



Text Amendment:
Chapter 40 – Zoning:
Conditional Zoning, CUP/SUP, and Table of Permissible Uses

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Background

- *State Statute changes from 153/160A to 160D for Zoning*
- *Many, many changes required in local ordinances*
- *Conditional Use Permits are no longer permitted*
- *Transitioning to Conditional Zoning on Attorney's Recommendation*
- *Reviewing Table of Permissible Uses at TC direction to reassess which uses really need additional scrutiny and where uses are permitted*
- *Many more 160D changes coming...*

CUP to SUP

- All references and procedures related to Conditional Use Permits are changed to Special Use Permits
- Procedures remain largely unchanged
- No uses are required to be handled by SUP unless TC wishes they be handled that way
- Quasi Judicial procedures are still used

Legislative (Conditional Zoning) vs QJ (CUP/SUP)

	Legislative	QJ
Notice of Hearings	Both newspaper notice and mailed notice to owners and neighbors are required.	Only notice to parties to the matter is required unless ordinance mandates otherwise.
Speakers at Hearings	Number of speakers, time for speakers can be reasonably limited.	Witnesses presenting testimony can be limited to relevant evidence that is not repetitious.
Evidence	None is required; members are free to discuss issue outside hearing.	Substantial, competent, material evidence must be put in the record; witnesses are under oath, subject to cross-examination; no discussion of the case outside the hearing is allowed
Findings	None are required	Written findings of fact are required.
Records	Regular minutes are satisfactory	Detailed record of testimony is required; clerk should retain all exhibits during period of potential appeal.

- Flexibility

Conditional Zoning

PURPOSE

- A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project.
- Some land uses have significant impacts on both the surrounding area and on the entire community which cannot always be predetermined and controlled by general district standards.
- A general district designation allowing such a use by right would not be appropriate.
- Provides accommodation by a reclassification of property into a conditional zoning district, subject to specific conditions which ensure compatibility of the use with neighboring properties.
- A conditional zoning district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period.
- A conditional zoning and a zoning map amendment are occurring simultaneously in a conditional zoning hearing.

Conditional Zoning

- PUBLIC INPUT MEETING
- Prior to scheduling a public hearing on the rezoning application, the applicant shall conduct one (1) public input meeting and file a report of the results with the Zoning Administrator.
- The report for the public hearing will include a summary of the public input meeting.
- The applicant shall mail a notice for the public input meeting to the owners of all properties located within 500 feet of the perimeter of the project bounds not less than 10 days prior to the scheduled meeting.
- The notice shall include the time, date, and location of the meeting as well as a description of the proposal.
- The applicant's report of the meeting shall include:
 - A copy of the letter announcing the meeting
 - A list of adjoining property owners contacted
 - Attendance rosters
 - A summary of the issues discussed
 - The results of the meeting including changes to the project's proposal, if any.

Conditional Zoning

CONDITIONS TO APPROVAL OF PETITION

- Any such conditions should relate to the relationship of the proposed use to the impact on the following details:
 - Town services
 - Surrounding property
 - Proposed support facilities such as parking areas and driveways
 - Pedestrian and vehicular circulation systems
 - Screening and buffer areas
 - Timing of development
 - Street and right-of-way improvements
 - Infrastructure improvements (i.e. water)
 - Provision of open space
 - Other matters that the participants in the public input meeting, staff, Planning & Zoning Commission, and Town Council find appropriate or the petitioner may propose
 - May include right-of-way dedication, easements for streets, water, sewer, or other public utilities necessary for development
- The petitioner shall consider and respond to any such conditions after the Planning & Zoning Commission
- If the applicant does not agree with the Planning & Zoning Commission or staff's recommendations of additional conditions, the Town Council shall have the authority to accept none, any, or all of the conditions forwarded from the review process.
- If any condition required at approval is later found to be illegal, the petition shall be returned to Town Council to reevaluate and adjust any conditions accordingly.

Conditional Zoning

EFFECT OF APPROVAL

- An approved petition shall be governed by the predetermined ordinance requirements applicable to the district's classification, the approved site plan for the district, and any additional approved rules, regulations, and conditions
 - Shall constitute the zoning regulations for the approved district and are binding on the property
- Subject property shall be identified on the zoning maps by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CZ" (for example "CBD-CZ").
- No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and applicable site plan, subdivision plat, and/or permit for the district.
- Any violation of the approved regulations and conditions for the district shall be treated the same as any other violation of this ordinance and shall be subject to the same remedies and penalties as any such violation.

New Language

ARTICLE III. – Zoning District Regulations Sec. 40-72. – Table of permissible uses.

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Residential Uses														
Multifamily dwellings (See section 40-260) <u>Units <= 4</u>							P	EP				EP	EP	
<u>Multifamily dwellings (See section 40-260) Units > 4</u>							C	C				C	C	
Planned unit development, residential (See article XII of this chapter) <u>Units <= 4</u>	EP		EP			EP	EP	EP			EP	EP	EP	
<u>Planned unit development, residential (See article XII of this chapter) Units > 4</u>	C		C			C	C	C			C	C	C	
Accessory Uses														
Swimming pools, public (See sections 40-261, 40-548)	EP	EP	EP	EP	EP	EP	EP	EP	EP	EP	EP	EP	EP	EP
Nonresidential Uses														
Animal care facility									P	P	P	P	P	P
Animal care facility with outdoor area (See section 40-261)											EP			
Arcades, rides, games in enclosed buildings									P		EP			
Art galleries (See section 40-548)								P	P	P	P	P	P	P

New Language

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Automobile repair garages, including engine overhauls, body and paint shops and similar operations in enclosed buildings (See sections 40-261, 40-548)										CP	P			P
Bakeries, retail, off-premises sales									<u>P</u>	<u>P</u>	P	<u>P</u>	<u>P</u>	P
Bakeries, retail, on-premises sales only									P	P	P	<u>P</u>	<u>P</u>	<u>P</u>
Banks/financial institutions									P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>
Barber shops									P	P	P	<u>P</u>	<u>P</u>	<u>P</u>
Bars and taverns (See section 40-261)									C		C	C	C	C
Body Piercing Facility											CP			
Cafeteria or dining room for employees of permitted uses														CP
Contractors offices, no outdoor storage									P	<u>P</u>	P	<u>P</u>	<u>P</u>	P
Day nurseries, day care centers and preschools (See sections 40-261, 40-548)	C	C	C	C		C	CP	CP	CP	CP	CP	P	P	P

New Language

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Distillery									P		P			P
Drop-in child care providers (See sections 40-261, 40-548)	CP	CP	CP	CP		CP	P	P	P	P	P	P	P	P
Exhibition buildings									CP	<u>P</u>	P	<u>P</u>	<u>P</u>	P
Exterminator service business offices, no outdoor storage of materials or equipment									P		P			P
Fire stations, emergency services, nonprofit	C	C	C	C		C	C	CP	CP		CP			CP
Furniture stores									<u>P</u>	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>
Gardens, arboretums and greenhouses, items for sale									P	P	P	<u>P</u>	<u>P</u>	P
General retail sales								P	P	P	P	P	<u>P</u>	P
Ice-cream stores								P	P	P	P	<u>P</u>	<u>P</u>	<u>P</u>
Laundries and dry cleaning, delivered by customers									P	P	P	<u>P</u>	<u>P</u>	<u>P</u>

New Language

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Laundromats, self-service									P	P	P	<u>P</u>	<u>P</u>	<u>P</u>
Libraries	<u>C</u>		<u>C</u>	<u>C</u>				P	P	P	P	<u>P</u>	<u>P</u>	<u>P</u>
Live entertainment complexes in enclosed buildings									<u>CP</u>	<u>P</u>	<u>CP</u>	<u>P</u>	<u>P</u>	<u>P</u>
Manufacturing incidental to retail business, sold on premises only, maximum of five manufacturing operators								<u>C</u>	P	<u>P</u>	P	<u>P</u>	<u>P</u>	P
Meeting facilities	C	C	C	C		C	C	<u>CP</u>	P		P			P
Motels and hotels								C	C		C	<u>C</u>	C	C
Motels and hotels, operated with a marina												C		
Parking and loading areas serving uses in the same zoning district, on non-contiguous lot (See article V of this chapter)	C	C	C	C	C	C	C	<u>CP</u>	P	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>
Planned unit development, business (See article XII of this chapter)									<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	

New Language

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Schools, public	C	C	C	C		C	C	C	CP	<u>P</u>	CP	<u>P</u>	<u>P</u>	CP
Schools, private, general instruction	C	C	C	C		C	C	C	CP	<u>P</u>	CP	<u>P</u>	<u>P</u>	CP
Seafood production and/or processing and/or dockage, wholesale and retail												CP		CP
Spa health club									P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>
Studios, artist, designers, gymnasts, musicians, sculptures								CP	P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>
Tailor shops								P	P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>
Tattoo studios (See sections 40-261, 40-548)											CP			
Tennis courts, commercial (See section 40-261)								<u>P</u>	CP	<u>P</u>	CP	<u>P</u>	<u>P</u>	<u>P</u>
Tennis courts, private (See section 40-261)	CP	CP	CP	CP		CP	CP	CP	CP		CP	CP	CP	CP
Theaters, in enclosed structure								<u>P</u>	P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>
Theaters, open air drama					<u>P</u>				CP		CP			CP

New Language

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Utilities, private (See section 40-261)	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	P	P	P	P	P	P
Water oriented businesses									<u>CP</u>			<u>CP</u>		
Wine and beer shops (<u>Retail/Off-Premise</u>)								<u>P</u>	P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>

Recommendation

- Planning and Zoning approved the text amendment as presented with 3 changes:
 - Keep Day Care facilities as a Conditional Zoning Use in strictly residential zones (R1-R3 and MH)
 - Keep Drop-In Day Care facilities as a Conditional Zoning Use in strictly residential zones (R1-R3 and MH)
 - Keep Library facilities as a Conditional Zoning Use in strictly residential zones (R1-R3 and MH)