

CHAPTER 19.30 - CONDITIONAL USE PERMITS

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19.30.005 General.

Conditional uses are those types of uses, which, due to their nature, may be detrimental to the health, safety, welfare or property values of the immediate neighborhood and its environs. Within various zoning districts, conditional uses may be permitted only after compliance with specified conditions as established by these Zoning Regulations and by the Planning Commission. In no event shall a Conditional Use Permit be granted where the conditional use contemplated is not specifically listed as a conditional use in the Zoning Regulations.

19.30.010 Public Hearing.

The Planning Commission shall hold a public hearing on each proposed Conditional Use Permit application and shall cause an accurate written summary to be made of the proceedings.

19.30.015 Notice of Hearing.

A notice of said public hearing shall be published in the newspaper at least twenty (20) days prior to the public hearing and a copy shall be mailed by the applicant, return receipt requested, to all owners of record of lands within two hundred feet of the property to which the Conditional Use Permit application applies. Said notice shall be sent at least twenty (20) days before the hearing at which said Conditional Use Permit application is scheduled to be considered. Such notice shall fix the time and place for such hearing, shall contain a statement regarding the proposed conditional use, and shall contain a legal description or general description that is sufficient to identify the property under consideration. All notices shall contain a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission. The applicant shall furnish all return receipts to the Secretary of the

Planning Commission. Such notice is sufficient to permit the Planning Commission to take action on a proposed Conditional Use Permit as described in such notice.

19.30.020 Conduct of Hearing.

The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the Planning Commission may from time to time prescribe by rule. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney. The Planning Commission may request a report on any proposed Conditional Use Permit from any governmental official or agency, or any other person, firm or corporation. If such a report is made, a copy thereof shall be made available to the applicant or any other interested persons upon request and shall be available for review in the office of the Secretary of the Planning Commission.

19.30.025 Applications.

- A. The applicant shall prepare and submit at the time of filing an application as supplied by the City, fourteen (14) copies of a site plan of the property to which the Conditional Use Permit application applies and one (1) copy of any other information that may be helpful to the Planning Commission in reviewing said application. The Site Plan shall be submitted in accordance with the requirements set out in Section 19.32 Site Plan Approval.
- B. An application shall be accompanied by a filing fee in an amount as established by the City Council. A separate filing fee shall be required for each request.

19.30.030 Factors for Consideration.

The Planning Commission shall make findings of fact to support its decision to approve or disapprove a Conditional Use Permit. (Ord. 1974, Sec. I, 1999)

In making its decision, consideration shall be given to any of the following factors that are relevant to the request: (Ord. 1974, Sec. I, 1999)

- A. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations;
- B. The proposed conditional use at the specified location will not adversely affect the welfare or convenience of the public;
- C. The proposed condition use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located;
- D. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood consideration shall be given to:
 - 1. The location, size, nature and height of buildings, structures, walls, and fences on the site; and

2. The nature and extent of landscaping and screening on the site.
- E. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect;
- F. Adequate utility, drainage, and other such necessary facilities have been or will be provided;
- G. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys;
- H. Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing process, obnoxious odors or unnecessarily intrusive noises.

It is not necessary that a finding of fact be made for each factor described herein. However, there should be a conclusion that the request should be approved or denied based upon consideration of as many factors as are applicable. (Ord. 1974, Sec. I, 1999)

19.30.035 Planning Commission Action.

Upon conclusion of the public hearing and preparation of the findings of fact, the Planning Commission shall by resolution by a majority of its members present and voting, approve, approve subject to conditions or deny the conditional use application.

In granting a Conditional Use Permit, the Planning Commission may impose such conditions, safeguards and restrictions upon the premises benefited by the Conditional Use as may be necessary to reduce or minimize any potentially injurious effect of such Conditional Use upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

19.30.040 Expiration of Approval.

All Conditional Use Permits shall be valid for the length of time set forth by the Planning Commission in the approval of said Conditional Use Permit application provided, however, that all such permits shall expire when the use for which the permit has been issued is discontinued or abandoned, for a period of six (6) consecutive months. Such use shall not thereafter be re-established or resumed, unless a new permit is issued following the procedures set forth herein.

19.30.045 Assignments.

Conditional Use Permits may be assigned, conveyed or transferred to another owner *or* operator subject to a signed statement by the new owner or operator that he/she has read the conditions of approval and agrees to be bound by the terms of approval. (Ord. 1974, Sec. II, 1999)

19.30.050 Appeals of Conditional Use Permits.

Any person, official or governmental agency dissatisfied with the Planning Commission's decision on any Conditional Use Permit application may bring an action in the District Court to determine the reasonableness of any such decision. Such appeals must be filed in the District Court within thirty (30) calendar days after the date that the decision of the Planning Commission was made.

19.30.055 Specifically Listed Conditional Uses.

The following uses may be permitted by conditional use permit:

- A. Temporary use of land for commercial or industrial purposes; provided that any building or structure constructed thereon which is not otherwise permitted in the district in which such land is situated, and any stored equipment or material shall be removed upon the date of expiration of the conditional use permit, which permit shall be valid for not more than two years, but may be renewable after public hearing;
- B. Off-street parking lots and parking structures;
- C. Drive-up, drive-through or drive-in services in the C-0, C-1, and C-2 Districts. Such permit shall not be approved unless the following conditions and procedures are met:
 - a. The access, circulation and stacking pattern of vehicles using such facility shall be reviewed and approved by the city's traffic engineers prior to Planning Commission approval of plans.
 - b. Alcoholic or cereal malt beverages shall not be sold or otherwise dispensed at such facility.
 - c. A conditional use permit for drive-up, drive-through or drive-in food services shall be approved only for premises located in Districts C-1 and C-2.
- D. Satellite dish antennas, with a diameter of one meter or greater and those not permitted in Section 19.34.040 (D); wind driven devices; and non commercial transmitting and receiving antennas and towers; (Ord. 1899, Sec. I, 1996; Ord. 1909, Sec. I, 1997)
- E. Property Maintenance Facilities. Buildings, structures and premises for property maintenance facilities, and uses;
- F. Portable carts, booths and stands or other similar facilities used for retail sales of merchandise.
- G. Utility boxes that have a footprint larger than twelve (12) square feet in area, a pad greater than 2.5 times the area of the utility box footprint or greater than 32 square feet; or have a height of more than fifty-six (56) inches. (Ord. 2029 Sec. IV, 2002; Ord. 2225, Sec. III, 2010)