

Department of Planning
Post Office Box 15225
Chesapeake, Virginia 23328-5225
(757) 382-6176
FAX (757) 382-6406

CHANGE OF ZONING DISTRICT APPLICATION INSTRUCTIONS

PURPOSE

A zoning reclassification is required when a property owner proposes to use his land for purposes other than those permitted by the current zoning classification. The zoning reclassification process protects property owners by requiring that related uses of land are located in close proximity to each other in order to create a well-developed and harmonious community in compliance with the City's Comprehensive Plan and the Chesapeake Zoning Ordinance.

It is strongly recommended that the applicant(s) meet with the Planning Department's current planning staff and other reviewing departments prior to submitting a rezoning application to review related Comprehensive Plan Policies, other City ordinances and policies and other issues that may be involved.

Applicants are strongly advised to discuss the proposed rezoning and proffered conditions, if offered, with area civic association, property owners and residents prior to submitting the application.

REVIEW PROCESS

The deadline for submitting a rezoning application is the Monday prior to the second Wednesday of the month. All applications are to be submitted to the Planning Department prior to 5:00 P.M.

The Planning Department will review the application for completeness in accordance with §16-102 of the Chesapeake Zoning Ordinance. If the application is found to be incomplete, the Planning Department will return the application, site plans, and filing fee to the applicant or agent, with a description of the manner and areas in which the application is incomplete. **The filing fee is \$370.00 plus \$20.00 per acre. When applicable, the Environmental Site Assessment Phase I supplemental review fee is \$1,600.00. Should a phase II be required, an additional review fee of \$2,300.00 shall be paid.**

REVIEW PROCESS (continued)

Once an application is determined to be complete, the Planning Department distributes the application and site plan to various City departments for review. The departments review the proposed zoning reclassification for conformity with the Comprehensive Plan, its effect on the neighborhood and conformity with the City's development ordinances and standards. Development review departments include Public Works, Public Utilities, Police, Schools, Economic Development, Libraries, Fire, Inspections, Zoning, Parks & Recreation, and Planning. If an environmental site assessment is required, said assessment will be forwarded to a city sponsored third-party consultant for review.

After receiving comments from these other departments, the Planning Department will contact the applicant and inform him or her of the departmental comments. A revised application, if required, will be requested at this time.

Notwithstanding any initial determination of completeness, the Planning Director, the Planning Commission, or the City Council may at any time during the review process find that essential information is lacking and may deem the application incomplete. In these cases, the application will not be advertised for a public hearing.

When the application is deemed complete in its entirety, the Planning Department will prepare a legal notice advertisement and sign(s) for posting. The notice will appear in the Virginian Pilot two times prior to the Planning Commission Public Hearing. Fourteen days prior to the Public Hearing, the applicant will be required to post the property with NOTICE OF REZONING APPLICATION signs. This posting must be in accordance with the instructions set out by the Planning Department. Improper posting of the sign(s) will delay processing of the application. Failure to post and maintain the sign(s) will result in a continuance. The applicant is responsible for all of the costs of providing the required notice of hearing, including newspaper advertising.

APPLICATIONS THAT DO NOT MEET MINIMUM APPLICATION REQUIREMENTS AS SPECIFIED IN THE CHESAPEAKE CITY CODE WILL NOT BE ADVERTISED.

The Planning Department will compile departmental comments, the applicant's response to the comments, analysis and staff recommendation into a staff report. The Planning Department will forward a copy of the application and staff report to each Planning Commissioner. A copy of the staff report will be provided to the applicant. All staff reports are available for review in the Planning Department, Public Libraries, and on the City's website no later than the Monday prior to the scheduled Planning Commission Meeting.

The Planning Commission will hold a public hearing the second Wednesday of the month after proper advertisement. The public hearing is open to all citizens. The applicant must attend the Planning Commission public hearing. Failure of the applicant to attend the Planning Commission Public Hearing may delay action by the Planning Commission thereby delaying processing of the application. At the public hearing, the Planning Commission will hear proponents and opponents of the application, as well as staff comments and recommendations. The Commission considers all information and recommends to the City Council to either approve the application as presented, approve it with conditions or safeguards, or disapprove the application.

REVIEW PROCESS (continued)

The written record, developed through the time of Planning Commission action, will be forwarded to the City Council for review prior to its public hearing on the application, which is usually held on the third Tuesday of the month following the Planning Commission's action. The City Council holds a public hearing and considers the Planning Commission's recommendation, as well as information submitted by the Planning Department, the applicant and citizens. City Council may approve the application as presented, approve the application with certain conditions or safeguards, deny the application, or refer the application back to the Planning Commission for further study.

Once City Council approves the rezoning, the applicant may proceed by submitting plans to the City for development. **The applicant should contact the Planning Department to determine which plan approval process is required.**

TITLE REPORT

A title report or title certification letter must be prepared and signed by an attorney licensed to practice law in the Commonwealth of Virginia, or status of title prepared by a title insurance company (or its agent) licensed to operate in Virginia, or a combination of both, as approved by the City Attorney. Such "title report" shall describe the property that is the subject of the application, identify all parties having a recorded interest in the property, including legal and equitable owners, and state the source of title or interest for each party. The title report shall state the date through which the title to the property was examined, which date shall not be more than six (6) months prior to the date that the application is filed.

ADJACENT PROPERTY OWNERS

Attach a listing of the 13 digit tax map number, names and addresses of all persons, firms, or corporations owning all abutting property and property immediately across the street or road from the subject property.

Use the attached Adjacent Property Owner List of Addresses form or the AVERY 5260 label format. If unable to utilize the form or computer format, please submit the list on 8½" x 11" paper.

Include stamped (not metered) #10 envelopes (4 1/8" x 9½") with the name and mailing address of each property owner typed or printed legibly.

Please do not use pre-dated meter stamped envelopes or envelopes which include a return address.

SPECIAL POWER OF ATTORNEY

If the applicant(s) is different from owner(s), a "Special Power of Attorney" must be included with the application which grants authority to the applicant(s) and agent, if applicable, to act in behalf of the owner(s).

1. If an agent is representing either the property owner(s) or the applicant(s), a "Special Power of Attorney" must be attached. This power of attorney must be granted from both the applicant(s) and owner(s). The owners' "Special Power of Attorney" must be granted to the applicant and the agent.
2. If the owner(s) or applicant(s) is a corporation, partnership, or similar entity, submit documentation indicating the person signing the "Special Power of Attorney" has the authority to make this appointment and include their official title on the form.
3. If the owner (or applicant) is a church, documentation from the church's trustees, or if no trustees, then by a president or vice-president of the corporation or association of the church, must be attached which establishes that the person signing on behalf of the church has the authority to act on it's behalf and to bind the church to the application.

POWER of ATTORNEY AUTHORITY

LIMITED LIABILITY CORPORATION/COMPANY (LLC, LC): The managing member has authority by title to sign for the LLC, or as authorized by corporate records.

CORPORATION (Inc., Ltd., or Corp.): The President or Vice-President has authority by title to sign for the corporation, or as authorized by corporate records.

PARTNERSHIP (LP or GP): An authorized general partner has authority by title to sign for the partnership.

ESTATES/TRUSTS: A trustee has authority by title to sign. If there is more than one trustee, all trustees must sign.

CHURCHES (Unincorporated): All trustees must sign.

STATEMENT OF OWNERSHIP

A statement signed and notarized by the owner and/or applicant shall be submitted on the attached form, which identifies the names and last known addresses of all of the following persons and entities in regard to the property that is the subject of this Application:

1. All applicants, title owners, contract purchasers, and lessees of the property; and, if any of the foregoing is a trustee, each beneficiary having an interest in the property.
2. Where any of those listed in (1) above is a corporation, all shareholders owning ten per cent (10%) or more of any class of stock issued by said corporation or where any of those listed in (1) is a corporation having ten (10) or fewer shareholders, all such shareholders. This requirement may be waived by the Planning Director or designee where the owner or applicant, as applicable, is a publicly-held corporation.
3. Where any of those listed in (1) above is a partnership, or limited liability company, all such partners, both general and limited, in a partnership, and all members of a limited liability company.
4. Where any of those listed in (1) above is a church, provide a list of all such trustees and their position on the board or if no trustees, then identify the officers of the corporation or association of the church.

Attach the listing of names and addresses on business letterhead of either the applicant, owner or agent, as required above.

MAP REQUIREMENTS

As part of this application, the following maps must be submitted. All maps shall have a north arrow:

1. Three (3) copies of a zoning map, on 8 ½" x 11" paper, showing all property within 500 feet of the perimeter of the property which is the subject of the application, indicating the zoning and existing uses of such land. This map shall be provided **with the property subject to the application hatched or otherwise made distinguishable from the other properties.**
2. Three (3) copies of a map, 8½" x 11" paper, showing the actual dimensions of the subject property according to the recorded plat of such property, or, where a recorded plat within the chain of title is not available, a map showing the property's dimensions as described in the most recent conveyance of the property. This map shall contain the following:
 - a. All existing and proposed right-of-way widths of streets adjacent to the property, and all right-of-way widths identified in the City's Master Street and Highway Plan as running through the property.
 - b. For properties located wholly or partially within the Chesapeake Bay Preservation Area District, contour lines, showing at a minimum, the most recent contour mapping maintained by the City.
 - c. For properties located wholly or partially in the Northwest River Watershed Protection District, the boundaries of the District and existing drainage patterns in relation to the property.
3. Three (3) copies of a vicinity map, on 8½" x 11" paper, showing the **property subject to the application hatched or otherwise made distinguishable from the other properties** the name and configuration of:
 - a. All streets or roads which will carry vehicular traffic from the subject property towards neighboring jurisdictions or the nearest interstate highway.
 - b. All state and/or interstate highways.
 - c. All streets of collector size (60 feet in width) or greater.
4. *OPTIONAL:* Thirty (30) copies of an exhibit of the proposed development drawn to scale and three (3) copies of this exhibit reduced to 8½" x 11" paper.

ENVIRONMENTAL SITE ASSESSMENT

A *Phase I* environmental site assessment shall be required as part of the application for any rezoning, conditional use permit, preliminary site plan, final site plan or miscellaneous plan that involves land disturbance for residential, assembly, day care, group home, recreation, school, library or similar use where exposure to contaminated soil or water would pose a threat to the public health, safety and welfare. The *Phase I* environmental site assessment shall meet the criteria in the Chesapeake Public Facilities Manual. Where deemed necessary by the Director of Public Works or designee, the application shall also include a *Phase II* environmental site assessment prepared in accordance with the specifications in the Chesapeake Public Facilities Manual. The Phase I and Phase II reports shall contain recommendations to address any and all adverse environmental conditions of the property, including with limitation, contamination of the soil, surface water or groundwater.

The Public Works Director, or designee, and in cases where the real property is intended for school use, the Chesapeake School Board or designee, shall review all soil tests and environmental site assessments submitted as part of a rezoning application prior to presentation to the Planning Commission to determine the sufficiency of same based on relevant criteria such as the location, number and depth of soil borings and water samples taken.

Where adverse environmental conditions are known or discovered to exist, the applicant shall provide adequate written assurances to the City that such conditions shall be remediated, removed, or contained in a manner consistent with applicable state and federal regulations which govern remediation of the environmental condition. If no state or federal jurisdiction is invoked, the determination of sufficiency of remediation shall be made by the Department of Public Works. No certificate of occupancy shall be issued for a property that poses an environmental threat to the public health, safety or welfare until remediation is complete.

In any case where adverse environmental conditions are known or discovered to exist, the owner and applicant for the development shall provide adequate assurance to the City that such conditions will be disclosed to future owners. The disclosure shall be included in all sales contracts with builders and initial homeowners; in all deeds of conveyance as a covenant that runs with the land; in all restrictive covenants, homeowners' association documents and condominium instruments; on all final subdivision plats; and in all other similar recorded documents. The disclosure shall consist of a clear statement addressing, without limitation, contamination of soil, groundwater or surface water; presence of methane gas; former or existing landfills on or in the vicinity of the property; and any other condition that may have adverse impact on the public health, safety and welfare. As used herein, "vicinity" shall include parcels adjacent to the landfill site, parcels separated from the landfill site by only a street or water body, and parcels located downgradient of the landfill site.

The applicant shall bear responsibility for maintaining adequate records for review by potential buyers and future homeowners. Such records shall be preserved by recording Phase I and Phase II environmental site assessment summaries as attachment to deeds to builders and initial homebuyers, restrictive covenants, homeowners' association documents, condominium instruments and similar instruments of record.

SPECIAL NOTES ON CONDITIONAL REZONING APPLICATIONS

Conditional zoning reclassification applications are governed by Section 16-200 et seq. of the Chesapeake Zoning Ordinance. It is suggested that this section be read carefully to ensure that all terms are met. Below are a few of the key requirements:

1. The owner(s) of record of all the property involved in the application and applicant(s) duly authorized by the owners must sign the proffer statement that accompanies the application. While the property may be under contract for sale to a developer, with sale being contingent upon the proposed rezoning being approved, only the owner(s) of record can subject the land to the proffered conditions, and therefore, the owner(s) of record must sign the proffer statement.
2. Proffers shall be submitted in writing to the Planning Department no less than 14 days prior to the Planning Commission hearing. Where proffers are made for the first time after this deadline, the applicant shall request that the application be continued by the Planning Commission for review by the Planning Department and other reviewing departments. Minor changes made to clarify the language in previously submitted proffers may be made in writing up to noon of the day of the public hearing.
3. Final proffers shall be submitted to the Planning Department in written format on the attached form entitled "Proffer Statement" and in electronic format in MS Word sent via e-mail. If the proffer statement varies from the proffers approved by the Planning Commission, a cover letter describing the changes shall be submitted with the proffer statement. Review of the proffer statement by the City Attorney is mandatory.
4. Unless the final proffer statement complies in all respects with the terms of the ordinance and is submitted to the Planning Department within ten (10) calendar days after the Planning Commission hearing, consideration of the application by City Council could be delayed for at least a month. If the submitted proffer statement varies from the proffers approved by the Planning Commission, review and approval of the proffer statement must be completed by the City Attorney before its submission to the City Clerk's Office for City Council review. All revised proffers shall be advertised in the City Council agenda and the applicant shall be responsible for all costs associated with the advertisement.
5. If the conditional rezoning application is approved, no development plans for the property involved may be processed until the proffer statement has been recorded in the Chesapeake Circuit Court Clerk's Office. It is the responsibility of the owner to ensure that such recordation has occurred, and the Planning Department may require proof of such recordation before accepting a development plan.
6. All applications for zoning reclassification shall contain a certification by the owner that to the best of his knowledge, the application is complete and accurate. This certification shall apply to all plans, environmental reports and attachments accompanying the application. No application shall be deemed complete without this certification. False certifications shall be deemed a violation of this ordinance and shall be punishable by a civil penalty in

accordance with Section 20-202 of this ordinance.