

ARTICLE 8.5 – CONDITIONAL USE PERMIT

SECTION 8.5.001 - PURPOSE

The purpose of the Conditional Use Permit is to provide a mechanism whereby uses which may be suitable only in certain locations or only if designed or operated in a particular manner may be allowed within the basic zone designation.

SECTION 8.5.002 - REVIEW PROCEDURE

Application for a Conditional Use Permit shall be subject to the Planning Commission Review Procedure. Application for a Conditional Use Permit when in conjunction with a Comprehensive Land Use Plan change shall be subject to the Planning Commission Review Procedure.

SECTION 8.5.003 - REVIEW CRITERIA

A Conditional Use Permit shall be granted only if the reviewing authority shall find that it satisfies all of the following criteria, as well as all other criteria and standards of this Code and other applicable codes and Ordinances.

- A. That the use is listed as being conditionally permitted in the zone in which it is proposed to be located; and,
- B. That all required public facilities, including water, sanitary sewer, and streets, have adequate capacity or are to be improved to serve the proposed development, consistent with City standards; and,
- C. That the site location, size, access and existing improvements are adequate to support the proposed development and its operating characteristics, taking into consideration the proposed building mass, aesthetics, parking, traffic, safety noise, odors, dust, and other characteristics; and,
- D. That significant adverse impacts attributable to the proposed development, if any, on adjacent properties or on the public can be mitigated through additional development improvements permitted by this Code, or other reasonable conditions of approval.

SECTION 8.5.004 - PROCESSING

In the processing of a Conditional Use Permit, the following procedures shall be followed, in accordance with Chapter 9 of this Code:

- A. Initiation - An application for a Conditional Use Permit shall be initiated by the owner of the property for which the Conditional Use Permit is sought or by the representative of the owner. The authorization of said agent shall be in writing and filed with the application.
- B. Filing - An application for a Conditional Use Permit shall be filed on forms provided by the Community Development Department/Planning Division, shall set forth in detail all the information requested, shall be accompanied by a Site Plan and any such information as listed on the application submittal checklist. Twenty (20) copies of the application materials shall be submitted to the Community Development Department/Planning Division, for distribution to and review.

- C. Filing Fee - Application for a Conditional Use Permit with the requested information attached shall be accompanied by a filing fee set by the City Council, by resolution, to defray the costs incidental to the proceedings.
- D. Review by Appropriate Authority - The review authority, as provided by Chapter 9 of this Code, shall review the application and render a decision as provided by the review procedures.
- E. Attachment of Conditions - The review authority may approve the Conditional Use Permit subject to such reasonable conditions as are necessary to ensure that the use is compatible with other uses in the vicinity and to mitigate adverse impacts caused by the use. Conditions may include, but are not limited to:
 - 1. Regulations of use or uses.
 - 2. Special yards, spaces and buffers.
 - 3. Fences, hedges and walls.
 - 4. Surfacing of parking area.
 - 5. Requiring street, service road or alley dedications and improvements or appropriate bonds.
 - 6. Regulation of points of vehicular ingress and egress.
 - 7. Regulation of signs.
 - 8. Requiring landscaping and maintenance thereof.
 - 9. Requiring maintenance of the grounds.
 - 10. Regulation of noise, vibration, odors, etc.
 - 11. Regulation of time for certain activities.
 - 12. Time period within which the proposed use shall be developed.
 - 13. Duration of use.
 - 14. Such other conditions as will make possible the development of the City in an orderly and efficient manner and conformity with the intent and purposes of applicable Ordinances.
- F. Appeal of Decision - The decision of the review authority shall be final unless an appeal in writing is filed as provided in Chapter 9, Article 9.7.
- G. Noncompliance with Conditions - The Community Development Director/Planner may take action as provided by Article 10.2 of this Code where it reasonably appears that any condition imposed upon the granting of a Conditional Use Permit has not been complied with. In addition, a Conditional Use Permit may be modified or revoked if the Planning Commission finds one (1) or more of the following:
 - 1. That the Permit was obtained by misrepresentation or fraud;

2. That the conditions imposed on said Use Permit have not been complied with;
 3. That the use is detrimental to the health, safety or general welfare of persons residing in the vicinity or injurious to property in the vicinity;
 4. That the Conditional Use has been materially altered or expanded beyond the scope of the use originally authorized. Factors, such as, but not limited to, increased number or size of structures, finding that a nuisance exists, or alteration of the approved Site Plan may be cause for modification or revocation of a Conditional Use Permit.
- H. Prior Conditional Use Permit - A Conditional Use Permit granted pursuant to a Zoning Ordinance enacted prior to the effective date of this Code shall be construed to be a Conditional Use Permit in full effect unless otherwise voided pursuant to Paragraph "I" of this Section.
- I. Revisions and Expiration of a Valid Conditional Use Permit - Any variations, alterations, or changes in a valid Conditional Use Permit requested by the deed holder shall be considered in accordance with the procedures of this Article as though a new Conditional Use Permit were being applied for. A valid Conditional Use Permit shall be considered revoked or expired when the use for which the Permit was granted has ceased for six (6) months or longer.
- J. Limitation - No request for a Conditional Use Permit shall be considered by the review authority within a one-year period immediately following a previous denial of such request.

SECTION 8.5.005 - SITE PLAN REQUIREMENTS

Site Plans shall be submitted and shall contain the applicable information as outlined in Article 8.2, Section 8.2.005 of this Code.

SECTION 8.5.006 - TIME LIMIT ON CONDITIONAL USE PERMIT APPROVAL

A Conditional Use Permit shall be void after one (1) year if conditions of the Conditional Use Permit have not been met. If substantial improvements have been made, the Community Development Director/Planner may grant a one (1) year extension. However, the review authority may extend the one (1) year period at the hearing on the initial application or at a later date upon the request of the applicant and a showing of good cause thereafter. The reviewing authority may place such conditions upon the granting of additional time, including but not limited to, the requirement of a performance bond or cash deposit to be forfeited to the City in the event substantial progress on the proposed development has not been made at the end of the period of time granted by the reviewing authority.

- A. Substantial progress shall require consideration by the reviewing authority of the following factors:
1. The ratio of expenditures incurred to the total cost of the project.
 2. The good faith of the landowner.
 3. Whether the expenditures have any relationship to the completed project or could apply to various other uses of the land.
 4. The kind of project, location and ultimate cost.

5. Whether the acts of the landowner arise beyond mere contemplated use or preparation, such as leveling of land or boring test holes for preliminary negotiations with contractors or architects.