

Sec. 15-38. THE CITY OF BECKLEY VAPE/SMOKE SHOP LOCATION AND OPERATING REQUIREMENTS ORDINANCE

ARTICLE I - ENACTMENT AND SCOPE

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Section 1.1 Title. The Ordinance shall be known as **The City of Beckley Vape / Smoke Shop Location and Operating Requirements Ordinance.**

Section 1.2 Findings.

WHEREAS the City of Beckley (City) finds that it has a substantial governmental interest in protecting the public health, safety, and welfare of its citizens; and

WHEREAS the City finds that **Vape / Smoke Shops** require special supervision from public safety agencies to protect and preserve the health, safety and welfare of the employees, patrons and neighbors of **Vape / Smoke Shops** and the citizens of the City; and

WHEREAS much of the electronic cigarette marketing today uses bright colors, candy- and fruit-flavored liquids, cartoons, and characters, and mirrors the marketing used by tobacco companies which was determined to target youth and is now prohibited; and

WHEREAS a 2021 literature review published with the National Institute of Health's National Library of Medicine found an association between initial electronic cigarette use and subsequent tobacco cigarette smoking initiation and determined that state and local agencies needed to engage in regulatory actions to discourage youths' use of electronic cigarettes; and

WHEREAS both the U.S. Food and Drug Administration (FDA) and the U.S. Centers for Disease Control and Prevention (CDC) are investigating the cause of the severe respiratory illness and lung injuries associated with the use of vaping products, including e-cigarettes. The FDA and CDC have indicated they will take appropriate actions as the facts emerge, but the cause has not yet been identified; and

WHEREAS the Beckley City Council (City Council) deems it to be in the best interests of the health, safety, and welfare of its youth to limit the access and exposure of under-age children to electronic cigarette items and marketing by imposing a distance restriction for such retail stores.

WHEREAS the City Council is hereby authorized to enact ordinances, issue orders, and take other appropriate and necessary actions for the elimination of hazards to public health and safety and to abate or cause to be abated anything which the City Council determines to be a public nuisance. The ordinances may provide for a misdemeanor penalty for its violation. The

ordinances may further be applicable to the City in its entirety or to any portion of the City as considered appropriate by the City Council; and

WHEREAS the City, through enactment of a land use ordinance, desires to minimize and control adverse secondary effects and thereby protect the health, safety, and welfare of the citizenry; preserve the quality of life; preserve the property values and character of adjacent areas; and

WHEREAS the City wishes to enact a content neutral ordinance that addresses only the secondary effects of **Vape / Smoke Shops** within the City limits; and

WHEREAS, the City of Beckley's Planning Commission, at its regular meeting on August 5, 2025, following a duly noticed Public Hearing, voted to forward the Ordinance to Beckley City Council with its recommendation for adoption.

Section 1.3 Grant of Power. The authority to enact the Ordinance is established under **§8-12-5 (12) and §8-12-5 (23)** of the Code of West Virginia of 1931, as amended, and the laws of the State of West Virginia.

Section 1.4 Purpose. The purpose of the Ordinance is to regulate the location of **Vape / Smoke Shops** in the Beckley City limits on and after the Effective Date.

Section 1.5 Effective Date. The Ordinance takes effect upon final adoption by the Beckley City Council.

Section 1.6 Severability. If any clause, paragraph, subparagraph, section, or subsection of the Ordinance shall be held to be invalid or unconstitutional by any court of competent Jurisdiction, the remainder of the Ordinance shall not be affected thereby but shall remain in full force and effect.

ARTICLE 2- DEFINITIONS

Section 2.1 "Abandonment" and **"Abandoned"** shall mean that the use with respect to a Premises, regardless of the intent of the user, has ceased or has discontinued for a period of at least thirty (30) consecutive days, or an explicit declaration by the user of a Premises that it has ceased a use with respect to the Premises that is non-conforming with the Ordinance.

Section 2.2 "Adult" shall mean an individual person who is aged **twenty-one (21) years or older**.

Section 2.3 "Alternative Nicotine Product" shall mean any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.

Section 2.4 "Applicant" shall mean a person who has any legal or beneficial interest in a Premises who applies to the City of Beckley Code Enforcement Office to obtain or re-obtain a permit with respect to the Premises.

Section 2.5 "Application" shall mean the form or forms provided by the Code Enforcement Office and completed by an Applicant, together with all required documents and items that the Ordinance requires, by which the Applicant seeks to obtain a permit.

Section 2.6 "Comprehensive Plan" shall mean the document entitled "City of Beckley Comprehensive Plan," as amended, together with all maps, exhibits, schedules, and addenda attached thereto or incorporated by reference thereto.

Section 2.7 "City" shall mean the City of Beckley, a West Virginia Municipal Corporation.

Section 2.8 "Development" shall mean any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Section 2.9 "Effective Date" shall mean the date on which the Ordinance is enacted by the Beckley City Council.

Section 2.10 "Electronic Cigarette" shall mean any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term "electronic cigarette" includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

Section 2.11 "Existing Use" shall mean the use or uses to which any part or all of a Premises, or part or all of any Improvement thereon, before the Effective Date are lawfully pursued as a matter of right under local, state and/or federal law.

Section 2.12 "Improvement" shall mean any building or structure, excluding fence, whether existing on the Effective Date located on a Premises or, if there is a vested right to erect such structure or building, to be located within or upon a Premises.

Section 2.13 "Permit" shall mean a written document issued by the City of Beckley Code Enforcement Office to an Applicant based upon the Application, wherein the issuer certifies that the Application complies with the provisions of the Ordinance.

Section 2.14 "Person" shall mean any individual, corporation, limited liability company, general partnership, limited partnership, joint venture, limited liability partnership, trust estate, or any other legal entity that is duly organized or existing and authorized to transact business in the State of West Virginia.

Section 2.15 "Planning Commission" shall mean the public body of persons established under §8A-2-I et. seq. of the Code of West Virginia of 1931, as amended.

Section 2.16 "Planning and Zoning Officer" shall mean the individual whom the City Council or Planning Commission has designated to be responsible for the administration of the terms of the Ordinance enacted pursuant to §8A-I-I and §8A-2-I et. seq. and 8A-5-I of the Code of West Virginia of 1931, as amended. (The Planning and Zoning Officer and Chief Code Enforcement Officer are interchangeable in this Ordinance).

Section 2.17 "Premises" shall mean a tract or tracts of land, whether containing existing or proposed Improvements, within the Territorial Limits that are identified as a parcel or parcels on a tax district map or maps on file with the office of the County Assessor.

Section 2.18 "Remedy of Violation" shall mean to bring a structure or other development into compliance with the requirements of this ordinance, or, if full compliance is not possible, to reduce the adverse impacts of the non-compliance to the greatest extent feasible.

Section 2.19 "Residence" shall mean a detached or undetached dwelling for one or more persons and in which there is not predominating commercial or non-housing use, and shall not mean a motel, hotel, inn, or other lodging facility for transient persons.

Section 2.20 "Responsible Person" shall mean the individual person whom an Applicant has designated to attest to the truthfulness and accuracy of the contents of an Application.

Section 2.21 "Territorial Limits" shall mean the land or area within the boundaries of the City of Beckley.

Section 2.22 "Tobacco-Derived Product" shall mean any product containing, made or derived from tobacco, or containing nicotine derived from tobacco, that is intended for human consumption, whether smoked, breathed, chewed, absorbed, dissolved, inhaled, vaporized, snorted,

Sniffed, or ingested by any other means, including but not limited to cigarettes, cigars, cigarillos, little cigars, pipe tobacco, snuff, snus, chewing tobacco or other common tobacco- containing products. A "tobacco-derived product" includes electronic cigarettes or similar devices, alternative nicotine products and vapor products.

Section 2.23 "Vape / Smoke Shop" shall mean a retail or service establishment that devotes at least 33% of its floor to selling tobacco products and accessories, as well as tobacco-derived and alternative nicotine products or vapor products and accessories. These shops may cater to individuals who use electronic cigarettes (e-cigarettes) or other vaping products and/or devices. These shops may sometimes allow vaping on site.

Section 2.24 "Vapor Product" shall mean any non-combustible product containing nicotine that employs a heating element, power source, electronic circuit or other electronic, chemical, or mechanical means, regardless of shape and size, that can be used to produce vapor from nicotine in a solution or other form. A "vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electric pipe or similar product or device, and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device.

Section 2.25 "Violation" shall mean the failure of any structure, development, and/or land use change to be fully compliant with all requirements of this ordinance.

ARTICLE 3- LAND USE REGULATION

Section 3.1	Land Use Regulation
Section 3.2	Existing Uses
Section 3.3	Abandonment

Section 3.1 Land Use Regulation. On and after the Effective Date, no person shall locate and/or operate a **Vape / Smoke Shop** except in compliance or conformance with the Ordinance.

Section 3.2 Existing Uses. The Ordinance shall not prohibit the continuance of the Existing Use of any tract of land or Improvement for the purpose for which such tract of land or Improvement is used on the Effective Date. The Ordinance shall not prohibit the alteration or replacement of any Improvement for the purpose for which such Improvement is used on the Effective Date, except that the use shall not be expanded or enlarged unless it shall conform to the Ordinance.

Section 3.3 Abandonment. Notwithstanding anything in the Ordinance to the contrary, if an existing use is non-conforming with the Ordinance and has been Abandoned, any future use of such land, Premises or Improvement(s) shall conform with the Ordinance. This provision shall include establishments which experience a change in ownership.

ARTICLE 4- LOCATION

4.1 Location

4.2 Method of Measurement

Section 4.1 Location. In the Territorial Limits, no public entrance to a **Vape / Smoke Shop** shall be located within **one thousand five hundred (1,500) feet** of any property on which is situated any of the following:

- (a) A public or private child daycare facility, kindergarten, elementary, grade, middle, junior, senior, secondary, or vocational school.
- (b) A public or private institution of higher education.
- (c) A public or private business school or college.
- (d) A public park or recreational facility: including but not limited to a park, a playground, nature trail, swimming pool, athletic field, basketball court, tennis court, wilderness area or other similar public land within the Territorial Limits.
- (e) A public library.
- (f) A church, mosque, temple or synagogue or other building used as a place of religious worship or instruction.
- (g) A Federal, state, county, or municipal office building.
- (h) Another **Vape / Smoke Shop**, or
- (i) A residence.
- (j) Subject to the regulations set forth in this Section (Section 4.1 Location), a Vape/Smoke Shop

may only be established/situated in a B-2 zone in the City of Beckley. The applicant is required to file an application for a Conditional Use with the Beckley Zoning Office, and the Beckley Board of Zoning Appeals, following a legally advertised Public Hearing, shall determine whether the application for a Conditional Use is approved.

Section 4.2 Method of Measurement. Each of the prescribed distances in Section 4.1 to a public entrance of a **Vape / Smoke Shop** shall be measured along a straight line from the nearest property line of the tract from which the measurement is to be made.

ARTICLE 5- SIGNS

- 5.1 Statement of Intent
- 5.2 Erection, Alteration or Relocation
- 5.3 Form of Application
- 5.4 Certification
- 5.5 Location
- 5.6 Display
- 5.7 Size
- 5.8 Prohibitions
- 5.9 Quantity
- 5.10 Lights: Animation
- 5.11 Projection
- 5.12 Issuance: Denial
- 5.13 Removal: Reparations
- 5.14 Abandonment

Section 5.1 Statement of Intent. It is the purpose of this section of the Ordinance to protect property values by encouraging visually appealing, non-distracting signs; to permit such signs that will not, by reason of their size, location or manner of display, to detract from the economic viability of other persons and establishments in the vicinity; to prevent signs from causing an annoyance or disturbance to a substantial number of persons; and to promote a healthy and business-friendly environment in which signs relating to a **Vape / Smoke Shop** contribute to and encourage rather than detract from the economic viability of other persons and establishments in the vicinity.

Section 5.2 Erection, Alteration or Relocation. On and after the Effective Date, no person shall erect, structurally alter, or relocate any sign to advertise or promote any **Vape / Smoke Shop** except in conformance with the Ordinance. It shall be unlawful for any person to erect, structurally alter or relocate any sign or Improvement supporting a sign on or off the Premises of a **Vape / Smoke Shop** without first obtaining a permit based on an Application. therefore.

Section 5.3 Form of Application. The application for the approval of a sign shall be made upon forms that the Planning and Zoning Officer shall prepare and provide and shall include, without limitation, an accurate scaled sketch or drawing of the proposed sign, its proposed location, and the content of the proposed sign. The Planning and Zoning Officer may require that the location of a proposed sign be based on a survey by a registered land surveyor or engineer, at the expense of the Applicant.

Section 5.4 Certification. After a sign is constructed or installed based on the Application, the Applicant shall provide a letter to the Planning and Zoning Officer certifying that the sign was designed (including content), fabricated, sized, constructed, and installed according to the Application as approved.

Section 5.5 Location. Any sign promoting a **Vape / Smoke Shop** shall be flat and mounted to the wall of the Improvement in which the **Vape / Smoke Shop** is located and shall be mounted so that no part of the sign extends beyond the height of the Improvement on which it is displayed.

Section 5.6 Display. No merchandise or depictions of merchandise including images of marijuana, marijuana paraphernalia and/or intoxicating psychedelics shall be displayed on any sign, exterior Improvement or fence advertising or promoting a **Vape / Smoke Shop** or otherwise nor in any windows or any other area that may be viewed from a public street, alley, sidewalk, or public way.

Section 5.7 Size. The size of any sign promoting a **Vape / Smoke Shop** shall not exceed more than one (1) square foot per one (1) lineal foot of unit frontage of the property on which a **Vape / Smoke Shop** is located; however, at no time shall the maximum aggregate area of the sign exceed thirty (30) square feet. The permitted maximum size of a sign shall apply to the entire area enclosing the extreme limits of writing, representation, Emblem, or figure, together with any frame or other material or color forming an integral part of the display or used to differentiate a sign from the background against which it is placed. If a sign is painted on a wall, and includes background colors or graphics, and if the sign is an integral part of the overall graphic scheme, the entire wall shall be considered a sign and its measurement computed as such. If a sign is painted on a wall, and the sign can be logically separated and measured separately from the background graphics, the background graphic scheme shall not be computed in the sign size.

Section 5.8 Prohibitions. No **Vape / Smoke Shop** shall erect or display the following:

- (a) Any portable or movable sign on the Premises thereof.
- (b) Any sign advertising or promoting a **Vape / Smoke Shop** at an off-Premises location.
- (c) Any flashing sign or animated sign which incorporates in any manner flashing or moving lights or any other visible moving or revolving part, except for the time, temperature, or date sign.
- (d) Any commercial banner, pennant, flag, spinner, or streamer.
- (e) Any sign that obstructs or impairs the vision of drivers, or obstructs or detracts from the visibility of, or resembles any traffic sign or traffic control device on a public street or road, by reason of size, shape, location, color, or illumination.
- (f) Any sign that makes use of such words as "STOP", "LOOK", "DANGER" or other similar words, phrases, symbols, or characters in such a manner as to imply the need or requirement of stopping or the existence of danger.
- (g) Any sign that obstructs free ingress or egress from a door, window, fire escape or other exit way.
- (h) Any sign that no longer advertises a bona fide business. Activity, campaign, service, or product: or
- (i) Any sign advertising or promoting a business that has been Abandoned.

Section 5.9 Quantity. No **Vape / Smoke Shop** shall erect or maintain more than one (1) sign advertising or promoting a **Vape / Smoke Shop** on the Premises thereof.

Section 5.10 Lights; Animation. No sign promoting a **Vape / Smoke Shop** shall contain lights or animated parts that incorporate in any manner flashing or moving lights or any other visible moving or revolving part, except for a sign indicating time, temperature, or date.

Section 5.11 Projection. No sign promoting a **Vape / Smoke Shop** shall project more than eighteen (18) inches from the wall.

Section 5.12 Issuance; Denial. The Planning and Zoning Officer shall inspect the sign after it is completed and, upon a demonstration that such a sign complies or conforms with the Ordinance, may issue a permit to the applicant. If the Planning and Zoning Officer determines that the sign does not comply or conform with the Ordinance, the Planning and Zoning Officer shall issue a written denial of the Application therefore and shall include a written statement of the reason(s) for denial.

Section 5.13 Removal; Reparations. The Planning and Zoning Officer may inspect signs to determine whether they are a nuisance and/or detrimental to public health, safety, and welfare. If so, deemed detrimental by the Planning and Zoning Officer, the Applicant/successor/assignee shall remove or repair the sign within five (5) days following the Planning and Zoning Officer's determination. The Planning and Zoning Officer may grant additional time for the removal or repair if a good faith effort is made of working toward compliance by said Applicant/successor/assignee.

Section 5.14 Abandonment. If any sign promoting a **Vape / Smoke Shop** is abandoned for a period of thirty (30) consecutive days, such sign shall be deemed a nuisance misleading the public and affecting or endangering surrounding property values and shall be deemed detrimental to the public health, safety and general welfare of the community and shall be removed and/or abated immediately.

Section 5.15. Conflict. This Article (Article 5) shall supersede, take precedent and have priority over any other section of the Beckley City Code that may be interpreted to regulate and/or control in any way the signage of Vape/Smoke shops.

ARTICLE 6- APPLICATION

Section 6.1	Responsible Person
Section 6.2	Attestation
Section 6.3	Content

Section 6.1 Responsible Person. An Applicant must be a Responsible Person who shall make an Application in accordance with the Ordinance to the Planning and Zoning Officer.

Section 6.2 Attestation. The Planning and Zoning Officer (Chief Code Enforcement Officer) shall accept no Application unless the Responsible Person attests that all the statements contained therein, and the documents attached thereto, are true and accurate in all material respects.

Section 6.3 Content. It is the applicant's responsibility to obtain all applicable permits and plan approvals from all authorities having jurisdiction in the State of West Virginia (i.e., Department of Environmental Protection, West Virginia Department of Highways, Raleigh County Health Department, Beckley Planning Commission, Beckly Board of Zoning Appeals, Beckley Sanitary Board and Stormwater Authority, etc.) Each permit can be obtained in phases and does not require pre-approval or approval from stated entities for the Planning Commission or Planning Director to approve the development/construction and/or plans, regardless of development type. It is the responsibility of the stated West Virginia entities to enforce their own agency regulations and violations.

ARTICLE 7- ADMINISTRATION AND ENFORCEMENT

Section 7.1	General
Section 7.2	Duties
Section 7.3	Prohibition
Section 7.4	Fractions

Section 7.1 General. It shall be the duty of the Planning and Zoning Officer (Chief Code Enforcement Officer) or his or her duly authorized agent to administer and enforce the provisions of the Ordinance, except as otherwise expressly provided in the Ordinance.

Section 7.2 Duties. At minimum, the Planning and Zoning Officer shall perform the following duties:

- (a) Receive and process any Application.
- (b) Endeavor to grant or deny the issuance of a **Vape / Smoke Shop** Permit within ten (10) working days of receipt of a complete Application.
- (c) Conduct investigations as necessary to determine compliance or conformance with or violation of the Ordinance.
- (d) Abate any violation of the Ordinance.
- (e) Seek the assistance of the office of the Beckley Police Chief or the office of the City Solicitor to abate or prosecute any violation of the Ordinance.
- (f) Assist law enforcement officers to abate or prosecute any violation of the Ordinance.
- (g) Provide information about the Ordinance upon the request of citizens and public agencies.
- (h) Pursue enforcement of the Ordinance as the Ordinance and other law provides: and
- (i) Administer the Ordinance in all respects.

Section 7.3 Prohibition. No commission, board, agency, officer, or employee of the City shall issue, grant, or approve any permit, License, certificate or any other authorization for any construction, reconstruction, alteration, enlargement or relocation of any **Vape / Smoke Shop** building or structure, or for any use of land or building, that does not comply with the provisions of the Ordinance.

Section 7.4 Fractions. In administering the Ordinance, the standard rule of rounding numbers to the nearest whole shall apply. When the unit of measurement results in a fraction less than one-half or less than .5, the fraction shall be disregarded. When the unit of measurement results in a fraction of one-half or more, or .5 or over, the number shall be rounded up to the next nearest whole number.

ARTICLE 8- VIOLATIONS

Section 8.1 Inspections

Section 8.2 Compliant

Section 8.3 Notice

Section 8.4 Remedies

Section 8.5 Fines

Section 8.1 Inspections. The regulated aspects of a **Vape / Smoke Shop** subject to the Ordinance shall be subject to periodic inspections by the Code Enforcement Office for the purpose of verifying compliance with the terms and conditions of the Ordinance.

Section 8.2 Complaint. Whenever a violation of the Ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the City Code Enforcement Office. The complaint must state fully and clearly the causes and basis thereof. The Planning and Zoning Officer (Chief Code Enforcement Officer) shall properly record such complaints, conduct an appropriate investigation, and act thereon as the Ordinance provides.

Section 8.3 Notice. If the Planning and Zoning Officer finds that any of the provisions of Ordinance are violated, whether reported by any person or by any commission, board, agency, officer, or employee of the City, or by his or her own observation, he shall notify in writing the Person responsible for the **Vape / Smoke Shop**. Service of the written notice shall be deemed complete upon sending the notice by certified mail to the last known address of the Person or by personal service by the office of the Beckley Police Department. The notice shall include the following:

- (a) The street address or legal description of the property involved.
- (b) A statement indicating the nature of the violation and the specific section of the Ordinance that has been violated.
- (c) A description of the action required to correct the violation.
- (d) A statement indicating the time within which compliance with the Ordinance must be accomplished; and
- (e) A statement advising that upon failure to comply with the requirements within said time, City shall take such enforcement procedures as may be required by the Ordinance.

Section 8.4 Remedies. The City Code Enforcement Officer and/or Beckley Municipal Court are authorized to take any of the following actions:

- (a) Order the discontinuance of illegal use of land or Improvements.
- (b) Order the removal of illegal Improvements or structures of illegal additions, alterations, or structural changes.
- (c) Order the discontinuance of any illegal work being done.
- (d) Issue a written notice to the Applicant who shall immediately cease and desist all use(s) which are not in compliance with this Ordinance.

- (e) Any other action authorized by the Ordinance to ensure compliance with its provisions: and
- (t) Any other remedies provided by law. Including, without limitation, injunction, or abatement by judicial proceeding in the Beckley Municipal Court or the Circuit Court of Raleigh County. Nothing contained in the Ordinance shall be deemed to prevent the City Code Enforcement Officer, or the City of Beckley, from pursuing other lawful actions to prevent or remedy violations of the Ordinance.

Section 8.5 Fines. The City Municipal Court may impose a monetary fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1000.00) against any person or persons who violate the Ordinance. or any order or notice issued thereunder. Each day during which any violation of the Ordinance continues constitutes a separate offense.

ARTICLE 9-APPEAL

Section 9.1 General Procedure

Section 9.2 Notice

Section 9.3 Hearing

Section 9.4 Appeal/Variance

Section 9.1 General Procedure. Any person who is aggrieved by any order, requirement, Decision, or determination made by the Code Enforcement Officer may appeal the decision to the City's Board of Zoning Appeals (BZA). The appeal shall be filed on forms prescribed by the Office of Code Enforcement. The appeal shall specify the reasons for the appeal and shall be filed within thirty (30) calendar days of the original action in question. The appeal form shall also include the names and addresses of all recorded landowners of real property located within three hundred (300) feet of any part of the Premises. If said real property includes a lot within a subdivision, the name and address of the president of that subdivision's homeowner's association shall also be included.

Section 9.2 Notice. The Code Enforcement Office shall give an opportunity to any interested persons to examine or comment upon the appeal request. Upon receipt of the appeal request, the Code Enforcement Officer shall submit a notice for publication in one newspaper of general circulation to be published at least thirty (30) days prior to the meeting. At the same time as the notice is submitted for newspaper publication, a notice shall be sent to all recorded landowners whose real property is situated within three hundred (300) feet of any part of the Premises. If said real property includes a lot within a subdivision, a notice shall also be sent to the president for that subdivision's homeowners association. Copies of the Application, evidence of Ordinance violation and any other relevant material shall be maintained and filed by the Code Enforcement Office for public review prior to the meeting.

Section 9.3 Hearing. The BZA shall hold a duly scheduled public hearing on appeal. If the BZA decides to uphold the administrative decision, the administrative decision stands and the appeal is denied. The Office of Code Enforcement shall then formally notify, in writing, the Applicant of the decision and of the right to appeal to the Raleigh County Circuit Court within thirty (30) days of the decision by the BZA. If the BZA reverses or modifies the administrative decision, the appeal stands as approved by the BZA. The Office of Code Enforcement shall then formally notify the Applicant of the decision in writing.

Section 9.4 Appeal. Appeals regarding any decision made by the BZA as set forth in the administration of this Ordinance shall be by Writ of Certiorari Procedure as set forth in §8A-5-10 and §8A-9-1 et. seq. of the Code of West Virginia of 1931, as amended, or as state law provides.

This Ordinance shall be in effect upon adoption by City Council.