

CHAPTER 12

CONDITIONAL USE PERMITS

SECTION:

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10-12-1: **PURPOSE:** The purpose and intent of conditional uses is to allow the integration into the city uses which, by the nature of their impact or effect on surrounding properties, or their potential threat to the health, welfare and safety of the city, may be suitable only in certain locations in the city, or only if they are designed and developed in a particular manner. (Ord., 10-17-1989)

10-12-2: **CONDITIONAL USE PERMITS:**

- A. Permit Criteria/Scope: A conditional use permit shall be required for all uses listed as conditional uses in the zone regulations found elsewhere in this title. A conditional use permit may be revoked upon failure to comply with conditions precedent to the original approval of the permit.
- B. Application: Application for a conditional use permit shall be made by the property owner, or agent certified in writing by the property owner, to the zoning administrator, along with all information and materials required by this title. The zoning administrator shall schedule the application for consideration by the planning commission, and shall present the information and materials received.

- C. Information And Materials Required: The applicant for a conditional use permit shall provide information and materials sufficient to demonstrate that the general and specific requirements of this title will be met by the construction and/or operation of the proposed building, structure or use. This should include detailed site, location and building plans, a description of the proposed use, and any other information that may be required by the planning commission.
- D. Fee: The application for a conditional use permit shall be accompanied by the appropriate fee, as specified from time to time by the city council. (Ord., 10-17-1989)

10-12-3: **REVIEW PROCEDURE:**

- A. Planning Commission Review: All applications for conditional use permits shall be submitted to the planning commission for review and approval.
- B. Public Hearing: The planning commission shall advertize and hold a public hearing for the purpose of receiving public comment on a proposed conditional use. A public hearing should be advertised by publishing a notice of the hearing at least ten (10) days prior to the hearing in a newspaper of general circulation in the city, and by mailing notices of the hearing date and time to all owners of property located within three hundred feet (300') of the site of the proposed conditional use. The planning commission may waive the requirement for a public hearing at the request of the applicant, if the commission determines that the proposed use would have such a minimal impact upon the neighborhood and community that no valid public purpose would be served by holding a public hearing.
- C. Determination: Upon hearing the applicant for a conditional use permit and all interested parties, and upon reviewing all relevant information submitted, the planning commission may deny a permit; may grant a permit as applied for; or may grant a permit subject to requirements and conditions with respect to location, construction, maintenance, operation and duration as it may deem necessary for the protection of adjacent properties and the general community interest. The planning commission shall not authorize a conditional use permit unless evidence is presented to establish that:
 - 1. The proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the community; and

2. Such use will not, under the circumstances of the particular case, and under the conditions imposed, be detrimental to the health, safety and general welfare of persons or injurious to property and improvements in the community, but will be compatible with and complimentary to the existing surrounding uses, buildings and structures when considering: effect on adjacent property values, traffic, aesthetics, pollution, parking, landscaping, location of structures on the parcel, signs, and other relevant factors; and

3. The proposed use will comply with the regulations and conditions specified in this title for such use; and

4. The proposed use conforms to the goals, policies, intent and governing principles of the master plan. (Ord., 10-17-1989)

10-12-4: **CONDITIONS:**

A. **Permits To Comply With This Title:** Applications for a conditional use permit shall meet all specific requirements made in this title. In addition, the planning commission may establish conditions, as outlined in this section, to meet the concerns of safety for persons, neighborhood conditions and needs, performance and administration.

B. **Conditions Which May Be Imposed:** More specifically, the planning commission may require, as appropriate:

1. Landscaping to ensure compatibility with the intended characteristics of the neighborhood and zone.

2. Increased setback and side yard distances from lot lines to ensure the public safety and to ensure compatibility with the intended characteristics of the neighborhood and zone.

3. The screening of yards or other areas as protection from obnoxious land uses and activities.

4. The removal of structures, debris or plant life which is deemed to be incompatible with the intended characteristics of the neighborhood and zone.

5. The relocation, covering or fencing of irrigation ditches, drainage channels, and other similar potential attractive nuisances as determined by the planning commission.

6. The relocation of proposed or existing structures to provide for future streets as shown on the master street plan; adequate sight distance for general safety on existing or proposed streets, and other similar problems.

7. Construction of water lines, sewer lines and drainage facilities to serve the proposed use, in sizes necessary to protect existing utility users and to provide for an orderly pattern of development.

8. The location, arrangement and dimensions of truck loading and unloading facilities.

9. The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards and the appearance and harmony with adjacent development.

10. The location, height and materials of walls, fences, hedges and screen plantings to ensure harmony with adjacent existing or proposed development, or to conceal storage areas, utility installations or other unsightly development.

11. The planting of ground cover or other surfacing to prevent dust and erosion.

12. The retention of existing healthy trees and vegetation.

13. Construction of curbs, gutters, drainage culverts, sidewalks, streets, fire hydrants, and street lighting which will serve the proposed development, and which may compensate in part or in whole for possible adverse impacts to the neighborhood and zone from the proposed use.

14. Restructuring of the land and planting of the same as directed by the planning commission when the conditional use involves cutting and/or filling the land and where such land would be adversely affected if not restructured.

15. Time limits on the validity of the conditional use permit.

16. A bond or other valuable assurance in favor of the city in an amount to be determined by the city council. The amount of said bond or assurance shall not exceed the amount calculated by the applicant and approved by the planning commission as necessary to assure compliance with all conditions.

17. Specific long and short range plans of development.

18. Certification obtained and furnished by the applicant indicating that the proposed use will meet and comply with standards set by state and/or federal environmental protection agencies, by state and/or federal occupational and health agencies, and by any other appropriate state and federal agencies.

19. Limitations and/or restrictions on the use and/or location of the use due to special site conditions, including, but not limited to, geologically hazardous area, floodplains and sensitive areas due to soil capabilities, wildlife or plant life.

20. Population density and intensity of land use may be limited where land capability and/or vicinity relationships make it appropriate to do so to protect health, safety and welfare.

21. Provision for recreational facilities necessary to satisfy the needs anticipated from the proposed use.

22. Grading plans and finish elevations to prevent or minimize water damage from flood levels as determined by hydrology studies.

23. Any other conditions which reasonably relate to identified potential impacts or characteristics of the proposed use. (Ord., 10-17-1989)

10-12-5: **EXPIRATION:** Unless the uses and conditions prescribed in a conditional use permit are implemented within six (6) months of the issuance of the permit, the conditional use permit shall expire. The planning commission may grant a maximum extension of six (6) months, under exceptional circumstances. (Ord., 10-17-1989)

10-12-6: **REVOCAION:** The planning commission may hold a hearing upon the question of modification or revocation of a conditional use permit. A conditional use permit may be modified or revoked if the planning commission or city council finds one or more of the following:

- A. The use is detrimental to the public health, safety and welfare, or is a nuisance.
- B. The permit was obtained by fraud or misrepresentation.

- C. The use for which the permit was granted is not being exercised.
- D. The use for which the permit was granted has ceased or has been suspended for six (6) months or longer.
- E. The conditions imposed upon said permit have not been fully complied with.
- F. There is a violation of the laws or ordinances of the city which have a direct bearing upon the conduct of the use or its compatibility with other surrounding uses. (Ord., 10-17-1989)

10-12-7: **APPEAL:** Any person aggrieved by the decision of the planning commission with regard to the approval or denial of a conditional use permit may appeal that decision to the city council; such appeals must be taken within thirty (30) days of the planning commission decision by filing a written notice of appeal with the city recorder, specifying the grounds for the appeal. All appeals shall follow the procedures specified in section 10-3-6 of this title. (Ord., 10-17-1989)