

ARTICLE 12

CONDITIONAL USES / SPECIAL EXCEPTIONS

Section 12-1 Purposes

The development and execution of this ordinance is based upon the division of the planning area into districts where the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. But certain uses which, because of their unique characteristics, cannot be properly located in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use in the particular location.

Section 12-2 Jurisdiction

The responsibility for evaluating uses may be handled by the governing body or the Board of Adjustment or both bodies may share the responsibility. Uses that involve broad policy consideration affecting the entire community shall be handled by the governing body and be called conditional uses. Uses involving only local impact shall be handled by the Board of Adjustment and be called special exceptions.

Section 12-3 Procedure for Obtaining a Permit

12-3.1 Initiation of a Permit

Any person having freehold interest in land, or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest or an exclusive possessory interest, and which is specifically enforceable, may file an application to use such land for one or more of the conditional uses or special exceptions provided in this ordinance in the district where the land is located.

12-3.2 Application

Applications for permit approval shall be addressed to the responsible body (either the governing body or the Board of Adjustment) and presented to the Zoning Enforcement Officer. Each application shall contain or be accompanied by such legal descriptions, maps, plans, and other information to completely describe the proposed use and existing conditions. Copies of the application shall be forwarded to the Planning Board for review and to the responsible body (either the governing body or the Board of Adjustment) for action.

12-3.3 Action by the Responsible Body

(Either governing body or Board of Adjustment). The responsible body shall approve, modify, or deny the application following a public hearing. In granting a permit, the responsible body shall insure:

- (a) The use requested is listed among the conditional uses or special exceptions in the district for which application is made.
- (b) The requested use is essential or desirable to the public convenience or welfare.
- (c) The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor be detrimental to the health, morals, or welfare of the community.
- (d) Due consideration has been given to the suitability of the property for the use applied for with respect to trends of growth or change; the effect of the proposed use upon the community; requirements for transportation, schools, parks, playgrounds, recreational areas, conservation of natural resources, preservation of floodplains, and encouraging the most appropriate use of the land.
- (e) Adequate utilities, access roads, drainage, sanitation, and/or other necessary facilities have been or are being approved.
- (f) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

Section 12-4 Conditions and Guarantees

Prior to the granting of any permit the responsible body (either the governing body or the Board of Adjustment) may stipulate such conditions and restrictions upon the establishment, location, reconstruction, maintenance, and operation of the conditional use as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified. In all cases in which conditional uses are granted, the responsible body shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated are being met. Conditions may include, but are not limited to, the following:

- 12-4.1** Conditions may be imposed to abate or restrict noise, smoke, dust, or other elements that may affect surrounding properties;
- 12-4.2** Establish setback, side, front, and rear yard requirements necessary for orderly expansion and to prevent traffic congestion;
- 12-4.3** Provide adjoining property with a buffer or shield from view of the proposed use if necessary; and
- 12-4.4** Establish a time limit at expiration of which the permit or approval shall no longer be valid or shall require renewal.

Section 12-5 General Provisions in Granting a Permit

12-5.1 Compliance with Other Codes

Granting a permit does not exempt applicant from complying with all of the requirements of other ordinances.

12-5.2 Revocation

In any case where the conditions of a permit have not been or are not being met, the Zoning Enforcement Officer shall give the grantee notice of intention to revoke approval. Said notice of intention to revoke approval. Said notice shall be at least ten (10) days prior to action by the responsible body considering conditional uses.

12-5.3 Expiration

In any case where a permit has not been exercised within the time limit set by the responsible body, or within one (1) year if no specific time limit has been set, then without further action the approval shall be null and void. "Exercised" as set forth in this section shall mean that binding contracts for the construction of the main building is completed; or that prerequisite conditions involving substantial investment are in a substantial stage of development, or completed (sewerage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use in operation is in compliance with the conditions which are set forth in the approval.