

CHAPTER 6

**CONDITIONAL USE PERMIT**

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9-6-1: GENERAL STATEMENT

- A. Individual Consideration: It is recognized that an increasing number of new uses are appearing daily and that many of these and some other more conventional uses possess characteristics of such special nature relative to location, design, size, method of operation, traffic circulation and public convenience that each use must be considered individually.
- B. Public Hearing Required: The planning and zoning commission shall hold a public hearing on each conditional use permit as specified in the official schedules of district regulations. Subject to section 9-6-7 of this chapter, the planning and zoning commission may approve, conditionally approve or deny a conditional use permit under the conditions as herein specified and considering such additional safeguards as will uphold the intent of this Title.

9-6-2: APPLICATION FOR PERMIT

The owner or lessee of property for which such conditional use permit is proposed shall file an application for a conditional use permit with the administrator on forms provided by the administrator, including the applicable fees.

- A. Additional information required as part of the application of a conditional use permit. A statement evaluating the effects on adjoining property of noise, pollution, vibration, or any other condition that may be occasioned by the conditional use; compatibility with adjacent and other properties in the district; and the relationship of the proposed use to provisions of the comprehensive plan.

9-6-3: STANDARDS APPLICABLE TO ALL CONDITIONAL USES

The planning and 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 will:

- A. Conditional use: Constitute a conditional use as established in this Title.

- B. Comprehensive Plan: Be harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan and/or this Title;
- C. Existing Character: 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 as far as is possible;
- D. Neighboring Uses: Not be unduly hazardous or disturbing to existing or future neighboring uses;
- E. Public Facilities and Services:
  - 1. Not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the city;
  - 2. Be served adequately by essential public facilities and services or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide such service;
- F. Pollutants: Not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to persons, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes or other pollutants;
- G. Traffic Hazards: Have vehicular approaches to the property that will be so designed as not to constitute a hazard to traffic on adjacent public thoroughfares; and
- H. Historic Features: Not result in the destruction, loss or damage of a scenic or historic feature of major importance.

9-6-4: SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

In granting any conditional use, the planning and zoning commission and/or city council 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. (Ord. 38, 11-5-1984; Ord. 2008-4)

9-6-5: HEARING AND NOTICE PROCEDURES

- A. Required: Prior to approving a conditional use permit the planning and zoning commission shall hold at least one public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement.
- B. Notice To Property Owners: Written notice shall also be provided to property owners and residents within three hundred feet (300') beyond the external boundaries of the land being considered. When notice is required to two hundred (200) or more property owners or residents, in lieu of mailing notification, one

notice in the official newspaper or paper of general circulation is sufficient, provided the notice is at least four inches (4") by two (2) columns in size.

- C. Posting: Hearing notice shall be posted on the property to be considered for a conditional use permit at least one week prior to the public hearing.

9-6-6: PLANNING AND ZONING COMMISSION ACTION

- A. Decision: Within forty-five (45) days following the public hearing, the planning and zoning commission shall recommend to the city council approve, conditionally approve or deny the application as presented. If the application is approved with modifications or conditions, the planning and zoning commission shall list the specific modifications and conditions.
- B. Conditions: Prior to approval of a conditional use permit, the planning and zoning commission may attach conditions, including, but not limited to, the following:
  - 1. Minimizing adverse impact on other development;
  - 2. Controlling the sequence and timing of development;
  - 3. Controlling the duration of development;
  - 4. Assuring that development is maintained properly;
  - 5. Designating that exact location and nature of development;
  - 6. Requiring the provision for on site or off site public facilities or services; and
  - 7. Requiring more restrictive standards than those generally required in this Title.
- C. Studies Authorized: Prior to approving or conditionally approving, a conditional use permit, the planning and zoning commission may request studies concerning social, economic, fiscal and environmental effects of the proposed conditional use. A request for such a study or studies shall automatically toll the time frames set forth in this section until such study or studies are submitted to the planning and zoning commission.
- D. A conditional use permit shall not be considered as establishing a binding precedent to grant other conditional use permits.
- E. Transfer Of Permit: A conditional use permit is not transferable from one parcel of land to another; however, a conditional use permit is transferable from one owner to another as long as the use is not altered.

9-6-7: ACTION BY CITY COUNCIL

- A. Upon receipt of the planning and zoning commission's notice of action taken, the city council may approve the action of the planning and zoning commission by a majority vote without further public hearing.
- B. If the city council makes a material change to the planning and zoning action taken, a public hearing is required.
- C. Public Hearing: The city council shall set at least one public hearing within thirty (30) days of the planning and zoning commission's recommendation. The city

council shall use the same notice and hearing procedures used by the planning and zoning commission.

- D. Within forty-five (45) days following the public hearing, city council shall approve, approve with conditions or modifications, or deny the conditional use permit.
- E. Upon granting or denying an application for a conditional use permit, the city council shall specify:
  - 1. The comprehensive plan and/or ordinance provisions or standards used in evaluating the application; and
  - 2. The reasons for approval or denial.

9-6-8: NOTIFICATION TO APPLICANT

Within ten (10) days after a decision has been rendered, the administrator shall provide the applicant with written notice of the action taken on the request for a conditional use permit.

9-6-9: JUDICIAL REVIEW

An applicant denied a permit or aggrieved by a decision may, within twenty eight (28) days after all remedies have been exhausted under local ordinance, seek judicial review under the procedures provided by chapter 52, title 67, Idaho Code.

9-6-10: REVOCATION OF PERMIT

Once a conditional use permit has been granted, it may be revoked upon violation of any of the conditions imposed therein, using the same, or most currently adopted, hearing procedures for granting a conditional use permit. (Ord. 2008-4)