

CHAPTER 8

CONDITIONAL USE PERMITS

SECTION:

- 11-8-1:** *Application – Filing – Content*
- 11-8-2:** *General Standards Applicable to Conditional Uses*
- 11-8-3:** *Supplementary Conditions and Safeguards May Be Required*
- 11-8-4:** *Public Hearing Required – Notice of Time and Place*
- 11-8-5:** *Commission or Council Action*
- 11-8-6:** *Applicant Notification*
- 11-8-7:** *Expiration*
- 11-8-8:** *Violation or Conditions*

11-8-1: APPLICATION – FILING – CONTENT:

- (A)** An application for conditional use permit shall be filed with the City Clerk and shall be signed by all owners of the subject property for which such conditional use is proposed. The application shall contain the following information:
- 1.** Name, address and phone number of applicant.
 - 2.** Legal description of property (with street address, if possible).
 - 3.** Description of existing use.
 - 4.** Present zoning of the property.
 - 5.** A detailed description of the proposed conditional use.
 - 6.** A plan of the proposed site for the conditional use showing the proposed or current location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards and such other information as the City may require to determine if the proposed conditional use meets the intent and requirements of this title.
 - 7.** A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, fumes and vibrations on adjoining property; a discussion of the general

compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the comprehensive plan.

8. Any other information required by the City.

(B) Each applicant, owner or developer proposing a conditional use may be required to prepare an impact study which shall show the potential effects of the proposed development upon the City both in terms of economics and environment.

The application must show that the proposed development is not harmful to the environment, that adequate transportation, fire and police protection, pollution control, and other factors which may be of concern to the City and its residents are considered. If in the judgement of the City the proposal would have little or no impact upon such factors the City may waive the requirement of an impact study.

The impact study may be required to include but not be limited to a study of the potential impact upon:

1. Drainage and grading of slopes.
2. Utilities, water sources, sewerage facilities, and solid waste.
3. Vegetation impact and influence.
4. Public and wildlife easements.
5. Air and water quality.
6. Geological impact.
7. Transportation and fire and police protection.
8. Schools, public and recreation facilities.
9. Aesthetic value.

When the applicant owns or controls more contiguous or adjacent land that is not included in the proposal, the City may require the applicant to submit an overall plan for development of the entire tract, which plan shall show the manner in which the entire tract of property is to be developed. If no further land is owned, nor any further plan of development, a written statement to that effect shall be required.

The City may require the applicant to supply additional information on any

of the factors or criteria of the study.

11-8-2: GENERAL STANDARDS APPLICABLE TO CONDITIONAL USES: The City Council and/or Zoning Commission shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

- (A) Will, in fact, constitute a conditional use as established in this Title for the zoning district involved, in that it is not already defined as a permitted use in the zoning ordinance.**
- (B) Will be harmonious with and in accordance with the general objectives of the zoning district involved and with all specific objectives of the comprehensive plan.**
- (C) Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.**
- (D) Will not be hazardous or disturbing to existing or future neighboring uses.**
- (E) Will be served adequately by essential public facilities and services such highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.**
- (F) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.**
- (G) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.**
- (H) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.**
- (I) Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.**

11-8-3: SUPPLEMENTARY CONDITIONS AND SAFEGUARDS MAY BE REQUIRED: In granting any conditional use, the City may prescribe appropriate conditions, bonds and safeguards in conformity with this Title. Violations of such conditions, bonds or safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Title.

11-8-4: PUBLIC HEARING REQUIRED - NOTICE OF TIME AND PLACE: Prior to granting a conditional use permit, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held before the City Council. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published by the City in the official newspaper or paper of general circulation within the jurisdiction or in any other manner as allowed by state statute. Notice may also be made available to other newspapers, radio or television stations serving in the jurisdiction for use as a public service announcement utility. Notice of such application shall also be sent to all utilities providing utility services, which notice shall be mailed at least fifteen (15) days prior to the public hearing. Notice of the hearing shall also be provided by the applicant by regular mail to property owners and residents within the land being considered, and within three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed conditional use as determined by the Council. The applicant shall certify to the City that this notice has been given in a manner required by the City. When notice is required to two hundred (200) or more property owners or residents, in lieu of the mailing notification, three (3) notices in the newspaper or paper of general circulation is sufficient; provided, the third notice is published at least ten (10) days prior the public hearing.

11-8-5: COUNCIL ACTION:

- (A)** Within forty-five (45) days after the public hearing, the City Council shall recommend approval, or disapproval of the application for conditional use permit as presented, unless a time extension is agreed upon. If the application is to be approved, the City shall list the specific conditions for approval.
- (B)** Upon granting of a conditional use permit, conditions may be attached to a conditional use permit including, but not limited to, those:
 - 1.** Minimizing adverse impact on other developments.
 - 2.** Controlling the sequence and timing of development.
 - 3.** Controlling the duration of development.

4. **Assuring that development is maintained properly.**
 5. **Designating the exact location and nature of development.**
 6. **Requiring the provisions for on-site or off-site public facilities or services.**
 7. **Requiring more restrictive standards than those generally required in an ordinance.**
- (C) Prior to granting a conditional use permit, the Council may request studies from the applicant or public agencies concerning social, economic, fiscal and environmental effects of the proposed conditional use. A conditional use permit shall not be considered as establishing a binding precedent to grant other conditional use permits. A conditional use permit is not transferable from one parcel of land to another.**
- (D) The Council shall ensure that any approvals for conditional use permits are in accordance with the comprehensive plan.**

11-8-6: APPLICANT NOTIFICATION: Within ten (10) days after a decision has been rendered, the City Clerk shall provide the applicant with written notice of the action on the request.

11-8-7: EXPIRATION: If the conditional use is not implemented within ninety (90) days of final approval, such approval shall, unless prior to such expiration an extension is granted by the City Council. Any conditional use that is not substantially used for a period of six (6) consecutive months shall be deemed to be waived.

11-8-8: VIOLATION OF CONDITIONS: If conditions are not met as approved, the City may rescind approval of the conditional use and cause such use to cease.

