

Chapter 108-4 Conditional Uses

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Sec 108-4-1 Purpose And Intent

The purposes of this chapter are to:

Provide for the purpose and intent of the respective zones, and to provide for the vision, goals, and objectives of the respective general plans, by specifying general standards that may be applied by the land use authority to a use listed as a conditional use in this Land Use Code; and

Provide a reasonable process for the application for, and timely review of, a conditional use permit.

Conditional uses are uses that may be appropriate within a zoning district when designed and operated to mitigate reasonably anticipated land use impacts. Conditional uses are presumed allowable where applicable standards can be met. The purpose of conditional use review is to evaluate objective impacts and apply reasonable mitigation, not to determine whether a use is desirable.

Sec 108-4-2 Conditional Use Permit

A conditional use permit shall be required for all uses listed as a conditional use in this Land Use Code.

A conditional use permit shall run with the property unless the permit has expired or has been revoked or the use has been abandoned.

Sec 108-4-3 Application And Review Procedure

Applications for a conditional use permit shall be submitted to the planning division.

Application requirements. The application shall include the information in the following list; for those applications where no changes are proposed to an existing site or structure, or where the application requirements are unnecessary to demonstrate compliance with applicable ordinances and standards, the application requirements may be modified or consolidated by the planning director or designee:

A completed application form signed by the property owner or certified agent;
An application fee. The payment of a partial application fee, or the submittal of plans for a pre-submittal review, does not constitute a complete application;

A written narrative explaining the proposal. The narrative shall include, at a minimum, the following information:

- The name of the project;

- The name, home address, and, if applicable, business address of the applicant;

- As applicable, the name and business address of the project designer or engineer;
and

- A written explanation of how the proposal complies with the applicable standards of section 108-4-5, and those applicable standards of title 108, chapter 1, and title 108, chapter 2;

A detailed vicinity map. The map shall include, at a minimum, the following information:

- The name of the project;

- A north arrow;

- All significant natural and manmade features and existing structures within 200 feet of any portion of the proposed project area;

- The property boundaries of the proposal; and

- The names and site addresses of adjacent property owners;

A site plan of the proposal. The site plan shall be designed to provide, at a minimum, the following information:

- The name of the project;

- The name, home, and, if applicable, business address of the applicant;

- If applicable, the name and business address of the project designer or engineer;

- A scale, which shall be sized appropriately to make the site plan easily and clearly legible;

- A north arrow pointing to the left or top of the sheet;

- The boundary of the site, including any building pad, public and private easements, and other areas affected by the proposal;

- The existing uses and ownership information for adjacent parcels;

- Existing zoning;

- Total acreage of the entire affected property or if the property is split by zoning, the total acreage of property in each zone;

- The location and width of existing and proposed roads, driveways, and parking areas, as may be applicable;

- The location of any existing and proposed manmade features, including, but not limited to, bridges, railroad tracks, trails and pathways, structures, and fences;

- The existing and, if applicable, proposed culinary water, secondary water, irrigation water, and sanitary sewer or septic infrastructure;

- The existing and proposed topographic contours, including, if applicable, any details necessary to explain proposed grade changes, fills or excavations, or any other earth work, together with any applicable drainage plans, stormwater pollution prevention plans, and revegetation plans;

The location and type of existing landscaping and vegetation, and proposed changes thereto, if any. If applicable, location and type of new landscaping and vegetation;

The location of flood plain boundaries, if applicable; and

Any other proposed site improvements showing details and other applicable design and architectural requirements specified in title 108, chapter 1, and title 108, chapter 2;

Culinary water and sanitary sewer or septic verification, as may be applicable for the specific use. Culinary water and sanitary sewer or septic verification shall include a capacity assessment letter from the applicable water and sanitary sewer or septic entity or agency;

Applicable impact studies or other technical studies that may be necessary to provide evidence of anticipated detrimental effects of the proposal or evidence of compliance with the applicable standards, as may be required by the planning director or county engineer; and

Any additional pertinent information needed to adequately describe the proposal, or provide evidence of compliance with the applicable standards, as determined by the planning director.

Application submittal and review.

Review of a conditional use permit application is intended to verify compliance with applicable ordinances and provide appropriate and reasonable mitigation of anticipated detrimental effects.

The application review procedure is as follows:

Pre-application meeting. Prior to submission of a complete application, a pre-application meeting is required to be held with planning division staff, in which the applicant will provide preliminary plans for planning division staff to review and discuss with the applicant. This meeting is intended to provide the applicant with a better understanding of the conditional use process and requirements in order to assist with the submission of a complete application.

Complete application submission. Upon assembling a complete application, the applicant shall submit it for substantive review. Incomplete applications shall not be accepted. Staff will review the application for completeness. In the event the application is incomplete, staff will return it to the applicant with a list of deficiencies.

Referral of the application to reviewers. Upon acceptance of an application, planning staff shall transmit it to applicable reviewers as may be determined necessary to verify compliance with the standards of this chapter, or any other relevant requirements of this Land Use Code.

Reviewer's recommendations. Within a reasonable time frame, applicable reviewers shall forward to planning division staff reasonable recommendations for conditions necessary to substantially mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

Planning staff review and recommendation. Planning staff shall review the application, together with any reasonable recommendations from applicable

reviewers, to determine compliance with this Land Use Code. Planning staff shall assemble a staff recommendation, with conditions and findings, for the application, then forward the recommendation with the application to the land use authority for a final decision.

Land use authority review and decision. Upon receipt of the application and staff recommendation, the land use authority shall make final decision on whether the application complies with this Land Use Code, in accordance with the requirements of section 108-4-4. Final decisions shall be accompanied by any applicable conditions and relevant findings.

Land use authority. The planning commission is the land use authority for conditional use permits. De minimis revisions to a previously approved conditional use permit may be approved by the planning director provided it can be determined that the changes are slight, inconsequential, and not in violation of any substantive provision of this Code. The planning director's written approval of a de minimis revision shall be appended to the written decision of the planning commission. Revisions that are de minimis shall not require public notice.

Sec 108-4-4 Decision Requirements

A conditional use shall be approved if reasonable conditions can be imposed to substantially mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the standards of this chapter, or relevant standards or requirements of any other chapter of this Land Use Code. Specific details of the mitigating measures will be included in the application prior to approval. When considering any of the standards, the land use authority shall consider the reasonably anticipated detrimental effects of the proposed use in the context of current conditions and, to the extent supported by law, the policy recommendations of the applicable general plan. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use will be denied.

Sec 108-4-5 Conditional Use Standards

Conditions of approval; credible evidence. The land use authority may apply conditions of approval related to any of the standards of this section, provided that credible evidence exists that:

The application of the standard is relevant to the use; and

The conditions are reasonable and necessary to substantially mitigate detrimental effects of the use as specified in the standard.

Consideration from qualified professionals. The land use authority shall consider the expertise and experience of applicable reviewers and qualified professionals to help determine credible evidence, relevant standards, and reasonable conditions.

Standards. Conditional use standards are as follows:

Standards relating to safety for persons and property.

Mitigate injury, loss of life, property damage, or other disproportionate demand for services on applicable fire fighting agencies.

Mitigate injury, loss of life, or other disproportionate demand for services on applicable emergency medical service agencies.

Mitigate injury, loss of life, property damage, criminal activity, the need for added peace keeping activities, or other disproportionate demand for services on the county sheriff's office.

Mitigate injury, loss of life, or property damage of any known geologic hazard or flood hazard, if credible evidence of such a detrimental effect is present.

Mitigate the creation of traffic hazards and right-of-way conflicts, including mitigation of traffic hazards caused by:

The location, massing, size, or height of buildings, structures, and other facilities, including signage, fencing, and landscaping;

The frequency of heavy truck traffic to and from the site (i.e. import and export of materials, deliveries, etc.) to minimize right-of-way conflicts with regular vehicle and pedestrian traffic.

Substantially mitigate the likelihood that the proposed use or facility may cause bodily injury or property damage to potential persons or property in the area.

Standards relating to infrastructure, amenities, and services.

Mitigate undesirable vehicle or pedestrian traffic patterns or volumes.

Mitigate internal vehicle or pedestrian circulation inefficiencies onsite, and provide for adequate onsite parking given the unique specificities of the proposed use or the proposed site plan.

Mitigate material degradation of the level of service of any street.

Mitigate material degradation of the level of service of any storm water drainage facility or infrastructure, and adequately provide for storm water drainage from the site.

Mitigate material degradation of the level of service of any culinary, secondary, or irrigation water facility or infrastructure, and, if applicable, provide adequate culinary, secondary, and irrigation water service to the site. To help determine adequacy of culinary water provisions, the land use authority may require, but are not limited to, the following as a condition of approval of the conditional use permit:

Written verification that the culinary water source of any new public water system can meet the requirements of the Utah Division of Drinking Water and/or the Weber Morgan Health Department; or

A capacity assessment letter from the Utah Division of Drinking Water for additional connections to any existing public water system; or

Written verification that the source of any non-public well providing culinary water for the use meets the requirements of the Weber Morgan Health Department. This verification shall be based on a test of a new or existing well.

Mitigate material degradation of the level of service of any sanitary sewer service, and, if applicable, provide adequate sanitary sewer service to, or septic system on, the site.

Mitigate material degradation of the level of service of any other utility, and, if applicable, adequately provide such utility services to the site.

Mitigate material degradation of the level of service, functionality, capacity, or usability of the existing open spaces, public features, or recreational amenities in the area, and, if applicable, adequately provide additional open spaces, public features, or recreational amenities.

Mitigate any disproportionate demand for government services, generally.

Standards relating to the environment.

Mitigate detrimental effects on the natural features of the site, and the surrounding affected areas, if credible evidence of such a detrimental effect is present; including, but not limited to, rivers and creeks, lakes, ponds, reservoirs, wetlands, drainage ways, groundwater protection, and slopes.

Mitigate detrimental effects on the natural environment of the site, and the surrounding affected areas, if credible evidence of such a detrimental effect is present; including, but not limited to, wildlife, air quality, water quality (including erosion control), local natural resources, natural vegetation (including protection against noxious or invasive species), and wildland areas.

Standards relating to the current qualities and characteristics of the surrounding area and compliance with the intent of the general plan.

Provide buffering, screening, or fencing of the use or site, or provide other landscape features, sufficient to mitigate the proximity of incompatible uses, objectionable site features, and disharmony with existing and future land uses in the area.

Provide hours of operation appropriate for the general nature and character of existing land uses in the area to mitigate conflict or incompatibility with surrounding uses.

Provide reclamation, restoration, cleanup, or beautification of the site as the use evolves, or as the use is terminated, in order to mitigate aesthetic and nuisance effects.

Mitigate nuisance factors, including, but not limited to, light and glare, noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, electromagnetic disturbances, and radiation, if credible evidence of such a nuisance is present.

Mitigate detrimental effects of the use considering the combined effect of it and other main uses on the property.

To the extent supported by law, mitigate other general detrimental effects in a manner that sustains the objectives and intentions of the county's general plan, future land use map (or proposed land use map), and this Land Use Code.

Standards relating to performance.

Mitigate potential noncompliance or poor performance by providing appropriate performance measures, including, but not limited to, completion or performance bonds, completion agreements, and development agreements.

Mitigate potential noncompliance or poor performance by requiring regular review or monitoring of certain specified detrimental effects by an appropriately qualified professional.

Standards generally.

Mitigate unsustainable effects on the economy of the surrounding area or county, generally, if credible evidence of such negative effects is present.

Provide appropriate mitigation of detrimental effects as required in standards found elsewhere in this Land Use Code in a manner that complies with this Land Use Code, and any other federal, state, or local regulation, as may be applicable.

Voluntary contributions providing satisfactory compliance with applicable standards.

When considering a conditional use, the land use authority has discretion to determine satisfactory compliance with any applicable standard, requirement, provision, or restriction of this chapter if the applicant has voluntarily offered a more desirable alternative to mitigate the reasonably anticipated detrimental effects of the use than those otherwise specified here. The land use authority may require a development agreement to execute the voluntary alternative.

Conditional use approval shall not impose operational restrictions on agricultural activities unless necessary to address documented public health or safety impacts.

Conditions of approval shall:

- 1 Be based on identifiable detrimental effects supported by substantial evidence in the record
- 2 Be reasonably related and roughly proportional to the impacts created
- 3 Be limited to mitigation of land use impacts
- 4 Not regulate normal agricultural practices protected under Utah Right-to-Farm provisions
- 5 Not regulate architectural style, building materials, or construction methods unless required for building, fire, or engineering safety
- 6 Reference the specific ordinance standard or impact being addressed

Conditional use approval shall not:

- 1 Be based solely on generalized public opposition
- 2 Be based on speculative impacts
- 3 Prohibit alternative building methods allowed under adopted building codes

Sec 108-4-6 Appeal

The decision of the land use authority may be appealed to the Appeal Authority, in accordance with title 102, chapter 3 of this Land Use Code.

The board of adjustment is the appeal authority for conditional use permits.

Sec 108-4-7 Permit And Improvement Guarantee

Prior to the issuance of a conditional use permit the applicant shall submit the appropriate required letters and/or permits from the appropriate review agencies.

Prior to the issuance of a certificate of occupancy permit, a business license or any other permit required by the county, the developer shall deposit funds into an escrow account with the county engineering division for all off-site improvements and on-site landscaping, as may be allowed by law, as per the approved site plan, and for the completion of any incomplete improvements or conditions of approval.

Sec 108-4-8 Revocation And Expiration

A conditional use permit may be revoked by the land use authority upon failure to comply with the applicant's approved proposal, or any applied standard, or applicable requirement, provision, restriction, or condition of approval. Violation of any condition of approval of a conditional use permit shall constitute a violation of this Land Use Code. Rules for revocation are provided in section 102-4-3. A conditional use permit shall not be revoked except for material violations of approval conditions.

Unless there is substantial action under a conditional use permit within a maximum period of two years of its approval from the land use authority, the conditional use permit shall expire. Agricultural, agritourism, and seasonal uses shall be considered active if operated at least once within any twenty-four-month period. The land use authority may grant a maximum extension of six months. Upon expiration of any extension of time granted by the land use authority, the approval for the conditional use permit shall expire and become null and void.

Prior to revocation the City shall:

- 1 Provide written notice of violation
- 2 Allow a reasonable cure period (minimum 30 days unless safety issue)
- 3 Identify specific code or condition violated
- 4 Allow administrative resolution where feasible

Minor or technical violations that do not create measurable detrimental effects shall not be grounds for revocation.

Sec 108-4-9 Abandoned Use

When an approved conditional use has been discontinued and/or abandoned for a period of one year, the conditional use permit becomes null and void. In order to restore the conditional use, a new application shall be filed for review and consideration by the land use authority. Agricultural, agritourism, and seasonal uses shall not be considered abandoned due to temporary cessation caused by weather, markets, financing, crop rotation, livestock cycles, or similar operational realities.

Sec 108-4-10 Minor Amendments

The Planning Director may approve minor amendments to conditional use permits administratively where the change:

1 Does not increase density

2 Does not substantially increase traffic

3 Does not expand building area more than 25%

4 Does not change the nature of the use

5 Does not create new off-site impacts

Minor amendments shall not require a public hearing.

Major amendments shall follow the original approval process.