

ARTICLE 16
CONDITIONAL USE PERMITS

Statement of Intent

Uses designated as conditional uses are generally compatible with other land uses permitted in a zoning district but which, because of their unique characteristics or potential impact on the surrounding neighborhood and the town as a whole, require individual consideration of their design, configuration, and/or operation at the particular location proposed. Such individual consideration may also call for the imposition of individualized conditions in order to ensure that the use is appropriate at a particular location.

No inherent right exists for an applicant to receive a conditional use permit; such permits are a special privilege granted by the Town Council under a specific set of circumstances and conditions, and each application and situation is unique. Consequently, mere compliance with the generally applicable requirements of the zoning ordinance may not be sufficient for approval of the permit by the Town Council.

16-1 Conditional Use Permit - Application

- A. An application for a conditional use permit may be made by any property owner or his/her agent specifically authorized to file such application, in writing, by the owner of the property on which the use is to be located.
- B. An application for a conditional use permit shall be filed with the Director of Community Development on a form provided by the Town.
- C. An application for a conditional use permit shall be accompanied by a fee consistent with the fee schedule, as adopted by the Town Council. There is no provision which allows this fee to be waived.

16-2 Determination of Completeness

- A. A pre-application conference shall be scheduled by the applicant with the Director of Community Development or his/her designee to discuss the project proposal.
- B. A Conditional Use Permit Application shall be accompanied by five (5) paper copies of the project plans (11"x17" minimum), one (1) 24"x36" paper copy and one (1) electronic copy. Each set of plans may contain the following information, as determined necessary by the Director of Community Development, following the pre-application conference:
 - 1. A site plan, drawn to scale, containing the following information that is prepared by a licensed Virginia engineer or land surveyor, if determined applicable by the Director of Community Development, following the pre-application conference:
 - a. A title block denoting the type of application, name of the project, tax map reference, and street address of the subject property;
 - b. The name, address, and phone number of the property owner and applicant;
 - c. The name, address, phone number, signature, seal, and registration number of the plan preparer, including his/her license expiration date and the preparation date of the plan.
 - d. A north point arrow and plan scale, The plan scale for projects containing more than ten (10) acres shall not exceed fifty (50) feet to one (1) inch. For projects

- containing less than ten (10) acres, the plan scale shall not exceed twenty (20) feet to one (1) inch;
- e. The boundaries and dimensions of the entire parcel. The site plan shall show all existing or proposed parcel lines, easements, or rights-of-way within the subject property, including the total parcel area;
 - f. The present zoning, principal use(s), and the boundaries of any overlay zoning on the subject parcel, including all contiguous properties;
 - g. A table (with computations) estimating the lot coverage and impervious surface coverage, the types of proposed land-uses, the number of residential dwelling units and densities, and the gross and net floor area of residential and non-residential buildings and accessory structures;
 - h. The location, dimensions, height, setbacks and use of all existing and proposed buildings and accessory structures on the property.
 - i. All existing or proposed fences, walls, trash receptacles, and buffer areas,
 - j. A dimensioned parking lot plan illustrating all on-site parking stalls, stall dimensions, vehicular drive aisle widths, loading areas, vehicular driving surface material(s), curb cuts, vehicular driveways, pedestrian sidewalks, and parking lot landscape planters.
 - k. The location and dimensions of on-site pedestrian sidewalks, walkways, Americans with Disabilities Act (ADA) paths-of-travel and access ramps, bicycle paths, and any pedestrian or vehicular connection to an adjoining property.
 - l. A generalized landscape plan demonstrating compliance with Article 24 of this Ordinance.
 - m. For new development, the point of connection to public water and sewer with location of lines and a table estimating the daily water usage and sewage flow attributable to the proposed development in gallons per day, including the time of any necessary connections;
 - n. A plan demonstrating compliance with all applicable sections of Article 22 (Chesapeake Bay Preservation Area (CBPA) Overlay District).
 - o. Identification of the Resource Protection Area (RPA) on or adjacent to the project site, if applicable. A note stating that all property in the Town of Colonial Beach that is not in an RPA is considered a Resource Management Area (RMA);
 - p. A grading and drainage plan with topographic contour lines, at two-foot intervals, when associated with any land disturbance;
 - q. For phased developments, identify the location and timing of each phase of development;
 - r. Identify the location of the adjacent uses and buildings surrounding the property on which the proposed conditional use is to be located;
 - s. Identify the location of all existing and new on-site lighting, including the method of shielding the on-site lighting from the adjacent properties;
 - t. All new or required sidewalks, curbs, and gutters; and,
 - u. In the case of demolition, all existing construction to be demolished and the location and size of all existing buildings and construction to remain on-site.
2. Color photographs of the property in addition to the front, side, and rear elevations of all on-site buildings or structures associated with the conditional use. When exterior alterations are proposed to any existing, on-site, building elevation, the applicant shall provide scaled architectural renderings of the affected building elevations that detail the proposed changes. For all new buildings or structures developed in conjunction with a conditional use permit, the applicant shall provide

detailed, scaled, renderings of the proposed front, sides, and rear of the new building(s) and structure(s).

3. A scaled floor plan of the proposed conditional use, when located within a building or structure, that illustrates the use or function of each room and the square footage of the building.
4. A business or operational description of the proposed conditional use that includes the days and hours of operation, number of employees and how it will be operated in a harmonious and compatible manner with the surrounding properties.
5. Documentation of all proposed mitigation measures associated with the conditional use to reduce land-use impacts upon the surrounding environs and to protect the public's health, safety, and welfare.

C. Within thirty (30) calendar days after an application for a conditional use permit is filed, the Director of Community Development or his/her designee shall determine whether the application is complete, and all submission requirements satisfied. If the Director of Community Development determines that the application is not complete, the Director of Community Development shall notify the applicant, in writing, of any deficiencies within ten (10) calendar days after such determination. If the application is not made complete within thirty (30) calendar days of such notice, the Director of Community Development shall begin the process of dismissal in accordance with Section 16-3 of this Article. No further steps to process the application shall be taken until the applicant remedies the deficiencies.

D. When a conditional use permit application is determined complete by the Director of Community Development or his/her designee, the application shall be scheduled for the next, available, Planning Commission meeting, as determined by the Director of Community Development.

16-3 Dismissal of incomplete or lapsed applications

A. If an applicant refuses or neglects to pursue an application or fails to submit the information required by this Article, the Director of Community Development may, not less than thirty (30) calendar days after notice of intention to do so, declare an application dismissed. Notice sent by certified mail, return receipt requested, to the applicant at the last known address shall be deemed adequate compliance with this requirement. If an application is dismissed, there shall be no refund of the application fee.

16-4 Withdrawal of application

A. An application for a conditional use permit may be withdrawn upon the submission of a signed and dated written request by the applicant to the Director of Community Development. Such request must be received at least twenty-four (24) hours prior to final action by the governing body. Upon such withdrawal, processing of the application shall cease. If the applicant withdraws an application for a conditional use permit, there shall be no refund of the application fee.

16-5 Standard of Review

- A. A conditional use permit shall be issued provided the governing body finds that the use will not:
 - 1. Adversely affect the public health, safety or welfare of persons residing or working in the neighborhood of the proposed use;
 - 2. Be detrimental, injurious, or incompatible to property or improvements in the neighborhood;
 - 3. Conflict with the purposes of the Comprehensive Plan of the Town of Colonial Beach.

16-6 Recordation of Conditional Use Permit and Commencement of Operation.

- A. A certified copy of all resolutions authorizing a conditional use permit pursuant to this section shall be recorded, by and at the expense of the project applicant, in the name of the property owner as grantor in the office of the Clerk of the Circuit Court of Westmoreland County. No conditional use permit shall become effective and run with the land until it is legally recorded and may not, at any time, be invalidated under the provisions contained in Sections 16-11, Section 16-12, or Section 16-13 of this Ordinance. Should the permit expire pursuant to Section 16-12 or be revoked pursuant to Section 16-13, the Director of Community Development is authorized to record a notice in the aforesaid Clerk's office referencing the aforesaid recordation and stating that the conditional use permit has either expired or been revoked.
- B. No land-use requiring the approval of a conditional use permit shall commence operation until after the conditional use permit is approved by the Town Council, any/all adopted conditions of approval have been fulfilled to the satisfaction of the Director of Community Development, and the recordation of the Town's resolution approving the conditional use permit has been recorded with the County under in Section 16-6(A).

16-7 Other laws applicable

- A. The granting of a conditional use permit does not exempt the applicant from obtaining all required zoning permits, building permits, a certificate of occupancy, or complying with all other requirements of this ordinance or any other applicable town, county, state, or federal codes.

16-8 Review by the Planning Commission

- A. Upon receiving the application and report, the Planning Commission shall conduct a public hearing on the proposed conditional use permit in accordance with the public notice requirements of this Article and shall make a recommendation to the governing body within one hundred (100) days from the date the application is determined to be complete, unless requested sooner by the governing body. The one hundred (100) day limit may be waived by the applicant or may be extended by the Planning Commission to obtain additional information reasonably required to make a recommendation (Virginia Code Section 15.2-2286(A)(1)).

16-9 Review by the Governing Body

- A. Upon receiving the recommendation of the Planning Commission, the governing body shall conduct a public hearing on the proposed conditional use permit in accordance with the public notice requirements of this Article, and shall make a decision within a reasonable time, not to exceed twelve (12) months, from the date that the application is determined to be complete, unless the application has been withdrawn by the applicant prior to the expiration of the time period, or the applicant requests or consents to action beyond such period. The governing body may:
- (1) Approve the conditional use permit, with or without conditions, if the governing body finds that the proposed use complies with the standards set out in 16-5 of this Article.
 - (2) Disapprove the conditional use if the governing body finds that the proposed use does not comply with the standards set out in 16-5 of this Article.
 - (3) Refer the application back to the Planning Commission for further study and review.

16-10 Conditions, Safeguards, and Restrictions

- A. In authorizing a conditional use permit, the governing body may impose such conditions, safeguards, and restrictions upon the proposed use as it may deem necessary in the public interest to secure compliance with this Zoning Ordinance and the Comprehensive Plan or to ameliorate any adverse impacts of the proposed use (Virginia Code Section 15.2-2286 (A)(1)).

16-11 Time Limitations

- A. The governing body may establish a time limitation on operation(s) of the use, the duration of the conditional use permit, including a requirement that the permit be periodically renewed or extended. Any renewal or extension of a conditional use permit shall be subject to the same procedure as specified for the issuance of a new permit. Unless a time limit is specified in the permit, such shall be valid for an indefinite period of time.

16-12 Expiration of Permit

- A. Approval of a conditional use permit shall lapse, and become null and void, when the applicant or successor-in-interest has failed to establish the use authorized or to commence and diligently pursue the construction authorized thereby within one (1) year of the date of approval. If a conditional use is changed to another use or is discontinued for a period of two (2) years then the conditional use shall not be renewed or reestablished without complying with the same procedure as specified for the issuance of a new permit.

16-13 Revocation

- A. Approval of a conditional use may be revoked by the governing body for un-remedied or repeated violation of the conditions placed on the permit or failure to satisfy the requirements of the Zoning Ordinance. Such revocation shall only be taken after conducting a public hearing and upon giving written notice to the applicant or successor-in-interest.

16-14 Additional Application.

- A. Where an application for a conditional use permit is disapproved by the Town Council, a new application, which is substantially the same as the disapproved application, may not be presented to the Town Council for consideration for a period of one (1) year following the date of the denial of the application by the Town Council.

16-15 Notice of Public Hearing - Advertising.

- A. A notice of public hearing shall be advertised and held in accordance with the requirements of § 15.2-2204 of the Code of Virginia.

16-16 Notice of Public Hearing - Written Notice.

- A. At least five (5) days prior to each public hearing, the Director of Community Development shall send written notice specifying the date, time, and place of the public hearing at which persons affected may appear and present their views, to the owner(s), their agent or the occupant of each parcel involved and to all abutting property and property located immediately across the street or road from the affected property. Such notice shall contain a descriptive summary of the purpose of the public hearing and a reference to the place or places within the locality where copies of the proposed plans or documents may be examined. Such notice shall be sent to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records. If the purpose of the public hearing involves any parcel of land located within one half mile of a boundary of an adjoining locality of the Commonwealth, written notice shall also be given at least ten days before the hearing to the chief administrative officer, or his designee, of such adjoining locality. Such notices may be sent by first class mail; however, the Director of Community Development shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

16-17 Notice of Public Hearing - Posting of Property.

- A. The Director or his/her designee shall post the subject property, at least fifteen (15) days prior to the date of each public hearing, for each street frontage, at least one notice of the scheduled hearing, on the land or building involved.