

What is a Conditional Use Permit ?

Conditional Use Permit

A Conditional Use Permit refers to a situation in which a particular kind of land use is permitted in a district not as a matter “of right”, but only under ordinance provisions that authorizes the City Council to issue such a permit when it makes specified findings. In addition to requiring compliance with specific ordinance provisions concerning the “conditional use,” the ordinance authorizes the Council to affix other “reasonable and appropriate” conditions to its permit, for the protection of both neighboring properties and larger public interests.

What happens if the Conditional Use Permit is approved or denied?

Once a final decision is reached on a quasi-judicial zoning decision, the same matter cannot be brought back to the City Council for a rehearing. Unless there is a different application or conditions have changed on the site or in the ordinance, the City Council does not have the legal authority to rehear these cases.

Approved Conditional Use Permits are binding to the property unless subsequently changed or amended by the City Council after consideration of a new conditional use permit.

Any decision by the Council may be subject to judicial review in Superior Court of Halifax County. The petition for the writ of certiorari must be filed with the Clerk of Court within thirty (30) days of written notice of the Council’s decision.

Still have Questions?

If you have any questions about the information in this brochure, please contact the City’s Planning & Development Department
1040 Roanoke Ave.
Monday - Friday, 8:30 a.m. - 5:00 p.m.

PLANNING & DEVELOPMENT DEPARTMENT

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Please note:

This guide is based on the City’s Land Use Ordinance adopted on July 9, 2013. The Ordinance may change and this brochure may become out of date. This guide summarizes portions of the Land Use Ordinance, and is not intended to comment on any particular permit request. This guide is intended for general information purposes and is not a statement of legal opinion. This guide does not replace or supersede the Land Use Ordinance.

CITY OF ROANOKE RAPIDS

Planning & Development Department

A Citizen’s Guide to the Conditional Use Permit Process



CITY OF ROANOKE RAPIDS

PLANNING & DEVELOPMENT DEPARTMENT

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Conditional Use Permits

In general, all conditional use permit requests should follow these steps:

STEP 1: APPLICATION & FEE

Applications are available in the Planning & Development Department and online at www.roanokerapidsnc.com. The application filing fee is \$350 (non-refundable) and covers the costs of advertisement and administration.

STEP 2: NOTIFICATIONS

Notices are mailed to property owners within 100-feet of the subject property. Legal ads are published in the local newspaper for two weeks prior to the hearing.

STEP 3: STAFF REPORT

The City's Planning & Development staff review the application and prepare a staff report initially written to the Planning Board. Following the Planning Board meeting, the staff report is sent to the City Council.

STEP 4: PLANNING BOARD RECOMMENDATION

The Planning Board discusses the permit request at one or more meetings (usually the third Thursday of the month). This discussion occurs before the Public Hearing. Under the Planning Board's rules of procedure, citizens may speak to the Board on the proposal. The Planning Board makes a recommendation to City Council.

STEP 5: PUBLIC HEARING

Typically held during a City Council meeting. Notification is mailed to owners of property within 100 feet of the requested permit, as well as to the applicant. Two notices of the hearing date, time, and location are published in a local newspaper.

STEP 6: CITY COUNCIL ACTION

The City Council usually meets on the first and third Tuesdays of the month and makes the final decision on the permit request after the Public Hearing.

Quasi-Judicial Process

All Conditional Use Permits are reviewed under a quasi-judicial process where the City Council performs its duties much like that of a court. All persons speaking before the City Council, such as the applicant, a representative of the applicant, an adjoining property owner or a member of the general public must testify under oath and be subject to cross examination. **The Planning Board and City Council can only consider facts and evidence relevant to the case. You should not discuss a case with any board member prior to a public hearing.**

The Permit applicant must be present or have a representative at the meeting to present the application. Failure to appear may cause your request to be postponed or denied.

What can I expect during the public hearing?

A member of the Roanoke Rapids Planning staff will present evidence to the board explaining the technical aspects of the ordinance as it pertains to each case. The Permit Applicant will then present his or her case to the board. Once the City Council has heard and received all necessary evidence, discussion will then be open to the public or anyone else who wishes to present evidence related to the case. The City Council will then openly discuss the facts and take a vote.

- All evidence and deliberation of the decision must be done in open, public session.
- Board members shall not discuss the permit request prior to the open meeting.
- Factual findings must not be based on hearsay evidence which would be inadmissible in a court of law.
- The City Council has the authority to issue subpoenas to compel testimony or the production of evidence necessary to determine the matter.

The applicant may agree to modify the application in response to comments or questions by persons appearing at the hearing or to the suggestions by the City Council.

Who can speak at the public hearing?

Only those parties whose legal rights are directly affected are entitled to participate. All persons who intend to present evidence must be placed under oath.

What can I do to prepare for a public hearing if I wish to speak?

- **Be brief, concise and clear.** Please contact the planning staff prior to the meeting to discuss details of the request. Many times a discussion will answer questions or address concerns prior to the public hearing.
- **Address the board clearly and speak to the point.** Be direct and clear with your comments. Public officials have heard testimony from hundreds of people. Provide pertinent, well organized comments that directly address the matter.
- **Evidence.** You may bring pictures or other documents to the meeting in order to clarify facts pertaining to the case. However, once you submit documents to the City Council they become part of the official record and will be retained as evidence. Be sure and make copies of all evidence to be presented.

Additional Requirements on Conditional Use Permits

The City Council shall determine that the following findings of fact are met:

- The use will not materially endanger the public health or safety if located, designed, and operated according to the plan.
- The use of development complies with all regulations and standards of the Land Use Ordinance, as well as any other state or local rule or regulation governing the development of land.
- The use or development will not adversely impact surrounding property and will not substantially injure the value of adjoining property.
- The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the City of Roanoke Rapids Comprehensive Development Plan or any other plans adopted by the City.