

CHAPTER 7
CONDITIONAL USES

Section

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7 - 1. Definition of conditional use.

A conditional use is a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts. (Ord 2005-22, 9/13/05)

7 - 2. Permit required.

A conditional use permit shall be required for all uses listed as conditional uses in the zoning district regulations where they are, or will be located, or if the use is specified as conditional use elsewhere in this Tooele County Land Use Ordinance. (Ord 2005-22, 9/13/05)

7 - 3. No presumption of approval.

The listing of a conditional use in any table of permitted and conditional uses found at the end of each chapter of this Tooele County Land Use Ordinance for each category of zoning district does not constitute an assurance or presumption that such conditional use will be approved. Rather, each proposed conditional use shall be evaluated on an individual basis, in relation to its compliance with the standards and conditions set forth in this chapter and with the standards for the district in which it is located, in order to determine whether the conditional use is appropriate at the particular location.

(Ord 2005-22, 9/13/05)

7 - 4. Application.

(1) Application for a conditional use permit shall be made to the Tooele County zoning administrator. The zoning administrator shall submit the application to the planning commission and schedule it for the commission's work meeting. The planning commission may authorize the zoning administrator to grant, attach conditions to, or deny conditional use permits, subject to such limitations or qualifications as they deem necessary.

(2) Each application for a conditional use permit shall be accompanied by maps, drawings, statements or other documents as required by the planning commission. Submittals must be filed with the zoning administrator for staff and public review by noon of the fourteenth day prior to the planning commission meeting. (Ord 2005-22, 9/13/05)

7 - 5. Determination.

(1) The planning commission, or upon authorization, the zoning administrator, shall approve a conditional use permit if reasonable conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards in which a conditional use permit is required by the use regulations of that zoning district or elsewhere in these ordinances.

(2) In authorizing any conditional use the planning commission or zoning administrator shall impose such requirements and conditions as are necessary for protection of adjacent properties and the public welfare. The land use authority may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions may include the following:

(a) assuring that the use will not be detrimental to the health, safety, comfort, order or general welfare of persons residing or working in the vicinity;

(b) the use will:

(i) comply with the intent, spirit and regulations of the Tooele County Land Use Ordinance and the zoning district where the use is to be located;

(ii) make the use harmonious with the neighboring uses in the zoning district;

(c) the site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the

proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;

(d) all required public facilities have adequate capacity to serve the proposal;

(e) limiting the hours, days, place and/or manner of operation;

(f) requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, glare, erosion, odor and/or dust;

(g) requiring larger setback areas, lot area, and/or lot depth or width;

(h) limiting the building height, size or lot coverage, and/or location on the site;

(i) designating the size, number, location and/or design of vehicle access points or parking areas;

(j) requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved provided that:

(i) an essential link exists between a legitimate governmental interest and each exaction; and

(ii) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development;

(k) requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;

(l) limiting the number, size, location, height and/or lighting of signs;

(m) limiting or setting standards for the location, design, and/or intensity of outdoor lighting;

(n) requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;

(o) requiring and designating the size, height, location and/or materials for fences;

(p) encouraging the protection and preservation of natural features including existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, slopes, cultural resources, and/or sensitive lands;

(q) requiring the protection and preservation of groundwater recharge areas;

(r) limiting noise generation;

(s) minimizing environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities;

(t) turn-lane improvements at street intersections may be required when:

(i) an unsafe condition would be created by the development without the improvements; or

(ii) the projected increase in traffic generated by the new or expanded use will lower the level of service;

(u) providing for emergency response access;

(v) requiring pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks;

(w) the conditions shall be in compliance with the general plan of Tooele County; and

(3) The land use authority shall establish that the conditions imposed are not capricious, arbitrary or contrary to any precedent set by the planning commission on prior permits, which are similar in use and district, unless prior approvals were not in accordance with the provisions and standards of this Tooele County Land Use Ordinance.

(4) The land use authority may require that a traffic study or an EIS or EA may be required to address one or more of these criteria.

(5) 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.

(6) A conditional use permit shall not be issued if the applicant has made a false, misleading or deceptive statement in providing the information required. (Ord 2005-22, 9/13/05)

7 - 6. Fee.

The application for conditional use permit shall be accompanied by the appropriate fee as established by the board of county commissioners. (Ord 2005-22, 9/13/05)

7 - 7. Public hearing.

A public hearing on the conditional use permit application may be held if the planning commission shall deem a hearing to be necessary and in the public interest.

7 - 8. Appeals.

(1) Any person aggrieved by a decision of the planning commission or the zoning administrator regarding the issuance, denial or revocation or amendment of a conditional use permit may appeal such decision to the board of county commissioners whose decision shall be final. All appeals to the county commission must be in writing and filed with the county commission within 30 days of the date of the decision appealed from.

(2) The decision of the county commission may be appealed to the district court provided such appeal is filed within 30 days of the county commission decision. The appeal shall be filed with the county commission and with the clerk of the district court. (Ord 2005-22, 9/13/05)

7 - 9. Compliance and inspection.

Following the issuance of a conditional use permit:

(1) The Department of Engineering shall receive an application for a building permit, if applicable, and insure that development is undertaken and completed in compliance with the conditional use permit.

(2) The zoning administrator shall make periodic inspections to insure compliance with all conditions imposed. An investigation report will be issued to those who are out of compliance. If the discrepancy is not corrected in an allotted time, an Order to Show Cause will be issued for action by the planning commission or zoning administrator. (Ord.2001-13, 3/27/01)

7 - 10. Substantial action required.

Unless there is substantial action under a conditional use permit within one year of its issuance, the permit shall expire. The planning commission may grant one extension up to six months, when deemed in the public interest. (Ord 2005-22, 9/13/05)

7 - 11. Notification required.

(1) When the planning commission considers an application for a conditional use permit at the work meeting, notification shall be mailed to all landowners appearing on the tax rolls of Tooele County that adjoin the property.

(2) When the zoning administrator is authorized to issue a conditional use permit for a use other than home occupation, temporary construction office or

temporary construction equipment and supply trailer, notice shall be sent out to the adjoining landowners giving them a deadline of no less than seven days to give written comments on the application. If a written comment is received objecting to the issuance of the permit, the application shall be put on the planning commission agenda, new noticing for the meeting sent giving the date, time and place where the meeting is being held The written comments received by the zoning administrator shall be made part of the record. (Ord 2005-22,

9/13/05)

7 - 12. Amendment of a conditional use permit.

(1) A use granted by a conditional use permit shall not be enlarged, changed, extended, increased in intensity or relocated unless a new conditional use permit application is made to, and approved by the land use authority.

(2) Notwithstanding Subsection (1), the zoning administrator may administratively consider, approve, or deny modifications or changes that are consistent with the purpose and intent of the Tooele County Land Use Ordinance. Such determinations may be made only where the additions, modifications, or changes are determined not to have significant impact beyond the site.

(3) The planning commission may consider, approve with modifications, or disapprove amendments to a conditional use permit where the zoning administrator determines not to make an administrative determination as provided in Subsection (2) and where:

(a) the proposed modification or amendment complies with the intent and purpose of the Uniform Zoning Ordinance of Tooele County; and

(b) reasonable conditions are attached where and to the extent the planning commission finds that their imposition will directly mitigate or eliminate some aspect of the proposed amendment that violates 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 permit could not be granted. (Ord 2005-22, 9/13/05)

7 - 13. Revocation.

(1) A conditional use permit shall be revocable by the planning commission at any time due to failure

of the permittee to observe any condition specified or failure to observe other requirements of the Tooele County Land Use Ordinance in regard to the maintenance of improvements or conduct of the use or business as approved. The county shall also have a right of action to compel offending structures or uses to be removed at the cost of the violator or owner.

(2) No conditional use permit shall be revoked until a hearing is held by the planning commission. The permittee shall be notified in writing of such hearing. The notification shall state the grounds for complaint or reasons for revocation, and the time and location at which the hearing is to be held. At the hearing, the permittee shall be given an opportunity to be heard. The permittee may call witnesses and present evidence. Upon conclusion of the hearing, the planning commission shall determine whether the permit should be revoked. (Ord

2005-22, 9/13/05)

7 - 14. Temporary permits.

(1) A temporary conditional use permit shall be issued for any use listed in the matrix as a conditional use for that zone and shall be issued for no longer than six

months but may be extended for an equivalent period.

(2) A temporary conditional use permit may be issued by the zoning administrator provided the applicant agrees in writing to the conditions established in Subsection (3). If the applicant requests Tooele County provide extraordinary services or equipment the applicant shall pay a fee sufficient to reimburse Tooele County for the costs of such services.

(3) A temporary conditional use permit shall not be approved if the use will:

- (a) materially endanger the public health or safety;
- (b) substantially injure the value of the adjoining or abutting property;
- (c) not be in harmony with the area in which it is to be located;
- (d) not be in general conformity with the land use plan or any other plan officially adopted by the board of county commissioners or the planning commission;
- (e) have hours of operation not compatible with the uses adjacent to the activity;
- (f) create noise which disrupts the activities of adjacent land uses;

(g) potentially create an amount of litter or property damage that the applicant cannot reasonably control or remove; and

(h) require more parking than can be accommodated;

(i) will interfere with the normal flow of traffic; or

(j) will interfere with the rights of adjacent and surrounding property owners. (Ord 2005-22, 9/13/05)

7 - 15. Professional filming.

(1) A temporary conditional use permit shall be required for professional filming to be performed in an area where the primary use is not that of an approved motion picture studio. The permit shall be issued to cover the entire time that film crews are working and may be issued on an annual basis. Exception, a professional filming permit, as identified by this section, is not required if the property is located on State or Federal land and the administering authority has a filming permit process already in place. Copies of approved permits and applications may be required to be submitted to the County as proof of proper permitting.

(2) The permit shall be issued by the zoning administrator provided the applicant files an application with the appropriate fee, agrees in writing to the conditions and posts a \$5,000.00 bond to ensure compliance with the permit's conditions. The amount of the bond may be adjusted by the zoning administrator for the particular request. The bond shall not be released until each site has been inspected and remediation work has returned the site back to its original condition.

(3) If the applicant requests Tooele County to provide services or equipment beyond that which is provided to the general public, or if the zoning administrator determines that those services or equipment should be provided to protect public health or safety, the applicant shall pay a fee sufficient to reimburse Tooele County for the costs of these services.

(4) The permit shall not be approved if the filming will:

- (a) materially endanger the public health or safety;
- (b) substantially injure the value of the adjoining or abutting property;
- (c) not be compatible with the current land uses in the area which it is to be located;

- (d) place permanent structures without a building permit;
- (e) have hours of operation not compatible with the uses on property adjacent to the activity;
- (f) create noise or glare which disrupts the activities of adjacent land uses;
- (g) potentially create an amount of litter or property damage that the applicant cannot reasonably control or remove; or
- (h) create more traffic congestion than can be accommodated or that will interfere with the normal flow of traffic.

(5) Structures left after completion of the filming of the site are considered and regulated as permanent and must pass all applicable building codes adopted by Tooele County for permanent structures.

(6) The application shall show an operation plan which addresses:

- (a) dates of filming;
- (b) permits issued by the Utah Department of Transportation for use of state roads;
- (c) coordination and agreement from applicable state and local law enforcement agencies;
- (d) areas where filming will take place with a site plan showing:
 - (i) parking for staff and crews;
 - (ii) equipment and vehicle parking;
 - (iii) service and production trailers;
 - (iv) location and number of sleeping trailers;
 - (v) site traffic patterns; and
 - (vi) storage of pyrotechnics and explosives.
- (e) method of trash disposal;
- (f) vendor, location and number of restroom facilities;
- (g) hours of operation;
- (h) provisions and phone numbers for on-site security;
- (i) construction and demolition schedules and details for props and structures; and
- (j) names, permanent addresses, office, cellular, and fax phone numbers, e-mail, dates of birth, and driver license numbers for persons responsible for the activity.

(7) Prior to permit issuance, the zoning administrator shall have the site inspected and photographs taken. The zoning administrator shall notify the sheriff's department, the local fire department and the health department. Those

departments shall have 48 hours to respond to the notification.

(8) Prior to releasing the bond, the zoning administrator shall have the site inspected and photographs taken to insure compliance with the permit.

(9) If the conditions of the permit have been violated, the zoning administrator shall leave notice in writing on the property and mail a copy to the responsible party ordering that the site be properly mitigated to the conditions given in the permit. The zoning administrator shall give a 30-day notice to comply, unless in his opinion the violation endangers the health or safety of the public, in which case such time frame may be shortened. At the conclusion of the time to comply, the zoning administrator shall have the site re-inspected and photographs taken. If the site is not in compliance, the zoning administrator shall post a request for proposal for the cleanup of the site.

(10) When the zoning administrator puts the cleanup of the site out to bid, he shall use those funds from the bond to accomplish that task in a timely manner. Any funds not used to mitigate the site shall be returned to the permittee. If the costs of the mitigation exceed the bond amount, the zoning administrator shall give an accounting of the costs to the permittee and the county attorney. The county attorney shall proceed with legal collection of the amount owed.

(11) As a condition of the issuance of the permit, the applicant shall:

- (a) provide traffic control and obtain properly issued permits to ensure the safety of the public;
- (b) maintain all pyrotechnics in secured enclosures;
- (c) demolish all structures and remove all materials after completion of the filming;
- (d) provide restroom facilities for personnel, which shall be removed when filming is completed;
- (e) remediate any site disturbance and re-vegetate with plant materials indigenous to the area; and
- (f) obtain inspection by the zoning administrator, the health department, the sheriff's office and the building inspector for compliance with the permit and local laws, regulations and ordinances.

(12) Any stop order issued by any official or agency shall cause the operations of filming to cease immediately.

(13) The applicant shall agree to the conditions imposed by signing the following statement: "I (We) as the applicant(s) for a professional filming conditional use permit, have read and do hereby agree to, and understand the above terms and conditions without reservation and place my/our signature below as an act of such agreement. It is further agreed and understood that should I (we) violate any of the above conditions; all operations shall be immediately suspended. This permit is issued specifically to the applicant for the land indicated in the application and is not transferable." (Ord 2005-22, 9/13/05)