

CALHOUN COUNTY

ORDINANCE NO. 2019 - 03

AN ORDINANCE OF CALHOUN COUNTY, FLORIDA; PROVIDING PROCEDURES FOR APPROVAL OF CONDITIONAL USES; PROVIDING DEFINITIONS; PROVIDING FOR NOTICE, PROVIDING FOR REQUIREMENTS OF FINDINGS; PROVIDING FOR APPROVAL PROCESS; PROVIDING FOR DENIAL PROCESS; PROVIDING FOR STATUS OF RECOMMENDATION BY PLANNING COMMISSION; PROVIDING FOR CONSIDERATION BY BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR EXPIRATION OF CONDITIONAL USE PERMIT; PROVIDING FOR PUBLIC DEDICATION; PROVIDING A PROCESS FOR MINOR AMENDMENT OF CONDITIONAL USE PERMIT AFTER APPROVAL; PROVIDING FOR CONFLICT REPEALER; PROVIDING FOR TITLE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Calhoun County Board of County Commissioners, by and through the provisions of Florida law, has the authority to, from time to time, adopt ordinances that it deems to be in the public interest; and

**WHEREAS**, as a result of the comprehensive planning and development process, the County has from time to time considered “Conditional Uses” for real property located within Calhoun County; and

**WHEREAS**, the County has determined that a formalized, documented process should be established to provide consistent review of Conditional Use Applications.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Calhoun County, Florida, as follows:

- I. A **Conditional Use** is a use that would not be appropriate generally or without restriction throughout a particular zoning district or classification, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, or the general welfare. Such uses may be permissible in a Land Use District as a **Conditional Use**, if specific provision for such **Conditional Use** is issued following a hearing before the Planning Commission and the Board of County Commissioners in the manner herein set out. Decisions regarding **Conditional Uses** shall be quasi-judicial in nature.
- II. Definitions
  - a. Applicability. **Conditional Use** approval is required before the construction or establishment of a **Conditional Use**.

- b. Application. Prior to the consideration of the issuance of a Conditional Use Permit, the landowner or the landowner's agent shall submit a Conditional Use Application, which shall be in substantially the same format as "Exhibit A" annexed hereto, and pay such a fee as may be established by the Board of County Commissioners from time to time.
  
- c. Application Status. An application for a Conditional Use will be considered "open," when the determination of "sufficiency" has been made and the application and the requisite fee has been paid . An application for a Conditional Use will be considered "closed" when the applicant withdraws the subject application through written notice or ceases to supply necessary information to continue processing or otherwise actively pursue the Conditional Use for a period of six (6) months. An application deemed "closed" will not receive further processing and shall be withdrawn and an application "closed" through inactivity shall be deemed withdrawn. An application deemed "closed" may be re-opened by submitting a new application, repayment of all application fees and granting of a determination of "sufficiency." Further review of the request will be subject to the then current LDC.
- d. LDC. LDC shall mean the Calhoun County Land Development Code.

III. Notice. Once an application has been submitted and the requisite fee paid, county staff shall send letters to all property owners located within ¼ mile of the subject property. The letters shall be sent by certified mail, return receipt requested using the address

The letters shall be sent by certified mail, return receipt requested using the address available on the Calhoun County Property Appraiser's website. In addition, county staff shall run an advertisement in a local newspaper which provides notice of the Conditional Use Application. Both the letters and the newspaper advertisement shall provide a time, date and location for consideration of the Conditional Use application.

- IV. Required Findings. The Planning Commission shall make a recommendation of approval, approval with conditions, or denial of the **Conditional Use** application to the Board of County Commissioners. The Planning Commission's recommendation of approval or approval with conditions shall find that the granting of the **Conditional Use** will not adversely affect the public and any specific requirements pertaining to the **Conditional Use** have been met by the petitioner. Further, that satisfactory provision and arrangement has been made for the following matters, where applicable:
- a. The request is consistent with all applicable provisions of the Comprehensive Plan.
  - b. The request shall not adversely affect adjacent properties in terms of creating a nuisance, reduction in property values, or other quantifiable measure.
  - c. The request is compatible with the existing or allowable uses of adjacent properties.
  - d. The request can demonstrate adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exists or

will exist to serve the requested use at the time such facilities are needed, but in no case shall concurrency management requirements be exceeded.

- e. The request can demonstrate adequate provision for maintenance of the use and associated structures.
  - f. The request has minimized, to the degree possible, adverse effects on the natural environment.
  - g. The request will not adversely affect the public health, safety, or welfare.
  - h. The request conforms to all other applicable provisions of this Code.
- V. In recommending approval of a **Conditional Use**, the Planning Commission may also recommend appropriate conditions and safeguards in conformity with the LDC. Violation of such conditions and safeguards, which are made a part of the terms under which the **Conditional Use** is granted, shall be deemed a violation of the LDC.
- VI. Denial by the Planning Commission. If the Planning Commission shall recommend denial of a **Conditional Use**, it shall state fully in its record its reason for doing so. Such reasons shall take into account the factors stated above or those factors that may be applicable to the action of denial and the particular regulations relating to the specific **Conditional Use** requested, if any.
- VII. Status of Planning Commission Report and Recommendations. The report and recommendations of the Planning Commission required above shall be advisory only

recommendations of the Planning Commission required above shall be advisory only and shall not be binding upon the Board of County Commissioners.

VIII. Consideration by the Board of County Commissioners. Upon receipt of the Planning Commission's report and recommendations, the Board of County Commissioners shall make a finding that the granting of the **Conditional Use** will not adversely affect the public and any specific requirements pertaining to the **Conditional Use** have been met by the petitioner. The Board of County Commissioners shall approve or deny, by vote, a petition for a **Conditional Use**. The approval of a **Conditional Use** application shall require a majority vote of the Board Members in attendance. If the Board of County Commissioners denies the **Conditional Use**, it shall state fully in its record its reason for doing so. Such reasons shall take into account the factors stated above or those factors that may be applicable to the action of denial and the particular regulations relating to the specific **Conditional Use** requested, if any.

IX. Expiration and Re-Review.

- a. A **Conditional Use** shall expire one (1) year from the date of approval, if by that date the Use for which the **Conditional Use** was granted has not commenced.
- b. A **Conditional Use** shall expire one (1) year following the discontinuance of the Use for which the **Conditional Use** was granted, unless the site was improved and/or **structures** built for the specific uses approved by a **Conditional Use** and

which cannot be converted to a use permitted by the underlying land use designation of the site.

- c. The Board of County Commissioners may grant one 2-year extension of an approved **Conditional Use** upon written request of the petitioner.
  - d. If a **Conditional Use** permit is approved with stipulations or conditions, a re-review of the permit, stipulations, or conditions shall take place in accordance with the resolution approving the **Conditional Use** permit or by request of the **applicant**.
- X. Public Facility Dedication. The Board of County Commissioners may, as a condition of approval of the **Conditional Use**, require that suitable areas for streets, communication facilities, public rights-of-way, schools, parks, and other public facilities be set aside, improved, and/or dedicated for public Use.
- XI. Changes and Amendments. The County Planner or County Building Official or designee may approve minor changes in the location, siting or height of buildings, structures, and improvements authorized by the **Conditional Use**. Additional uses or expansion of permitted uses not shown on the conceptual site development plan or otherwise specifically provided for in the **Conditional Use** application shall require an amendment of the Conditional Use.
- XII. Conflicts Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.


- XIII Severability. If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.
- XIV. Effective date. This Ordinance shall take effect upon its passage by a majority vote of the Board of County Commissioners in and for Calhoun County, after due notice and publication, in the regular meeting on the 20<sup>th</sup> day of August, 2019, and upon being filed with the Secretary of State.



Following the recommendation of the Planning Commission on this date, the foregoing ordinance was adopted by a vote of 3 to 0 by the Board of County Commissioners, Calhoun County, Florida, after due notice and publication, and on motion, second and discussion at the regular meeting of August 20, 2019.

CALHOUN COUNTY BOARD OF  
COUNTY COMMISSIONERS

BY:

  
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GENE BAILEY, Chairman

ATTEST:

  
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CARLA HAND, Clerk of the Circuit Court

