

Planned Unit Developments



ORDINANCE NO. 21-1149

Amend Chapter 40 Zoning Article III, Sec. 40-71, 72 Table of Permitted Uses and Article XVII Sec. 40-527

Article III, Sec 40-71 Table of Permitted Uses

- (a) *Generally.* The table in section 40-72 sets forth the permitted, conditional zoning, and ~~conditional~~special uses allowed in each zoning district..
- (1) *Permitted by right (P).* The letter "P" in the zoning district column opposite the listed use means the use is permissible by right in the zoning districts in which it appears.
 - (2) *Conditional Zoning (CZ).* The letter "CZ" in the zoning district column opposite the listed use means that ~~a conditional use permit~~conditional zoning, as set forth in Article ~~XVII~~XI of this chapter, must be obtained before the use may be created.
 - (3) *Special Use Permit (S).* The letter "S" in the zoning district column opposite the listed use means that a special use permit, as set forth in article XI of this chapter, must be obtained before the use may locate in the district in which it appears.
 - (34) *Prohibited.* A use specifically prohibited in the table of permissible uses for every zoning district. Any use listed as prohibited has been reviewed and considered as having a detrimental impact on the health and safety of the community.
 - (45) *Exemptions.* The following may be exempted from the one customary accessory building: fence, flagpole or dog house not to exceed 16 square feet; pump house not to exceed 16 square feet; and a playhouse not to exceed 36 square feet nor eight feet in height, or as may be provided for under article XI~~XVII~~ of this chapter (conditional zoning use). The exemptions are not to have sewer, electrical, and plumbing except for a pump house. These exemptions are not considered part of the lot coverage.
- (b) *Use designation.*
- (1) If a "P" or "CZ" or "S" does not appear in a zoning district column opposite a listed use, the use is not permitted in that zoning district.
 - (2) Uses not listed. The permitted, not permitted or conditional status of any use not listed in the table of uses shall be determined by the zoning administrator based upon the administrator's comparison of similar uses as allowed in similar locations. The zoning administrator may refer any unlisted use to the board of adjustment for interpretation. The zoning administrator's determination may also be appealed to the board of adjustment in accordance with the provisions of article XVI of this chapter. No interpretation shall be made which would change the character of a zoning district relative to the purpose of such zoning district and the other uses allowed.
 - (3) Interpretation of unlisted uses. Where a proposed use is not specifically listed in the table of permissible uses, the zoning administrator may permit the proposed use upon a determination that the proposed use has an impact similar in nature, function, and / or duration similar to another permitted used listed in the table of permissible uses. The zoning administrator shall give due consideration to the purpose and intent

statements in this section concerning the base zoning district(s) involved, the character of the uses specifically identified, and the character of the use(s) in question.

- (4) Standards for approving unlisted uses. In order to determine if a proposed use(s) has an impact that is similar in nature, function, and duration to the other approved uses allowed in a specific zoning district, the zoning administrator shall assess all relevant characteristics of the proposed use, including but not limited to the following:
- a. The volume and type of sales, retail, wholesale, etc.;
 - b. The size and type of items sold and nature of inventory on the premises;
 - c. Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution;
 - d. Any dangerous, hazardous, toxic, or explosive materials used in the processing;
 - e. The nature and location of storage and outdoor display of merchandise, whether enclosed, open, inside or outside the principal building; predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders);
 - f. The type, size, and nature of buildings and structures;
 - g. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes;
 - h. Any special public utility requirements for serving the proposed use type, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and
 - i. The impact on adjacent lands created by the proposed use.
- (5) Decision by zoning administrator.
- a. Typical use: Added to ordinance. In making the determination, the zoning administrator shall recommend a text amendment to this section if it is determined the proposed use is common or likely to recur frequently, or that omission of specific inclusion and reference in the table of permitted uses is likely to lead to public uncertainty and confusion. Until final action is taken on a proposed amendment, the interpretation of the zoning administrator shall be binding.
 - b. Atypical uses. In making a determination whether to approve a proposed use that is not listed in the table of permissible uses, an unlisted use, the zoning administrator interpretation shall be binding. Aggrieved parties may appeal the interpretation to the BOA.

Article III, Sec 40-72 Table of Permitted Uses

P = Permitted.

CZ = [May be permitted with conditional zoning](#)

S = [May be permitted by special use permit](#)

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														
Two-family dwellings	P					P	P	P				P	P	

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Manufactured home, on standard, single-family lot (See section 40-261)						P								
Multifamily dwellings (See section 40-260) Units <= 4							P	P				P	P	
Multifamily dwellings (See section 40-260) Units > 4							<u>CZ</u>	<u>CZ</u>				<u>CZ</u>	<u>CZ</u>	
Planned unit development, residential (See article XII of this chapter) Units <= 4	P		P			P	P	P			P	P	P	
Planned unit development, residential (See article XII of this chapter) Units > 4	<u>CZ</u>		<u>CZ</u>			<u>CZ</u>	<u>CZ</u>	<u>CZ</u>			<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	
Single-family detached	P	P	P	P	P	P	P	P		P		P	P	
Attached single-family residential							P	P		P		P	P	
Accessory Uses														
Accessory uses and structures, including garages, carports, etc. (See sections 40-261, 40-548)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Home occupations, customary (See sections 40-261, 40-548)	P	P	P	P	P	P	P	P	P	P	P	P	P	
Swimming pools, private (See sections 40-261, 40-548)	P	P	P	P	P	P	P	P		P			P	
Swimming pools, public (See sections 40-261, 40-548)	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>
Nonresidential Uses														
Adult entertainment establishment (See sections 40-261, 40-548)														<u>CZ</u>
Aircraft takeoff and landing zone (See sections 40-261, 40-548)	Prohibited													
Animal care facility											P			
Animal care facility with outdoor area (See section 40-261)											<u>CZ</u>			
Arcades, rides, games in enclosed buildings									P		<u>CZ</u>			
Art galleries (See section 40-548)								P	P	P	P	P		

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Auctions sales									P		P			
Automobile repair garages, including engine overhauls, body and paint shops and similar operations in enclosed buildings (See sections 40-261, 40-548)										<u>CZ</u>	P			P
Automobile service stations and convenience stores									P	P	P			
Bakeries, retail, off-premises sales											P			P
Bakeries, retail, on-premises sales only									P	P	P			
Banks/financial institutions									P		P			
Barber shops									P	P	P			
Bars and taverns (See section 40-261)									€		€	€	€	€
Boat and personal water craft (PWC) sales and rental									P		P	P	P	P
Body Piercing Facility											<u>CZ</u>			
Bus terminal									P		P			
Cafeteria or dining room for employees of permitted uses														<u>CZ</u>
Car wash (See section 40-548)											P			
Cemeteries, public and private (See section 40-261)														<u>CZ</u>
Churches/places of worship/parish houses	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	P		<u>CZ</u>			
Commercial indoor recreation, such as bowling alleys, etc.											P			
Commercial outdoor recreation, such as miniature golf, golf driving ranges, par-3 golf courses, go carts and similar enterprises (See section 40-261)											P			P
Contractors offices, no outdoor storage									P		P			P
Day nurseries, day care centers and preschools (See sections 40-261, 40-548)	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	P	P	P

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)	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>	P	P	P	P	P	P	P	P
Dwelling for caretaker on premises where employed											P	P		P
Drive-in/thru facility											P			
Dry stack storage facilities												P		
Ear piercing Facility											P			
Eating and/or drinking establishments (See section 40-261)														
Bars and taverns (See section 40-261)									<u>CZ</u>		<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>
Standard restaurants and eateries								P	P	P	P	P	P	P
Exhibition buildings									<u>CZ</u>		P			P
Exterminator service business offices, no outdoor storage of materials or equipment									P		P			P
Fire stations, emergency services, nonprofit	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>			<u>CZ</u>
Fishing piers; public and private									P					
Funeral homes									P		P			
Furniture stores											P			
Gardens, arboretums and greenhouses, items for sale									P	P	P			P
General retail sales								P	P	P	P	P		P
Government/Public facilities and utilities (See section 40-261)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Ice-cream stores								P	P	P	P			
Laundries and dry cleaning, delivered by customers									P	P	P			

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			
Libraries	<u>CZ</u>		<u>CZ</u>	<u>CZ</u>				P	P	P	P			
Live entertainment complexes in enclosed buildings									<u>CZ</u>		<u>CZ</u>			
Manufacturing incidental to retail business, sold on premises only, maximum of five manufacturing operators									P		P			P
Marinas, docks and/or piers, private	P				<u>CZ</u>							P		
Marinas, docks and/or piers, public or commercial	<u>CZ</u>				<u>CZ</u>				P			<u>CZ</u>		
Medical and dental clinics								P	P		P			P
Meeting facilities	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	P		P			P
Mixed use commercial-residential (See section 40-261)								P	P	P	P	P	P	
Motels and hotels								<u>CZ</u>	<u>CZ</u>		<u>CZ</u>		<u>CZ</u>	<u>CZ</u>
Motels and hotels, operated with a marina												<u>CZ</u>		
Multi-use facility								P	P	P	P	P	P	P
Municipal parking decks									P					
Museums					P				P		P		P	P
Nursery, garden and landscaping, display and sales											P			P
Offices, public, private or civic								P	P	P	P	P	P	P
Outdoor amusements, carnival and rides									<u>CZ</u>		<u>CZ</u>			
Parking lot, commercial—temporary (See section 40-261)									P					
Parking lot, commercial—permanent (See section 40-261)									P					
Parking lot, town operated (See section 40-261)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Private parking decks									<u>CZ</u>					

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Parking and loading areas serving uses in the same zoning district, on same or contiguous lot (See article V of this chapter)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Parking and loading areas serving uses in the same zoning district, on non-contiguous lot (See article V of this chapter)	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	P	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>
Pet shops and pet supply stores									P		P			
Photographic studio								P	P	P	P			
Planned unit development, business (See article XII of this chapter)									<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	
Post offices									P		P			P
Postal mailing services, commercial									P		P			P
Printing/reprographics									P		P			P
Radio, computer, television and appliance repairs and rental service									P		P			
Rental of any item, the sale of which is permitted in the district									P		P	P		
Rental of golf carts, mopeds, and scooters (See section 40-261)*								P	P	P	P	P		P
Repair of any item, the sale of which is permitted in the district									P		P	P		
Schools, commercial for specialized training									P		P			P
Schools, public	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>			<u>CZ</u>
Schools, private, general instruction	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>			<u>CZ</u>
Seafood production and/or processing and/or dockage, wholesale and retail												<u>CZ</u>		<u>CZ</u>
Shopping centers/big box								<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Spa health club									P		P			
Studios, artist, designers, gymnasts, musicians, sculptures								<u>CZ</u>	P		P			
Tailor shops								P	P		P			
Tattoo studios (See sections 40-261, 40-548)											<u>CZ</u>			
Telephone exchange									P		P			P
Tennis courts, commercial (See section 40-261)									<u>CZ</u>		<u>CZ</u>			
Tennis courts, private (See section 40-261)	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>		<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>
Theaters, in enclosed structure									P		P			
Theaters, open air drama									<u>CZ</u>		<u>CZ</u>			<u>CZ</u>
Trailer, business									<u>CZ</u>					
Trailer park, travel (See section 40-548)														
Trailer, temporary construction (See section 40-261)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Utilities, private (See section 40-261)	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	<u>CZ</u>	P	P	P	P	P	P
Vehicle sales lot and rental lot (See section 40-261)											P			P
Water oriented businesses									<u>CZ</u>			<u>CZ</u>		
Wholesale sales									P		P	P		P
Wine and beer shops (Retail/Off-Premise)									P		P			
Wireless telecommunications facilities	See article X of this chapter													
Manufacturing, Assembly and Processing (See section 40-261)														
Beverages, bottling works														P
Breweries (See section 40-261)									P		P			P

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Flammable liquid storage, >1,000 gallons aboveground only (See section 40-261)														CZ
General assembly and repair											CZ			P
Ice manufacture, sales and storage											P			P
Manufacturing and assembly, processing, and packaging, except those uses identified in section 40-261														P
Planned development, industrial														CZ
Sign painting and sign fabrication											P			P
Storage yard, outdoor (See section 40-261)														
Recreational vehicle/boat storage, yard (See section 40-261)											P	P		P
Towing service impound yard											CZ			P
Warehouses, storage. Large and mini														P
Woodworking shops														P

* **Note:** Rental of these items may be permitted in the designated zoning districts as an accessory use to other permitted commercial uses if parking and other standards can be met.

Article XVII Sec. 40-527

(1) PURPOSE

- (a) 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 are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted land use plan, adopted area plans and other long range plans. The review process established in this section provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions which ensure compatibility of the use with the use and enjoyment of 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.

- (b) All uses listed as part of any application shall be in the same format and description as listed in the table of uses.
- (c) A conditional zoning and a zoning map amendment are occurring simultaneously in a conditional zoning hearing. Therefore, except as provided herein, all applications to establish a conditional zoning district shall follow the regulations related to conditional zoning in addition to the standard zoning map amendment (rezoning) process as described in this ordinance.

(2) APPLICATION AND CONDITIONAL ZONING REVIEW PROCEDURE

- (a) The application for a conditional rezoning approval shall also be accompanied by an application to amend the zoning map (rezoning) to a conditional development zoning district. The rezoning application shall be submitted concurrently with the conditional zoning site plan. The procedure for such shall be followed as outlined in Article 17. The approved site plan shall provide the framework for development in the conditional zoning district. All applications shall include a site plan meeting Article 13 and any development standards to be approved concurrently with the rezoning application. Development standards may include such things as parking, landscaping, design guidelines, and buffers.
- (b) All proposals for a conditional zoning application shall abide by the uses and the dimensional standards required by the underlying base zoning district for which the proposal is located.
- (c) An application for conditional zoning approval shall be accompanied by 2 hard copies and a digital copy of a conditional zoning site plan.
- (d) Application timeline:

<u>Order of Review</u>	<u>Number of Copies</u>	<u>Deadline for Submittals</u>
1. <u>Technical Review Committee</u>	<u>2 paper and an electronic</u>	<u>14 days prior to the regularly scheduled meeting date</u>
2. <u>Planning and Zoning Commission</u>		<u>14 days prior to the regularly scheduled meeting date</u>
3. <u>Town Council</u>		<u>14 days prior to the regularly scheduled meeting date</u>

- (e) When evaluating an application for the creation of a conditional zoning district, the Planning & Zoning Commission and Town Council shall consider the following:
 - 1. The application’s consistency to the general policies and objectives of the Town’s CAMA Land Use Plan, any other officially adopted plan that is applicable, and the Zoning Ordinance.
 - 2. The potential impacts and/or benefits on the surrounding area, adjoining properties.
 - 3. The report of results from the public input meeting.

(3) PUBLIC INPUT MEETING

- (a) 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.
- (b) The report for the public hearing will include a summary of the public input meeting.

- (c) 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.
- (d) The notice shall include the time, date, and location of the meeting as well as a description of the proposal.
- (e) The applicant's report of the meeting shall include:
 - 1. A copy of the letter announcing the meeting
 - 2. A list of adjoining property owners contacted
 - 3. Attendance rosters
 - 4. A summary of the issues discussed
 - 5. The results of the meeting including changes to the project's proposal, if any.

(4) CONDITIONS TO APPROVAL OF PETITION

- (a) In approving a petition for the reclassification of property to a conditional zoning district, the Planning & Zoning Commission may recommend, and the Town Council may request that the applicant add reasonable and appropriate conditions to the approval of the petition.
- (b) Any such conditions should relate to the relationship of the proposed use to the impact on the following details:
 - 1. Town services
 - 2. Surrounding property
 - 3. Proposed support facilities such as parking areas and driveways
 - 4. Pedestrian and vehicular circulation systems
 - 5. Screening and buffer areas
 - 6. Timing of development
 - 7. Street and right-of-way improvements
 - 8. Infrastructure improvements (i.e. water)
 - 9. Provision of open space
 - 10. Other matters that the participants in the public input meeting, staff, Planning & Zoning Commission, and Town Council find appropriate or the petitioner may propose
- (c) Such conditions to approval of the petition may include right-of-way dedication, easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.
- (d) The petitioner shall consider and respond to any such conditions after the Planning & Zoning Commission meeting and within three (3) days prior to the staff report for the Town Council being published. 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.
- (e) 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.

(5) EFFECT OF APPROVAL

- (a) If a petition for conditional zoning is approved, the development and use of the property 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, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning maps.

- (b) Following the approval of the petition for a conditional zoning district, the 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.
- (c) 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.

(6) REVIEW OF APPROVAL OF A CONDITIONAL ZONING DISTRICT

- (a) See Sec.40-397 for duration and termination of a vested right

Adopted this 9th day of March, 2021.

LeAnn Pierce, Mayor

Attest:

Kimberlee Ward, Town Clerk