

## **CHAPTER 02-08    CONDITIONAL USES**

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### **02-08-001    PURPOSE**

The purpose of this Chapter is to establish standards for certain land uses listed in each zone as conditional uses which, because of their unique characteristics or potential impacts on the City, surrounding neighborhoods or adjacent land uses may not be compatible in some areas or may be compatible only if certain conditions are required which mitigate or eliminate the detrimental impacts. The standards for the issuance of a conditional use permit are established to ensure compatibility with surrounding land uses, conformity with the Naples City General Plan, and the protection, preservation and promotion of the public interest, health, safety, convenience, comfort, prosperity or general welfare.

### **02-08-002    APPLICATION**

Application for a conditional use permit shall be made upon forms provided by Naples City. The application shall be signed by the property owner or his authorized agent. The completed application shall be filed with the Planning and Land Use office and shall be accompanied by the following:

- A. Twelve (12) copies, of the development plans, not to exceed 11 x 17 in paper size.
- B. A fee as specified in the current consolidated fee schedule.

### **02-08-003    APPLICATION REVIEW**

All documents required to be submitted with the application shall be delivered by the applicant to those departments and entities designated by the Planning and Land Use office, which may include, but not be limited to, the following:

1. City Public Works Department

2. City Fire Department
3. All Special Zones in Which the Subject Property is Located
4. Applicable Gas Company
5. Applicable Power Company
6. Ashley Valley Water and Sewer
7. Utah Department of Transportation (UDOT)
8. Any Other Agency Which Will Provide Public or Private Facilities and Services to the Site
9. Any Other Department Designated by the Planning and Land Use Office
10. All information and comments from these various departments and entities should be returned to the Planning and Land Use office.
11. Utilities.

- A. The Land Use Administrator and staff shall review each application for conformance to the standards outlined in this chapter; for conformance with the General Plan and all applicable City ordinances; for conformance with good planning practices; for environmental impacts which may be associated with the design.

**Standard of Review Process:**

1. The Land Use Administrator and/or Staff shall review each Conditional Use application.
2. The Public Works Department shall review and make comments concerning flood control requirements; engineering requirements for street widths, grades and alignments; whether the proposed public improvements conform to good engineering practice; to the requirements of all applicable ordinances; and shall be responsible for the approval and inspection of all public improvements.

**02-08-004      CONDITIONAL USE STANDARDS**

Conditional use application shall be reviewed in accordance with the following general criteria:

- A. The use applied for at the location proposed is necessary or desirable to provide a service or facility that will contribute to the general well-being of the neighborhood and the community.
- B. Compatibility of the proposed use with the intent, function and policies established in the City General Plan, the Land Use Ordinance and the Planning Enabling Statutes in the most current Utah Code.
- C. Compatibility of the proposed use with the character of the site, adjacent properties, surrounding neighborhoods, and other existing and proposed development;

- D. The availability of, or ability to provide:
1. adequate utilities,
  2. transportation access,
  3. drainage,
  4. parking and loading space,
  5. lighting,
  6. screening,
  7. landscaping and open space,
  8. fire protection and safety,
  9. convenient pedestrian flow,
  10. Vehicular circulation:
  11. Noise,
  12. Meet Design Standards,
  13. Pollution,
  14. Security,
  15. Meet Fire Codes,
  16. Meet building Codes,
  17. Time of operations,
  18. Recommended Distances from property lines,
  19. Recommend Distance from adjacent buildings,
  20. Health and Safety (issues with Tri-County Health),
  21. Smell or Odor,
  22. Environmental,
  23. Garbage Storage and pickup,
  24. Weight of vehicle impacting roads, reducing the idle of road traffic,
  25. Dust,
  26. Light nuisance,
  27. Nuisances,
  28. Signage,
  29. Is it economical for the City to provide services,
  30. Detrimental to infrastructure,
  31. Site plan.
  32. Emergency Family Care.

E. Such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity of the property. A conditional use shall be detrimental under the following circumstances:

1. If the proposed use will cause unreasonable risks to the safety of persons or property because of vehicular traffic or parking, large gatherings of people, or other causes;
2. If the proposed use will unreasonably interfere with the lawful use of surrounding property;
3. If the proposed use will create a need for essential municipal services which cannot be reasonably met;

4. If the proposed use will in any other way be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or be injurious to property of improvements in the vicinity;

If a proposed conditional use is found to be contrary to the standards described in the Land Use Ordinance, the applicant may propose or consent to mitigating measures which will bring the use into conformance with the standards described in the Land Use Ordinance.

**02-08-005 AMENDMENT OF A CONDITIONAL USE**

Once granted, a conditional use shall not be enlarged, changed, extended, increased in intensity, or relocated unless a new conditional use application is made and approved by the Planning Commission, except as provided below:

- A. The Land Use Administrator may administratively consider, approve or disapprove modifications or changes which are consistent with the purpose and intent of this chapter. In addition, such administrative determinations may be made only where the following conditions exist:
  1. All additions, modifications or changes to the building shall constitute less than 25 percent of the floor area originally approved.
  2. The additions, modifications or changes are determined not to have significant impact beyond the site.
  3. Any decision of the Land Use Administrator may be appealed to the Hearing Officer as designated in the Land Use Ordinance.
- B. The Planning Commission may consider, approve with modifications, or disapprove amendments to a conditional use permit where the Land Use Administrator determines not to make an administrative determination as provided in (A) above and where the following requirements are met:
  1. The proposed modification or amendment complies with the intent and purpose of the Land Use Ordinance and General Plan.
  2. All of the requirements are met.
  3. All of the standards listed are met.
  4. Reasonable conditions may be attached, where and to the extent that the Planning Commission finds, that the imposition of the conditions will directly mitigate or eliminate some aspect of the proposed amendment that violate the intent and requirements of this chapter. Impacts must be of the magnitude that without the

mitigation or elimination thereof, the amendment to the conditional use could not be granted.

- C. All decisions of the Planning Commission regarding approval, denial, the imposition of special conditions may be appealed to the Hearing Officer as provided in the Land Use Ordinance.

**02-08-006 LAND USE ADMINISTRATOR ACTION**

- A. All conditions shall run with the land, and shall be binding on the original applicants, their heirs, successors and assigns.
- B. A Land Use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance. A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. 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 may be denied.

**02-08-007 NOTICE OF LAND USE ADMINISTRATOR ACTION**

Within a reasonable time following the application submittal, the applicant shall be notified, by letter, of the Land Use Administrator's action. If the application is approved, the action letter shall outline conditions attached to the approval, if any, the procedures to be followed prior to obtaining a business license or building permit, and the expiration date of the approval.

**02-08-008 TIME LIMIT**

- A. Within 12 months from the date the Land Use Administrator hears and approves a conditional use application, the applicant shall substantially comply with all the conditions of the conditional use approval. Substantial compliance shall be demonstrated by obtaining a current building permit and commencing construction. For the purpose of this ordinance, "commencement of construction" shall mean completion of the foundation for at least one principal building.. If construction is not proposed as an element of the conditional use, a business license shall be obtained to satisfy this requirement. Prior to the issuance of any building permit or business license, the applicant shall sign a conditional use permit document. The conditional use permit document shall include a list of all conditions imposed by the Land Use Administrator and a signature of the applicant. A site plan may also be required. The issuance of a conditional use permit shall be from the date of the Land Use Administrator's final decision on the conditional use.
- B. If the conditional use permit is to expire, pursuant to this section, a request for an extension may be filed with the Planning and Land Use office not less than thirty (30) days prior to the expiration date. The original

conditional use approval shall remain valid until the request for extension is acted upon by the Land Use Administrator. Failure to request the extension in a timely manner shall cause a conditional use permit to expire without further notice. A new conditional use application shall be requested prior to any reinstatement of the use.

- C. The Land Use Administrator may, after evaluating the applicant's progress in the previous year and after considering the Planning and Land Use office recommendation, grant an extension of up to one year on the conditional use permit. Only one extension may be granted.
- D. If the approved use or activity should cease for any reason for a continuous period of one year or more, the conditional use permit shall automatically terminate without notice. Approval of a new conditional use application shall be required prior to any subsequent reinstatement of the use.

**02-08-009 REVOCATION**

- A. A conditional use permit shall be revocable by the Land Use Administrator at any time due to failure of the owner or operator of the use to observe all conditions specified in issuing the permit or failure to observe other requirements of the permit and ordinance, in regards to the maintenance of improvements or conduct of the use or business as approved. Furthermore, the City shall have a right of action to compel offending structures or uses removed at the cost of the violator or owner.

**02-08-010 APPEAL PROCEDURE**

Appeal may be made to the Hearing Officer by a person aggrieved by a final decision, determination, or requirement of the Land Use Administrator or Planning Commission, regarding a conditional use.