

## CHAPTER 7

### CONDITIONAL USES

#### Conditional Use Permit

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#### 7.1 PURPOSE OF CONDITIONAL USE PROVISION.

(1) A "conditional use" is a land use that, because of its unique characteristics or potential impact on the Town, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

#### 7.2 NO PRESUMPTION OF APPROVAL.

(1) The listing of a conditional use in any Table of Permitted and Conditional Uses found at the end of each chapter of this Ordinance for each category of zoning district or districts does not constitute an assurance or presumption that such conditional use will be approved. Rather, each proposed conditional use shall be evaluated on an individual basis, in relation to its compliance with the standards and conditions set forth in this chapter and with the standards for the district in which it is located, in order to determine whether the conditional use is appropriate at the particular location.

#### 7.3 SITE PLAN AND PERMIT REQUIRED.

(1) A conditional use permit shall be required for all uses listed as conditional uses in the zoning district regulations where they are, or will be located, and if the use is specified as conditional use elsewhere in this Ordinance. Failure to comply with any of the conditions imposed in the permit will result in an Order to Show Cause for revocation. The permit may be revoked by the Planning Commission upon evidence that any condition has not been met.

(2) A conditional use has the potential for adverse impacts if located and laid out on zoning lots without careful planning. Such impacts may interfere with the use and enjoyment of adjacent property and uses. Site plan review is a process designed to address such adverse impacts and minimize them where possible. Site plan review of development proposals is required for all conditional uses in all districts.

#### 7.4 FEE.

(1) The application for any conditional use permit shall be accompanied by the appropriate fee as determined by the Town Council.

#### 7.5 APPLICATION.

(1) A conditional use permit application shall be made to the Zoning Administrator no later than 11 calendar days prior to a scheduled Planning Commission meeting.

(2) All applications for a conditional use permit shall include:

(a) The applicant's name, address, telephone numbers and interest in the property;

(b) The owners name, address and telephone number, if different than the applicant, and the owner's signed consent to the filing of the application;

- (c) The street address and legal description of the subject property;
- (d) The zoning classification, zoning district boundaries and present use of the subject property;
- (e) A vicinity map with North, scale and date, indicating the zoning classifications and current uses of properties within 100 feet (exclusive of intervening streets and alleys) of the subject property;
- (f) A plat or a survey of the parcel of land, lots block, blocks, or parts or portions thereof, drawn to scale, showing the actual dimensions of the piece or parcel, lot, lots, block, blocks, or portions thereof, according to the registered or recorded plat of such land;
- (g) The proposed title of the project and the names, addresses and telephone numbers of the architect, landscape architect, planner or engineer on the project;
- (h) A complete description of the proposed conditional use;
- (i) A plan or drawing drawn to scale of twenty feet to the inch (20' = 1 inch) or larger which includes the following information of the proposed use:
  - (i) actual dimensions of the subject property;
  - (ii) exact sizes and location of all existing and proposed buildings or other structures;
  - (iii) driveways;
  - (iv) parking spaces;
  - (v) safety curbs;
  - (vi) landscaping;
  - (vii) drainage features and environmental features.
- (j) Traffic Impact Analysis if required by the Planning Commission or Town Council;
- (k) Mailing labels and first class postage for all persons required to be notified of the public hearing on the proposed conditional use permit; and
- (l) Such other and further information or documentation as the Chairperson of the Planning Commission may deem to be necessary for a full and proper consideration and disposition of the particular application.

#### 7.6 PUBLIC HEARING.

(1) A public hearing may be held if the Chairman of the Planning Commission shall deem a hearing to be necessary and in the public interest.

#### 7.7 DETERMINATION.

(1) The Planning Commission, or upon authorization, the Zoning Administrator, may permit a use to be located within a zoning district in which a conditional use permit is required by the use regulations of that zoning district or elsewhere in these ordinances. In authorizing any conditional use the Planning Commission shall impose such requirements and conditions as are necessary for the protection of adjacent properties and the public welfare. The Planning Commission shall only approve with conditions, or deny a conditional use based upon written findings of fact with regard to each of the standards set forth below and, where applicable, any special standards for conditional uses set forth in a specific zoning district. The Planning Commission shall not authorize a conditional use permit unless the evidence presented is such as to establish:

- (a) The proposed use is one of the conditional uses specifically listed in the zoning district in which it is to be located;
- (b) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, comfort, order or general welfare of persons residing or working in the vicinity;
- (c) That the use will comply with the intent, spirit, and regulations of these ordinances and is compatible with and implements the planning goals and objectives of the Town, including applicable Town master plans;
- (d) Make the use harmonious with the neighboring uses in the zoning district in which it is to be located;

- (e) That nuisances which would not be in harmony with the neighboring uses, will be abated by the conditions imposed;
- (f) That protection of property values, the environment, and the tax base for Town of Rush Valley will be assured;
- (g) That the conditions shall be in compliance with the current comprehensive General Plan of Town of Rush Valley;
- (h) That the conditions imposed are not capricious, arbitrary or contrary to any precedence set by the Planning Commission on prior permits, which are similar in use and district, unless prior approvals were not in accordance with the provisions and standards of this ordinance;
- (i) The internal circulation system of the proposed development is properly designed;
- (j) Existing and proposed utility services are adequate for the proposed development;
- (k) Appropriate buffering is provided to protect adjacent land uses from Light, noise and visual impacts;
- (l) The proposed use preserves historical, architectural and environmental features of the property; and
- (m) Operating and delivery hours are compatible with adjacent land uses.

#### 7.8 PLANNING COMMISSION ACTION.

(1) The Planning Commission shall either (1) approve the conditional use; (2) approve the conditional use subject to specific modifications; (3) postpone a decision pending consideration of additional information to be submitted by the applicant; or (4) deny the conditional use.

#### 7.9 EFFECT OF APPROVAL OF CONDITIONAL USE.

(1) The approval of a proposed conditional use by the Planning Commission or the Zoning Administrator shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals that may be required by the regulations of the Town, including but not limited to a Building Permit, Certificate of Occupancy and subdivision approval.

#### 7.10 APPEALS OF DECISION.

(1) Any person aggrieved by a decision of the Planning Commission regarding the issuance, denial or revocation or amendment of a conditional use permit, may appeal such decision to the Town Council, whose decision shall then be final. All appeals to the Town Council must be in writing and filed with the Zoning Administrator within thirty (30) days of the date of the decision appealed from. The decision of the Town Council may be appealed to the District Court provided such appeal is filed within thirty (30) days of the decision of the Town Council. Said appeal shall be filed with the Zoning Administrator and with the Clerk of the District Court.

#### 7.11 INSPECTION.

- (1) Following the issuance of a conditional use permit by the Planning Commission or the Zoning Administrator:
  - (a) The Zoning Administrator or other authorized agent of the Town shall take in an application for approval of a building permit (if applicable), and shall insure that development is undertaken and completed in compliance with the conditional use permit, these ordinances, and the building codes.
  - (b) The Zoning Administrator or other authorized agent of the Town shall make periodic inspections to insure that compliance with all conditions imposed are being complied with. An Investigation Report will be issued to those who are out of compliance and if the discrepancy is not corrected in an allotted time, an Order to Show Cause will be issued for action by the Planning Commission.

#### 7.12 TIME LIMIT.

- (1) A conditional use permit for temporary uses may be issued for a maximum period of six (6) months, with renewals at the discretion of the Planning Commission for no more than three (3) successive periods thereafter.
- (2) Unless there is substantial action under a conditional use permit within a maximum period of one (1) year of its issuance, said permit shall expire. The Planning Commission may grant one extension up to six months, when deemed in the public interest. The approval of a proposed conditional use permit by the Planning Commission shall authorize only the particular use for which it was issued.

### 7.13 NOTIFICATION REQUIRED.

(1) When the Planning Commission considers an application for a conditional use permit at the work meeting, notification shall be sent by mail to all landowners appearing on the tax rolls of Tooele County Assessor that adjoin the property or within an area that the Planning Commission or the Zoning Administrator deems to be impacted. It is the intent to make notification to all landowners or residents in the area that may be directly impacted by the conditional use action.

### 7.14 AMENDMENT OF A CONDITIONAL USE PERMIT.

(1) Once granted, a conditional use permit shall not be enlarged, changed, extended, increased in intensity, or relocated unless an application is made to amend the existing permit, and approval is given by the Planning Commission:

### 7.15 REVOCATION.

(1) The Planning Commission may revoke a conditional use permit if the conditions of a use permit are not fully complied with. Prior to the revocation of a use permit, the Chairman of the Planning Commission, after receiving information that there is reason to believe that the conditions of a use permit are not being complied with, shall issue an Order to Show Cause, to the owner or person(s) who are in control over the property or use in question. The order shall specify the alleged conditions that are not in compliance, inform the owner or other responsible party that the conditional use permit is in question and may be revoked, and any relevant evidence may be presented in support of the owner or responsible parties position. All persons wishing to present evidence shall be required to take an oath or affirmation to tell the truth, which shall be administered by or under the direction of the Chairman of the Planning Commission. The form of the oath or affirmation shall be as specified by Sections 78-24-17 or 78-24-18 of the Utah Code Annotated. The Chairman may be reversed on any procedural ruling, by a majority vote of the other Planning Commission members present. A decision of the Planning Commission shall include a findings of fact and it's ruling.

(2) The Planning Commission may after a hearing, revoke a conditional use permit, allow the use to continue, or add new terms and conditions to an existing permit. Furthermore, the Planning Commission shall have the right of action to compel offending structures or uses to be removed at the cost of the violator or owner. Nothing in this section shall be construed to prevent the Planning Commission from otherwise reviewing use permits or be construed to prevent persons from being prosecuted under the criminal provision of this code for failure to comply with the terms of a conditional use permit.

(3) Any person or firm aggrieved by the decision of the Planning Commission regarding the revocation or amendment of a conditional use permit, may appeal such decision to the Town Council whose decision shall then be final. The decision of the Town Council shall be appealed to district court provided, that petition for such relief is presented to the court within 30 days after the filing of such decision in the office of the Town of Rush Valley Council.