

TITLE 10

CHAPTER 20

**CONDITIONAL USES**

SECTION:

- 10-20-1: Permitted Conditional Uses
- 10-20-2: Conditional Use Permit Procedure

**10-20-1: PERMITTED CONDITIONAL USES**

The following uses shall be permitted only after approval pursuant to the conditional use procedure outlined in section 10-3-9 of this title:

- A. Conditional Uses: Listed as “C” (conditional use) on Table 1, Land Use Chart contained in subsection 10-12-1A of this title.
- B. Home Occupations: Pursuant to the review procedure outlined in Title 3, Chapter 1 of this code, establishing permits for home occupations.
- C. Public Utility Buildings and Structures Permitted: Water, sewer and electric buildings and structures may be constructed in all residential zones subject to the conditional use approval. The planning commission may impose conditions which are reasonably necessary to protect surrounding property values and residential amenities.
- D. Flag Lot; Minimum Frontage on a Public Street may be Reduced: Except as may be authorized through the approval of a large scale development or flag lot conditional use, each lot shall abut upon a city maintained street. The length of said abutting frontage as measured at the setback line shall not be less than the minimum frontage requirement of the zone; provided, however, that the planning commission may authorize a reduction of the minimum frontage requirement subject to the following conditions:
  - 1. The lot shall not be part of a developing subdivision and will abut the city maintained street for a minimum distance of thirty five feet (35') on a cul-de-sac or twenty eight feet (28') for a flag lot (12 foot minimum hard surface access road with parallel all weather surface shoulders - the sum of the two shall not be less than 8 feet.) The access road and landscaped side yards provide for the minimum emergency equipment access of twenty feet (20') as well as a landscaping buffer. The length of the access road and location of the residence on the lot shall not exceed the four hundred fifty foot (450') minimum distance requirement from the furthest point of the residence to the nearest fire hydrant. Fire officials may require a shorter minimum distance based on varying physical and topographic features. Appropriately sized plant materials are encouraged along the access road. Single lot proposals only shall be considered.

2. The buildable portion of the lot shall comply with the minimum area, width, and setback requirements of the zone.
  3. The lot configuration created by the granting of the reduction will not result in an undue adverse condition for the proper development of adjacent properties.
  4. Flag lot access roads shall be nondedicated and shall remain the responsibility of the landowners.
  5. In the opinion of the planning commission, the reduction of the frontage requirement is necessary to more fully promote the effective and proper development of the city. (Ord., 1-22-2002)
- E. Building Moving Permit: As required under section 10-19-2 of this chapter, no permit for moving any residential, commercial, or industrial building which has had prior use shall be issued without first receiving conditional use approval. The application for a building moving permit shall contain the following information: (Ord. 04-12-14, 1-11-2005, eff. retroactive to 12-14-2004)
1. Location and address of the old and new sites.
  2. Plot plan of the new location showing adjacent lots on all sides of the property and indicating all structures and improvements on said lots.
  3. Plans and specifications for the proposed improvements at the new location, including plans for landscaping treatment when required by the commission.
  4. Certification by the zoning administrator that the structure is sound enough to be moved and that the condition, location and use of the building will comply with this title and all other applicable codes and ordinances.
  5. Said building, and the lot on which the building is to be located, will conform to the requirements of this title and other applicable codes, ordinances and regulations.
  6. Its location on the lot does not in any substantial way adversely affect buildings or uses on adjacent properties.
  7. All required dedications and improvements for streets, facilities and buildings shall be provided in conformity with the standards of the city. (Ord., 1-22-2002)
  8. The applicant must post a bond equal to one hundred twenty five percent (125%) of the estimated cost of construction or other assurance that the building and grounds shall be brought up to the standards of a new building before it is occupied and that the vacated site shall be restored to a safe and sightly condition. (Ord., 1-22-2002; amd. Ord. 04-12-14, 1-11-2005, eff. retroactive to 12-14-2004)
  9. The building must be moved, and improvements required to bring the building up to applicable code within one year of receiving approval.

The requirements of this provision shall also apply to the moving of existing/remounted homes, manufactured homes and similar movable structures.

- F. Transitional Uses: Uses which are permitted on either portion of a lot which is divided by a zone boundary line or which is coterminous with a zone boundary line may be permitted to extend to the entire lot, but not more than one hundred feet (100') beyond the boundary line of such zone in which such use is permitted. Before a permit for such a use may be granted, however, the planning commission must find that the general plan of zoning will be maintained and that a more harmonious mixing of uses will be achieved thereby. (Ord., 1-22-2002)
- G. River Heights City Facilities Use: When a person, entity, or organization rents, leases, or uses a River Heights City-owned public facility continuously for 30 days or more within a year's time, a conditional use permit is required. The planning commission will assure that the permitted use does not adversely affect or damage the facility and is generally harmonious with the surround area. (6-2022, 6-21-22)

**10-20-2: CONDITIONAL USE PERMIT PROCEDURE**

- A. Intent: The purpose of this section is to provide a system for the discretionary applications for conditional use permits in order to preserve and enhance neighborhood character and to protect the public health, safety and general welfare.
- B. Application: All applications for conditional uses shall be processed with the uniform procedures of this subsection. Applications are heard before the planning commission.
  - 1. Requirements; Fee: A complete application, meeting the requirements established by the planning commission shall be submitted to the zoning administrator along with the fee established by city council resolution. The application shall be accompanied by proof that the person submitting the application either owns the subject property or the applicant has the consent of the owner of the subject property.
  - 2. Public Hearing Required: The planning commission shall hold a duly noticed public hearing in conformance with section 10-3-9 of this title. (3-2020, 5-19-20)
- C. Planning Commission Action: The planning commission may approve or conditionally approve a conditional use permit only upon substantiating the following findings:
  - 1. The use is compatible with surrounding land uses and will not interfere with the use and enjoyment of adjoining properties.
  - 2. The streets providing access and other infrastructure to the subject property have adequate capacities or a suitable level of service for the conditional use.

3. Access to adjoining streets is designed to be constructed in conformance with this title.
  4. The proposed conditional use provides adequate off-street parking and landscaping in conformance with this title. (Ord., 1-22-2002)
- D. Issuance of Approved Conditional Use Permit: Upon approval of the application for a conditional use permit, the zoning administrator shall prepare the permit, a written decision with findings supporting the issuance of the permit, and the conditions of the permit, if any. The permit shall be signed by the applicant and notarized. (Ord. 04-12-14, 1-11-2005, eff. retroactive to 12-14-2004) (1-2023, 3-21-23)
- E. Conditional Use Appeals: In addition to those conditional use applications referred to the city council, the city council may call up for review any proposed conditional use which has been acted upon by the planning commission within twenty one (21) days of its action. The basis for the appeal may not merely appeal the action of the commission, but shall be specific as to conditions, findings or new information that was not made available to the commission. If the project was conditionally approved and specific conditions are being appealed, the request for an appeal shall specify the conditions being appealed and reasons for the appeal. If the project was denied, the request for appeal shall specify the findings used by the commission that have generated the appeal request. After giving notice according to subsection B2 of this section, the city council shall hold a public hearing on the appeal. The city council shall, within thirty (30) days of the public hearing or within such time as is mutually agreed by the city council and applicant, either grant the appeal, in whole or in part, with or without modification and conditions, or deny the appeal. Said appeal decision of the city council shall be communicated to the applicant in writing within thirty (30) days of the public hearing or within such time as is mutually agreed by the city council and the applicant. (4-2010, 7-13-10)
- F. Abandonment or Vacation of Conditional Use: Any use for which a conditional use permit was issued pursuant to this title shall be deemed to be voided and no longer active or valid if said conditional use is abandoned or vacated for a period of one year. (Ord., 1-22-2002)
- G. Planning Commission may Approve Extension of Time: The planning commission may grant an extension of time not to exceed a cumulative total of twenty four (24) months from the original permit expiration date if the conditional use meets the requirements of subsection C of this section. (Ord. 04-12-14, 1-11-2005, eff. retroactive to 12-14-2004)
- H. Revocation: The city shall have the following remedies and conditional use enforcement powers:
1. Revoke Permits: The zoning administrator may revoke a conditional use permit when there is a departure from the plans, specifications or conditions as required under the terms of the permit. The zoning administrator shall provide the permit holder with a written notice of permit revocation containing specific findings that show the cause for revocation. Either before or after permit

revocation, the planning commission shall schedule a hearing and provide notice of the hearing to the permit holder in conformance with Utah Code Annotated as amended, and subsection B2 of this section (if notice was not already provided in the notice of permit revocation,) to allow the permit holder the opportunity to show why the permit should not be revoked.

2. Stop Work Orders: With or without revoking permits, the zoning administrator may order work stopped on any structure or improvement that violates the terms of a conditional use permit. The zoning administrator shall provide the permit holder with a written notice of the stop work order containing specific findings that show the cause for revocation. Either before or after the stop work order issues, the planning commission shall schedule a public hearing and provide notice of the hearing to the permit holder in conformance with Utah Code Annotated, and subsection B2 of this section (if notice was not already provided in the stop work order,) to allow the permit holder the opportunity to show why the work should not be revoked. (Ord., 1-22-2002; amd. Ord. 05-01-11, 1-11-2005, eff. retroactive to 5-13-2003; Ord. 04-12-14, 1-11-2005, eff. retroactive to 12-14-2004)
3. Injunctive Relief: The city may seek an injunction or other equitable relief in court to stop any violation of a permit, certificate or other form of authorization granted hereunder. (Ord., 1-22-2002)