

Division 2 Conditional Uses

Sec. 16-4-110. Purpose.

A conditional use is an activity generally similar to other uses permitted within a zoning district, which, because of the manner in which the proposed use could be developed, may not be appropriate in all situations or may require the imposition of special conditions to ensure compatibility with existing and potential land uses within the vicinity. In some instances, conditional uses may be referred to in this Chapter as a special review. In those instances, the special review shall mean a conditional use, and shall be treated as such hereunder.

Sec. 16-4-120. Authorization.

Uses listed as conditional uses within any zoning district may be approved by the Planning Commission, following an application on forms provided by the Town and payment of the fee established by resolution or ordinance of the Town Council, and after at least one (1) public hearing, if the criteria contained in this Division have been satisfied. Conditional uses shall be established and maintained in accordance with the applicable development standards within the zoning district in which the use is located, and any conditions imposed as part of the approval.

Sec. 16-4-130. Conditional use criteria.

The following criteria, in addition to other applicable criteria in this Chapter, shall be used to review and decide conditional use permit applications.

- (1) The use is listed as a conditional use within the zone, or is otherwise identified as a conditional use and is consistent with the intent and purpose of the Comprehensive Plan and applicable zoning district.
- (2) The parcel is suitable for the proposed conditional use, considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.
- (3) The proposed conditional use will not have significant adverse impacts on the air or water quality of the community.
- (4) The proposed conditional use will not substantially limit, impair or preclude the use of surrounding properties for the uses permitted in the applicable zoning district.
- (5) Adequate public utilities and services are available or will be made available to the site prior to the establishment of the conditional use.
- (6) If the conditional use is parking or storage uses accessory to a primary single-family use and located on an adjoining lot, the following additional criteria shall be met:
 - a. Parking shall not be allowed in any setback of the vacant lot.
 - b. There is no predetermined limit to the number of vehicles allowed on the vacant lot, but the Planning and Zoning Commission, using the perceived capacity as appropriate for the neighborhood, shall determine a maximum number of vehicles.

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- c. If more than two (2) vehicles are parked on the vacant lot, they shall be fully screened in accordance with Section 16-7-30.
 - d. No commercial vehicles are allowed to be parked or stored on the vacant lot.
- (7) If the conditional use is for wholesale trade class 1 or wholesale trade class 2, the following additional criteria shall be met:
- a. The proposed conditional use will not produce any noise or vibration issues that have significant adverse impacts on the community and the neighboring property owners and tenants in a multi-tenant building.
 - b. The proposed conditional use will not produce any smells, odors or noxious fumes that have significant adverse impacts on the community and the neighboring property owners and tenants in a multi-tenant building. The proposed conditional use shall meet all applicable code requirements for ventilation and fire protection.
 - c. The proposed conditional use will not produce any storage, loading or delivery activities related to the storage, loading or delivery of finished products or raw materials that have significant adverse impacts on the community and the neighboring property owners and tenants in a multi-tenant building.
 - d. The proposed conditional use will not cause its employees and vendors to occupy parking spaces intended for retail businesses within two hundred (200) feet of the business.

Sec. 16-4-140. Authorization of conditions.

When deemed necessary to ensure that the use meets the criteria for approval, conditions addressing the following, or related, matters may be imposed:

- (1) Size, height and location of buildings and accessory structures.
- (2) Landscaping when necessary to provide screening from incompatible adjacent uses or from public rights-of-way.
- (3) Retention of existing trees and vegetation for buffering purposes.
- (4) Size, location, screening, drainage and surfacing of driveways, parking and loading areas and street access.
- (5) Size, height, location and materials for the construction of fences to screen the subject property from incompatible adjacent uses or from public rights-of-way.
- (6) Location and intensity of outdoor lighting.
- (7) Hours of operation or conduct of particular activities.
- (8) Abatement, mitigation or prevention of nuisances.
- (9) Availability and improvement of urban services, including street improvements, dedication of street right-of-way, traffic signs and signals, sewer, storm drainage, water and turnouts and shelters for mass transportation, provided that the condition applies only to the subject property or public right-of-way or easement abutting the subject property, or impacted by the subject property.
- (10) Conditions may be imposed that require that all or part of the proposed development or use be deferred until certain events occur, such as the availability to the subject property of certain levels of service required to meet Town standards and provide for the health, safety and/or welfare of the community.

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- (11) Conditions may be imposed that require that any and all conditions imposed under this Section be recorded in the deed of records with the County Clerk and Recorder.

Sec. 16-4-150. Limits on conditions.

The following limits and requirements apply to conditions imposed pursuant to this Division:

- (1) Conditions shall be clear and objective; shall be reasonably related to the public health, safety and welfare; and shall be designed to reasonably effectuate their intended purpose.
- (2) If the dedication of street right-of-way or street improvements are required as provided in this Division, the provision of the dedication, improvements or funding of such shall be deferred until a building permit is obtained.

Sec. 16-4-160. Transfer of conditional use permit.

Unless otherwise provided in the final decision granting the conditional use permit, any conditional use permit granted pursuant to this Chapter shall run with the land, and shall automatically transfer to any new owner or occupant subject to all conditions of approval.

Sec. 16-4-170. Duration of permit.

- (a) Except as provided in subsection (b), a conditional use permit shall expire if an applicant fails to obtain a building permit to construct the conditional use within one (1) year of the date of conditional use permit issuance.
- (b) If the conditional use permit is issued in connection with an approved development permit, the duration of the conditional use permit shall be concurrent with the duration of the development permit pursuant to Division 11 of Article II of this Chapter.

(Ord. 04-20 §5)