

ARTICLE 21. CONDITIONAL USE PERMITS

Sec. 18-209. Use permit subject to certain conditions.

The board of zoning appeals may issue a use permit for any of the uses enumerated in section 18-210 in response to an application therefor, provided the use for which the permit is sought:

- (1) Will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
- (2) Will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- (3) Will be in accord with the purposes of the Town's master plan.

In granting any use permit, the board of zoning appeals may impose such conditions as it may deem in the public interest, including limiting the duration of a permit, and as will ensure that the use will conform to the foregoing requirements and that it will continue to do so, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with. The board may revoke a use permit if the board determines that there has not been compliance with the terms and conditions of the permit. No permit may be revoked except after notice and hearing as provided by Code of Virginia, § 15.2-2204.

(Code 1969, § 18-209; Ord. of 12-2-1991)

Sec. 18-210. Use permits required.

A use permit is required for any of the following uses (see regulations for zone in which the use is proposed to be located):

- A. Amusement enterprises, if conducted wholly within an enclosed building, provided that the existence and location of the same shall not impose a deleterious effect upon the Town and that permits therefor shall ensure compatibility with land use policies embodied in this chapter.
- B. Auditoriums and halls.
- C. Auto sales.
- D. Bowling alley.
- E. Carpenter or general woodworking shop (excluding outdoor storage).
- F. Cemeteries.
- G. Colleges and schools (private, elementary and high) of a noncommercial nature.
- H. Concrete mixing plants.
- ~~I. Consumption of meals on a roof garden of an enclosed building in which a restaurant is located, or at sidewalk tables directly adjoining such building.~~
- J. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors.
- K. Draying, freighting, or trucking yard or terminal.

-
- L. Farm or gardening implement, sales and service.
 - M. Feed and fuel yard.
 - N. Funeral homes.
 - O. Golf courses, country clubs, private clubs, including community buildings and similar recreational uses not owned and/or operated by a public agency (does not include golf driving ranges).
 - P. Hospitals, sanitariums and clinics which are an integral part of such hospitals and clinics providing treatment for mental or behavioral disorders as out-patient counseling or therapeutic facilities only; and provided that such clinics, if not an integral part of a hospital or sanitarium, are formally affiliated with such hospital or sanitarium or such other governmentally sponsored organization that provides counseling for mental or behavioral disorders.

Notwithstanding any of the above, all clinics and facilities not an integral part of a hospital or sanitarium and treating contagious diseases, drug or alcohol addicts or abusers, sex offenders, felons, or persons suffering from psychosis, anti-social personality disorders or explosive personality disorders are not permitted, regardless of whether such facility operates an in-patient or out-patient facility, counseling or therapeutic facility or otherwise.

Animal hospitals not providing boarding facilities other than for hospitalization to provide medical and/or surgical care for the patient are likewise subject to procurement of a use permit. However, animal hospitals providing boarding facilities not directly associated with immediate medical and/or surgical care for the patient are not permitted.

- Q. Hotel and motel.
- R. Institutional home and institutions of an educational or philanthropic nature, except those of a correctional nature or for mental cases.
- S. Live entertainment and patron dancing in restaurants.
- T. Manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries and food products, except fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils.
- U. Massage therapists.
- V. Minute car wash stations.
- W. Nursery and kindergarten schools (private).
- X. Reserved.
- Y. Outdoor amusement enterprises.
- Z. Pet shop.
- AA. Plumbing yard or storage.
- BB. Public buildings and uses.
- CC. Public parking area in transitional use.
- DD. Public parks, playgrounds, and other recreational uses.
- EE. Public utilities, as defined and regulated in section 18-13.
- FF. Taxi stand (only private property).

-
- GG. Theater, indoor or outdoor.
 - HH. Transitional parking lots.
 - II. Drive-through facility, with the following submittal requirements and evaluation criteria:
 - 1. Application submittal requirements:
 - A. A written statement describing the proposed use and providing all information pertinent to the review of the application. Such information would include, but not be limited to: The type of product or service to be offered; the proposed hours of operation and employee staffing; plans for the control of litter and the disposal and recycling of waste material; effects on air quality at the site and in adjacent areas; and estimates of sound levels that would be generated by the proposed use at site boundary lines.
 - B. A traffic analysis providing information that would include, but not be limited to: Estimates of the number of vehicle trips and the amount of vehicular stacking that would occur daily and during a.m./p.m. peak hours; trip generation by use type; estimated internal and external traffic flows; parking and vehicular stacking spaces that would be provided on-site; and data on existing traffic conditions and the traffic-handling capacity of roads fronted by the proposed use. In addition, the analysis would discuss sight distances at points of ingress and egress, pedestrian and bicycle traffic, and any other site-specific traffic factors or public safety issues associated with the application.
 - 2. Applications for drive-through facilities will be evaluated on the basis of the following criteria, with emphasis given to potential adverse effects on adjoining or nearby properties:
 - A. Location and arrangement of any drive-through window in relation to adjoining properties and public rights-of-way.
 - B. Appropriateness of proposed hours of operation.
 - C. Traffic circulation patterns, including safe ingress and egress, and a clear designation of drive-through aisles through the use of paving materials, pavement markings or landscaping.
 - D. Pedestrian circulation and safety.
 - E. Adequacy of screening of vehicle use and parking areas.
 - F. Noise impact associated with, but not limited to, exterior speakers and motor vehicles.
 - G. Compliance with federal, commonwealth and local pollution standards.
 - H. Other factors, as deemed appropriate, that affect the health, safety, and general welfare of the community.
 - 3. Drive-through facilities adjacent to residentially-zoned properties shall meet the following applicable criteria:
 - A. A drive-through facility operating later than 10:00 p.m. shall not have any portion of its operation (including, but not limited to, the stacking lane, menu boards or speaker boxes) located closer than 75 feet from any residentially-zoned property.
 - B. No speaker box or other audio mechanism, regardless of operating hours, shall be located closer than 35 feet from any residentially-zoned property.
 - JJ. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home.

(Code 1969, § 18-210; Ord. of 3-1969; Ord. of 2-6-1971; Ord. of 5-10-1971; Ord. of 6-2-1980; Ord. of 4-4-1983; Ord. of 11-8-1994; Ord. of 7-10-1995; Ord. No. 001-2021, 2-22-2021)

Sec. 18-211. Application of use permit.

Written application for a conditional use permit may be made by any property owner, tenant, government office, department, board or bureau. Such application shall be made to the zoning administrator and shall accompany an application for a building permit, whenever the proposed building or structure will be or may be used for any of the uses enumerated in section 18-210. The zoning administrator shall also transmit a copy of the application to the planning commission and a copy of the application and site plan to the architectural review board, which commission and board shall send a recommendation to the board of zoning appeals within 30 days or appear as a party at the hearing.

(Code 1969, § 18-211; Ord. of 3-1969)

Sec. 18-212. Fee.

Every application for a use permit shall be accompanied by a check or cash payment to the Town in the amount set forth in the schedule of fees adopted by the Town which shall be applied to the cost of advertising and other expenses incidental to reviewing, publishing and reporting the fact.

(Code 1969, § 18-212)

Sec. 18-213. Advertising and posting required.

Each application for a use permit shall be advertised once a week for two successive weeks in a newspaper having a paid general circulation in the Town. Notice of such application shall also be posted on a placard for two consecutive weeks on the property to which it pertains.

(Code 1969, § 18-213)

Sec. 18-214. Notice and public hearing.

The board of zoning appeals shall hold a public hearing on each application for a use permit not less than six days nor more than 21 days after final publication. Written notice, by registered mail, of the time and place of such hearing shall be given to the applicant at least ten days before the time of said hearing.

(Code 1969, § 18-214; Ord. of 6-19-2000)

Sec. 18-215. Decision of board.

The decision of the board on an application for a use permit shall be made within 90 days of the application therefor.

(Code 1969, § 18-215; Ord. of 11-1987)

Sec. 18-216. Permit void after six months if operation not commenced.

Any use permit shall become void six months after issuance if construction or operation related thereto has not commenced.

(Code 1969, § 18-216)