Planning Commission

Meeting Minutes

January 4, 2011

Present: Margretta Isom, Goldie Helsley, Cathy Morrison, Dan Talbot, Madelyn Dixon, Vic Corbo, Cole McGregor

The meeting was called to order by Dan Talbot/Chairperson, and continued by repeating "The Pledge of Allegiance".

Cole McGregor made a motion to accept the minutes with corrections on first page. Margretta seconded the motion.
Voice Vote = 7-0
Margretta Isom, Goldie Helsley, Cathy Morrison, Dan Talbot, Madelyn Dixon, Vic Corbo, Cole McGregor
Motion Carried

Old Business:
Discussion of Sign Ordinance (Version 6)

- Most of the meeting time was based around the discussion of the most recent revision of the Sign Ordinance.
- The last page displayed a map, as drawn by Dan Talbot, and created a boundary line around the existing *"Historical District"* in the Town of Elkton.
  - This map should not be confused with the recent version of an "Enterprise Map" proposed by Economic Development Committee staff.
    1, *An Enterprise area is originated from guidelines found in State Codes and allows grants, and more flexibility to offer incentive packages when hoping to attract new businesses etc.*
- Ref "H" Version 6
  For remedies to violations of any regulations in this section refer to Article XI in Chapter § 110
  See Attachment I

Proposed amendment to
CHAPTER 110, LAND DEVELOPMENT
Article VII, Use Regulations
Section 110-706. Signs

November 15, 2010

DRAFT COPY

§ 110-706 _____Special Exception Permits.

A. Upon proper application, and after following the process described in Section 110-802(C) herein, the Council may grant a special exception permit authorizing a sign which would otherwise be prohibited by this Chapter. The permit may contain such conditions as the Council deems proper. Nevertheless, the Council restates it's holding that the substantive provisions of this Chapter are generally in the Town's best interests, and the Council anticipates that special use permits as authorized by this section will be appropriate only in unusual circumstances.

B. In evaluating the proposed special exception, the Council shall address the following concerns:

(1) Whether the special exception is consistent with the intent of the Town zoning ordinance,
(2) Compatibility with surrounding use,
(3) The proximity of dwellings, churches, schools, parks and other places of public gathering,
(4) The probable effect of the proposed sign on the peace and enjoyment of people in their homes,

(5) The probable effect of glare upon the uses of surrounding properties,
(6) The contribution, if any, such proposed sign would make toward the deterioration of the area and neighborhoods,
(7) Whether the denial of the special exception would create undue hardship,
(8) Whether the property or aspect of the sign requiring the special exception is special, extraordinary or unusual.

- Cathy Morrison made a motion to recommend a Public Hearing be scheduled for *Draft Version 6, revised December 31, 2010* and discussed at the regular meeting on January 4, 2010. Cole McGregor seconded the motion.
  Voice Vote = 7-0
  Margretta Isom, Goldie Helsley, Cathy Morrison, Dan Talbot, Madelyn Dixon, Vic Corbo, Cole McGregor
  Motion Carried

Discuss **Amendment and Restatement of Chapter 110**
Land Development
Article XI
Administration, Enforcement, and Penalties

- All criminal penalties, if guilty, are misdemeanors
- In the past our local judges have been quite lenient with charges, clean-up time allowed etc.
- Civil violations allow some options:
  - □ A letter from the Zoning Administrator stating violations and required resolution date
  - □ May issue a summons listing court date and fine amount.
- A process would need to be put in place, updated as violations occur and contain evidence to present to a judge on behalf of the Town and the case.
- Lauri will be referring to the State Code and revise the Amendments.
- A decision will need to made by Council designating *which person in which position* will be the Enforcer?
  Possible positions are: *Zoning Administrator, Police Department, or Town Manager.*
- A procedure needs to be written outlining Administrative and Enforcement guidelines.

2011 Issues:
Dan Talbot offered an opportunity for members to make suggestions as to what they hope to accomplish this upcoming year.

- Cathy Morrison would like to see reductions made to right-of-ways along streets listed on the old Elkton Improvement Company Map. For instance, West Spring/East Spring has a 100 ft right-of-way. It was intended to be the original thoroughfare for the Town but never materialized.
- Review and possibly revise the sub-division ordinance.

Zoning Permits Issued YTD

Jan = 3 Residential	Jan = 3 Business

CRS

With no further business a motion was made by Cole McGregor and seconded by Vic Corbo to adjourn. The next meeting date is February 1 2011 at 7 pm located in the Elkton Area Community Center on Blue & Gold Dr. A Public Hearing date is a possibility for February.

CRS.

Chairman/Dan Talbot

Cathy Morrison
Secretary/Cathy Morrison

AMENDMENT AND RESTATEMENT OF
Chapter 110
LAND DEVELOPMENT

ARTICLE XI
Administration, Enforcement and Penalties

Planning Commission - February 1, 2011

§110-1101. Violations.

~~[* Alternative 1]~~

A. Any building or structure erected contrary to any of the provisions of this chapter and any use of any building or land which is conducted, operated or maintained contrary to any of the provisions of this chapter or the provisions of any approval granted by the Town of Elkton under this chapter shall be a violation of this chapter and the same is hereby declared to be unlawful.

B. Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this ordinance, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any building or structure or uses any building, structure or land in violation of the provisions of this chapter or the provisions of any approval granted by the Town of Elkton under this chapter shall be subject to the enforcement provisions of this Article.

~~[**Alternative 2]~~

~~The following are violations of this chapter and are declared to be unlawful:~~

~~A. Uses. Any use of a structure, improvement or land, established, that is conducted, operated or maintained in violation of any provision of this chapter or any approved application plan, site plan, code of development, zoning clearance, or condition accepted or imposed in conjunction with any county approval under this chapter.~~

~~B. Structures or improvements. Any structure or improvement that is established, conducted, operated or maintained in violation of any provision of this chapter or any approved application plan, site plan, code of development, zoning permit, zoning clearance, or condition accepted or imposed in conjunction with any county approval under this chapter.~~

~~C. Structures without building permits. Any structure for which a building permit application is required that is started, established, constructed, reconstructed, enlarged or altered without a building permit.~~

~~D. Use of structure or site without certificate of occupancy. Any use of a structure or site for which a certificate of occupancy is required that is conducted, operated or maintained without a certificate of occupancy.~~

§110-1102. Zoning administrator.

The Zoning Administrator shall have the authority and the duty to ensure that all buildings and structures and the use of all land complies with the provisions of this chapter.

A. Upon his becoming aware of any violation, the Zoning Administrator shall serve notice of such violation on the person committing or permitting the same, and the land owner, and if such violation has not ceased within such reasonable time as the Zoning Administrator has specified in such notice, he shall institute such action as may be necessary to terminate the violation.

B. If the person responsible for the alleged violation denies that a violation exists, he may appeal the decision of the Zoning Administrator pursuant to the provisions of Section 110-808 of this chapter.

C. Whenever a violation occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the cause and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record such complaint, investigate, and take action thereon as provided by this chapter.

~~**§110-1103. Criminal violations.**~~

~~A. Any person, whether the owner, lessee, principal, agent, employee or otherwise, who violates any provision of this chapter that results in injury to any person, or to whom the five thousand dollar ($5,000.00) maximum aggregate civil penalty provided in section 110-1104(A) has been reached and who continues to violate any provision of this chapter as provided in chapter 110-1101, or permits either by granting permission to another to engage in the violating act or by not prohibiting the violating act after being informed by the zoning administrator that the act continues to violate this chapter shall be punishable by a fine of not more than one thousand dollars ($1,000.00) for each separate offense. Each day during which the violation is found to have existed shall constitute a separate offense.~~

~~B. If the violation is uncorrected at the time of conviction, the court shall order the person convicted to abate or remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate such violation within the time period established by the court shall constitute a separate misdemeanor offense punishable by a fine of not more than one thousand dollars ($1,000.00), and any such failure during any succeeding ten (10) day period shall constitute a separate misdemeanor offense for each ten (10) day period, punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand five hundred dollars ($1,500.00).~~

~~C. The designation of a particular violation of this chapter as a civil violation shall preclude criminal prosecution or sanctions.~~

§110-1103~~4~~. Civil violations.

A. Any person, whether the owner, lessee, principal, agent, employee or otherwise, who violates any provision of this chapter as provided in section 110-1101, or permits either by granting permission to another to engage in the violating act or by not prohibiting the violating act after being informed by the zoning administrator that the act violates this chapter shall be deemed a criminal misdemeanor and, upon conviction thereof, shall be punishable by a fine of two hundred dollars ($200.00) for the first charge and five hundred dollars ($500.00) for each additional charge. Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall specified violations arising from the same operative set of facts be charged more frequently than once in any ten (10) day period, and in no event shall a series of specified civil violations rising from the same operative set of facts result in civil penalties which exceed a total of five thousand dollars ($5,000.00). After the civil penalties reach the five thousand dollar ($5000.00) limit, the violation may be prosecuted as a criminal misdemeanor under Section 110-1104~~3~~. Nothing in this subsection shall be construed as to prohibit the Zoning Administrator from initiating civil injunction procedures in cases of repeat offenses.

B. After the Zoning Administrator or their agent has issued a notice of violation on any person committing or permitting a violation of the Zoning Ordinance provisions enumerated in Section 110-1101 and if such violation has not ceased within such reasonable time as is specified in such notice, the Zoning Administrator or their agent shall issue a summons and/or ticket to be issued personally upon such person or posted in a conspicuous location at the site of the violation. If a person complies in writing to a notice of violation, and agrees to cease said violation, no further fines shall be levied after the date of such agreement, provided such agreement is complied with.

C. The summons shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the Town Treasurer's office at least 72 hours prior to the time and date fixed for trial and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such summons shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court, however, an admission shall not be deemed a criminal conviction for any purpose.

D. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law. A finding of liability shall not be deemed a criminal conviction for any purpose.

E. Section 1103~~4~~ shall not be construed to allow the imposition of civil penalties: (i) for activities related to land development; or (ii) for the violation of any provision of this chapter relating to the posting of signs on public property or public rights-of-way.

§110-1104. Criminal violations.

A. Any person, whether the owner, lessee, principal, agent, employee or otherwise, who violates any provision of this chapter that results in injury to any person, or to whom the five thousand dollar ($5,000.00) maximum aggregate civil penalty provided in section 110-1103(A) has been reached and who continues to violate any provision of this chapter as provided in chapter 110-1101, or permits either by granting permission to another to engage in the violating act or by not prohibiting the violating act after being informed by the zoning administrator that the act continues to violate this chapter shall be punishable by a fine of not more than one thousand dollars ($1,000.00) for each separate offense. Each day during which the violation is found to have existed shall constitute a separate offense.

B. If the violation is uncorrected at the time of conviction, the court shall order the person convicted to abate or remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate such violation within the time period established by the court shall constitute a separate misdemeanor offense punishable by a fine of not more than one thousand dollars ($1,000.00), and any such failure during any succeeding ten (10) day period shall constitute a separate misdemeanor offense for each ten (10) day period, punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand five hundred dollars ($1,500.00).

C. The designation of a particular violation of this chapter as a civil violation shall preclude criminal prosecution or sanctions.

§110-1105. Injunctive relief and other remedies.

In addition to the remedies provided in this Article, the Zoning Administrator may initiate injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate or remove any unlawful building, structure or use.