

## ARTICLE 8 - CONDITIONAL USES

### 8.1 Procedures.

8.1.A. The Planning Board is hereby authorized to hear and decide upon applications for Conditional Uses in accordance with State Law and the provisions of this Ordinance. The Planning Board shall hear and approve, approve with conditions or disapprove an application for Conditional Use. No Conditional Use shall be authorized unless specific provision for such Conditional Use is made in this Ordinance and unless all requirements of this Ordinance have been shown to be met.

8.1.B. A use which is a Conditional Use and which existed prior to the effective date of this Ordinance may not be expanded, altered or changed to another Conditional Use without submitting an application to the Planning Board. All uses must be in conformity with all regulations of this Ordinance pertaining to Conditional Uses. Amended 6/18/05

8.1.C. A person informed by the Code Enforcement Officer that he requires a Conditional Use Permit shall file an application for the permit with the Planning Board on forms provided for the purpose.

8.1.D. The Planning Board shall hold a Public Hearing within thirty (30) days of the submission of a completed application. The application shall be accompanied by a fee as provided in Section 5.8.

8.1.E. All procedures for notification, advertising, conduct of the hearing and deliberations of the Board shall be as required in Section 6.3 except for the purposes of this Section, the word "appeal" shall mean "application for the Conditional Use".

8.1.F. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with the conditions prescribed by the Planning Board or deny a Building Permit or Certificate of Occupancy as appropriate.

8.1.G. A Conditional Use Permit secured under the provisions of this Section shall expire if the work or change involved has not commenced within two years of the date on which authorization is given. Amended June 17, 2023

8.1.H. The Planning Board may grant an extension of the time of up to two years from the original date of approval for a Conditional Use Permit upon written request by the applicant, and upon the Planning Board's determination that good cause exists for such extension. A request for extension must be made by the applicant prior to the expiration of the original approval, and such extension may not be granted if changes to the Town's ordinance or regulations would render the permitted activity nonconforming.

## **8.2 Factors Applicable to Conditional Uses.**

8.2.A. In considering an application for a Conditional use, the Planning Board shall evaluate the immediate and long-range effects of the proposed use. For applications in the Shoreland Zone, in addition to meeting criteria in Section 8.2.B. below, the applicant shall demonstrate that the proposed use will:

8.2.A.1. Maintain safe and healthful conditions.

8.2.A.2. Not cause water pollution, erosion or sedimentation.

8.2.A.3. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.

8.2.A.4. Conserve shore cover and visual as well as actual access to water bodies.

8.2.A.5. Protect archaeological and historic resources as designated in the Comprehensive Plan.

8.2.B. The applicant shall present adequate evidence, where appropriate, in order for the Planning Board to find that:

8.2.B.1. The proposed use will not adversely affect the value of adjacent properties. The proposed use will not have a significant detrimental effect on the use and peaceful enjoyment of adjacent properties as a result of noise, vibrations, fumes, odor, dust, glare or other cause.

8.2.B.2. Access to the site from existing and proposed roads is safe and adequate. The proposed use will not cause or aggravate undue traffic congestion.

8.2.B.3. Any proposed development is in conformance with all flood hazard protection regulations as outlined in Article 14.

8.2.B.4. Adequate provision for the disposal of all wastewater and solid waste has been made.

8.2.B.5. Adequate provision for the transportation, storage and disposal of any hazardous materials has been made.

8.2.B.6. A storm water drainage system capable of handling a 25 year storm without adverse impact on adjacent properties has been designed.

8.2.B.7. An erosion and sedimentation control plan has been prepared by a qualified professional source.

8.2.B.8. There is adequate water supply to meet the demands of the proposed use and for fire protection purposes.

8.2.B.9. That all performance standards in this Ordinance, applicable to the proposed use will be met.

### **8.3 Conditions Attached to Conditional Uses.**

8.3.A. Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purposes of this Ordinance. Violation of any of these conditions shall be a violation of this Ordinance. Such conditions may include but are not limited to specifications for: type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; location of piers, docks, parking and signs; type of construction; or any other conditions necessary to fulfill the purposes of this Ordinance.

8.3.B. In order to secure information upon which to base its determination, the Planning Board may require the applicant to furnish, in addition to the information required for a Conditional Use Permit, the following information:

8.3.B.1. A plan of the area showing contours at intervals to be determined by the Planning Board and referred to Mean Sea Level, high water elevation, groundwater conditions, bedrock, slope and vegetative cover.

8.3.B.2. A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification.

8.3.B.3. Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open spaces and landscaping.

8.3.B.4. Plans of buildings, sewage disposal facilities and water supply systems.

8.3.B.5. Other pertinent information necessary to determine if the proposed use meets the provisions of this Ordinance. In evaluating each application, the Planning Board may request the assistance of the Regional Planning Commission, County Soil and Water Conservation District and any other state and federal agency which can provide technical assistance.

8.3.B.6. A comprehensive Signage Plan that includes signage details indicating size, materials, anchorage and power and lighting. The plan shall identify any free-standing signs and indicate dimensional off-sets from property lines. The plan shall identify any building-attached signs and include scaled building elevations with proposed signage indicated.

## 8.4 Performance Guarantees.

8.4.A. At the time of approval of the application for Conditional Use, the Planning Board may require the applicant to tender either a certified check payable to the Town or a performance bond payable to the Town issued by a surety company in an amount adequate to cover the total costs of all required improvements taking into account the time-span of the bond and the effects of inflation upon costs. The conditions and amount of the certified check or performance bond shall be determined by the Board of Selectmen, Planning Board and Public Works Directors with advice from the Town Attorney.

8.4.B. Performance guarantees, when required, shall be tendered for all improvements required under this Ordinance, including but not limited to sidewalks, drainage facilities, parking areas, lighting, signs, landscaping and buffer areas.

8.4.C. Prior to the release of any part of or the entire check or bond the Planning Board shall determine to its satisfaction, in part upon the report of the engineer hired by the Town to inspect the development and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested. Any interest accumulated on an escrow account shall be returned with any money owed by the Town to the applicant after it has been determined that the proposed improvements meet all design and construction requirements.

8.4.D. If the appointed engineer finds upon inspection of the improvements performed before release of the guarantee that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, he shall so report to the Planning Board and Code Enforcement Officer. The Planning Board shall then notify the applicant and if necessary, the bonding company and take all necessary steps to preserve the Town's rights under the bond.

8.4.E. At least five days prior to commencing construction of required improvements, the applicant shall pay an inspection fee equal to two percent (2%) of the cost of the required improvements, payable by check to the Town and stating the purpose of the fee. The applicant shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of the improvements so that the Code Enforcement Officer can cause inspections to be made to assure that all municipal specifications and requirements are met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Board. If the inspection costs amount to less than the fee collected, the surplus shall be returned to the applicant when inspections are completed.

**PAGE INTENTIONALLY LEFT BLANK**