

CHAPTER 4
CONDITIONAL USE PERMITS

SECTION:

- 9-4- 1: Purpose
- 9-4- 2: Minimum Standards
- 9-4- 3: General Provisions
- 9-4- 4: Application Procedures
- 9-4- 5: Hearing Required
- 9-4- 6: Notification To Applicant
- 9-4- 7: Time Limitation For Construction
- 9-4- 8: Conditional Use Approval
- 9-4- 9: Multiple Use On One Parcel
- 9-4-10: Violation

9-4-1: **PURPOSE:** Every use that requires a conditional use permit is declared to possess characteristics such as to require review and appraisal by the commission to determine whether or not the use would cause any damage, hazard, nuisance or other detriment to persons, property, or natural resources in the vicinity. It is the responsibility of the applicant to present plans to implement a conditional use in a way that will not harm existing or potential use of nearby lands or place additional unreasonable demands on public services. A conditional use permit shall be subject to the terms and conditions by which it is approved. Conditions of approval may include, but are not limited to:

- A. Hours of operation.
- B. Setbacks.
- C. Grading.
- D. Lighting.
- E. Fencing.

- F. Landscaping.
- G. Signs.
- H. Screening.
- I. Road volumes, traffic control, maintenance.
- J. Natural resource impact mitigation including wildlife habitats, historic sites, shorelines, floodplains, fire hazards, etc.
- K. Sight obstruction mitigation.
- L. Visibility from roads.
- M. Noise mitigation, etc. (Ord. 426, 7-8-2002)

9-4-2: **MINIMUM STANDARDS:** An approved conditional use permit shall at least meet the minimum bulk standards, such as, but not limited to, setback requirements, lot size and building height (table 2-B, section 9-3-12 of this title). Exceptions to those requirements must be sought through the variance procedure. (Ord. 426, 7-8-2002)

9-4-3: **GENERAL PROVISIONS:** Conditional uses may be permitted only after proper application, review, approval and conformance to the conditions of approval. Conditional uses are listed in table 2-A¹. If a land use is proposed which is not provided for within table 2-A, its status as an allowed or a conditional use shall be determined according to procedures outlined in section 9-12-4 of this title. (Ord. 426, 7-8-2002)

9-4-4: **APPLICATION PROCEDURES:** The provisions of this section shall apply to the various buildings and uses designated herein as conditional uses.

- A. Preapplication Conference: Prior to formal filing of an application, the applicant is encouraged to confer with the administrator to obtain proper forms, information, guidance and project review.

1. See section 9-3-11 of this title.

- B. **Project Application:** At least one owner or lessor, with the owner's written consent, of the property for which such conditional use is proposed shall file an application for a conditional use permit with the administrator. The application procedure is outlined in section 9-11-3 of this title.
- C. **Application Process:** The administrator shall sign and date the application upon acceptance thereof. The application will be officially accepted only after it has been completed as determined by the administrator and submitted along with the required plans and fees.
- D. **Notice:**

1. Following receipt of a full application, the administrator shall schedule a public hearing before the planning and zoning commission, publish and provide notice of hearing as outlined in section 9-11-5 of this title.

2. Following receipt of a full application, the administrator shall notify required agencies (Idaho Code section 67-6509) that the application has been received. The purpose of the notice will be to notify the agency of a proposed use that may affect matters within their jurisdiction or to obtain comments relying on the expertise within that agency to provide information relevant to the review of the application. When permits are required by other agencies for all or parts of the application, evidence of the permit and compliance with the provisions of the permit shall be a condition of the conditional use permit. Such permits include but are not necessarily limited to: permits to use public lands; permits to construct wastewater collection treatment and disposal facilities; commercial wastewater collection treatment and disposal facilities; permits to alter wetlands; permits to construct in flood prone areas; and permits to alter stream channels. No conditional use permit will be issued until required complementary permits are received. (Ord. 426, 7-8-2002)

9-4-5: **HEARING REQUIRED:** Following the acceptance of the completed conditional use permit application by the administrator and prior to considering a conditional use permit request, a public hearing shall be held by the planning and zoning commission to review the conditional use permit request.

- A. **Notification:** Notification of the public hearing shall be provided according to chapter 11, "Administration", of this title.

- B. Action By The Hearing Body: Conditional use permit requests shall be heard by the planning and zoning commission in accordance with the city hearing procedure ordinance. The commission shall consider the facts and circumstances of each conditional use application and shall make findings of fact based on the following standards:
1. The use will in fact constitute a conditional use as specified in table 2-A¹, or as determined by the commission according to procedures outlined in section 9-12-4 of this title.
 2. The use will be in accordance with the goals and policies of the city comprehensive plan.
 3. The use will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character and uses of the vicinity and that such use will not change the essential character of the same area.
 4. The use will not be hazardous or in conflict with existing neighboring uses.
 5. The use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer, schools, etc., at reasonable marginal cost.
 6. The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
 7. The use will not involve uses, activities, processes, materials, equipment and conditions or operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, excessive light or glare, pollution or odors.
 8. The use will not have vehicular approaches to the property that create hazardous interference with traffic on surrounding thoroughfares.
 9. The use will not result in the destruction of any significant natural, scenic or historic feature.

1. See section 9-3-11 of this title.

10. Adequate land is available to accommodate the use.

11. In the case of an accessory dwelling unit in any district, there is in fact a hardship case regarding care for an immediate family member.

- C. **Conditions Of Approval:** In recommending approval of any conditional use permit, the commission may prescribe appropriate conditions, bonds, and safeguards in conformity with this title or the comprehensive plan. Conditions may include, but shall not be limited to, specific requirements that:
1. Minimize adverse impacts on other development.
 2. Control the sequence and timing of development.
 3. Assure that development is maintained properly.
 4. Designate the exact location and nature of development.
 5. Require the provisions for on site public facilities or services.
 6. Require more restrictive standards than those generally required in this title.
 7. Control or limit the duration of development.
 8. Require mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts providing services within the planning jurisdiction.
 9. Require financial guarantees.
- D. **Commission Actions:** Following the public hearing, the commission shall approve, conditionally approve or deny the application; or delay a decision for up to one hundred twenty (120) days for further study or hearing. Upon final action, the commission shall specify: 1) the ordinances and standards used in evaluating the application and 2) the reasons for approval or denial. (Ord. 426, 7-8-2002)

9-4-6: NOTIFICATION TO APPLICANT:

- A. **Written Notice Of Commission Decision; Appeal:** Within ten (10) days following the action of the commission, the administrator shall

provide written notice of the commission decision to approve, conditionally approve or deny the conditional use permit application to the applicant. A decision of the commission may be appealed to the city council, providing an appeal is filed within fourteen (14) days of notice of the commission's decision. The applicant may begin use of the conditional use permit (the permit having been approved) upon expiration of the appeal period. If an appeal is filed, work must cease until such time as the appeal is decided, at which time, it will be determined whether work may continue or not.

- B. **Action On Appeal:** When the commission's decision has been appealed to the city council, a conditional use permit will not be issued until after the council decision on the appeal. Appeal may be made by any affected person upon payment of a fee or by the administrator, mayor, or any council member. When a matter is appealed to the city council, they may act on the appeal based on the record or may hold a public hearing, with notice as provided in subsection 9-4-4D of this chapter. (Ord. 426, 7-8-2002)

9-4-7: **TIME LIMITATION FOR CONSTRUCTION:** Unless a longer time is specifically established as a condition of approval, a conditional use permit shall be considered void twelve (12) months following the effective date of the permit approval if construction is not underway and being diligently pursued toward completion. (Ord. 426, 7-8-2002)

9-4-8: **CONDITIONAL USE APPROVAL:**

- A. **Transferability; Abandonment:** Conditional use permits, other than those granted for home occupations and accessory dwelling units, are granted to the subject property and shall remain valid upon a change in ownership with all attached conditions. Conditional use permits are not transferable from one parcel to another, but may be transferred to a new owner. If an allowed conditional use is abandoned for more than twelve (12) months, it shall expire. Any attempts to resume operation without a current conditional use permit is a violation of this title.
- B. **Home Occupations:** Conditional use permits for home occupations are nontransferable and are valid so long as the conditions of approval and home occupation standards are conformed to.

- C. Accessory Dwelling Units: Conditional use permits for accessory dwelling units are nontransferable and are automatically revoked when the hardship requirement is no longer satisfied. (Ord. 426, 7-8-2002)

9-4-9: **MULTIPLE USE ON ONE PARCEL:** The commission may grant more than one conditional use permit to a single parcel of property or may grant conditional use permits to a single parcel of property that currently contains an allowed use. (Ord. 426, 7-8-2002)

9-4-10: **VIOLATION:** A conditional use permit may be suspended upon determination by the city council, during its regularly scheduled meeting, that a violation of the conditions of approval has occurred. The commission shall hold a public hearing to review all violations and determine corrective actions. (Ord. 426, 7-8-2002)