

## Sec. 106-236. - Conditional zoning.

- (a) *Purpose of conditional zoning.* Pursuant to Code of Virginia, § 15.2-2303(a), it is the purpose of this article to provide a more flexible and adaptable zoning method to cope with situations where competing and incompatible uses conflict. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are not adequate. In these cases, more flexible zoning methods and procedures are needed to permit differing land uses, and at the same time to recognize effects of change. In these instances, reasonable conditions voluntarily proffered by the zoning applicant may be allowed, for the protection of the community, that are not generally applicable to land similarly zoned. When considered with existing zoning ordinance district regulations, these conditions should cause the requested rezoning to be compatible with existing zoning and uses in the area.
- (b) *Proffer of conditions.* Any owner of property making application for a change in zoning or amendment to the zoning map as part of the 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 application. Accomack County may accept any reasonable conditions, in addition to the regulations provided for the zoning district by the ordinance, the need for which are generated solely by the rezoning itself.
- (c) *Effect of conditions.* 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. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.
- (d) *Conditional zoning procedure.* The owner shall, if he elects to obtain conditional zoning, voluntarily proffer in writing such conditions as he deems appropriate at the time of filing an application to rezone the property or by such later date as the commission shall allow; but in any event before the commission makes its recommendation to the board of supervisors.

In the event that additions thereto or modifications thereof are desired by the owner, the same shall be made in writing no less than 14 days prior to the time at which the commission makes its recommendation to the board of supervisors unless the commission:

- (1) Specifically waives such time period or;
- (2) Specifically establishes such greater or lesser time period as it deems reasonable.

The planning commission, at a duly conducted public hearing, shall consider the application for conditional rezoning and forward their recommendation on the zoning petition to the board of supervisors for action.

The board of supervisors may consider additional proffers, deletions, and/or amendments to all such conditions provided same have been voluntarily proffered in writing prior to the public hearing at which the board of supervisors renders its decision.

(e) *Records of conditional zoning.*

- (1) The zoning map shall show, by an appropriate symbol, the existence of conditions attached to the zoning on the map.
- (2) The zoning administrator shall keep in his office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating such conditions in accordance with this section and shall clearly list all conditions applicable to each.

(f) *Enforcement and guarantees.* The zoning administrator or his agents shall be vested with all necessary authority on behalf of the board of supervisors to administer and enforce conditions attached to a rezoning or amendment to a rezoning map including:

- (1) Ordering in writing, compliance with such conditions;
- (2) Bringing of appropriate legal action or proceeding to ensure compliance;
- (3) Requiring a guarantee, satisfactory to the governing body, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of the improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or release by the governing body, or agent thereof, upon the submission of satisfactory evidence that construction of the improvements has been completed in whole or in part;
- (4) Denial of issuance of any required use, occupancy, or building permit, as may be appropriate.

(g) *Review of zoning administrator's decision.* Any person who is aggrieved by the administrator's decision or actions regarding enforcement or guarantees as provided for in section (f), enforcement and guarantees, above, may petition the board of supervisors for review of such decisions(s). Such petition shall be filed with the zoning administrator and the county administrator within 30 days from the date of the decision for which review is sought and shall specify the grounds upon which the petitioner is aggrieved.

(h) *Time limit on repeat petitions.* After the board of supervisors has taken official action either granting, denying, or permitting withdrawal of a petition for any change in zoning or any change of zoning conditions, no other petition for substantially the same changes(s) shall again be considered in less than 12 months from the date of such official action.