



CONDITIONAL USE PERMIT PROCEDURE

Chapter 152.283, Land Use and Subdivisions

A Conditional Use Permit (CUP) enables the Planning Commission to assign reasonable conditions surrounding a proposed use after consideration of the adjacent areas, their functions and potential issues that the proposed use may present. It is a land use the City permits in a zoning district ***only*** when the applicant meets certain criteria standards. Conditional Uses are listed in the Land Use Matrix (150.038). A Public Hearing review, recommendation by the Planning Commission and approval of the City Council is required.

Procedure:

1. All applications for a conditional use permit shall be submitted to the Zoning Administrator **30 days ahead of the hearing date**, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee.
2. The fee or contract owner of the property shall sign the application.
3. The Zoning Administrator shall notify property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least ten days ahead of the Public Hearing.
 - a. *At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving 14 days' notice thereof to the Zoning Administrator, meeting time permitted.*
4. The applicant shall complete the conditional use permit application approved by the City Council. The application shall contain submittal requirements, criteria for approval, procedure for consideration, and city contact information. The city will not accept applications where the applicant has past due fees or charges due to the city until the account is made current.

Conditions: In permitting a new conditional use or alteration of an existing conditional use, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this chapter, additional conditions that the Planning Commission considers necessary to protect the best interest of the surrounding area or the city as a whole. These conditions may include, but are not limited to, the following:

1. Increasing the required lot size or yard dimension;
2. Limiting the height, size, or location of buildings;

3. Controlling the location and number of vehicle access points;
4. Increasing the street width;
5. Increasing or decreasing the number of required off-street parking spaces;
6. Limiting the number, size, location, or lighting of signs;
7. Requiring berming, fencing screening, landscaping, or other facilities to protect adjacent or nearby property; and
8. Designating sites for open space.

Considerations: The Planning Commission shall decide the issue with consideration to the following:

1. The following must be met.
 - a. The use or development is an appropriate conditional use in the land use zone.
 - b. The use or development, with conditions, conforms to the Comprehensive Land Use Plan.
 - c. The use, with conditions, is compatible with the existing neighborhood.
 - d. The use, with conditions, would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance, or prosperity of the city.
2. The following must be considered.
 - a. The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.
 - b. The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
 - c. The conditional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
 - d. The conditional use will have vehicular approaches to the property, which are so designed as not to create traffic congestion or an indifference with traffic on surrounding public thoroughfares.
 - e. Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.
 - f. Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner that no disturbance to neighboring properties will result.
 - g. The conditional use will not result in the destruction, loss, or damage of a natural, scenic, or historical feature of major significance.
 - h. The conditional use will promote the prevention and control of pollution of the ground and surface waters, including sedimentation and control of nutrients.
3. **When costs to the city involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the city for any additional costs. Such expenses may**

include, but are not limited to, payroll, mailing costs, consultant fees, and other professional services the city may need to retain in reviewing permits.

4. Conditional use permits may be transferable where requested by an applicant and approved by the Planning Commission.
5. Violations of the conditions of a conditional use permit shall automatically suspend the permit. A review of the violation shall be conducted by the Planning Commission. The Planning Commission shall determine conditions for reinstating the permit or revocation, if applicable.
6. Failure by the owner to act on a conditional use permit within 12 months, or failure to complete the work under a conditional use permit within two years, unless extended by the Planning Commission, shall void the permit. A second extension shall require a new public hearing. This provision shall apply to any conditional use permit outstanding at the time of the adoption of this chapter.
7. All uses that cease operation for a period of more than six consecutive months shall be deemed to be discontinued, and the use permit establishing said use shall become null and void. Reestablishment of said use shall only be permitted upon obtaining a new conditional use permit.
8. Appeals from the action of the city shall be filed with District Court within 30 days after City Council action.
9. The conditional use permit shall be filed with the County Recorder within 45 days. The applicant need not wait for filing to proceed.