~ town council may impose such other conditions and restrictions as may be necessary to reduce or minimize the injurious effect of the conditional use and ensure compatibility with surrounding property, and the ~~board~~ town council may also establish dates for the expiration of any conditional use permit as a condition of approval.

**Sec. 16.2. Issuance of conditional use permit.**

The ~~board of zoning appeals~~ town council shall hear and decide, in accordance with the provisions of this ordinance, requests for conditional use permits. For the purposes of administration of this ordinance, conditional uses shall be construed as synonymous with special exceptions, as controlled by Code of Virginia, § 15.2 -2310.

**Sec. 16.3. Application for conditional use permit.**

The application for a conditional use permit shall be made by the property owner or his designated agent, and filed in writing with the ~~board of zoning appeals~~ zoning administrator and shall contain

information and exhibits as may be required by the **board zoning administrator**. Not more than **60 90** days after filing such applications, a hearing **before the town council** shall be held on the application. Notice of the hearing shall be in accordance with Code of Virginia, § 15.2 -2204. A fee payable to the town **in the amount of \$250** shall be charged to defray costs of review and processing for each application for a conditional use permit, except that the fee shall be waived for any governmental agency. Upon approval by the **board town council**, the zoning administrator shall issue a use permit to the applicant as specified in article 4.

#### **Sec. 16.4. General requirements.**

A conditional use permit may be granted provided the **board town council** finds that the conditional use:

- a. Is designed, located and operated so as the public health, safety and welfare will be protected;
- b. Will not adversely affect other property in the area in which it is located;
- c. Is within the provision of "conditional uses" as set forth in this ordinance; and
- d. Conforms to all applicable provisions of this ordinance for the district in which it is to be located.

#### **Sec. 16.5. Specific standards.**

In addition to the requirements of the applicable district and the general requirements set forth above, a conditional use permit may be granted for the following uses when the following conditions are met as part of the condition for issuance of a permit:

##### **16.5-1. Specific conditions for utility facilities.**

- a. All of the bulk regulations of the zoning district shall apply.
- b. The location of the facility shall not materially increase traffic on surrounding streets.
- c. The location of the facility shall not have an adverse effect on surrounding properties.
- d. There shall be provided along the entire site boundaries fencing, screening and landscaping, as appropriate to protect the surrounding area.

##### **16.5-2. Specific conditions for residential unit in C-1 district and C-2 district.**

- a. The location of the facility shall not have an adverse effect on surrounding properties.

- b. There shall be provided along the entire site boundaries fencing, screening and landscaping, as appropriate to protect the enclosed area.

**16.5-3. Transient/semi-transient habitation in the R-1, R-2 and R-3 district.**

Transient and semi-transient habitation may be permitted only as a conditional use in accordance with Article 8, Use Regulations.

- a. No adverse effect. The location, site, and design of such facilities shall be in keeping with the character of the surrounding area; and shall not have an adverse effect on properties within the surrounding area. The activity shall not create any additional noise, vibration, dust, fumes, odors, glare, other than those normally expected in a residential district.
- b. Planning commission review. The planning commission shall review and may approve site plans for any new facility to be constructed or any existing facility to be converted for this conditional use prior to the issuance of a conditional use permit.
- c. Off-street parking. One space for each unit in a building serving transient guests.
- d. General conditions. Proposed uses shall conform to the general bulk, yard, and site requirements.

**Sec. 16.6. Conditional use permit appeals.**

Any person or any agency of the town government may appeal to the circuit court of the county to review the decision of the ~~board of zoning appeals town council~~ as provided under Code of Virginia, § 15.2 -2314. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

**ARTICLE 18. BOARD OF ZONING APPEALS**

**Sec. 18.1. Creation, membership and appointment of the board.**

The board of zoning appeals is hereby established which may be referred to in this ordinance as the "board" or "board of zoning appeals." The board shall have jurisdiction within the corporate limits of the town, and it shall consist of five residents of the town, appointed by the circuit court of the county, and who may be nominated by the town council. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the town except that one may be a member of the planning commission.

**Sec. 18.2. Terms of office of board members; vacancies; removals.**

The members of the board shall serve for a five-year term, except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the board shall notify the court at least 30 days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. A member whose term expires shall continue to serve until his successor is appointed and qualified. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him, after a hearing held after at least 15 days' notice.

**Sec. 18.3. Staff of board and compensation of board members.**

Within the limits of funds apportioned by the town council, the board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the town council.

**Sec. 18.4. Powers of the board.**

The board is hereby vested with the powers to:

- a. Hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in carrying out the administration or enforcement of the ordinance;
- b. Hear and act upon application for variances in accordance with this article to alleviate hardships by virtue of the inability of the landowner to comply strictly with the provisions of this ordinance by reason of unique shape, topography or physical features of the lot;
- c. Hear and decide appeals from the decision of the zoning administrator;
- d. Hear and decide applications for interpretation of the district map where there is any certainty as to the location of a district boundary;
- ~~e. Hear and decide applications for conditional use permits and special exceptions in the manner and subject to the standard set out in article 17;~~
- f. e. Hear and decide all other matters referred to it on which it is required to act under this ordinance;
- g. f. Within its budget appropriation and other funds at its disposal, enter into contracts for such services as it may require.

\* Cross reference— Boards, committees and commissions, § 2-241 et seq.

**Sec. 18.5. Election of officers.**

The board shall elect for its members its own chairman, vice-chairman and secretary who shall service for one year and may upon election serve succeeding terms.

**Sec. 18.6. Stay of proceedings.**

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the board, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent threat to life or property. In such instance, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or by a court of record on application and on notice to the zoning administrator and for good cause shown.

**Sec. 18.7. Rules and proceedings of the board.**

The board shall also adopt rules for the conduct of its meetings. Such rules shall at the minimum require that:

- a. The presence of a majority of all members of the board shall constitute a quorum.
- b. No action shall be taken by the board on any ~~case application for variance~~ until after a public hearing and notice thereof. Notice of ~~such hearing~~ public hearing on an application for variance shall be published twice in some newspaper published or having general circulation in the locality, with the first notice appearing no more than 28 days before and the second notice appearing no less than seven days before the date of the meeting referenced in the notice once a week for two successive weeks in a local newspaper of general circulation, not less than six days nor more than 21 days after the second advertisement appears. The notice of application for a variance shall specify the time and place of hearing at which persons affected may appear and present their views. A written notice of the hearing of ~~the~~ an appeal shall be sent by mail to the applicant and all directly affected property owners at least ten days before the hearing of the appeal. The notice to the appellant shall be sent by registered mail.
- c. Appeals to the board ~~may be taken by any person aggrieved or by an officer, department, board or bureau of the locality affected by any decision of the zoning administrator or from any order requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, or any modification of zoning requirements pursuant to § 15.2-2286. Such appeal~~ shall be taken within 30 days after the ~~decision~~ action appealed from by filing with the zoning administrator and with the board a notice of appeal specifying the grounds thereof. The zoning administrator shall then transmit to the planning commission and to the board all the papers constituting the record upon which the action was taken.
- d. The board shall fix a reasonable time for hearing the application or appeal, give public notice thereof as well as notify interested parties and decide the same within ~~60~~ 90 days.

- e. The board may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or determination appealed from. The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to affect any variance from the ordinance.
- f. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board or, in his absence, the vice-chairman may administer oaths and compel.
- g. The board may call upon another officer or agency of the town for information in the performance of its duties, and it shall be the duty of such other agencies to render the information to the board as may be reasonably required.
- h. Any office, agency or department of the town or other aggrieved party may appeal any decision of the board to the circuit court of the county as provided for in Code of Virginia, § 15.2-2314.
- i. In decisions on variance ~~or conditional use~~, the board shall indicate the specific section of this ordinance under which the variance ~~or conditional use~~ is being considered, and shall state its findings beyond such generalities as "in the interest of public health, safety and general welfare."

The board shall state clearly the specific conditions imposed in granting the variance ~~ordinance or conditional use permit~~. For variance cases pertaining to hardship, the board shall specifically identify the hardship warranting such action by the board.

- j. At the public hearing ~~of the case~~ before the board, the appellant shall appear in his own behalf or be represented by counsel or agent. If represented by legal counsel, the appellant shall notify the board ~~of such representation~~ no less than 30 days prior to the established meeting date. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other.
- k. The town planning commission shall be permitted to submit an advisory opinion on any matter before the board, and such opinion shall be made part of the record of the public hearing. The zoning administrator shall provide to the planning commission a copy of all applications for variance and appeal that are filed for hearing before the board of zoning appeals.

**Sec. 18.8. Procedure for ~~permitted Conditional Uses, Application for Variances, Special Exemptions~~; and questions of map interpretations.**

<p>_____</p> <p>APPLICANT</p> <p>Application _____</p>	<p>Applicant submits application and plans to zoning administrator.</p>
<p>_____</p> <p>ZONING ADMINISTRATOR</p> <p>Case _____</p>	<p>Zoning administrator refers applicant's <b>case application</b> to board of zoning appeals <b>and provides a copy of the application to the planning commission.</b></p>
<p>_____</p> <p>BOARD OF ZONING APPEALS</p> <p>Case _____</p>	<p>Board of zoning appeals publishes notice of public hearing, holds a public hearing, and decides the applicant's case.</p>
<p>_____</p> <p>ZONING ADMINISTRATOR</p>	<p>Zoning administrator takes appropriate action (see sections 4.7 and 5.4).</p>