

THE USE TABLE: USES PERMITTED BY RIGHT (P), CONDITIONAL USES (C), AND PROHIBITED USES

Fact Sheet

Summer 2019

Zoning divides land into zoning districts. Within each district, land uses are either permitted by right, conditional, or prohibited. The use table includes a comprehensive list of land uses and delineates which uses are allowed in each zoning district. In addition, all uses are defined in the zoning ordinance. Although the uses listed in the use table and defined in the zoning ordinance are intended to be a comprehensive list of uses, new types of land uses might arise—these new uses are evaluated to determine if they fit within an existing use or category of uses, at the discretion of the zoning officer, and thus are subject to the same regulation. Otherwise, uses not permitted by right or conditional are prohibited. Any particular use might be permitted by right in one district, conditional in another district, and prohibited in others.

Uses Permitted by Right

Uses permitted by right are allowed on all lots in a zoning district, provided the zoning officer determines ordinance requirements are met. Ordinance requirements might include setbacks, parking, landscaping, and supplemental provisions specific to the type of land use; but otherwise, the zoning officer does not make an individualized review of the particular use and its location before issuing a zoning permit.

Conditional Uses

Conditional uses are allowed in a zoning district, but not on all lots, and require individualized review. For conditional use permit (CUP) applications, the Board of Zoning Appeals (BZA) reviews the location of a particular use on a specific lot, guided by a number of criteria listed in the zoning ordinance. Concerns related to the impact of the use at that specific location may be mitigated by conditions attached to the CUP. Conditions in a CUP might involve an additional landscaping requirement or limits on the hours of operation. All conditions must be reasonably related to a valid public interest.

CUP applications should only be denied if the adverse impact of the proposed use exceeds what is normal. CUPs require a public hearing, and a record of findings of fact, conclusions of law, the decision, and any conditions must be made in writing.

CUPs become part of the zoning ordinance and run with the land, not the property owner. If the property is sold or transferred to another party, the CUP continues to govern use of the property. Notably, conditions must relate to the specific use and land itself, not to the owner or operator.

Zoning ordinances include three types of uses:

Permitted by Right uses are allowed in a zoning district, although a permit may be required to ensure compliance with the ordinance. If no zoning ordinance exists, all uses are permitted by right.

Conditional Uses are allowed in a zoning district, but may not be appropriate in all locations, and additional requirements may be required to prevent adverse impacts on the community. A conditional use permit must be obtained from the Board of Zoning Appeals, which may attach additional requirements.

Prohibited Uses are uses not allowed in the zoning district.

Completing the Use Table

Planning Commission members should complete the use table as follows:

1. Consider the list of uses and determine whether each is appropriate somewhere within the community. If a use would not be appropriate anywhere within the community, most often the use may be omitted and thus prohibited. However, some uses must be allowed at least somewhere or under certain circumstances due to constitutional or state or federal code requirements.
2. Once a use is determined to be appropriate within the community, next consider which districts would be appropriate for the use. Uses may be allowed in any number of districts, or all districts.
3. In each district where the use would be appropriate, next consider whether the use should be permitted by right (P) or conditional (C). Uses may be permitted by right in some districts and conditional in others.

