

BOARD OF SUPERVISORS OF CULPEPER COUNTY, VIRGINIA

**ORDINANCE AMENDING ARTICLE 17
(CONDITIONAL USE PERMITS) APPLICATION REQUIREMENTS AND PROCEDURES
OF THE CULPEPER COUNTY ZONING ORDINANCE
(APPENDIX A OF THE CODE OF CULPEPER COUNTY, VIRGINIA)**

WHEREAS, §§15.2-1427 and 15.2-1433 of the Code of Virginia, 1950, as may be amended from time to time, enable a local governing body to adopt, amend and codify ordinances or portions thereof; and

WHEREAS, §§15.2-2280 through 15.2-2295 of the Code of Virginia, 1950, as may be amended from time to time, enable a local governing body to adopt and amend zoning ordinances in conformance with the provisions thereof; and

WHEREAS, this amendment of the Zoning Ordinance is required to serve the public necessity, convenience, general welfare, and good zoning practice as required by Virginia Code §15.2-2286(A)(7); and

WHEREAS, the proper advertisement and public hearing was conducted as required by law; and

WHEREAS, the full text of this amendment was available for public inspection in the Culpeper County Planning Department Office, 302 N. Main Street, Culpeper, Virginia 22701; and

NOW, THEREFORE, BE IT ORDAINED that the Board of Supervisors of Culpeper County hereby amends ARTICLE 17 (CONDITIONAL USE PERMITS) APPLICATION REQUIREMENTS AND PROCEDURES of the Culpeper County Zoning Ordinance (Appendix A of the Code of Culpeper County, Virginia) as provided for in the attachment.

BE IT FURTHER ORDAINED that this amendment shall become effective immediately upon passage.

Ordained this 3rd day of November, 2021.

VOTING AYE: Bates, Chase, Deal, Rosenberger

VOTING NAY: Campbell, Underwood

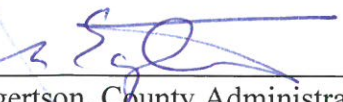
ABSTAINING: None

ABSENT: Frazier

Witness this my signature and seal.

 (SEAL)
Gary M. Deal, Chairman

ATTEST:


John C. Egertson, County Administrator

ARTICLE 17. USE PERMITS

ARTICLE 17. USE PERMITS**17-1. Authority to Issue.**

17-1-1 Basis for issuance: Use permits may be issued for any of the conditional uses for which a use permit is required by the provisions of this ordinance, provided that the governing body, upon a recommendation by the Planning Commission, shall find that after a duly advertised hearing, the use will not:

17-1-1.1 Affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use.

17-1-1.2 Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

17-1-1.3 Be in conflict with the purposes of the Comprehensive Plan of the County of Culpeper.

17-1-2 *Use permit conditions:* In granting any use permit, the governing body shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

(Ord. of 2-3-1998)

Editor's note(s)—Amendment of 2-3-1998 deleted section [17-1-2.1] *Conditions for land application of sludge* in its entirety. Section 17-5 *Regulation of Infrequent Land Application of Biosolids* was adopted in its place.

17-2. Application Requirements and Procedures.

17-2-1 Pre-Application Meeting. An applicant shall request and attend a pre-application meeting with the Zoning Administrator, and/or his or her designee, prior to the submission of an application. The pre-application meeting is intended to provide an opportunity for the applicant to discuss the proposed project/use with staff and to receive from staff the necessary guidance to ensure the application submission will be in order and that the application is well managed throughout the review process. The following information shall be provided by the applicant to staff at or before the pre-application meeting:

- a. Summary of the proposed project/use; and,
- b. Statement identifying whether, and detailing how, the proposed project/use is consistent with the Comprehensive Plan, County ordinances, and other applicable state and federal law and regulations, and pertinent County policies and/or regulations.

During the pre-application meeting, staff shall inform the applicant of the applicable review procedures and what application materials are required to be submitted and when. Appropriate third-party agency reviewers (such as VDOT, Health Dept., SCWD, etc.) may be invited by staff to pre-application meetings for additional comment.

(Ords. of 10-6-1981; 3-3-1987; 12-12-1989, 8-3-1999)

Editor's note(s)—Section 17-2.1 was repealed in its entirety by the ordinance of 8-3-1999, since the language of this section is substantially repeated in section 17-5, making this section redundant.

17-2-2 Application Contents. An application for a conditional use permit shall contain the following information:

- a. Completed application form. The application form shall be filed by the owner(s) of the property or, with the written consent of the owner(s), the contract purchaser of the property or an authorized agent. A contract owner must submit a copy of the contract to purchase and an authorized agent must submit a copy of the agent authorization document.

b. Application fee, as set by the Board of Supervisors.

c. Preliminary site/concept plan. Every application for a conditional use permit shall be accompanied by a preliminary site/concept plan. The plans, at minimum, shall meet the standards in Article 20-5-2, Administrative Site Plans.

d. A statement or narrative describing in detail the requested use. This statement shall address all the factors for consideration as found in Article 17-1-1, Basis for Issuance.

e. An affirmative statement identifying any and all potentially adverse effects (e.g., those that adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use; those that are detrimental to the public welfare or injurious to property or improvements in the neighborhood; etc.) that may be associated with the proposed project/use, including those related to or resulting from the development and/or construction of the proposed project/use - and the means proposed to minimize or mitigate such adverse effects.

f. A description of all special conditions for the use, construction, layout, and/or appearance of the site, which the applicant proposes to be made conditions of the use permit, if granted, for purposes of assuring mitigation of any adverse effects and also the use's compatibility with the surrounding neighborhood.

g. Other studies as may be needed or required by federal, state, or local laws or regulations, such as a Traffic Impact Analysis (TIA), a geotechnical review, Environmental Impact Assessment (EIA), etc.

17-2-3 Application Submission and Procedure. Every application for a use permit shall be accompanied by a fee in such amount as is set, from time to time, by the Board of Supervisors. The application and all associated and required application materials, plans, narratives, etc. shall be filed in writing with the Zoning Administrator. The Zoning Administrator shall have ten (10) business days following the date of submission of the application and materials to determine whether the application is deemed complete for consideration and review. Having made a determination, the Zoning Administrator shall advise the applicant whether (i) the application is complete or (ii) notify the applicant the application is determined incomplete and arrange for the return of the application and materials to the applicant.

Once the application is determined to be complete and ready for full consideration and review, the Zoning Administrator shall forward the application and its contents to the various agencies, as needed, for their review and comment.

17-2-4 Agency and Staff Review. Agency and staff reviews should be conducted as expeditiously as possible and in accordance with the appropriate state and federal laws and/or regulations for each reviewing agency. The following agencies, as are appropriate, shall review each application and provide recommendations and comments, as necessary:

- a. Virginia Department of Transportation (VDOT).
- b. Virginia Department of Health (VDH).
- c. Virginia Department of Environmental Quality (DEQ).
- d. Culpeper Soil and Water Conservation District (CSWCD).
- e. Culpeper County Environmental Services and/or County Engineer.
- f. Referral to any other reviewing entity as deemed appropriate by the Zoning Administrator.

17-2-5 Planning Commission Review. No application shall be forwarded to the Planning Commission and/or Board of Supervisors for consideration and review until staff and all agency reviews and reports are completed. The Planning Commission shall review the application, agency review comments, and the associated staff report. A

minimum of one public hearing shall be conducted by the Planning Commission. The Planning Commission shall forward a recommendation to the Board of Supervisors within three (3) regularly held meetings of the receipt of the completed application, agency review comments, and staff report.

A review period may be extended at the request of the applicant and upon agreement by the Planning Commission in its sole discretion.

The Planning Commission may recommend conditions of approval for consideration by the Board of Supervisors.

All supplementary application materials to be reviewed by the Commission shall be provided to the Commission no later than ten (10) business days prior to the scheduled meeting of the Commission. If additional materials are submitted after this time period and the additional materials and/or any changes are deemed to be substantial by either staff or the Planning Commission, then any decision on the application may be deferred at a minimum until the next regularly scheduled Planning Commission meeting; however, also see Section 17-2-6 below.

17-2-6 Substantial Application Changes or Amendments. If changes to an application or the materials submitted in support of an application are made during the review process, and the nature of the changes and alterations to the project/use are so substantial or significant, a new application may be required to be submitted, including the submission of a new fee. Moreover, application review timeframes will recommence.

The determination as to whether changes are so substantial requiring a new application shall be made by the Zoning Administrator, and/or his or her designee. The determination should take into account the addition or reduction of real property parcels utilized for the project/use, the change in size or configuration of the project/use, changes in accessory structures, changes in onsite facilities, changes affecting erosion and sediment control measures, the nature and complexity of any changes to a professional report and other documents that is submitted, whether the changes prompt new or additional third-party agency review, etc.

All changes and amendments to an application and materials for re-submission shall clearly note, highlight, and identify/redline all changes from the previous submission. Every new submission shall clearly be dated with the date of each re-submission.

(Ords. of 10-6-1981; 3-3-1987; 12-12-1989, 8-3-1999)

17-2-7 Conditions. In granting a conditional use permit, the Board of Supervisors may place appropriate conditions on the permit. Such conditions shall be considered made part of the requirements of this chapter. The conditions established as part of the approval may be modified only by submission of a new and complete application, and fee, and following the procedures described in this Section 17.

Permit conditions issued by the Board of Supervisors may vary from permit to permit and may include but not be limited to items such as: duration of permit, size and location of buildings, structures, and/or use, maintenance requirements, landscaping and/or buffering requirements, specific improvements such as road and/or entrance improvements, drainage improvements, etc., hours of operation, limitations on the use of land, density, and or intensity of uses, guaranties or bond requirements.

Editor's note(s)—Section 17-2.1 was repealed in its entirety by the Ordinance of 8-3-1999, since the language of this section is substantially repeated in section 17-5. Editor's note(s)—, making this section redundant.

17-3. Time Limit on Construction or Operation; Renewal of Conditional Use Permits.

Construction or operation shall be commenced within one year of date of issuance of the permit, three (3) years for package sewer treatment plants (see Chapter 14, section 14-24, Culpeper County Code), and two (2) years for energy generation facilities. Otherwise, the use permit becomes void unless otherwise extended in accordance with the provisions hereof.

(Ords. of 5-6-1997; 10-2-2018)

Editor's note(s)—Ordinance of 5-6-1997 amended this section to allow up to three (3) years to commence construction or operation of a package sewer treatment plant, consistent with section 14-24 of this Zoning Ordinance. Ordinance of 10-2-2018 amended this section also to allow up to two (2) years to commence construction of a utility-scale solar facility. The one-year limitation remains in effect for all other use permits.

17-3-1 Application to Board of Supervisors: Within one year of the issuance of the original conditional use permit, or within one year of the anniversary of the extension date of any conditional use permit extended in accordance with the provisions hereof, the applicant may apply to the Board of Supervisors for an extension of the conditional use permit and any related site plan.

17-3-2 Causes for granting extensions: The Board may grant one-year extensions of a conditional use permit and any related site plan upon receipt of an application as set forth above, if the Board finds that construction or operation did not commence because of a delay occasioned by the approval required of any state or federal agency or delay attributable to the issuance of any plan or permit required by any state or federal agency.

17-3-3 Effective date: The provisions of this section shall apply to any conditional use permit and related site plan validly in effect on or after January 1, 1995. As to any special use permit and related site plan validly in effect on January 1, 1995, the applicant may apply for renewal on or before December 31, 1995, notwithstanding the provisions of Subsection 17-3-1.

17-3-4 Discontinuance of Conditional Use Permit: A conditional use permit shall run with the land, unless the Board of Supervisors imposes a more restrictive condition regarding succession of rights in conjunction with approval.

(Ord. of 1-3-1995)

Editor's note(s)—Amendment of 10-3-1995 added the provisions relating to the renewal of special use permits and their related site plans, Subsections 17-3-1, 17-3-2 and 17-3-3.

17-4. Compliance.

17-4-1 Violation of Permit Conditions. Permit conditions approved by the Board of Supervisors shall constitute provisions of this Ordinance and shall be enforced as such. Failure to comply with approved conditions shall constitute a violation of this Ordinance and may be cause for revocation of the conditional use permit by the Board of Supervisors.

17-4-2 Revocation of Permit. Upon determination by the Zoning Administrator, and/or his or her designee, of any violation of a conditional use permit, such permit may be subject to revocation, if the violation is not corrected to the satisfaction of the Zoning Administrator within 90 days of written notice to the property owner and/or permit holder. Such written notice shall specify the violation and necessary corrective actions. If the violation is not corrected within the specified time, the Board of Supervisors shall then have the authority to revoke the permit after proper notice and public hearing as provided by Code of Virginia, Section 15.2-2204.

The following circumstances may result in revocation of a conditional use permit:

- a. Failure to establish the approved conditional use;
- b. Discontinuance of the approved conditional use;
- c. Violations of this Chapter 17 or the County Code of Ordinances, including repeated or continuing violations;
- d. Violations of the conditions placed upon the permit; or,
- e. The submission of fraudulent, false, or misleading information by the applicant in applying for the conditional use permit, including statements made in the application, accompanying materials to the application, to the Planning Commission, or to the Board of Supervisors.

17-5. Limitation on Consideration of Application.

No application for a use permit for the same lot shall be considered by the governing body within a period of one year from its last consideration. This provision, however, shall not impair the right of the governing body to propose a use permit on its own motion.

Editor's note(s)—An ordinance adopted Nov. 5, 2003 deleted previous § 17-5 which pertained to regulations of infrequent land application of biosolids and derived from Ord. of Feb. 3, 1998; and Ord. of Aug. 3, 1999.