

## **Chapter 12.13**

### **Conditional Use Permits**

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#### **12.13.1 Purpose**

Uses designated as conditional uses require special consideration from the City Council. These uses may or may not be appropriated for a specific piece of property. The purpose of this Chapter is to allow the City Council to evaluate the appropriateness of designated conditional uses on a case by case basis. The conditional use permit procedure allows the City Council to approve, deny, or conditionally approve any request for a conditional use permit.

#### **12.13.2 Permit Required**

No person or entity shall operate or conduct a use designated as a conditional use within the applicable zone without first obtaining a conditional use permit from the City.

#### **12.13.3 Procedure for Approval**

The applicant for a conditional use permit shall submit a completed application form and a site plan with sufficient information to allow the Planning Commission to make a well informed decision. The applicant shall also pay a fee in an amount established by resolution of the City Council with the application. (*amended 3/13/2001 Ord. 2001-04*)

#### **12.13.4 Planning Commission Approval**

The Planning Commission shall review the proposed conditional use considering the criteria and factors set forth in Section 12.13.6. Following a public hearing, the Planning Commission shall approve, approve with conditions or deny the application for a conditional use permit. The hearing shall be noticed in accordance with Section 12.2.7 herein. The validity of the permit shall be conditioned upon strict compliance with applicable City ordinances, the approved project plan and any additional conditions or requirements imposed by the Commission.

Prior to granting a conditional use permit and after receipt of reports and recommendations of the staff, the Planning Commission shall hold a public hearing to accept and consider public comment.

#### **12.13.6 Criteria and Factors to be Considered**

The following factors shall be weighed and considered when determining whether a conditional use permit application should be approved, approved with conditions or denied:

1. Harmony of the request with the general objectives of the General Plan, Land Use Ordinance, Subdivision Ordinance, any other City ordinance and the particular zone in which the request is located.
2. Harmony of the request with existing uses in the neighborhood.
3. Development or lack of development adjacent to the site.
4. Whether or not the request may be injurious to potential development in the vicinity.
5. Present and future requirements for transportation, traffic, water, sewer, and other utilities.
6. Suitability of the specific property for the proposed use.
7. Number of other similar conditional uses in the area and the public need for the conditional use.
8. Economic impact on the neighborhood.
9. Aesthetic impact on the neighborhood.

10. Safeguards to prevent noxious or offensive omissions such as noise, glare, dust, pollutants and odor.
11. Attempts by the applicant to minimize other adverse affects on people and property in the area.
12. Impact of the proposed use on the health, safety and welfare of the City, the area, and persons owning or leasing property in the area.

#### **12.13.7 Duration**

Unless otherwise specified by the Planning Commission, and subject to the provisions in this Section relating to the amendment or revocation of a conditional use permit, a conditional use permit shall be of indefinite duration and shall run with the land. The Commission may grant a conditional use permit for a limited period of time if it finds that a limited permit is necessary to protect the health, safety or welfare of the community.

#### **12.13.8 Fees**

Fees shall be established by the City Council by resolution, and shall be assessed as a condition of the submission of any conditional use permit application.

#### **12.13.9 Other Requirements**

An applicant or user of a conditional use permit shall be held to all of the requirements relating to project plan approval, improvement, bonding, maintenance and completion. The conditional use permit shall not be valid until a bond guaranteeing all required and proposed improvements has been posted. Nothing in this Chapter shall be interpreted to waive the bonding, licensing or permit requirements set forth in other City ordinances.

#### **12.13.10 Appeals**

Any person aggrieved by or affected by any decision of the Planning Commission may appeal the decision to the City Council.

#### **12.13.11 Implementation**

A conditional use permit shall expire and become null and void if the permit has not been implemented by the recipient within one year of the date of approval. The permit shall be considered implemented if the recipient either engages or participates in the conditional use or completes substantial construction on the project for which the permit was granted.

#### **12.13.12 Amendment or Revocation**

Any interested party may apply to the City for the amendment or revocation of a conditional use permit. For purposes of this Section, "interested party" shall include the following persons or entities:

1. The owner or lessee of the property for which the conditional use was granted.
2. The City.
3. Any owner or lessee of property that lies within two hundred feet (200') of the property for which the conditional use permit was granted.
4. Any person that can show that the conditional use has a direct impact upon his or her health, safety or welfare.
5. Fee. Any person or entity, other than the City, seeking to amend or revoke a conditional use permit, shall pay a fee in an amount established by resolution of the City Council.

The procedure for amending or revoking a conditional use permit shall be the same as the original application procedure set forth in Section 12.13.3.

A conditional use permit may be amended at the request of the holder of the permit upon a showing of good cause. A conditional use permit may be amended or revoked at the request of any other interested party if the City Council finds one or more of the following:

1. That the conditional use permit was obtained by misrepresentation or fraud.
2. That the use for which the permit was granted has ceased or has been suspended for six months.
3. That the holder or user of the conditional use permit has failed to comply with any of the conditions placed on the issuance of the permit.

4. That the holder or user of permit has failed to comply with any City regulations, governing the conduct of the use.
5. That the holder or user of the conditional use permit has failed to construct or maintain the approved site as shown on the approved site plan.
6. That the operation of the use or the character of the site has been found to be a nuisance or a public nuisance by a Court of competent jurisdiction in any civil or criminal proceeding.

No conditional use permits shall be amended or revoked against the wishes of the applicant for the permit without first giving the applicant an opportunity to appear before the Planning Commission and show cause as to why the permit should not be amended or revoked. Amendment or revocation of the permit shall not limit the City's ability to initiate or complete other legal proceedings against the holder or user of the permit.

**12.13.13 Violation**

A violation of any of the terms of this Chapter or any conditions imposed as part of a conditional use permit shall be unlawful, and may be remedied or punished as allowed by law.