

## **PART 5. CONDITIONAL USE AND MAJOR IMPACT REVIEW**

### **Sec. 3.5.1 Purpose**

These conditional use regulations are enacted to provide for a more detailed consideration of development proposals which may present a greater impact on the community

Additionally, it is the intent of these regulations through the creation of a major impact review:

- (a) To ensure that projects of major significance or impact receive a comprehensive review under established criteria; and,
- (b) To ensure that the city’s natural, physical and fiscal resources and city services and infrastructure are adequate to accommodate the impact of such developments, both individually and cumulatively.

### **Sec. 3.5.2 Applicability**

#### **(a) Conditional Use Review:**

Conditional Use Review shall be required for the approval of all development subject to the following provisions of this ordinance:

- 1. any use identified under **Article 4** and **Appendix A – Use Table** as a “Conditional Use” or “CU;”
- 2. any Special Use specifically identified as being subject to conditional use review under **Article 5, Part 3;**
- 3. ~~any application subject to Article 9 – Inclusionary and Replacement Housing;~~
- 4. ~~all applications for an Institutional Parking Management Plan pursuant to the provision of Article 8, Part 3;~~
- 5. ~~all applications subject to Article 10 – Subdivision; and;~~
- 6. ~~all applications subject to Article 11 – Planned Development;~~

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#### **(b) Major Impact Review:**

In addition, Major Impact Review shall be required for the approval of all development involving:

<b><u>Zoning Districts</u></b>				
	<b><u>Downtown Mixed Use, Institutional Core Campus</u></b>	<b><u>Neighborhood Mixed Use, Institutional, Enterprise,</u></b>	<b><u>Residential- Medium Density, Residential- Low Density,</u></b>	<b><u>RCO-A, RCO-C, RCO-RG,</u></b>

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		<u>Residential – High Density</u>		
<u>Dwelling Units</u>	<u>NA</u>	<u>Creation of twenty-five (25) or more dwelling units</u>	<u>Creation of five ten (105) or more dwelling units or the creation through adaptive reuse, substantial rehabilitation or conversion of ten (10) or more dwelling units;</u>	<u>NA</u>
<u>Land Subdivision</u>	<u>NA</u>	<u>NA</u>	<u>Creation of five ten (105) or more lots;</u>	<u>NA</u>
<u>Non-residential or Mixed Use Development</u>	<u>NA</u>	<u>A development footprint<sup>1</sup> of twenty thousand (20,000) s.f. or more, or the creation of forty thousand (40,000) s.f. or more of gross floor area.</u>	<u>A development footprint<sup>1</sup> of eight thousand (8,000) s.f. or more, or the construction or substantial rehabilitation of reation of fifteen thousand (15,000) s.f. or more of gross floor area of non-residential development.</u>	<u>Creation of five thousand (5,000) s.f. or more of gross floor area<sup>2</sup></u>

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<sup>1</sup> Development Footprint: total area of impervious coverage – buildings and parking.

<sup>2</sup> Farm structures are exempt per 10 VSA 6001.

<u>Land disturbance</u>			<u>one acre or more;</u>	
<u>Site improvements involving</u>			<u>fifty (50) or more parking spaces;</u>	
<u>Natural Areas</u>	<u>Site improvements and land development on parcels that contain designated wetlands as regulated pursuant to Article 4, or natural areas</u>			

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	of state or local significance as identified in the municipal development plan;		
<del>Brownfields</del>	<del>Site improvements and land development on parcels seeking a waiver under Article 5, Part 4, Sec. 5.4.9 Brownfields; or</del>		
<del>Cumulative Impact;</del>			Multiple projects by the same applicant or responsible party within any consecutive twelve (12) month period on the same property or on a property within 1000 feet of the subject property that in the aggregate equal or exceed the above criteria.

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Major Impact Review shall not be applicable in the Downtown Mixed Use Districts and the Institutional Core Campuses

**Sec. 3.5.3 Exemptions**

Conditional Use and Major Impact Review shall not apply to applications involving one or more of the following:

~~(a) Single family dwellings;~~

~~(b)(a)~~ Temporary structures;

~~(c)(b)~~ Substantial rehabilitation that does not expand the floor area of an existing building or the structural capacity of existing development;

~~(d)(c)~~ Projects that do not result in a change of use or increased parking demand ~~as determined by the administrative officer;~~ and,

~~(e)(d)~~ Subsurface site improvements including but not limited to underground utility lines and subsurface drainage ways.

### **Sec. 3.5.4 Submission Requirements**

In addition to the applicable application and submission requirements under in **Section 3.2.2**, all applications for a zoning permit subject to Conditional Use and/or Major Impact Review under this Part shall provide any additional information necessary for the adequate review of the proposal under the applicable review criteria of **Section 3.5.6** pursuant to **Section 3.2.3**.

Any development subject to Major Impact Review under this Part shall also include an affidavit or certification documenting that the Pre-Application Public Neighborhood Meeting requirement pursuant to Sec. 3.2.1(d) has been satisfied in accordance with the procedures and requirements set forth by the department of planning and zoning.

Pursuant to **Sec. 3.2.8(D)**, the DRB may require the applicant to pay the reasonable costs and fees incident to an independent technical review of the application.

### **Sec. 3.5.5 Public Hearing Required**

Applications involving Conditional Use and Major Impact Review shall require a public hearing pursuant to the provisions of **Article 2** to provide an opportunity for public input and comment to the DRB on the proposed use and its conformity with the review criteria listed below.

### **Sec. 3.5.6 Review Criteria**

The application and supporting documentation submitted for proposed development involving Conditional Use and/or Major Impact Review, including the plans contained therein, shall indicate how the proposed use and associated development will comply with the review criteria specified below:

#### **(a) Conditional Use Review Standards:**

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on **each of** the following general standards:

1. Based on the scale and characteristics of the proposed use and its development, the proposal is consistent with the purpose and intent of the zoning district and specifically stated policies and standards of the municipal development plan;
2. The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses allowed by right in the same zoning district;
3. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand management strategies; and.

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- ~~1.4. The capacity of Existing or planned public community utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area.;~~
- ~~2. The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the municipal development plan;~~
- ~~3. Traffic on roads and highways in the vicinity evaluated in terms of increased demand for parking, travel during peak commuter hours, safety, contributing to congestion, as opposed to complementing the flow of traffic and/or parking needs; if not in a commercial district, the impact of customer traffic and deliveries must be evaluated;~~
- ~~4. Any standards or factors set forth in existing City bylaws and city and state ordinances;~~
- ~~5. The utilization of renewable energy resources; and,~~

~~In addition to the General Standards specified above, the DRB;~~

~~5. shall consider the cumulative impact of the proposed use. For purposes of residential construction, if an area is zoned for housing and a lot can accommodate the density, the cumulative impact of housing shall be considered negligible;~~

~~6. In considering a request relating to a greater number of unrelated individuals residing in a dwelling unit within the RL, RL-W, RM and RM-W districts than is allowed as a permitted use, in addition to the criteria set forth in Subsection (a) hereof, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Additionally, each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet. There must also be a parking area located on the premises at a location other than the front yard containing a minimum of one hundred eighty (180) square feet for each proposed adult of the dwelling unit in excess of the number of occupants allowed as a permitted use. All other green space standards must be observed.~~

~~7. may control the location and number of vehicular access points to the property, including the erection of parking barriers.~~

~~8. may limit the number, location and size of signs.~~

~~9. may require suitable mitigation measures, including landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.~~

~~10. may specify a time limit for construction, alteration or enlargement of a structure to house a conditional use.~~

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- ~~11. may specify hours of operation and/or construction to reduce the impact on surrounding properties.~~
- ~~12. may require that any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions.~~
- ~~13. may consider performance standards, should the proposed use merit such review.~~
- ~~14. may attach such additional reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.~~

**(b) Major Impact Review Standards:**

Before a major impact development may receive approval, the DRB must be satisfied, based on documentation provided by appropriate city agencies, experts, interested parties and/or the applicant that the proposed development, ~~in addition to meeting the review standards for conditional use review above,~~ shall:

1. Not result in undue water, air or noise pollution;
2. Have sufficient water available for its needs;
3. Not unreasonably burden the city's present or future water supply or distribution system;
4. Not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
5. Not cause unreasonable congestion or unsafe conditions on highways, streets, waterways, railways, bikeways, pedestrian pathways or other means of transportation, existing or proposed;
6. Not cause an unreasonable burden on the city's ability to provide educational services;
7. Not place an unreasonable burden on the city's ability to provide municipal services;
8. Not have an undue adverse effect on rare, irreplaceable or significant natural areas, historic or archaeological sites, nor on the scenic or natural beauty of the area or any part of the city;
9. Not have an undue adverse effect on the city's present or future growth patterns nor on the city's fiscal ability to accommodate such growth, nor on the city's investment in public services and facilities;
10. Be in substantial conformance with the city's municipal development plan and all incorporated plans;
11. Not have an undue adverse impact on the present or projected housing needs of the city in terms of amount, type, affordability and location; and/or
12. Not have an undue adverse impact on the present or projected park and recreation needs of the city.

**(c) Conditions of Approval:**

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.
2. time limits for construction.
3. hours of operation and/or construction to reduce the impact on surrounding properties.
4. that any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions; and.
5. such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.

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**Sec. 9.1.7 Certificate of Inclusionary Housing Compliance**

As written

**Sec. 9.1.8 Conditional Use Approval**

~~A covered project, except subdivisions approved by the DRB pursuant to the provisions of the Article 10, must first receive approval of such board under conditional use criteria pursuant to the requirements of Article 3, Part 5. RESERVED~~

**Sec. 9.1.9 Inclusionary Units, Rental and Sales**

As written

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