

## SECTION 27 - CONDITIONAL USE PERMITS

1. Purpose. Conditional uses may be permitted in certain districts, subject to the granting of a Conditional Use Permit. Conditional uses may require special consideration, because of unusual characteristics of the area in which it is to be located. It is important that conditional uses be properly located with respect to the objectives of this Ordinance and the effect to the surrounding properties.
2. Planning Commission Authority. The Planning Commission shall have the authority to approve, approve with conditions, disapprove, or revoke Conditional Use Permits subject to the provisions of this section. Changes in use, expansion or contraction of site area, or alteration of structures or uses classified as conditional and existing prior to the effective date of this Ordinance shall conform to all regulations pertaining to conditional uses and shall require a new Conditional Use Permit.
3. Application. A property owner or any interested person may make application for a Conditional Use Permit by filing an application in accordance with the provisions of Section 10.
4. Public Hearings. Before a conditional use is permitted, the proposed conditional use shall be considered by the Planning Commission at a public hearing, or administratively. Notice of said hearing or administrative action shall be provided as per Section 10 (10-14).

(Amended by Ord. 1129, effective 10/20/93)

5. Action by the Commission. The Planning Commission may approve, approve with conditions, or disapprove the application for a Conditional Use permit. In permitting a conditional use the Planning Commission may impose, in addition to regulations and standards expressly specified in this Ordinance, requirements increasing the required lot size or yard dimensions, increasing street widths, controlling the location and number of vehicular access points to the property, increasing the number of off-street parking or loading spaces required, limiting the number of signs, limiting the coverage or height of buildings because of obstructions to view and reduction of light and air to adjacent property, limiting or prohibiting openings in sides of buildings or structures or requiring screening and landscaping where necessary to reduce noise and glare. Any future enlargement or alteration of the use shall be reviewed by the City so as to be in accordance with the regulations and standards of this Ordinance.
  - A. In order to grant any conditional use, the Planning Commission must find that the establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case, be in violation to the appropriate regulations and standards contained in this Ordinance.
  - B. The Planning Commission shall render a decision within 60 days after the filing of the application. The decision of the Planning Commission shall be final unless appealed to the City Council.

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- C. A Conditional Use permit shall become void after one year after approval, or after such greater or lesser times as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permitted activity is being regularly conducted on the premises. The Planning Commission may extend the permit for a period of one year.
- D. Any conditional use authorized according to this Section (excepting "E" below) shall be subject to the following criteria, where applicable:
- 1) The use is listed as a conditional use in the underlying zone, or in an applicable overlying zone.
  - 2) The use is consistent with the applicable goals and policies of the comprehensive plan.
  - 3) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.
  - 4) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.
  - 5) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

(Amended by Ord. 1129, effective 10/20/93)

### E. Conditional Uses and Criteria for Certain Transportation Facilities and Improvements

- 1) Construction, reconstruction, or widening of highways, roads, bridges or other transportation facilities that are (1) not designated in the adopted City of Tillamook Transportation System Plan ("TSP"), or (2) not designed and constructed as part of an approved subdivision or partition, are allowed in all Zones subject to a Conditional Use Permit - Transportation Facilities and satisfaction of all of the following criteria:
  - a. The project and its design are consistent with City of Tillamook adopted TSP, or, if the city has not adopted a TSP, consistent with the State Transportation Planning Rule, OAR 660-012 ("the TPR").
  - b. The project design is compatible with abutting land uses in regard to noise generation and public safety and is consistent with the applicable zoning and development standards and criteria for the abutting properties.
  - c. The project design minimizes environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities, and a site with

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fewer environmental impacts is not reasonably available. The applicant shall document all efforts to obtain a site with fewer environmental impacts, and the reasons alternative sites were not chosen.

- d. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
  - e. The project includes provisions for bicycle and pedestrian access and circulation consistent with the comprehensive plan, the requirements of this ordinance, and the TSP or TPR.
- 2) State transportation system facility or improvement projects. The State Department of Transportation (“ODOT”) shall provide a narrative statement with the application demonstrating compliance with all of the criteria and standards in Section 27A 1.b-e. Where applicable, an Environmental Impact Statement or Environmental Assessment may be used to address one or more of these criteria.
- 3) Proposal inconsistent with TSP/TPR. If the City determines that the proposed use or activity or its design is inconsistent with the TSP or TPR, then the applicant shall apply for and obtain a plan and/or zoning amendment prior to or in conjunction with conditional use permit approval. The applicant shall choose one of the following options:
- a. If the City’s determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional use permit application; or
  - b. If the City’s determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional permit application, apply for a plan/zone amendment, and re-apply for a conditional use permit if and when the amendment is approved; or
  - c. If the City’s determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall submit a plan/zoning amendment application for joint review and decision with the conditional use permit application, along with a written waiver of the ORS 227.178 120-day period within which to complete all local reviews and appeals once the application is deemed complete; or
  - d. If the City’s determination of inconsistency is part of a final decision on the conditional use permit application, the applicant shall submit a new conditional use permit application, along with a plan/zoning amendment application for joint review and decision.
- F. Expiration. A Conditional Use Permit for Transportation System Facilities and Improvements shall be void after five (5) years.

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6. Appeal. The applicant or any interested person may appeal a decision of the Planning Commission to the City Council in the form prescribed by the City. The appeal procedures shall be set forth in Section 33.
7. Effect. No building or other permit shall be issued in any case where a Conditional Use Permit is required by the terms of this Ordinance until ten (10) days after the approval of the conditional use by the Planning Commission. An appeal from an action of the Planning Commission shall automatically stay the issuance of a building or other permit until such appeal has been completed.
8. Violation of Condition. The Planning Commission, on its own motion, may revoke any Conditional Use Permit for non-compliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing as provided in Section 34. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a Conditional Use Permit.
9. Limitation on New Applications. In a case where an application is denied by the Planning Commission, or denied by the City Council on appeal from the Planning Commission, unless specifically stated to be without prejudice, it shall not be eligible for resubmittal for the period of one year from the date of said denial, unless, in the opinion of the Planning Commission, new evidence is submitted or conditions have changed to an extent that further consideration is warranted.
10. Notification of Action. The Planning Commission shall notify the applicant for a conditional use in writing of the Planning Commission's action within five (5) days after the decision has been rendered.
11. Applicability. The approved Conditional Use Permit shall apply to the specific use applied for only, and shall transfer with the ownership of the property.

(Added by Ordinance #1187, effective 12/03/03)