

ARTICLE 2. ADMINISTRATION, ENFORCEMENT, PERMITS, AND APPLICATIONS

Sec. 15-50 Administration

The zoning administrator is authorized to administer and enforce this ordinance. The zoning administrator has all the authority necessary to act on behalf of the county, including the authority (i) to order in writing the remedying of any condition that violates the zoning ordinance; (ii) to ensure compliance with the zoning ordinance, seek inspection warrants, or bring legal actions, including injunction, abatement, or other appropriate action; and (iii) in specific cases, to make findings of fact and, with the concurrence of the county attorney, conclusions of law regarding determinations of rights accruing under Virginia Code §§ 15.2-2307 or 15.2-2311(C). The zoning administrator may be assisted by other persons as necessary. The zoning administrator may require that illegal uses be discontinued, illegal structures be removed, illegal work be stopped, or any other action authorized by state law to ensure compliance with or to prevent violation of this ordinance.

The planning commission shall advertise and hold a public hearing and make a recommendation on each rezoning, conditional use permit, comprehensive plan amendment, and zoning ordinance amendment.

The board of supervisors shall advertise and hold a public hearing on each rezoning, conditional use permit, comprehensive plan amendment, and zoning ordinance amendment.

Sec. 15-51 Enforcement

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may make a complaint to the zoning administrator, identifying the property and the condition believed to constitute the violation. The zoning administrator will make a record of complaints received, promptly investigate, and take action, if appropriate and warranted. When a violation of this ordinance is found, written notice of the violation will be sent to the property owner(s). The notice of violation will state the violation, the ordinance section being violated, the actions needed to correct the violation, that the decision will be final and unappealable if not appealed in 30 days, the appeal fee, and the location where additional information can be found about filing an appeal. Generally, notices of violation will provide for a 30-day appeal period, but the appeal period may be reduced to 10 days for temporary or seasonal commercial uses, commercial truck parking in residential areas, or other short-term recurring violations.

Sec. 15-52 Penalties for violations

Violations of this ordinance include failure to comply with its provisions or with imposed or proffered conditions. Violations are misdemeanors punishable by a fine of not more than \$1,000. If a violation is uncorrected at time of conviction, the court shall order the violator to abate or remedy the violation within a specified time period. Failure to remove or abate a violation within the specified time period constitutes a separate misdemeanor offense punishable by a fine of not more than \$1,000. Failure to correct the violation during the succeeding 10 days is punishable by a fine of up to \$1,500, and failure to correct during the succeeding 10 days is punishable by a fine of not more than \$2,000.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may each be found guilty of a separate offense and be subject to these penalties.

This section does not prevent the zoning administrator from taking other lawful action as necessary to prevent or remedy any violation.

Sec. 15-53 Building permit required

- A. Building permits are required as dictated by the Virginia Uniform Statewide Building Code.
- B. The submittal of building permit applications, construction drawings, site plans, engineering details and other supporting documentation must be in accordance with the Virginia Uniform Statewide Building Code.
- C. Time adjustments, limitations, and expiration of building permits will generally be in accordance with the Virginia Uniform Statewide Building Code, unless extended by staff.
- D. Building permits issued based on plans and specifications authorize use, arrangement, and construction in compliance with those plans and specifications only, and no other use, arrangement, or construction.
- E. No building permit for erection, alteration, moving, or repair of any building will be issued until it has been reviewed and approved by the zoning administrator as being in compliance with this ordinance.

Sec. 15-54 Zoning compliance certificate

Prior to use or occupancy, the zoning administrator must issue a zoning compliance certificate confirming that the proposed use of a structure or premises conforms with this ordinance. A zoning compliance certificate is required when any use or structure, including accessory structures and farm use structures, will be created, erected, changed, converted, or wholly or partly altered or enlarged. It is unlawful to use, occupy, or allow the use or occupancy of any building, structure, or premises, or part thereof, without a zoning compliance certificate.

Zoning compliance certificates issued based on plans and applications authorize only use, arrangement, and construction in compliance with those plans and applications, and no other use, arrangement, or construction.

The zoning administrator will maintain a record of all zoning compliance certificates.

Sec. 15-55 Application fees

- A. Any application fee, or other fee, charge, or expense is specified in the fee schedule adopted as an appendix to this code.
- B. No application or other filing shall be considered complete until any applicable fee, charge, or expense has been paid in full.

Sec. 15-56 Pre-applications and applications

All applicants for a rezoning, proffer condition amendment, conditional use permit, comprehensive plan amendment, or zoning ordinance amendment must complete the following pre-application process prior to filing a completed application:

- A. Pre-application submittal
 - (1) The applicant must provide all of the information on the pre-application checklist in sufficient detail to allow evaluation by the community development department. There are no fees associated with the pre-application.
 - (2) The completed pre-application is a public document; staff advises the board of supervisors and planning commission of all submitted pre-applications.

(3) A pre-application meeting must be held with designated staff.

B. Community meeting

- (1) Applicant must hold a community meeting at a time and place suitable for staff and expected attendees. Applicant must obtain approval of a date, time, and location from staff prior to scheduling the meeting.
- (2) Applicant must provide written notice, at least two weeks prior to the meeting, to adjacent property owners, the planning commission, and the board of supervisors. Notices must include the date, time, and location of the meeting and provide a detailed explanation of the pre-application.
- (3) At the meeting, applicant must present the pre-application in detail, including conceptual plans. The meeting must allow for participation by and communication from attendees.
- (4) Applicant must submit to staff a list of all meeting attendees, and a meeting summary, including all topics discussed and any issues or concerns raised.
- (5) In unusual circumstances, minor modifications to this schedule or process may be allowed by the community development director.

C. Applications

- (1) Applications may be filed by
 - a. property owners or their agents;
 - b. contract purchasers or tenants with the owner's consent;
 - c. the board of supervisors, by approval of an authorizing resolution; or
 - d. the planning commission, by approval of an authorized resolutions.
- (2) Following completion of the pre-application process, if required, including the community meeting, the applicant may file its application.
- (3) To be considered complete, an application must include all requested information, all items on the pre-application checklist, a completed and executed real property disclosure affidavit, and the required fees pursuant to the fee schedule adopted as an appendix to this code.
- (4) Complete applications will be scheduled for a public hearing before the planning commission, which will make a recommendation.
- (5) The application will then be scheduled for a public hearing before the board of supervisors for decision.

Sec. 15-57 Real property disclosure affidavit requirement

- A. *Disclosure.* Applicants are required to provide a sworn affidavit disclosing the names and addresses of all natural or artificial persons owning any legal or equitable interest in the property which is the subject of the application, except that the names and addresses of governmental entities and public service companies owning recorded easements over the property do not need to be disclosed. For ownership by a corporation, limited liability company, or other business formation, the names of stockholders, officers, managing partners, general partners and members with an ownership interest of 10% or more in the entity must be provided, except for corporations with more than 100 shareholders whose stock is traded on a national or local stock exchange. For condominiums these requirements apply only to the title owners, contract purchasers, or lessees owning 10% or more of the units in the condominium.
- B. *Continuing obligation.* While an application is pending, the applicant has a continuing obligation to revise and update the disclosure to reflect any changes.
- C. *Waiver.* An application initiated by the board of supervisors or planning commission may be filed without providing these disclosures, if the board or commission finds it is appropriate to waive the disclosure requirement.

Sec. 15-58 Amendment procedures; zoning text and map amendments

- A. The regulations, restrictions and boundaries established in this ordinance may from time to time be amended, supplemented, changed, modified or repealed as provided by law.
- B. Notice must be given of the time and place of any required public hearing by publication in a newspaper having general circulation in the county, once a week for two successive weeks, with the second publication occurring not less than five days nor more than 21 days before the hearing.
- C. This ordinance may not be amended unless the board of supervisors has referred the proposed amendment to the planning commission for its recommendation, but the board of supervisors hereby refers to the planning commission, without further action, any application deemed complete by the community development department. If the planning commission does not make a recommendation by 70 days from its first meeting after the referral, the application will be deemed approved, unless the applicant has withdrawn the proposed amendment. Upon withdrawal, processing of a proposed amendment will cease. Any deferral time period sought by an applicant, if granted, does not count towards the time requirements for acting on applications.

Sec. 15-59 Proffered conditions

- A. *Purpose.* Accepting rezoning applications with proffered conditions called "conditional zoning" under state law provides a more flexible and adaptable method for permitting reasonable and orderly land development when specific circumstances cause the existing zoning ordinance district regulations to be inadequate. In such instances, reasonable conditions proffered by the owner for the protection of the community and which are not generally applicable to other land similarly zoned are permitted.
- B. *Authority.* The county accepts rezoning applications with proffered conditions pursuant to Virginia Code § 15.2-2303.
- C. *Acceptance and approval of proffered conditions.* The owner may offer, and the board of supervisors may accept, reasonable and appropriate proffered conditions which are in addition to, or more restrictive than, the applicable zoning ordinance regulations. Proffered conditions must be in writing and submitted prior to the board of supervisor's public hearing on the application, but amended proffers may be accepted by the board of supervisors once the public hearing has begun if the amended proffers do not materially affect the overall proposal.

Sec. 15-60 Conditional use permits

- A. *Purpose.* The zoning ordinance divides the county into districts and identifies, within each district, substantially uniform uses of land and buildings, and the bulk and location of buildings and structures in relation to the land. However, there are certain uses which, because of their unique characteristics, cannot be properly permitted in any particular district, without consideration of the use's specific impact on neighboring land, and of the public need for the use in the particular location. For these uses, a conditional use permit is required. "Conditional use" hereunder is synonymous with the terms "special exception," and "use by special exception" used in state law.
- B. *Standards.* The following standards shall be used as guidelines by the planning commission and board of supervisors in acting upon conditional use permit applications:
 - (1) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;

- (2) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
 - (3) The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
 - (4) The exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood, or the character of the applicable district so as to cause a substantial depreciation in the property values within the neighborhood;
 - (5) Adequate utilities, access roads, drainage or necessary facilities have been or are being provided;
 - (6) Adequate ingress and egress to the property and structures thereon is being provided, with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - (7) Adequate off-street parking and loading areas are being provided, where required, with particular attention to the economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district;
 - (8) Adequate provision for refuse and service areas;
 - (9) Adequate provision for appropriate screening and buffering with reference to type, dimensions, and character of the use;
 - (10) Any signs and exterior lighting are compatible and in harmony with properties in the district concerning aesthetics, glare, traffic safety, and economic effect;
 - (11) Required yards and other open spaces are adequately provided;
 - (12) The proposed use is compatible with adjacent properties and other property in the district;
 - (13) An adequate supply of light and air to adjacent property is provided;
 - (14) The conditional use conforms to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the board of supervisors.
- C. *Conditions and sureties.* Prior to granting any conditional use, the planning commission may recommend and the board of supervisors may require such conditions and restrictions on the establishment, duration, location, or construction of the conditional use as necessary for the protection of the public interest, health, safety, or welfare, and to secure compliance with the standards and requirements of this ordinance. The board of supervisors may require such evidence, sureties and bonds as it deems necessary in the public interest as proof that the conditions are being and will be complied with. The board of supervisors may grant a conditional use permit if appropriate conditions cause it to be in the public necessity, convenience, general welfare, or otherwise a good zoning practice, or it may deny the application.
- D. *Revocation.* The board of supervisors may revoke a conditional use permit if it determines that there has not been compliance with the conditions. The revocation can only occur after a public hearing with notice of the hearing being provided as required by Virginia Code § 15.2-2204.

Sec. 15-61 Proffered and imposed conditions

- A. *Records.* The official zoning map will provide a link to any proffered or imposed conditions associated with the property. The zoning administrator will maintain the official zoning map and the records documenting all proffered or imposed conditions associated with all properties.

- B. *Sureties*. The zoning administrator is vested with all necessary authority on behalf of the board of supervisors to administer and enforce imposed or proffered conditions, including (i) the ordering in writing of the remedy of any noncompliance with such conditions; (ii) the bringing of legal action to insure compliance with the conditions, including injunction, abatement, or other appropriate action or proceeding; and (iii) requiring a surety, in a form satisfactory to the county attorney, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or requiring a contract for the construction of such improvements and a similar surety from the contractor. The zoning administrator will reduce or release all or a reasonable portion of the surety upon submission of satisfactory evidence that construction of all or a portion of the improvements are complete. Any applicant or other person aggrieved by the zoning administrator's decision with respect to the surety may petition the board of supervisors for review of the decision by filing a petition with the zoning administrator and the clerk of the board of supervisors within 30 days from the decision being appealed. The petition must specify the action being appealed and the grounds of the appeal. A decision by the board of supervisors on the appeal is binding on the owner of the affected property only if the property owner is provided written notice of the zoning violation, written determination, or other appealable decision. An applicant or other aggrieved party may petition the Goochland Circuit Court for review of the board of supervisor's decision by filing an appeal with the court within 30 days of the board of supervisor's decision.
- C. *Compliance*. Failure to meet all conditions is cause to deny issuance of any use, occupancy, or building permit.
- D. *Proffer condition*. Unless waived by the board of supervisors as permitted under state law, written notice and a public hearing are required to amend any proffered conditions.

Sec. 15-62 Reapplication

If a rezoning, proffer condition amendment, or conditional use permit application is denied, a substantially similar application cannot be filed for 12 months from the date of denial.

Secs. 15-63 through 15-100. Reserved.