



CONDITIONAL USE PERMIT APPLICATION INSTRUCTIONS CITY OF THORNE BAY

Forms are available in the City Clerk's Office at City Hall, 120 Freeman Drive, or on the City website at www.thornebay-ak.gov/forms.

Schedule an appointment with the Planning Official (907) 828-3380.

- A. Verify the following:
 - 1. Parcel address(es),
 - 2. parcel number,
 - 3. recordable legal description and zoning classification.
- B. Discuss proposed use and why a conditional use is necessary;
- C. Review applicable section of the Municipal Code.

Complete Application.

Applications shall be signed by owner(s) of the property or agent with a signed affidavit. Complete the Application in its entirety, including necessary attachments – see Attachments.

Incomplete or illegible applications will be refused.

Submit application to the City Clerk's Office, along with cash or a check made payable to the City Of Thorne Bay in the amount of \$50.00.

Actions for CUP Process:	DATE of Hearing:
Submittal Date:	
Initial Review by Planning Official:	
Notice Mailed to Surrounding Property Owners:	
Introduction to City Council:	
City Council Public Hearing: (FINAL HEARING)	

(attendance required of applicant or representative at Public Hearing)

Receipt and Approval:

The City Council shall review the detailed site plan, existing and proposed structures and uses, architectural plans, neighborhood uses, parking areas, driveway locations, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation.



CITY OF THORNE BAY

SALES TAX

Thorne Bay, AK 999109

PHONE: (907) 828-3380 FAX: (907) 828-3374 E-MAIL: cityclerk@thornebay-ak.gov

CONDITIONAL USE PERMIT APPLICATION

Applicant (name and mailing address): _____

Owner of property (name and mailing address), if different than Applicant: _____

Architect (name and address), if applicable: _____

Professional Engineer (name and address), if applicable: _____

Contractor (name and address), if applicable: _____

Physical address(es) of subject parcel(s): _____

Lot & Block Parcel Number(s): _____

Legal Description (must be a recordable legal description; see Requirements): _____

Zoning Classification: _____

A Conditional Use Permit is required per Thorne Bay Code-Chapter: _____

If the use is defined in Sec.: _____

Description of subject site and **CURRENT** use: _____

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Description of **PROPOSED** site and operation/use (detailed plan of the proposed site):

Type of Structure **PROPOSED**: _____

Number of **CURRENT** employees, if applicable: _____

Number of **PROPOSED** employees, if applicable: _____

Number of **CURRENT** off-street parking spaces: _____

Number of **PROPOSED** off-street parking spaces: _____

ADDITIONAL INFORMATION PERTINENT TO THE REQUEST FOR CONDITIONAL USE PERMIT:



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CERTIFICATION: I hereby certify that I am the owner of the subject parcel(s) or authorized agent and that I have read and understand the content of this application and that the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief.

STATE OF _____)

) ss

CITY OF _____)

The undersigned, _____, being duly
(owner of subject parcel(s) for Conditional Use)
sworn, state:

1. That the undersigned is an adult resident of the City of _____, _____.
(City) (State)

2. That the undersigned is a/the legal owner of the property located at:

(address of subject parcel for Conditional Use)

By signing this affidavit, the undersigned property owner authorizes the application for a conditional use permit/zoning change or amendment (circle one) for said property.

Notary (signature)

(date)

(telephone)

(email)



CONDITIONAL USE PERMIT APPLICATION

SAMPLE

CITY OF THORNE BAY

RESOLUTION # - _____

A RESOLUTION OF THE CITY COUNCIL ACTING AS THE THORNE BAY PLANNING COMMISSION FOR THE CITY OF THORNE BAY, ALASKA, SUPPORTING THE CONDITIONAL USE PERMIT, FILE NUMBER _____ FOR _____.

WHEREAS, the Planning Commission serves city-wide functions of planning, platting and zoning for the city, and to advise the chief executive officer and city council of them; and

WHEREAS, the City Council, acting as the Thorne Bay Planning Commission, held a public hearing on _____, to consider a request by _____ for a Conditional Use Permit, file number _____, to construct _____ that is permitted in the _____ zoning; and

WHEREAS, the City Council, acting as the Thorne Bay Planning Commission, has answered the following required criteria for approval (Thorne Bay Municipal Code 17.04.043 (B)) of the Conditional Use Permit as follows:

1. That the proposal is consistent with the Thorne Bay comprehensive plan, the Thorne Bay coastal management program, the city code and all other applicable city ordinances;
2. That the proposed use is an expressly permitted conditional use in the zone, except in mixed residential/ commercial III where there are no expressly permitted conditional uses;
3. That the requested use is generally compatible with other existing or proposed uses in the surrounding area;
4. That the proposed use would not adversely affect the health, safety or welfare of persons or property in the area neighboring the proposal and the surrounding area;
5. That the proposed use would not have an unfavorable or detrimental effect on property or property values in the area;
6. That building height, poor or decrepit construction and incompatibility would not significantly affect the surrounding area, or the view shed in the neighborhood;

**CONTINUED RESOLUTION
CONDITIONAL USE PERMIT APPLICATION**

7. That all utilities to the proposal will be adequate or made adequate by the applicant and not interfere or adversely affect utility capacity in the area;
8. That traffic volume, type and patterns are taken into consideration and that access is adequate to serve any additional traffic flow;
9. That adequate off-street parking is provided. (See Section 17.04.041);
10. That the proposed use would not degrade land, water, air or habitat quality;
11. That all other reasonable objections were taken into consideration by the planning commission at the public hearing.

NOW, THEREFORE, BE IT RESOLVED, that the City Council acting as the Planning Commission of the City of Thorne Bay approves Conditional Use Permit _____

PASSED AND APPROVED _____.

Chair/Mayor

ATTEST:

City Clerk/Treasurer



CONDITIONAL USE PERMIT APPLICATION ATTACHMENT A TBMC TITLE 17.04.043 – CONDITIONAL USE PERMITS

17.04.043 CONDITIONAL USE PERMITS.

A. Purpose.

The purpose of a conditional use permit is to allow for flexibility in the zoning title by providing for uses that may be suitable in certain locations and not others. These uses will be expressly permitted conditional uses in the zone, clarified by a section labeled conditional use permits for each zone. It basically permits inclusion of uses that should not be permitted in every part of the zone but are reasonable in some areas of the zone with restrictions and conditions designed to fit the particular problem that the use may present. The applicant must meet with the planning official and address the Criteria for “Consideration in Establishing Approval” prior to being scheduled for a public hearing.

B. Criteria for Consideration in Establishing Approval or Denial the following criterial must be considered.

After a public hearing, the planning commission must develop a resolution which addresses each of the criterial and base their decision on whether the criterial are in the affirmative or not:

1. That the proposal is consistent with the Thorne Bay comprehensive plan, the City Municipal Code and all other applicable city ordinances;
2. That the proposed use is an expressly permitted conditional use in the zone, except in mixed Residential/ commercial III where there are no expressly permitted conditional uses;
3. That the requested use is generally compatible with other existing or proposed uses in the surrounding area;
4. That the proposed use would not adversely affect the health, safety or welfare of persons or property in the area neighboring the proposal and the surrounding area;
5. That the proposed use would not have an unfavorable or detrimental effect on property or property values in the area;
6. That building height, poor or decrepit construction and incompatibility would not significantly affect the surrounding area or the view shed in the neighborhood;
7. That all utilities to the proposal will be adequate or made adequate by the applicant and not interfere or adversely affect utility capacity in the area;
8. That traffic volume, type and patterns are taken into consideration and that access is adequate to serve any additional traffic flow;
9. That adequate off-street parking is provided. (See Section 17.04.041);
10. That the proposed use would not degrade land, water, air or habitat quality;
11. That all other reasonable objections were taken into consideration by the planning commission at the public hearing.
12. That the conditional use request is for work yet to be performed. (Ord. 15-12-15-02)

CONTINUED ATTACHMENT A
TBMC TITLE 17.04.043
CONDITIONAL USE PERMITS
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C. Procedure.

1. Application.

- a.** An application must be filed on forms provided by the city by the property owner or an authorized representative. The application must be filed no later than twenty-one days prior to the next regularly scheduled planning commission meeting.
- b.** All applications must include a site plan indicating:
 - i.** North arrow, scale and legend;
 - ii.** Property lines and approximate dimensions;
 - iii.** Location of all existing and proposed structures on the lot and their approximate distance from the lot lines;
 - iv.** Access bordering streets and easements on the property;
 - v.** Power pole; sewer and water lines serving the property;
 - vi.** Approximate dimensions of parking spaces if applicable.

2. Notification.

- a.** Notice of the public hearing shall be made by first class mail to all property owners within three hundred feet of the exterior property boundary (one thousand feet in mixed Residential/commercial III) and shall be posted in five public places no less than ten days prior to the public hearing date.
- b.** The notice shall contain:
 - i.** The name of the applicant;
 - ii.** The date, time and place of the hearing;
 - iii.** A descriptive location of the property and the legal description of the property if available;
 - iv.** A description of the nature and purpose of the use;
 - v.** The location where information about the proposal may be examined;
 - vi.** Reference numbers of the sections of the title that pertain to the application;
 - vii.** Explanation of the appeal procedure;
 - viii.** Vicinity map.
- c.** Notices shall be sent to the most recent address that city records show. Failure of a property owner to receive a notification shall not invalidate a decision of the planning commission as long as a good faith effort has been shown to contact the property owner.
- d.** The property notification list shall be kept on file at City Hall.
- e.** A copy of the resolution approving or denying the application shall be sent to the applicant (and any affected party who requests notification).



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TBMC TITLE 17.04.043
CONDITIONAL USE PERMITS

D. Reviewing Body.

1. The reviewing body shall be the planning commission.
2. All formal decisions made by the reviewing body shall be made by resolution and shall address all required criteria for approval.

E. Appeals.

1. Appeals of the planning commission's decision must be made to the city council within thirty days of the postmark of the notification of the decision. Appeals must be made in writing. (Ord. 93-23 § 6(part), 1993)



**CONDITIONAL USE PERMIT APPLICATION
ATTACHMENT B
TBMC TITLE 17.04.050
ENFORCEMENT, VIOLATIONS & PENALTIES**

17.04.050 ENFORCEMENT, VIOLATIONS AND PENALTIES.

- A. Enforcement.** The city zoning official shall administer and enforce this zoning title.
- B. Violations.** When the city zoning official finds that any provisions of this title are being violated, he shall notify in writing the property owner or person responsible for the violation. The notification shall include the nature of the violation and the ordering action necessary to correct it. The zoning official shall order the discontinuance of illegal uses of land, buildings or structures; the removal of illegal buildings or additions; alterations or structures; and discontinuance of any illegal work that is being done.
- C. Complaints Regarding Violations.** Whenever a violation of the provisions of this title occurs, any person may file a complaint in writing at City Hall. All such complaints shall be brought to the city zoning official who shall record such complaints and investigate the violation. The results of the investigation of the violation shall be reported to the planning commission.
- D. Penalties.** Whenever a violation of the provisions of this title occurs the property owner shall incur a civil penalty not to exceed one hundred dollars for each day of continuing violation. (Ord. 93-23 § 6(part), 1993)



CONDITIONAL USE PERMIT APPLICATION

TBMC TITLE 17.04.060-APPEALS

17.04.060 APPEALS.

- A. Due Process.** This section guarantees the public due process in all land use actions. An administrative decision regarding a development permit may be appealed to the planning commission, decisions of the planning commission/platting board may be appealed to the city council sitting as the board of adjustment, and decisions of the city council may be appealed to the Superior Court of the state of Alaska. A written notice of appeal must be filed with the city clerk within thirty days after the decision being appealed is announced in writing.
- B. Board of Adjustment.** The city council shall sit as the board of adjustment. The board of adjustment shall hear appeals regarding:
1. Alleged errors in the enforcement of the zoning title;
 2. Decisions of the planning commission on requests for variance, conditional use permits and other land use action;
 3. Decisions of the platting board on requests for preliminary and final plats.
- C. Appeal Procedure.**
1. Any concerned person aggrieved by a decision has a right to appeal that decision;
 2. The appeal shall be filed with the city clerk;
 3. An appeal in the form of a written narrative (written notice) shall be submitted explaining all reasons for the appeal and shall specify in detail all objections to the decision being appealed. This specific and concise narrative is what will be considered at the appeal hearing. The city clerk shall be the clerk of the board of adjustment. The written notice of appeal must be received by the city clerk within thirty days after the decision being appealed is announced in writing. Appeals received after this time limit will not be considered;
 4. A duly-filed appeal shall stay enforcement proceedings unless the board or a court issues an enforcement order based on a certificate of imminent peril to life or property.
- D. Procedure of the Board of Adjustment.**
1. The mayor shall act as the presiding officer of the board of adjustment. The presiding officer may limit presentations from witnesses to a reasonable period of time. Minutes shall be kept and the hearing shall be open to the public. If the planning commission is hearing an appeal to an administrative decision, the chairman of the commission shall serve as the presiding officer and shall hold the same duties as the mayor.

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17.04.060 APPEALS
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2. In addition to the appellants written narrative, copies of all pertinent records, transcripts, minutes and resolutions of the planning commission approving or denying an application shall be gathered by the city clerk and distributed to the board of adjustment.
3. The board of adjustment shall make its decision based on the above record if it is adequate. If the record below is not adequate, the body hearing the appeal shall hold a public hearing (after public notice) to receive additional evidence from the appellant and other interested parties and shall reach its decision based on the record below as supplemented by the additional evidence.
4. A notice of the time and place of the public hearing shall be posted fifteen days in advance of the hearing in five public places in the city. at this time written notice shall be given to the appellant and other affected persons.
5. The board of adjustment, after hearing and considering the appeal, above record and public testimony, shall forthwith render a decision. Decisions of the board of adjustment shall be by motion setting forth the reasons for the motion, and the vote shall be taken by "yes" and "no" which shall be permanently entered on the record of proceedings. A majority vote in the affirmative adopts any motion.
6. Any party who participated in the proceedings before the board of adjustment and is aggrieved by the resulting decision of the board of adjustment may appeal that decision to the superior court, provided:
 - a. Notice of appeal is filed with the superior court no later than thirty days following the board of adjustment's issuance of its written decision; this time limit is jurisdictional; and
 - b. The appellant pays the city, by depositing with the city clerk, the city's cost of preparing the entire record (including the transcript of hearings held below) no later than sixty days following the decision being appealed from. Transcripts of hearings shall be prepared by a certified court reporter, and preparation of the entire record is at the appellant's expense.
7. All other procedures, on appeal to the superior court, are set forth in the Alaska Rules of Appellate Procedure. The appeal is an administrative appeal, heard solely in this title, pursuant to Alaska Statutes 29.40.060(b). (Ord. 93-23 § 6(part), 1993)

