

Chapter 17.32

CONDITIONAL USES

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- 17.32.010 Authorization to grant or deny conditional use.**

Uses designated in this title as conditional uses may be permitted, enlarged or altered in accordance with the requirements of Sections 17.20.020 through 17.20.060. In permitting conditional use, the council may impose conditions in addition to the provisions set for uses within each zone in order to protect the best interests of the surrounding property, the neighborhood or the city as a whole. These conditions may include, but are not limited to, increasing the lot size or setbacks, controlling the location or number of vehicular access points, increasing the street width, limiting the height of buildings to protect the light and air of adjacent properties, increasing the amount of off-street parking or loading, or other provisions necessary to minimize any conflict between the proposed conditional use and the use of adjacent properties. Change in use or contraction of site area, or alteration of structure or uses classified as conditional, existing prior to the effective date of the ordinance codified in this title shall conform to all regulations pertaining to

conditional uses. (Ord. 278 § 6.010, 1977)

17.32.020 Application for a conditional use.

A request for a conditional use, modification of an existing conditional use or a reinstatement of a discontinued nonconforming use may be initiated by the property owner or his authorized agent by filing an application with the planning commission or its designated agent. The application shall include plans of the proposed use, or modification of an existing use, or reinstatement of a discontinued nonconforming use. The application shall be accompanied by a fee as established by the city council.(Ord. 278 § 6.020, 1977)

17.32.030 Public hearing on a conditional use.

Before acting on a conditional use, it shall be considered by the planning commission at a public hearing. The planning commission or its designated agent shall give notice or the hearing by sending notices by mail not less than ten days prior to the day of the hearing to the property owners within two hundred (200) feet of the exterior boundaries of the property involved and by posting on the official bulletin board at the City Hall a notice not less than five days prior to the hearing. The names for this purpose shall be obtained from the records of the count assessor. Failure of a person specified in this section to receive the notice shall not invalidate any proceedings in connection with the application for a conditional use. The commission may continue a public hearing in order to obtain more information or to serve further notice to persons it decides are affected by the proposed conditional use. Agent shall notify the applicant for a conditional use of the action of the planning commission within five days after a decision has been rendered. (Ord. 278 § 6.030, 1977)

17.32.040 Notification of public agencies.

For conditional uses within the MA, CD and SO zones, the following agencies shall be notified by mail, no less than ten days prior to the date of the public hearing:

A. State Agencies.

1. Division of State Lands;
2. Department of Fish and Wildlife.
3. Department of Environmental Quality;
4. Department of Forestry.

B. Federal Agencies.

1. Army Corps of Engineers;
2. National Marine Fisheries Service;
3. U.S. Fish and Wildlife Service;

C. Other Notification.

1. State Water Resources Department (uses including appropriation of water only);
2. State department of geology and Mineral Industries (mining and mineral extraction only);
3. State department of energy (generating and other energy facilities only);
4. Department of Economic Development (docks, industrial, and port facilities, and marinas only). (Ord. 278 § 6.031, 1977)

17.32.050 Additional standards governing conditional uses.

In addition to the standards of the zone in which the conditional use is located and the other standards in this title, conditional uses must meet the following standards:

A. Conditional Uses, Generally.

1. Setbacks. In a residential zone, yards shall be at least two-thirds the height of the principal structure. In any zone additional yard requirements may be imposed.

2. Limitation on Access to property and on Openings to Buildings. The city may limit or prohibit vehicle access from a conditional use to a residential street, and it may limit or prohibit building openings within fifty (50) feet of residential property in a residential zone if the openings will cause glare or excessive noise or will otherwise adversely affect adjacent residential property.

3. The city may require assurances to

guarantee development in accordance with the standards established and conditions imposed in granting a conditional use.

B. Church, Hospital, Nursing Home, Convalescent Home, Retirement Home.

1. A church, hospital, nursing home, convalescent home or retirement home may be authorized as a conditional use after consideration of the following factors:

a. Sufficient area provided for the building, required yards, and off-street parking (related structures and uses such as a manse, parochial school or parish house are considered separate principal uses with additional lot area required);

b. Location of the site relative to the service area of the church, hospital or home;

c. Probable growth needs;

d. Site location relative to land uses in the vicinity; and

e. Adequacy of access from principal streets together with the probable effect on traffic volumes of abutting and nearby streets.

2. A church, hospital, nursing home, convalescent home, or retirement home may be built to exceed the height limitations of the zone in which it is located to a maximum height as determined by the State Fire Marshal if the total floor area of the building does not exceed one and one-half times the area of the site and if yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.

C. Schools.

1. Nursery schools shall provide and maintain at least one-hundred (100) square feet of outdoor play area per child. A sight-obscuring fence at least four feet but not more than six feet high shall separate the play area from abutting lots.

2. Elementary school shall provide a basic site area of five acres plus one additional acre for each one hundred (100) pupils of predicted ultimate enrollment or as otherwise prescribed by state law.

3. Secondary school shall provide a basic site of ten acres plus one additional acre for each one hundred (100) pupils of predicted ultimate enrollment or as otherwise prescribed

by state law.

D. Communications Transmitter, Receiver, Antenna or Tower, Utility Station, Substation, or Wind Generator.

1. In any residential zone, all equipment storage on the site shall be within an enclosed building.

2. The use shall be fenced and provided with landscaping.

3. The minimum lot size for a public utility facility may be waived on finding by the planning commission that the waiver will not result in noise or other detrimental effect to adjacent property.

4. As far as possible, transmission towers, poles, overhead wires, pumping stations, and similar gear shall be so located, designed and installed as to minimize their conflict with scenic values.

E. Mobilehome Park.

1. A mobilehome park may be permitted as a conditional use provided it meets the requirements of Chapter 446, Oregon Revised Statutes, and the Rules Governing the Construction and Sanitary Operation of Travelers' Accommodations and Trail Parks adopted by the Oregon State Board of Health.

2. In addition, the following minimum standards shall apply:

Parking Space requirement. A parking space shall be provided for each mobilehome space on the site. In addition, guest parking spaces shall also be provided in every mobilehome park within two hundred (200) feet of the mobilehome spaces served and at a ratio of one parking space for each two mobilehome spaces. Parking spaces shall have durable and dustless surfaces adequately maintained for all-weather use and shall be properly drained.

F. Commercial Amusement Establishment. A commercial amusement or recreational establishment may be authorized after consideration of the following factors.

1. Adequacy of access from principal streets together with the probable effect on traffic volumes of abutting and nearby streets;

2. Adequacy of off-street parking;

3. Adequacy of building and site design provisions to maintain a reasonable minimum of

noise and glare from the building site.

G. Controlled Development Overlay Zone. The following criteria and conditions are applied to specific uses and activities in the controlled development overlay zone (6-CD).

1. A site investigation report shall be prepared at the applicant's expense, containing the following information.

a. Location of the proposed use and the area affected;

b. The types of beach, dune or natural hazard present at the specific site;

c. Existing vegetation and vegetation to be removed;

d. A revegetation plan or other methods of erosion control;

e. Proposed grading or fill plan;

f. Areas subject to flooding, erosion, sand accretion, landslides, and other natural hazards;

g. Findings that adequate measures have been taken to protect the groundwater from drawdown which would lead to loss of stabilization vegetation, loss of water quality or intrusion of salt water into water supplies.

2. The city will use the content of the applicant's report to impose conditions which will control erosion, protect against flooding, sand accretion, or other hazards, protect the surrounding area from adverse effects of development.

3. Structures shall be permitted in the zone only under the following provisions:

a. Site-specific review by all affected agencies and by the planning commission to determine that:

i. Visual impact is minimized,

ii. Waterfront access is not impaired,

iii. A negative impact on adjacent property is not created, and

iv. A long-term recurring cost to the public is not incurred;

b. The proposed structure will not negatively impact riparian vegetation that is important for water quality or fish and wildlife habitat.

H. Shoreland Overlay Zone.

1. The following criteria and conditions are applied to specific uses and activities in the

shoreland overlay zone (9-SO).

2. Dredged material disposal (DMD) sites.

Temporary uses within a designated DMD site shall be permitted only upon satisfying all of the following criteria:

a. The proposed use must not entail substantial structural or capital improvements, permanent buildings, or non-temporary water and sewer connections.

b. The proposed use must not require any major alteration of the site that would affect drainage or reduce the usable area or potential dredged material volume of the site, such as extensive site grading/excavation or elevation from fill. (Ord. 278 § 6.040, 1977)

I. Prefabricated Structure.

1. Prefabricated structure intended for permanent placement and use:

a. The prefabricated structure shall be placed on a permanent foundation that has perimeter walls and suitable strength and support capability to meet the state building code requirements for wind and seismic loads applicable to the City.

b. The prefabricated structure shall have all axles and wheels removed. and be placed on an excavated and backfilled site to be no more than twelve (12) inches above grade or have a porch or deck and landscaping along the side(s) of the structure that face the street(s) to make it appear as though it was constructed onsite.

c. The prefabricated structure shall be connected to any needed utility services in accordance with all state building codes and City utility codes.

d. If the prefabricated structure is accessory to an existing commercial structure it shall be placed on the parcel in a manner such that it has the appearance of being an addition to the existing structure. This can be achieved by using similar exterior paint, siding material or facade features as the existing structure.

2. Temporary prefabricated office structures.

- a. Temporary prefabricated structures may only be placed on a vacant or developed parcel in association with a construction project or similar event. The requirements of this section do not apply to prefabricated structures placed on property for less than

thirty (30) days.

b. The temporary prefabricated structure shall be tied down or anchored so as to not to be overturned or substantially moved during high winds.

c. The temporary prefabricated structure shall be connected to any needed utility services in accordance with all applicable state building codes and City utility codes.

d. A conditional use permit for a temporary prefabricated structure shall not exceed a period of two (2) years; however, the Planning Commission may grant one extension for an additional one (1) year upon finding that the structure is needed to allow completion of the construction project and there have been no valid violations of the conditions on the permit by the applicant. (Ord. 2004-05 § New, 2004)

17.32.060 Time On a Permit for Conditional Use.

Authorization of a conditional use shall be void after one year or year or such lesser time as the authorization may specify unless substantial construction has taken place. However, the planning commission may extend authorization for an additional period not to exceed one year, upon written application to the planning commission. (Ord. 278 § 6.050, 1977)