

**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.

16-1 Conditional Use Permit - Application

- A. An application for a conditional use permit may be made by any property owner, tenants, or authorized 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 Planning Director on a form provided by the Town and shall contain or be accompanied by a site plan in accordance with Article 14 of this Ordinance.
- 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. Within ten (10) working days after an application for a conditional use permit is filed, the Planning Director shall determine whether the application is complete and all submission requirements satisfied. If the Planning Director determines that the application is not complete, the Planning Director shall notify the applicant of any deficiencies within five (5) working days after such determination. If the application is not made complete within fifteen (15) working days of such notice, the Planning Director shall begin the process of dismissal in accordance with 16-3 of this Article. No further steps to process the application shall be taken until the applicant remedies the deficiencies.

16-3 Dismissal of incomplete or lapsed applications

- A. If an applicant refuses or neglects to pursue an application or fails to submit information required by this Article, the Planning Director may, not less than fifteen (15) working 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 required fee.

16-4 Withdrawal of application

- A. An application for a conditional use permit may be withdrawn upon the submission of a signed written request by the applicant to the Planning Director. 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 required fee.

16-5 Standard of Review

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

16-6 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 ninety (90) days of the date the application is determined to be complete, unless requested sooner by the governing body. Such ninety (90) day limit may be waived by the applicant or may be extended by the Planning Commission in order to obtain additional information reasonably required in order to make a recommendation.

16-7 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, 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.

16-8 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 the Zoning Ordinance and the Comprehensive Plan or to ameliorate any adverse impacts of the proposed use.

16-9 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.

16-10 Expiration of Permit

- A. Approval of a conditional use permit shall lapse, and become null and void, where 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.

16-11 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 requirement 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.

16-12 Additional Application.

- A. Where an application for a conditional use permit is disapproved by the governing body, the Town Council may not consider substantially the same application for a period of one (1) year following the date of the denial of the application by the Governing Body.

16-13 Notice of Public Hearing - Advertising.

- A. Notice of any public hearing held shall be advertised by the Planning Director for two successive weeks in a newspaper having general circulation within the Town of Colonial Beach. Every such advertisement shall contain a descriptive summary of the proposed action and a reference to the place or places within the locality where copies of the proposed plans or documents may be examined. The notice shall specify the date, time, and place of public hearing at which persons affected may appear and present their views, such public hearing shall not be held less than six (6) days nor more than twenty one (21) days after the second advertisement appears in such newspaper.

16-14 Notice of Public Hearing - Written Notice.

- A. At least five (5) days prior to each public hearing, the Planning Director shall send written notice specifying the date, time and place of 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 Planning Director shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

16-15 Notice of Public Hearing - Posting of Property.

- A. The Director or the applicant 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.