

CHAPTER 5

ADMINISTRATION – CONDITIONAL USE PERMITS

SECTION:

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01-5-1: PURPOSE: The purpose of a conditional use permit is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining streets, and all other or further factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

01-5-2: PROCEDURE: An application for a conditional use permit requires a public hearing and is to be processed in accordance with the procedures outlined in Section 01-3-3 of this Article.

01-5-3: CRITERIA: The Planning Commission shall consider possible effects of the proposed conditional use. Its judgment shall be based upon, but not limited to, the following factors:

- A. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Official City Comprehensive Plan.
- B. The proposed use is or will be compatible with present and future land uses of the area.
- C. The proposed use conforms with all performance standards contained in this Code.
- D. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.

- E. Traffic generation by the proposed use is within capabilities of streets serving the property.

01-5-4: GENERAL PERFORMANCE STANDARDS: As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include, but not be limited to, the following general performance standards and criteria:

- A. The use and the site in question shall be served by a street of sufficient capacity to accommodate the type and volume of traffic which would be generated and adequate right of way shall be provided.
- B. The site design for access and parking shall minimize internal as well as external traffic conflicts and shall be in compliance with Chapter 19 of this Article.
- C. If applicable, a pedestrian circulation system shall be clearly defined and appropriate provisions made to protect such areas from encroachment by parked or moving vehicles.
- D. Adequate off-street parking and off-street loading shall be provided in compliance with Chapter 19 of this Article.
- E. Loading areas and drive-up facilities shall be positioned so as to minimize internal site access problems and maneuvering conflicts, to avoid visual or noise impacts on any "adjacent" residential use or district, and provided in compliance with Chapter 19 of this Article.
- F. Whenever a nonresidential use "is adjacent to" a residential use or district, a buffer area with screening and landscaping shall be provided in compliance with Chapter 20 of this Article.
- G. General site screening and landscaping shall be provided in compliance with Chapter 20 of this Article.
- H. All exterior lighting shall be so directed so as not to cast glare toward or onto the public right of way or neighboring residential uses or districts, and shall be in compliance with Section 01-16-8 of this Article.
- I. Potential exterior noise generated by the use shall be identified and mitigation measures as may be necessary shall be imposed to ensure compliance with Section 01-16-12 of this Article.
- J. The site drainage system shall be subject to the review and approval of the City Engineer.

- K. The architectural appearance and functional design of the building and site shall not be so dissimilar to the existing or potential buildings and area so as to cause a blighting influence. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment.
- L. All signs and informational or visual communication devices shall be in compliance with Chapter 24 of this Article.
- M. The use and site shall be in compliance with any Federal, State or County law or regulation that is applicable and any related permits shall be obtained and documented to the City.
- N. Any applicable business licenses mandated by the City Code are approved and obtained.
- O. The hours of operation may be restricted when there is judged to be an incompatibility with a residential use or district.
- P. The use complies with all applicable performance standards of the zoning district in which it is located and where applicable, any nonconformities shall be eliminated.
- Q. All additional conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein.

01-5-5: REVOCATION: The Planning Commission may recommend, and the City Council may direct, the revocation of any conditional use permit for cause upon determination that the authorized conditional use is not in conformance with the conditions of the permit or is in continued violation of this Article, City codes, or other applicable regulations. The City Council or Planning Commission shall initiate an application and the Zoning Administrator shall notify the responsible person that they have an opportunity to show cause why the permit should not be revoked. The application shall be processed and considered pursuant to Section 01-3-3 of this Chapter. The Zoning Administrator shall provide the responsible person a copy of the proceedings and findings of the Planning Commission and City Council.

01-5-6: PERMIT MODIFICATIONS: Holders of a conditional use permit may propose modifications to the permit at any time. No changes in the approved plans or scope of the conditional use shall, however, be undertaken without prior approval of those changes by the City. Proposed permit modifications shall be classified as major or minor, as determined by the Zoning Administrator. Major permit modifications may

include, but shall not be limited to, hours of operation, number of employees, expansion of structures and/or premises, operational modifications resulting in increased traffic, and the like. Permit modifications shall be further subject to and processed as follows:

A. Minor Permit Modifications.

1. Additional Qualifications: In addition to other considerations noted above, minor permit modifications shall meet the following criteria:
 - a. Sites shall be in nonresidential zoning districts, and shall not abut any residential zoned property.
 - b. All sites must be legal parcels of record at the time of application.
 - c. All applications for permit modification shall be complete and in full accordance with the requirements of Section 01-9-6 of this Article. All applicable fees shall be paid.
 - d. All permit modification proposals shall meet or exceed the standards of all applicable codes, ordinances, and policies and shall be free of any variances from those standards.
 - e. Only applications for pre-existing, pre-approved uses explicitly classified as conditional uses within the respective zoning districts of this Article are eligible for administrative approval.
2. Procedure: Administrative approval of minor permit modifications shall be subject to the requirements of Chapter 8 of this Article.

B. Major Permit Modifications.

1. Qualifications: Any permit modification not classified or qualifying as minor shall be classified as major.
2. Procedure: Major permit modifications shall be processed according to Section 01-5-2 of this Article and shall be subject to all requirements and standards of this Chapter.