

Chapter 4.9 Miscellaneous Permits

Sections:

- 4.9.100 -- Temporary Use Permits
- 4.9.200 -- Home Occupation Permits
- 4.9.300 -- Development Permit for Flood Plain
- 4.9.400 -- Historic Building and Sites Permit

4.9.100 Temporary Use Permits.

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and seasonal sales such as Christmas tree sales and vegetable stands. Three types of temporary uses require permit approval (See A, B and C):

- A. Seasonal and Special Events.** These types of uses occur only once in a calendar year and for no longer a period than 30 days. Using the Type II procedure under Section 4.1.400, the Town shall approve, approve with conditions or deny a temporary use permit based on findings that all of the following criteria are satisfied:
1. The use is permitted in the underlying land use district and does not violate any conditions of approval for the property (e.g., prior development permit approval);
 2. The applicant has proof of the property-owner's permission to place the use on his/her property;
 3. No parking will be utilized by customers and employees of the temporary use which is needed by the property owner to meet their minimum parking requirement under Chapter 3.3 - Vehicle and Bicycle Parking;
 4. The use provides adequate vision clearance, as required by Section 3.1.200, and shall not obstruct pedestrian access on public streets;
 5. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Section 3.1.200 - Vehicular Access and Circulation;
 6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
 7. The use is adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits.)

4.9.100 Temporary Use Permits. *(continued)*

B. Temporary Sales Office or Model Home. Using a Type I procedure under Section 4.1.300, the Town may approve, approve with conditions or deny an application for the use of any real property within the Town as a temporary sales office, offices for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within the Town, but for no other purpose, based on the following criteria:

1. Temporary sales office:
 - a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold; and
 - b. The property to be used for a temporary sales office shall not be permanently improved for that purpose.
2. Model house:
 - a. The model house shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and
 - b. The model house shall be designed as a permanent structure that meets all relevant requirements of this Code.

C. Temporary Building. Using a Type II procedure, as governed by Section 4.1.400, the Town may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property within the Town as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already developed;
3. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Section 3.1.200 - Vehicular Access and Circulation;
4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3.3 - Bicycle and Vehicle Parking;
5. The use will not result in vehicular congestion on streets;
6. The use will pose no hazard to pedestrians in the area of the use;

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7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;
8. The building complies with applicable building codes;
9. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and
10. The length of time that the temporary building will be used does not exceed 6 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

4.9.200 Home Occupation Permits.**A. Purpose.**

The purpose of this Section is to encourage those who are engaged in small commercial ventures that do not conform to the Special Standards for Certain Uses in Section 2.1.200, H. Home Occupation. The standards referenced above allow home occupations as outright permitted uses that do not require Development Review or Site Design Review.

Section 4.9.200 provides a process for more intense home occupations to be allowed with Site Design Review by the Planning Commission and notice to surrounding property owners. These home occupations may be permitted, with conditions of approval when appropriate, in order to increase the benefits of people working and living in the same place, while protecting neighboring residents from adverse impacts of home occupation activities. These benefits to the business owner and to the general public include: reduced number of commute-to-work trips, day-time “eyes on the street” at the residence, and a neighborhood-scale version of mixed residential and commercial uses.

B. Approval Process and Criteria.

1. Home Occupation Permit. Applications for proposals that cannot meet all of the standards in Section 2.1.200.H. shall be processed using a Type III procedure, as governed by Chapter 4.1.500, using the approval criteria in subsection 2, below. In addition to the application requirements contained in Section 4.1.500.B., the applicant shall provide:
 - a. A written narrative or letter:
 - (1) describing the proposed home occupation;
 - (2) demonstrating compliance with those standards in Sub Section 2.1.200.H that can be met, and explaining why the other standards in Sub Section 2.1.200.H cannot be met, and
 - (3) demonstrating compliance with the criteria in subsection 2 below;
 - b. A site plan, not necessarily to scale, of the lot proposed for the home occupation, including:
 - (1) the property lines and their dimensions;
 - (2) outlines of the foundations of all buildings proposed for home occupation use with dimensions for each wall, and the distances from each wall to the nearest property line;
 - (3) boundaries and dimensions of driveways and parking areas, indicating areas for use by home occupation employees and customers;
 - (4) outlines of the foundations of abutting residences, and the distances from the shared property line to the nearest wall of each neighboring residence; and

4.9.200 Home Occupation Permits. (continued)

- (5) identifying the buildings and areas of those buildings in which home occupation activities will take place, and identifying which activities will take place in which buildings and areas.
2. The Town shall approve, approve with conditions, or deny an application for a Type III home occupation based on all of the following criteria:
 - a. The proposed use will not be materially detrimental to the stated purposes of applicable Code requirements and to other properties within a radius of 100 feet of the subject property;
 - b. Impacts to surrounding properties may exist but can be mitigated;
 - c. Existing physical and natural systems, such as, but not limited to drainage, natural resources, and parks, will not be adversely affected any more than would occur if the development occurred in compliance Section 2.1.200.H.

4.9.300 Development Permit for Flood Plain

- A. Development Permit Required.** A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.7.100.B. The permit shall be for all structures including manufactured homes, as described in Section 3.7.100 and in Chapter 1.3, Definitions.
- B. Application for Development Permit.** Application for a development permit shall be made on forms prescribed and furnished by the Town and may include but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage materials, drainage facilities, and the location of the foregoing. The following information is required:
 1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
 2. Elevation in relation to mean sea level to which any structure has been floodproofed;
 3. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 3.7.100.F; and
 4. Description of the extent to which a watercourse will be altered or relocated as a result of the proposed development.

4.9.300 Development Permit for Flood Plain (continued)

- C. **Designation of Town Planning Official or Designee.** The Town Planning Official or designee is hereby appointed to administer and implement this Section by granting or denying development permit applications in accordance with the provisions hereof.
- D. **Duties and Responsibilities of the Town Planning Official.** The Duties of the Town Planning Official as may be appointed to administer this Section shall include, but not be limited to:
1. **Permit Review**
 - a. Review all development permits to determine that the permit requirements of this Ordinance have been satisfied.
 - b. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
 - c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 3.7.100.H are met.
 2. **Use of Other Base Flood Data** When base flood elevation data has not been provided in accordance with Section 3.7.100.B.Applicability, the Town Planning Official or designee may obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 3.7.100.F-K.
 3. **Information to be Obtained and Maintained**
 - a. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 4.9.300.D, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - b. For all new or substantially improved floodproofed structures:
 - (1) Verify and record the actual elevation (in relation to mean sea level), and
 - (2) Maintain the floodproofing certifications required in Sections 3.7.100.F and I.
 - (3) Maintain for public inspection all records pertaining to the provisions of this Section.

4.9.300 Development Permit for Flood Plain (continued)

4. Alteration of Watercourses
 - a. Notify adjacent communities and the State Department of Land Conservation & Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of section 60.6 of the rules and regulations of the National Flood Insurance Program (44 CFR 59-76).

4.9.400 Historic Building and Sites Permit

- A. Alteration/Demolition Permits.** A permit is required for alteration or demolition of any structure listed in the Town Plan Inventory of Historic Resources as a “Significant” historic resource. Alteration means any addition to, removal of, or change in the exterior part of a structure and shall include modification of the surface texture, material, or architectural detail of the exterior part of the structure, but shall not include paint color.

Nothing in this Section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature on any property covered herein that does not involve a change in design, material, or external appearance thereof. Nor does this Section prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such feature when the Building Official determines that such emergency action is required for public safety due to an unsafe or dangerous condition.

B. Review Procedure

1. Application. A property owner or his authorized agent may initiate a request for a permit for alteration or demolition of an historic structure by filing an application with both the Building Official and the Town Planning Official.

4.9.400 Historic Building and Sites Permit *(continued)*

2. **Permit Required.** A permit shall be obtained in accordance with a Type II process in Chapter 4.1
- C. Decision.** If not referred for public hearing, the Town Planning Official shall render a decision on an application within 10 days of closure of the public response period. A copy of such decision shall be mailed to the applicant, the owners of the affected property, the Town Planning Commission, the State Historic Preservation Office, and other persons specifically requesting such notification. Said mailing shall be within five (5) working days following the date of the decision. As may be applicable, the Planning Official shall refer the application to the Town Historical Review Committee or County Historical Society, or both, and to the State Historic Preservation Office for review and written recommendation prior to taking action thereon.
1. **Demolition.** In the case of an application for demolition of a historic structure, the Planning Official shall authorize either:
 - a. Immediate issuance of the permit; or
 - b. Delay issuance of the permit for up to 90 days. During this period, the Planning Official, in conjunction with the Town Council, the Town Historical Committee and the County Historical Society, shall attempt to determine if public or private acquisition and preservation is feasible or if other alternatives are possible which could be carried out to prevent demolition of the structure.
- D. Criteria: Exterior Alteration.** The Town Planning Official shall approve an application for exterior alteration if the proposed alteration is determined to be harmonious and compatible with the appearance and character of the historical building and shall disapprove any application if found detrimental as being unsightly, grotesque, or adversely affecting the architectural significance, the integrity or historical appearance, or the educational or historical value of the building. The following guidelines apply to exterior alterations to historical buildings:
1. **Retention.** Retention of original construction so far as practicable, and the preservation of original exterior materials and details.
 2. **Height** Additional stories may be added to historic buildings provided that the following criteria are met:
 - a. Zoning height limitations are met.
 - b. Does not exceed that which was traditional for style of the building.
 - c. Added height does not alter the traditional scale and proportions of the building style.
 - d. Added height is visually compatible with adjacent historic buildings.

4.9.400 Historic Building and Sites Permit *(continued)*

3. **Bulk:** Horizontal additions may be added to historic buildings provided that:
 - a. The bulk of the addition does not exceed that which was traditional for the building style.
 - b. The addition maintains the traditional scale and proportion of the building style.
 - c. The addition is visually compatible with adjacent historic buildings.
 4. **Visual Integrity of Structure:** The lines of columns, piers, spandrels, and other primary structural elements shall be maintained so far as is practicable.
 5. **Scale and Proportion:** The scale and proportion of altered or added building elements, the relationships of voids to solids (windows to walls) shall be visually compatible with the traditional architectural character of the historic buildings in the area.
 6. **Materials, Color and Texture:** The materials, colors and textures used in the alteration or addition shall be visually compatible with the traditional architectural character of the historic buildings of the area.
 7. **Signs, Lighting and other Appurtenances:** Signs, exterior lighting, and other appurtenances such as walls, fences, awnings and landscaping shall be visually compatible with the traditional architectural character of the historic buildings of the area.
- E. Criteria: Demolition.** The Town Planning Official shall approve an application for demolition if the following criteria have been met.
1. Structure cannot be economically rehabilitated;
 2. A program or project does not exist which may reasonably result in preservation of the structure;
 3. Delay of the permit would result in unnecessary and substantial hardship to the applicant and/or property owner; and
 4. Issuance will not act to the substantial detriment of the public welfare considering the significance of the structure and the economic, cultural and energy consequences of demolishing the structure.