

§ 159.024 CONDITIONAL USE PERMITS AND INTERIM USE PERMITS.

(A) *Generally.*

(1) The City Council may grant a conditional use permit or an interim use permit, provided the proposed use is designated in § 159.005 or § 159.043 of this chapter as a conditional use or interim use for the district, upon finding that:

- (a) Certain conditions as detailed in this chapter exist;
- (b) The use or development conforms to the zoning regulations of the city;
- (c) Is compatible with existing neighborhood; and/or
- (d) Meets conditions or standards adopted by the city not incorporated in this chapter.

(2) Conditional use permits shall be granted for a particular property and use, and not for a particular person or firm.

(Prior Code, Ch. 300 § 505.01)

(3) For all uses designated as a conditional use or interim use, the City Council may determine whether to require a conditional use permit or an interim use permit for the use.

(B) *Record.* The Zoning Administrator shall maintain a record of all applications for and all conditional use permits and interim use permits issued including information on the use, location, conditions imposed by the city, time limits, review dates, and such other information as may be appropriate.

(Prior Code, Ch. 300 § 505.02)

(C) *Application.* Application for a conditional use permit or interim use permit shall be filed with the Zoning Administrator. The application shall be accompanied by development plans for the proposed use showing such information as may be reasonably required by the Administrator, including but not limited to those things listed under division (C)(1) below.

(1) The plans shall contain sufficient information for the city to determine whether the proposed development will meet all applicable development standards.

(a) Name and address of the applicant. If the application is being made by someone other than the owner of the property, a signed statement from the owner must accompany the application authorizing the applicant to represent the property owner on this application;

(b) The name and address of the owners of the property and any person having a legal interest therein, if other than the applicant;

(c) The legal description of the property involved in the request as shown on a copy of the current property tax statement, including the street address, if any, of the property;

(d) A site plan drawn to scale showing the property dimensions or a legal survey if requested by a representative of the city;

(e) Location of all existing and proposed buildings and their size, including square footage and elevation of finished building;

(f) Proposed floor plan and elevations of any building with use indicated;

(g) Sanitary sewer and water plan with estimated flow rates;

(h) Location of curb cuts, driveways, access road, parking spaces, off-street loading areas and sidewalks, if applicable;

(i) Landscaping and screening plans, including species and size of trees and shrubs proposed;

(j) Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome the limitations shall be made part of the application;

(k) A statement describing the reason for the application, including business or activity and number of employees;

(l) An applicant's certificate showing the names and addresses of the record owners of all property (obtained from the County Surveyor's office), located within a minimum of 500 feet of all the contiguous property owned by the applicant;

(m) A location map showing the general location of the proposed use within the city, along with a map showing all principal land use within 500 feet of the parcel for which the application is being made, certified as to its accuracy by the applicant; and

(n) The application fee, as established by city ordinance, which can be changed from time to time.

(2) The application process will not proceed forward until all applicable items are provided to the Zoning Administrator and formally accepted as a completed application.

(3) The applicant shall supply proof of ownership of the property for which the conditional use permit is requested, consisting of an abstract of title or registered property certificate, certified by a licensed abstractor, together with any unrecorded documents whereby the petitioners acquired legal or equitable ownership.

(Prior Code, Ch. 300 § 505.03)

(D) *Public hearing.* The Zoning Administrator shall refer the application to the Planning Commission for consideration at its next regular meeting; however, if the next regular meeting of the Planning Commission is within 15 days of the date of filing, then such consideration may be at the second regular meeting after the filing. At that meeting, the Planning Commission shall conduct a public hearing on the application. The public hearing shall be scheduled by the Zoning Administrator and as provided or allowed by law.

(1) Notice of the purpose, time, and place of the public hearing shall be published in the official newspaper of the city and mailed to each of the owners of all property located within a minimum of 500

feet of the property described in the application and such other persons as the Planning Commission may direct, at least 10 days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the provisions of this section has been made.

(2) The applicant or that applicant's representative must appear at the public hearing in order to answer questions concerning the proposed use.

(Prior Code, Ch. 300 § 505.04)

(E) *Planning Commission report.* The Planning Commission report on the application, as provided in the official minutes of the public hearing/Planning Commission meeting, shall be forwarded to the City Council, for consideration at its next regular meeting, unless the applicant consents to extending consideration by the Planning Commission.

(1) The report shall recommend that the conditional use permit or interim use permit be granted or denied and shall include the Planning Commission's recommendation as to any conditions to be imposed if the conditional use permit or interim use permit is granted, including time limits or provisions for periodic review, and shall state the reasons therefor.

(2) The Planning Commission's report shall be referred by the Zoning Administrator to the City Council for consideration at its next regular meeting. At the same time, the Zoning Administrator shall mail to the applicant a copy of the Planning Commission report and a notice of the time and place of the meeting at which the report will be considered by the City Council.

(Prior Code, Ch. 300 § 505.05)

(F) *City Council action on application.*

(1) The City Council shall make its decision on the application within the time prescribed by law. The City Council shall make written findings and state therein the reasons for its decision, and the Zoning Administrator shall mail a copy thereof bearing the notation of the filing date, to the applicant.

(2) The City Council may impose such conditions and restrictions, including time limits on the conditional use or periodic review as appear to be necessary and proper to protect adjacent property and comply with the intent and purposes of this chapter and the Comprehensive Plan, as well as a specific expiration date on the interim use permit.

(Prior Code, Ch. 300 § 505.06)

(G) *Re-application.* No application for a conditional use permit or interim use permit shall be resubmitted for a period of 6 months from the date of the denial of a previous application.

(Prior Code, Ch. 300 § 505.07)

(H) *Periodic review of conditional use permit and expiration and renewal of interim use permit.*

(1) Periodic review may be imposed as a condition of the granting of a conditional use permit. All conditional use permits subject to annual review shall be reviewed by the Planning Commission at a public

hearing during the regular meeting in October of each year. Notice of the public hearing shall be published in the official newspaper at least 10 days prior to the review. It shall be the responsibility of the Zoning Administrator to schedule the public hearing and notify the permit holder, by mail at least 10 days prior to the review hearing.

(2) The City Council shall establish a date on which the interim use permit will expire. All interim use permits shall be reviewed by the Planning Commissioner at a public hearing at least 1 month prior to the expiration of the permit. Notice of the public hearing shall be published in the official newspaper at least 10 days prior to the review. It shall be the responsibility of the Zoning Administrator to schedule the public hearing and notify the permit holder by mail at least 10 days prior to the review hearing. The Planning Commission shall make a recommendation to the City Council regarding the renewal of the interim use permit. The renewal may involve adding conditions to the interim use permit. The City Council shall make the determination regarding the renewal of the interim use permit.

(Prior Code, Ch. 300 § 505.08)

(I) *Compliance with permit; violation of conditions.* Any use permitted under the terms of a conditional use permit or interim use permit shall be established and conducted in accordance with all of the terms, conditions and restrictions of such permit. The violation of any term, condition, or restriction of a conditional use permit or interim use permit shall be a violation of this chapter.

(Prior Code, Ch. 300 § 505.09)

(J) *Expiration and suspension of conditional use permit or interim use permit.* A conditional use permit or interim use permit shall expire 1 year after it has been issued unless the Planning Commission has set some other time limitation or unless the use for which the permit has been granted has commenced within such year, except that upon written application of the owner of the affected land for which the conditional use permit or interim use permit was granted prior to the end of the year, the City Council may extend the expiration date of the permit for an additional period, not to exceed 1 year. If, under the conditional use permit or interim use permit, building is commenced and subsequently determined by the Zoning Administrator to be abandoned for a period of 120 days, the conditional use permit or interim use permit shall be suspended at the end of the 120 days. Before the construction may be recommenced, a conditional use permit or interim use permit can be reinstated by the Planning Commission, provided that no changes or alterations in the original plan have been made. If the building permit for the construction that was determined to be abandoned became invalid prior to the recommencement of the construction, the suspended conditional use permit or interim use permit shall expire at the time the building permit became invalid.

(Prior Code, Ch. 300 § 505.10)

(K) *Administration.* An amended conditional use permit application or interim use permit application may be administered in a manner similar to that required for a new conditional use permit or interim use permit. Amended conditional use permits and interim use permits shall include reapplication for permits that have been denied or permits that have expired, requests for changes in conditions, and as otherwise described in this chapter. Clerical or nonsubstantive changes to conditional use permits and interim use permits may be processed under the administrative provisions of this section.

(Prior Code, Ch. 300 § 505.11)

(L) *Inclusion.* All uses permitted by this chapter by conditional use permit in existence prior to the adoption date of this chapter shall be automatically issued a conditional use permit by the Zoning Administrator. Any changes in the existing use after the adoption date of this chapter shall require an amended conditional use permit.

(Prior Code, Ch. 300 § 505.12) (Am. Ord. 7538, passed 6-21-2013)