

AT A REGULAR MEETING OF THE GLOUCESTER COUNTY BOARD OF SUPERVISORS, HELD ON TUESDAY, MAY 6, 2025, AT 6:00 P.M., IN THE COLONIAL COURTHOUSE AT 6504 MAIN STREET, GLOUCESTER, VIRGINIA ON A MOTION MADE BY DR. ORTH, AND SECONDED BY MR. CHRISCOE, THE FOLLOWING RESOLUTION WAS ADOPTED BY THE FOLLOWING VOTE:

Phillip N. Bazzani, absent;
Ashley C. Chriscoe, yes;
Kenneth W. Gibson, yes;
Christopher A. Hutson, yes;
Michael A. Nicosia, yes;
Robert J. Orth, yes;
Kevin M. Smith, yes;

AN ORDINANCE TO AMEND APPENDIX B OF THE CODE OF GLOUCESTER COUNTY, VIRGINIA, ZONING, ARTICLE 10 NONCONFORMITIES, SECTION 10-4 NONCONFORMING STRUCTURES AND/OR USES OF LAND, ARTICLE 12 SIGNS, SECTION 12-6 SIGNS PERMITTED, ARTICLE 14 ADMINISTRATIVE PROCEDURES, SECTIONS 14-2 REZONINGS AND 14-3 CONDITIONAL USE PERMITS, AND ARTICLE 15 ENFORCEMENT, SECTION 15-2 CONTENTS OF APPLICATION FOR ZONING PERMITS

WHEREAS, the Gloucester County Board of Supervisors directed the Planning Commission to consider an ordinance amendment which would allow replacement of residential manufactured homes and mobile homes in the B-1 District with other residential structures; and

WHEREAS, staff from Gloucester County Planning and Zoning identified minor revisions needed to clarify and correct language in Articles 12, 14, and 15 adopted on September 7, 2024 with the Zoning Ordinance Update; and

WHEREAS, staff from the Gloucester County Planning and Zoning drafted proposed language and reviewed each proposed change with the Planning Commission at its monthly meeting; and

WHEREAS, the Gloucester County Planning Commission, after holding a duly-advertised Public Hearing at its March 6, 2025, meeting, voted 6-0, with one member absent, to forward the code amendments to the Board of Supervisors with a recommendation of approval; and

WHEREAS, the Gloucester County Board of Supervisors has held a duly advertised public hearing and is of the opinion that public necessity, convenience, general welfare, and good zoning practice will be furthered by such an amendment.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Gloucester County Board of Supervisors on this 6th day of May 2025, that the Gloucester County Code, Appendix B, Article 10 Nonconformities, Article 12 Signs, Article 14 Administrative Procedures, and Article 15 Enforcement be amended as follows:

AMEND APPENDIX B – ZONING – ARTICLE 10 - NONCONFORMITIES - SECTION 10-4 AS FOLLOWS:

Section 10-4. Nonconforming structures and/or uses of land.

Where, at the time of adoption of this ordinance and subsequent amendments thereto, lawful structures and uses of land, structures, or land and structures in combination exist which would not be permitted by the regulations imposed by this ordinance, the structures and uses may be continued; provided, however:

- (1) Closer to conformity. Any expansion, alteration, or reconstruction of such structures or uses shall, through the requirements of the zoning ordinance, bring the structures or uses closer to conformity with surrounding uses so as to be more harmonious and appropriate in appearance with the existing or intended character of the general vicinity;
- (2) **Replacement of manufactured homes in the B-1 District. In the B-1 District, a manufactured home which is legally non-conforming as defined herein, may be replaced with either a single-family detached dwelling or another manufactured home. In cases where the residential footprint is staying the same or reducing in size, the replacement structure may remain in the same footprint as the original structure. In cases where the residential footprint is being relocated or enlarged, the replacement structure shall meet the setbacks required for principal dwellings in the SF-1 zoning district. However, when the replacement structure is being relocated or enlarged and the parcel fronts Route 17, the replacement structure shall meet a minimum 75' setback from the Route 17 right of way.**
- (3)(2)Protection of natural, scenic or historic features. Any expansion, alteration or reconstruction of such structures or uses will not result in destruction, loss, or damage of a natural, scenic, or historic feature of major importance;
- (4)(3)Protection of residential uses and districts. No nonresidential nonconforming structure or use shall be moved or expanded so that any portion of the structure or use is closer than one hundred (100) feet to any residential lot line, nor closer than one hundred (100) feet from any structure used for human occupancy in any nonresidential district. Where such structures or uses, or any portions thereof, are closer than the distance prescribed at the time of adoption of this ordinance and subsequent amendments thereto, no expansion or movement may take place in the direction of a residential lot line or structure used for human occupancy, closer than one hundred (100) feet. Minimum distance requirements may be reduced to fifty (50) percent of the requirement if acceptable landscape screening, consisting of a strip of land twenty (20) feet in width planted with an evergreen hedge or dense planting of evergreen shrubs in healthy condition, is provided;
- (5)(4)Hours of operation or use. Hours of operation or use of commercial and industrial nonconforming structures or uses shall not be extended beyond

existing hours of operation or beyond 10:00 p.m., whichever is longer, when such structure or use is located within a residential district;

(6)(5)Lighting. No lighting installed after the effective date of adoption of this ordinance shall create a nuisance to adjacent properties;

(7)(6)Relocations. Should such nonconforming structures or uses be physically moved from the parcel(s) on which they were located at the time of adoption or amendment of this ordinance onto any other parcel(s), they shall conform thereafter to the regulations for the district(s) in which they are located after they are moved.

(8)(7)Discontinuances.

- a. Replacements. When a non-conforming use is located in or on any structure, or structure and land in combination, and is replaced by a permitted use, the permitted use shall thereafter conform to the applicable regulations for the district, and the nonconforming use may not thereafter be resumed.
- b. Discontinuance. If any nonconforming structure or use is discontinued for a period exceeding two (2) years after the enactment of this ordinance and subsequent amendments thereto, any subsequent use shall conform to the requirements of this ordinance.
- c. Destroyed by fire or other natural disaster. Any nonconforming structure destroyed by fire or other natural hazard shall be allowed to be reconstructed as a nonconforming structure within five (5) years of the occurrence of the fire or natural hazard.

AMEND APPENDIX B - ZONING - ARTICLE 12 - SIGNS - SECTION 12-6 AS FOLLOWS:

Section 12-6. Signs permitted.

(1) Sign area, height, and setback requirements are set forth as follows:

	TYPE OF SIGN			
	On-Structure	Freestanding (For monument and electronic signs see this table as well as section 12-6 (2).)		
DISTRICT	Maximum Total Signage Area (Sq. Ft.)	Maximum Total Signage Area (Sq. Ft.)	Maximum Height (feet)	Setback (feet) *Refer to Sec. 12-6 (2) for monument type signs
C-1, C-2, & SC-1	8 or up to 40 if approved as part of a SE or CUP application	8 or up to 40 if approved as part of a SE or CUP application	6	5

RC-1 & RC-2	20	20	10	10
SF-1	4 or up to 40 if approved as part of a SE or CUP application	4 or up to 40 if approved as part of a SE or CUP application	6	5
MF-1	Only those signs permitted in Section 12-7(1) and 12-8(1) of this article.			
B-1 (Business)	25—200 See B1 On-structure area note below.	See B-1 Freestanding area note below.	12	35 *Refer to article 6A-6 Setbacks if in HCDD
B-2 (Village)	15—50 See B2 On-structure area note below.	See B-2 Freestanding area note below.	12	5 or 35* *Refer to Sec. 5-40.1 See B-2 (Village) Setbacks note below. **Refer to Article 6A-6 Setbacks if in HCDD
B-4 (Rural Business)	15—40 See B4 On-structure area note below.	See B-4 Freestanding area note below.	12	35 *Refer to Article 6A-6 Setbacks if in HCDD
I-1 (Industrial)	25—100 See I-1 On-structure area note below.	See I-1 Freestanding area note below.	12	50
MH-1	4	Only those signs permitted in Section 12-7(1) and 12-8(1) of this Article.		
PUD-1	See Appendix B — Zoning — Article 8 Signage regulations for each type of permitted use within a PUD shall be specified in the ordinance establishing each PUD district, and shall generally be in conformance with the uses in this article.			

Additional Area Requirements

B-1 (Business) On-structure Area	The total on-structure sign area shall be a maximum of 25 sq. ft., or shall be computed at 1 sq. ft. per front linear foot of building frontage for each business, whichever is greater. For structures with multiple tenants sharing the same entrance, the sign area shall be calculated based on building frontage. The total on-structure sign area shall not exceed 200 sq. ft.
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B-1 (Business) Freestanding Area	Businesses having up to 100' of lot frontage may have one (1) freestanding sign not to exceed 30 sq. ft. of sign area. Businesses having more than 100' of lot frontage may have one (1) freestanding sign not to exceed 50 sq. ft. of sign area.
B-2 (Village) On-structure Area	Signs shall complement the building's architecture, materials, and colors. The total on-structure sign area shall be a maximum of 15 sq. ft., or shall be computed at 1 sq. ft. per front linear foot of building frontage for each business, whichever is greater. Individual on-structure signs shall not exceed 40 sq. ft. in sign area. For structures with multiple tenants sharing the same entrance, the sign area shall be a maximum of 15 sq. ft., or shall be computed at 1.25 sq. ft. per linear foot of building frontage for each shared entrance, whichever is greater. The total on-structure sign area for each frontage with a shared entrance shall not exceed 50 sq. ft.
B-2 (Village) Freestanding Area	Businesses having up to 50' of lot frontage may have one (1) freestanding sign not to exceed 12 sq. ft. of sign area. Businesses having more than 50' of lot frontage may have one (1) freestanding sign not to exceed 20 sq. ft. of sign area.
B-2 (Village) Setbacks	For signs along the following divided highways, the minimum setback shall be 35': <ul style="list-style-type: none"> • George Washington Memorial Hwy (Rte. 17); • Main Street (Rte. 17B) from George Washington Memorial Hwy (Rte. 17) to John Clayton Memorial Hwy (Rte. 3/14); and • John Clayton Memorial Hwy (Rte. 3/14).
B-4 (Rural Business) On-structure Area	The total on-structure sign area shall be a maximum 15 sq. ft., or shall be computed at 1 sq. ft. per front linear foot of building frontage for each business, whichever is greater. For structures with multiple tenants sharing the same entrance, the sign area shall be calculated based on building frontage. Individual on-structure signs shall not exceed 40 sq. ft. in sign area.
B-4 (Rural Business) Freestanding Area	Businesses having up to 100 ft. of lot frontage may have one (1) freestanding sign not to exceed 12 sq. ft. of sign area. Businesses having more than 100' of lot frontage may have one (1) freestanding sign not to exceed 20 sq. ft. of sign area.
I-1 (Industrial) On-structure Area	The total on-structure sign area shall be a maximum of 25 sq. ft., or shall be computed at 1 sq. ft. per front linear foot of building frontage for each business, whichever is greater. For structures with multiple tenants sharing the same entrance, the sign area

	shall be calculated based on building frontage. Individual on-structure signs shall not exceed 100 sq. ft. in sign area.
I-1 (Industrial) Freestanding Area	Businesses having up to 100 ft. of lot frontage may have one (1) freestanding sign not to exceed 30 sq. ft. of sign area. Businesses having more than 100' of lot frontage may have one (1) freestanding sign not to exceed 50 sq. ft. of sign area.

AMEND APPENDIX B – ZONING – ARTICLE 14 – ADMINISTRATIVE PROCEDURES - SECTION 14-2 AND 14-3 AS FOLLOWS:

Section 14-2. Rezoning.

- (1) Purpose. Whenever the public necessity, convenience, general welfare, or good zoning practices require, the board of supervisors may by resolution after receipt of recommendation thereon from the planning commission, and subject to the procedures provided by law, supplement, change or repeal the regulations, restrictions, and boundaries or classification of property.
- (2) Initiation. Amendments to this ordinance or district boundaries may be initiated in one of the following ways:
 - a. By resolution of the board of supervisors which shall state the public purposes therefor. A motion by the board of supervisors can serve as a resolution.
 - b. On a motion by the commission which shall state the public purposes therefor.
 - c. By petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed zoning map amendment.
 - d. Individuals / agencies desiring text amendments can request sponsorship of the change by either the board of supervisors or planning commission. Initiation of such code amendments would require action by the board of supervisors or the planning commission as set forth in paragraphs a and b above.
- (3) Pre-application conference required. Applications initiated under item 2 (c) above require a pre-application conference. The pre-application conference shall be scheduled by the zoning administrator or his or her designated agent with the applicant to discuss the proposal.
- (4) Contents of applications.
 - a. The applicant shall make application for amendments to the official zoning map adopted as part of this ordinance to the zoning administrator on the form provided for that purpose, giving all information required by such form. Applications shall contain at least the following information:
 - i. Name, address, and phone number of applicant;

- ii. Name, address and phone number of the property owner;
- iii. Legal description of property, tax map reference, property identification number, and plat of such land showing the new zoning classifications and indicating the boundaries of such classification;
- iv. Present use;
- v. Present zoning district;
- vi. Proposed use;
- vii. Proposed zoning district;
- viii. A narrative describing the proposed use and purpose for the rezoning including potential impacts to community facilities including transportation, schools (potential number of children, schools impacted and their capacity), public safety, and utilities;
- ix. A statement of how the proposed amendment relates to the comprehensive plan;
- x. A conceptual plan (plot plan) at a scale that adequately details the existing and proposed uses showing property lines, thoroughfares, existing and proposed zoning, existing and proposed structures/entrances, existing vegetation, and any such other items as the administrator may require in order to provide adequate information to provide a recommendation to decision makers. The conceptual plan shall bear the seal of a licensed engineer, surveyor, or architect;
- xi. A list of all tax map/parcel numbers, property owners and their mailing addresses as shown on the county land books who are contiguous to, or directly across the street right of way from the parcel(s) involved;
- xii. A fee as established by the board of supervisors;
- xiii. Conflict of Interest Statement (must be notarized);
- xiv. Proffer Policy (reviewed and signed); and
- xv. Traffic Impact Analysis
 - (a) Chapter 527 Compliance Form (completed and signed). If the proposal meets a threshold as specified in VDOT's Traffic Impact Analysis Regulations, chapter 527, the applicant shall include a complete copy of the rezoning application package for VDOT review and follow the standards for completing the traffic impact analysis pursuant to Virginia Administrative Code (VAC) chapter 155 - Traffic Impact Analysis Regulations;
 - (b) In cases where a Chapter 527 TIA is not required, the County will require a TIA when one more of the following apply or in other

cases as recommended by the planning commission and required by the board of supervisors.

- (i) Projects that expect to generate 2,500 or more average daily trips.
- (ii) Projects that expect to generate 250 or more weekday peak hour trips to and from the site during the peak hour of operation based on the ITE manual's trip generation rates.

A scoping meeting with VDOT and the planning department will be held to determine the minimum scope of work required for the TIA.

- b. The items listed below may be waived or modified by the board of supervisors. The planning commission may make a recommendation to the board of supervisors related to approval or denial of the waiver request.
 - i. The requirement for the conceptual site plan to bear the seal of a licensed engineer, surveyor, or architect under item x above; and
 - ii. The requirement for a TIA under item xv above.
- c. Rezoning to Planned Unit Development (PUD-1) and Residential Manufactured Home Park (MH-1). Applications for rezoning to PUD-1 or MH-1 shall contain all the items required for rezonings listed in 14-2(4)(a) and the additional requirements for rezoning to Residential Manufactured Home Park MH-1 district as outlined in section 5-30.5(9) and for rezoning to Planned Unit Development PUD-1 district as outlined in section 8-4.
- d. Conditional Zonings. Applications for conditional zoning shall contain all the items required for rezonings listed in 14-2(4)(a) and the additional application requirements for conditional zoning as outlined in section 14-2(10)(a).

(5) Transmittal to planning commission.

Immediately after the adoption of a resolution or a motion by the board of supervisors or the filing of a complete application by a property owner, and payment of any established fees, said resolution, motion or application shall be transmitted to the planning commission.

(6) Actions by planning commission.

- a. Within one hundred (100) days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the board of supervisors, the planning commission shall recommend to the board of supervisors that the proposed zoning amendment or change be approved as presented, approved with modifications, or disapproved. Prior to making its recommendation to the board of supervisors, the planning commission shall provide public notice and hold a public hearing as required by Va. Code § 15.2-2204.
- b. Proposed rezonings located on private roads. If the parcel does not have frontage on, or exclusive deeded access to, a state-maintained road, all

property owners whose land abuts the private road, whether or not they have access to the road, shall be notified of the rezoning application and hearing date.

- i. This notification shall be in addition to and in accordance with the notification required by Va. Code § 15.2-2204; the identification of the property owners to be notified shall be based on the information available in county records at the time of application.
- ii. The applicant is required to provide legal documentation of exclusive deeded access to a state road, if applicable, as part of any application.
- c. The planning commission shall then transmit all papers constituting the record and the recommendation to the board of supervisors.
- d. Failure of the commission to act within one hundred (100) days shall be deemed a recommendation of approval unless the proposed amendment or reenactment has been withdrawn or put on hold by the applicant prior to the expiration of that time period.

(7) Action by board of supervisors.

- a. Upon receipt of the recommendation of the commission, the board of supervisors, after public notice in accordance with Va. Code § 15.2-2204, shall hold at least one public hearing on such application for amendment, and as a result thereof, shall make such amendments or changes as it deems appropriate, provided that the board of supervisors shall act upon and make a decision upon each application within 12 months of the date such application is filed unless the applicant requests or consents to action by the board of supervisors beyond such period or withdraws the application prior to action of the board of supervisors.
- b. The public hearing conducted by the board of supervisors may be held jointly with the planning commission public hearing required under section 14-2(6)(a).
- c. When the amendment involves changes to the existing zoning district boundaries, the form of the amending ordinance shall contain a narrative description of the land to be reclassified, or reference an accompanying plat of such land, showing the new zoning classifications and indicating the boundaries of such classification.
- d. The zoning administrator shall refer to the amending ordinance as a record of the current zoning status until such time as the zoning map can be changed accordingly.

(8) Recordation. A certified copy of all ordinances and resolutions authorizing a rezoning pursuant to this section shall be recorded by the eCounty in the office of the Clerk of the Circuit Court. ~~No zoning shall become effective until so recorded.~~

(9) Appeal of the decision of the board of supervisors.

Every action contesting a decision of the board of supervisors adopting or failing to adopt a proposed zoning ordinance or amendment thereto shall be filed within 30 days of the decision with the Circuit Court of Gloucester County

(10) Additional provisions for conditional zoning

a. Proffer statement required with conditional zoning application.

- i. Purpose. Frequently where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit land uses and at the same time to recognize the effects of change. It is the purpose of this section to provide a more flexible and adaptable zoning method to cope with such situations found in such zoning through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning application for the protection of the community that are not applicable to land similarly zoned. The provisions of conditional zoning shall not be used for the purpose of discrimination in housing.
- ii. Limitations. The owner or owners of property making application for a change in zoning or amendment to a zoning map, as part of their application, may voluntarily proffer in writing reasonable conditions which shall be in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. The conditions shall be proffered as a part of the requested rezoning or amendment to the county's zoning map. It is expressly provided, however, that the conditions so proffered are subject to the following limitations:
 - (a) The rezoning itself must give rise to the need for the conditions;
 - (b) Such conditions shall have a reasonable relation to the rezoning;
 - (c) Such conditions may include a cash contribution to the county;
 - (d) Such conditions may include dedication of real or personal property for open space, parks, schools, fire departments or other public facilities including, but not limited to, dedication of any street, curb, gutter, sidewalk, bicycle trail, drainage, water or sewer system;
 - (e) Such conditions may include payment for or construction of off-site improvements;
 - (f) Such conditions shall be related to the physical development or physical operation of the property; and
 - (g) All such conditions shall be in conformity with the comprehensive plan of the county.
- iii. Proffer amendments during public hearing. The planning commission may recommend and the board of supervisors may accept amended proffers based on input received at the public hearing if the amended proffers do not materially affect the overall proposal.

b. Enforcement and guarantees as to proffered conditions

- i. Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.
- ii. The zoning map of the county shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his or her office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zone. The index shall also provide ready access to all proffered cash payments and expenditures disclosure reports prepared by the board of supervisors pursuant to Va. Code § 15.2-2303.2. The zoning administrator shall update the index annually and no later than November 30 of each year.
- iii. The zoning administrator shall be vested with all necessary authority on behalf of the county to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:
 - (a) The ordering in writing of the remedy of any noncompliance with such conditions;
 - (b) The bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and
 - (c) Requiring a guarantee, in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the zoning administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Provided, further, that failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy or building permits as may be appropriate.
- c. Petition for review of zoning administrator's decision related to enforcement and guarantees of proffered conditions.
 - i. Any zoning applicant who is aggrieved by the decision of the zoning administrator, pursuant to (9) above, may petition the board of supervisors for the review of such decision. Said appeal shall be taken within thirty (30) days from the date of the action complained of and shall be instituted by filing with the zoning administrator and with the county administrator a notice of appeal, specifying the grounds thereof.
 - ii. The zoning administrator shall forthwith transmit to the board of supervisors all of the papers constituting the record upon which the

action appealed from was taken, and the board of supervisors shall proceed to hear the appeal at its next regular scheduled meeting.

- iii. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the board of supervisors after the notice of appeal has been filed with him or her that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of supervisors or by a court of record on application or notice to the zoning administrator and on due cause shown.
 - iv. A decision by the board of supervisors on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal.
 - v. An aggrieved party may petition the circuit court for review of the decision of board of supervisors on an appeal taken pursuant to this section. The petition must be filed within thirty (30) days of the decision.
- d. Amendments and variations of proffered conditions.
- i. There shall be no amendment or variation of conditions created pursuant to the provisions of this article until after the matter has been heard before the planning commission, which will make a recommendation to the board of supervisors, and a public hearing before the board of supervisors which shall be advertised pursuant to Va. Code § 15.2-2204, as amended.
 - ii. However, where an amendment to such proffered conditions is requested and where such amendment does not affect conditions of use or density, the board of supervisors may waive the requirement for a public hearing (i) under this section and (ii) under any other statute, ordinance, or proffer requiring a public hearing prior to amendment of such proffered conditions. In these situations, the planning commission shall make a recommendation to the board of supervisors related to waiving the public hearing at the time the matter is presented before them to recommend approval or denial.
 - iii. Proposed amendments and variations of conditions for a use located on private roads. If the parcel does not have frontage on, or exclusive deeded access to, a state-maintained road, all property owners whose land abuts the private road, whether or not they have access to the road, shall be notified of the application and hearing date.
 - (a) This notification shall be in addition to the notification required by Va. Code § 15.2-2204; the identification of the property owners to be notified shall be based on the information available in county records at the time of application.
 - (b) The applicant is required to provide legal documentation of exclusive deeded access to a state road, if applicable, as part of their application.

Section 14-3. Conditional Use Permits.

- (1) Purpose. The purpose of this section is to provide for certain uses which, because of their unique characteristics or potential impacts on adjacent land uses, are not generally permitted in certain zoning districts as a matter of right, but which may, under the right set of circumstances and conditions, be acceptable in certain specific locations. These uses are permitted only through the issuance of a conditional use permit by the board of supervisors after ensuring that the use can be appropriately accommodated on the specific property, will be in conformance with the Comprehensive Plan, can be constructed and operated in a manner which is compatible with the surrounding land uses and overall character of the community, and that the public interest, safety, and general welfare of the citizens of the County will be protected.

No inherent right exists to receive a conditional use permit; such permits are a special privilege granted by the board of supervisors under a specific set of circumstances and conditions, and each application and situation is unique. Consequently, mere compliance with the generally applicable requirements may not be sufficient, and additional measures, occasionally substantial, may be necessary to mitigate the impact of the proposed use. In some situations, no set of conditions would be sufficient to approve an application, even though the same request in another location would be approved.

- (2) Initiation.
 - a. A pre-application conference shall be scheduled by the applicant with the zoning administrator or his or her designated agent to discuss the proposal.
 - b. The applicant shall be an owner of record, tenant, or government official. A contract purchaser may act as the owner's agent with the written approval of the owner of the land involved.

- (3) Contents of Application.

The applicant shall make application for the use permit to the zoning administrator on the form provided for that purpose, giving all information required by such form, including such other information which the zoning administrator may deem necessary for an intelligent consideration of the project for which a permit is desired including items identified below.

- a. A narrative describing the proposed use and purpose for the property including potential impacts to surrounding properties, transportation, utilities, natural resources, and public services;
- b. A statement of how the proposed amendment relates to the comprehensive plan;
- c. Any voluntary conditions that address identified impacts and/or concerns related to the use;

- d. A list of all tax map/parcel numbers, property owners, and their mailing addresses as shown on the county land books who are contiguous to or directly across the street right of way from the parcel(s) proposed;
- e. A conceptual plan (plot plan) at a scale that adequately details the existing and proposed uses showing property lines, thoroughfares, existing and proposed zoning, existing and proposed structures/entrances, existing vegetation, and any such other item as the administrator may require in order to provide adequate information to provide a recommendation to decision makers. The conceptual plan shall bear the seal of a licensed engineer, surveyor, or architect;
- f. The front, side, and rear elevations and floor plans of proposed buildings;
- g. A Traffic Impact Analysis (TIA) when one more of the following apply or in other cases as recommended by the planning commission and required by the board of supervisors.
 - i. Projects that expect to generate 2,500 or more average daily trips; or
 - ii. Projects that expect to generate 250 or more weekday peak hour trips to and from the site during the peak hour of operation based on the ITE manual's trip generation rates.

A scoping meeting with VDOT and the planning department will be held to determine the minimum scope of work required for the TIA.

- h. Conflict of Interest Statement (signed and notarized); and
 - i. A fee as established by the board of supervisors.
- (4) The items listed below may be waived or modified by the board of supervisors. The planning commission may make a recommendation to the board of supervisors related to approval or denial of the waiver request.
- a. The requirement for the conceptual site plan to bear the seal of a licensed engineer, surveyor, or architect under item e above; and
 - b. The requirement for a TIA under item g above.
- (5) Transmittal to planning commission. When the zoning administrator has certified that the application is complete, it shall be deemed received and referred to the planning commission for its review and recommendation to the board of supervisors.
- (6) Approval Criteria. As may be specified within each zoning district, uses permitted subject to conditional use review criteria shall be permitted only after review by the planning commission and approval by the board of supervisors and only if the applicant demonstrates that:
- a. The proposed conditional use is in compliance with all regulations of the applicable zoning district, the provisions of this section, and all applicable provisions of the Zoning Ordinance.
 - b. The establishment, maintenance, or operation of the proposed use is not detrimental to, and will not endanger, the public health, safety, morals, comfort, or general welfare.

- c. 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 impair the use of other property within the immediate proximity.
- d. The proposed conditional use conforms to the character of the neighborhood within the same zoning district in which it is located. The proposal as submitted or modified shall have no more adverse effects on health, safety or comfort of persons living or working in or driving through the neighborhood, and shall be no more injurious to property or improvements in the neighborhood, than would any other use generally permitted in the same district. In making such a determination, consideration shall be given to the location, type, size, and height of buildings or structures, type and extent of landscaping and screening on the site, and whether the proposed use is consistent with any theme, action, policy, or map of the Comprehensive Plan.
- e. The exterior architectural appeal and function plan of any proposed structure will not be at substantial 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 zoning district, and shall enhance the quality of the neighborhood.
- f. The public interest and welfare supporting the proposed conditional use is sufficient to outweigh the individual interests which are adversely affected by the establishment of the proposed use.
- g. The proposed use will not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic, archeological, or historic importance.

(7) Action by planning commission.

- a. The planning commission shall, within one hundred (100) days after the first meeting of the planning commission after such referral, report to the board of supervisors its recommendation as to the approval or disapproval of such application and any recommendation for establishment of conditions, in addition to those set forth in this chapter, deemed necessary to protect the public interest and welfare. Failure of the planning commission to report within one hundred (100) days shall be deemed a recommendation of approval. The planning commission shall hold a public hearing, in accordance with section Va. Code §15.2-2204, on the application prior to making a recommendation to the board of supervisors.
- b. Proposed conditional use permits located on private roads. If the parcel does not have frontage on, or exclusive deeded access to, a state-maintained road, all property owners whose land abuts the private road, whether or not they have access to the road, shall be notified of the conditional use permit application and hearing date.
 - i. This notification shall be in addition to the notification required by Va. Code § 15.2-2204; the identification of the property owners to be notified

shall be based on the information available in county records at the time of application.

- ii. The applicant is required to provide legal documentation of exclusive deeded access to a state road, if applicable, as part of their application for conditional use permit.

(8) Action by board of supervisors.

- a. Upon receipt of the recommendation of the planning commission, the board of supervisors, after public notice in accordance with Va. Code § 15.2-2204, shall hold at least one public hearing on such application, and as a result thereof, shall either approve or deny the request. Said public hearing may be held jointly with the public hearing held by the planning commission pursuant to section 14-3(7)(a).
- b. In approving any conditional use permit, the board of supervisors may impose conditions or limitations on any approval as it may deem necessary to protect the public interest, safety, and welfare. Such additional standards may include, but need not be limited to:
 - i. Special setbacks, yard or construction requirements, increased screening or landscaping requirements, area requirements, development phasing, and standards pertaining to traffic, circulation, noise, lighting, hours of operation and similar characteristics; and
 - ii. A performance guarantee, acceptable in form, content and amount to the County, posted by the applicant to ensure continued compliance with all conditions and requirements as may be specified.

- (9) Recordation. A certified copy of all ordinances and resolutions authorizing a conditional use permit pursuant to this section shall be recorded by, ~~and at the expense of, the permitted applicant, in the name of the property owner as grantor~~ **the County** in the office of the Clerk of the Circuit Court. ~~No conditional use permit shall become effective until so recorded.~~

- (10) Other laws applicable. The granting of a conditional use permit does not exempt the applicant from obtaining a Building Permit, a Certificate of Occupancy, or complying with all other requirements of this ordinance or any applicable County, state, or federal law.

- (11) Denial of a Conditional Use Permit. If the board of supervisors finds that an application for a conditional use will not conform to the general character of the neighborhood to which the proposed use will apply, or that the public health, safety and general welfare of such neighborhood will not be secure by granting such conditional use, or that the approval criteria outlined in subsection (6) of this section have not been met, then the board of supervisors may deny such application, anything in this ordinance to the contrary notwithstanding.

- (12) Effect of Denial of a Conditional Use Permit.

- a. No application for a conditional use permit which has been denied wholly or in part by the board of supervisors shall be resubmitted for a period of one (1) year from the date of said denial, except on the grounds of new

evidence or proof of change of conditions found to be valid by the board of supervisors.

- b. The board of supervisors may, at any time, consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered, as determined by the zoning administrator.
- c. A newly submitted conditional use permit application must follow the procedures outlined in subsections (2) and (3) of this section.

(13) Appeal of board of supervisor's decision. Every action contesting a decision of the board of supervisors granting or denying a proposed conditional use permit shall be filed within 30 days of the decision with the Circuit Court of Gloucester County.

(14) Scope of Approval.

- a. Unless otherwise specified by the conditions of the permit, the applicant has two (2) years to establish the conditional use, except for permits for residential projects, the use for which shall be established within three (3) years. The use shall be considered established upon approval of a zoning permit application for the use unless the permit specifies otherwise. Failure to establish the conditional use authorized by the permit within two (2) years from the date of approval by the board of supervisors, or such longer time as otherwise specified by the conditions of the permit, shall cause the permit to terminate and to become void, unless an extension is granted in writing by the zoning administrator as outlined in section 14-3(16)(a). The approval of a new conditional use permit shall be required once terminated, voided, or allowed to expire.
- b. The provisions of this section are cumulative with the power of injunction and other remedies afforded by law to the County, and further shall not be so interpreted as to vest in any applicant any rights inconsistent or in conflict with the power of the County to rezone the subject property or to exercise any other power provided by law.
- c. Once a conditional use permit is granted, such use may be enlarged, extended, increased in intensity or relocated only in accordance with the provisions of this section.
- d. Where any conditional use is discontinued for any reason for a continuous period of two (2) years or more, the conditional use permit shall terminate and become null and void. A use shall be deemed to have been "discontinued" when the use shall have ceased for any reason, regardless of the intent of the owner or occupier of the property to reinstitute the use at some later date. The approval of a new conditional use permit shall be required prior to any subsequent reinstatement of the use.

(15) Revocation of Conditional Use Permits.

- a. Complaints concerning the operation or function of a conditional use may be reported to the zoning administrator. Such complaints shall be

documented and researched by the zoning administrator or his or her designee.

- b. Grounds for revocation shall include, but not be limited to, the following:
 - i. A change in conditions affecting the public health, safety and welfare since the adoption of the conditional use permit; or
 - ii. Violations of this chapter, violations of regulations applicable to the underlying zoning district, or violations of any conditions attached to the conditional use permit, by the owner/operator of the use; or
 - iii. Fraudulent, false or misleading information supplied by the applicant (or his or her agent) for the conditional use permit; or
 - iv. An error or mistake in fact that led to the decision made by the board of supervisors when approving the conditional use permit.
- c. If it is determined by the zoning administrator or his or her designee that the conditional use is in violation of one (1) or more of the items listed above, the owner of the property will be notified by certified letter of the violations and may be given a reasonable time to rectify said violation(s).
- d. If the violation(s) are not fully rectified within the allotted time, the County may begin the revocation process.
- e. The revocation process is generally as follows:
 - i. At least one public hearing shall be held, in accordance with Va. Code § 15.2-2204 before the planning commission, outlining the violations of the conditional use permit. The planning commission shall make a recommendation to the board of supervisors.
 - ii. Upon receipt of the recommendation of the planning commission, the board of supervisors, after public notice in accordance with Va. Code § 15.2-2204, shall hold a public hearing and shall act on the proposal to revoke the conditional use permit. Said public hearing may be held jointly with the public hearing held by the planning commission.
 - iii. If the board of supervisors revokes the conditional use permit, the permit shall become null and void.
 - iv. In order to reestablish the conditional use, the applicant must file a new conditional use permit application in accordance with subsections (2) and (3) of this section, must meet the standards as outlined in subsection (6), and must receive approval of the board of supervisors.
- f. The County reserves the right to revoke immediately any conditional use permit violating the terms of the Zoning Ordinance, without going through the procedures outlined above, if revocation is deemed appropriate by the board of supervisors.

(16) Amendment of Conditional Use Permits. A request for an amendment shall include any enlargement, expansion, increase in intensity, relocation, or modification of any condition of a previously approved and currently valid conditional use. Amendments shall be processed as follows:

- a. Non-Material and Insignificant (Minor) Modifications.
 - i. An amendment that requires the following shall be considered a Minor Modification:
 - (a) Shifts in on-site location, and changes in size or intensity of less than five percent (5%); or
 - (b) A five percent (5%) or less increase or decrease in either lot coverage or floor area over what was originally approved; or
 - (c) An extension of the validity period not exceeding six (6) months.
 - ii. Minor Modifications may be authorized by the zoning administrator, provided that such minor changes comply with the following criteria:
 - (a) No minor modification of the same type has been previously granted pursuant to this subsection;
 - (b) There will be no detrimental impact to or on any adjacent property caused by significant change in the appearance or the use of the property or any other contributing factor;
 - (c) Nothing in the currently valid conditional use permit precludes or otherwise limits such expansion, enlargement or extension;
 - (d) The proposal conforms to the provisions of this section and is in keeping with the spirit and intent of the adopted Comprehensive Plan; and
 - (e) In the case of a request for extension, the request must be made, in writing, at least thirty calendar days prior to the expiration of the Conditional Use Permit and provide a rationale for granting the extension and documentation of the progress made toward establishment of the conditional use.
- b. Major Amendments. Any proposed amendment other than those provided for in subsection (16)(a) above shall be considered a major amendment of a previously approved and currently valid conditional use and shall be considered according to the provisions outlined in subsections (2)-(9) of this section.
- c. Non-conforming Uses. For an existing and currently valid conditional use permit which is no longer allowed as a conditional use in the zoning district in which located, the board of supervisors, after recommendation by the planning commission, may approve an amendment to said permit, provided such amendment does not allow the use to be enlarged, expanded, increased in intensity, relocated, or continued beyond any limitation specified in the existing use permit or established in article 10 Nonconformities, Appendix B, Zoning, of this code.

**AMEND APPENDIX B – ZONING – ARTICLE 15 - ENFORCEMENT - SECTION 15-2
AS FOLLOWS:**

Section 15-2. Contents of application for zoning permits.

- (1) The application for zoning permit shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application.
- (2) It shall be the responsibility of the applicant to provide any information necessary for the administrator to determine that the proposed use, building, or structure complies with all provisions of this ordinance. At a minimum, the application shall contain the following information:
 - a. Name, address, and phone number of applicant;
 - b. Name, address, and phone number of the owner;
 - c. Legal description of property and parcel identification number;
 - d. Existing use;
 - e. Proposed use;
 - f. Zoning district;
 - g. Plot plans consistent with the following:
 - i. For principal buildings, plans bearing the seal of a licensed architect, engineer, or surveyor, and drawn to scale, showing items a-~~d~~e below. Conditional approval may be given to plans consistent with a-~~d~~e below, not bearing the seal of a licensed architect, engineer, or surveyor pending the submittal of plans bearing the seal of a licensed architect, engineer, or surveyor, upon completion of the floor system, and showing the location of the building footprint, as built, in addition to the below requirements;
 - (a) dimensions and shape of the lot to be built upon;
 - (b) the size and location of existing buildings, on the lot, if any;
 - (c) the location and dimensions of the proposed building(s) or alteration(s) **indicating their distance(s) from adjacent property lines; and**
 - ~~(d) the front, rear, and side yard setback lines; and~~
 - (d) (e)** screening and buffering required by article 9C or as required with a rezoning, CUP, or SE, if **and when** applicable.
 - ii. For accessory buildings, plans drawn to scale, showing the following items.
 - (a) dimensions and shape of the lot to be built upon;
 - (b) the size and location of existing buildings, on the lot, if any;
 - (c) the location and dimensions of the proposed building(s) or alteration(s), **indicating their distance(s) from adjacent property lines; and**
 - ~~(d) the front, rear, and side yard setback lines; and~~

(d) ~~(e)~~ screening and buffering required by article 9C or as required with a rezoning, CUP, or SE, if applicable.

- h. Building heights;
- i. Number of off-street parking spaces and/or loading berths;
- j. Number of dwelling units;
- k. Fee as established by the board of supervisors; and
- l. Such other matters as may be necessary to determine conformance with, and provide for the enforcement of this ordinance.

A Copy Teste:



Carol E. Steele, County Administrator