

Chapter 19.13

Conditional Use Permits

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19.13.1 Purpose

Uses designated as conditional uses require special consideration from the City Council. These uses may or may not be appropriated for a specific piece of property. The purpose of this Chapter is to allow the City Council to evaluate the appropriateness of designated conditional uses on a case-by-case basis. The conditional use permit procedure allows the City Council to approve, deny, or conditionally approve any request for a conditional use permit.

19.13.2 Permit Required

Persons or entities shall not operate or conduct a use designated as a conditional use within the applicable zone without first obtaining a conditional use permit from the City. (5-2-07)

19.13.3 Application Procedure

The applicant for a conditional use permit shall submit a completed application form and a site plan with sufficient information to allow the Planning Commission and City Council to make a well-informed decision. The application shall be accompanied by a written explanation of the specific activities associated with the proposed conditional use, elevations or building plans for any new structures, any modifications to existing structures, or any site improvements. The applicant shall also pay a fee in an amount established by resolution. (5-2-07)

19.13.4 Planning Commission Review

The Planning Commission shall review the proposed conditional use considering the criteria and factors set forth in Section 19.13.6. The Planning

Commission shall hold a public hearing and recommend that the application for a conditional use permit be approved, approved with conditions or denied. The validity of the permit shall be conditioned upon strict compliance with applicable City ordinances, the approved project plan and any additional conditions or requirements imposed by the City Council. (7-19-17)

19.13.5 City Council Review

Prior to granting a conditional use permit and after receipt of reports and recommendation of the Planning Commission, the City Council shall take final action on the conditional use request. (7-19-17)

The City Council shall be the final approving authority for all applications for conditional use permits. The City Council shall review the proposed project plan while considering the criteria and factors set forth in Section 19.13.6. The application for a conditional use permit shall be approved, approved with conditions, or denied. The validity of the permit shall be conditioned upon strict compliance with applicable City ordinances, the approved site plan, project plan and any additional conditions of the City Council. (5-2-07)

Requests to install and maintain transmission lines, pipelines, utility right-of-ways, and other utility services that traverse multiple parcels are required to send courtesy notices to the owner(s) of the affected parcel and the parcels immediately adjacent to the affected parcel for a maximum distance of three hundred (300) feet from the centerline of the utility. (8-6-14)

19.13.6 Criteria and Factors to be Considered

The following factors shall be weighed and considered when determining whether a conditional use permit application should be approved, approved with conditions or denied:

1. Harmony of the request with the general objectives of the General Plan, Zoning Ordinance, Subdivision Ordinance, any other City ordinance and the particular zone in which the request is located.
2. Harmony of the request with existing uses in the neighborhood.
3. Development or lack of development adjacent to the site.
4. Whether or not the request may be injurious to potential development in the vicinity.

5. Present and future requirements for transportation, traffic, water, sewer, and other utilities.
6. Suitability of the specific property for the proposed use.
7. Number of other similar conditional uses in the area and the public need for the conditional use.
8. Economic impact on the neighborhood.
9. Aesthetic impact on the neighborhood.
10. Safeguards to prevent noxious or offensive emissions such as noise, glare, dust, pollutants and odor.
11. Attempts by the applicant to minimize other adverse effects on people and property in the area.
12. Impact of the proposed use on the health, safety and welfare of the City, the area, and persons owning or leasing property in the area.

19.13.7 Atypical Conditional Uses (1-18-06)

19.13.7.1 Intent

19.13.7.2 Atypical Conditional Use Permits Defined

19.13.7.3 Atypical Conditional Uses

19.13.7.4 Basis for Denial

19.13.7.1 Intent

The City Council may issue a conditional use permit for the following atypical situations provided the regulations set forth in this Section have been satisfied. In the determination of whether or not to grant approval of an atypical conditional use permit, the City Council shall base their decision on the criteria listed for each specific atypical situation in this Section. Unless specifically listed in this Section and granted approval by the City Council, there shall be no atypical conditional use permits issued that do not conform to the remaining provisions of this Title.

19.13.7.2 Atypical Conditional Use Defined

For the purposes of this Section, an atypical conditional use permit is defined as a request to allow a distinctive use or structure that represents a unique circumstance that will not generally apply to other similarly located parcels or structures that require distinct consideration and individual approval from the City Council. An atypical conditional use is not considered to be a variance from or an amendment to the Zoning Ordinance, but rather a potentially acceptable use in a narrowly defined location, situation, or instance as provided herein.

Each atypical conditional use will be expected to satisfy the general criteria for a conditional use

permit listed in Section 19.13.6 herein in addition to the specific criteria for the atypical conditional use. Any alteration or amendment of an atypical conditional use shall be processed as a new application for an atypical conditional use and satisfy the regulations of this Section.

19.13.7.3 Atypical Conditional Uses

19.13.7.3.1 Creation of Twinhome from Existing Duplex

19.13.7.3.2 Reduction of Off-Street Parking Stalls

19.13.7.3.3 Slaughterhouses

19.13.7.3.1 Creation of Twinhome or Condominium Units from an Existing Duplex

In an effort to encourage ownership, reinvestment, proper maintenance, and stability in a neighborhood, an applicant may request that a legally existing duplex be divided into separate ownership in a zone that does not allow two family dwellings provided all of the following criteria are satisfied:

1. The use of the structure as a duplex was allowed or approved, as the case may be, by Payson City at the time the structure was constructed. It shall be the burden of the applicant to provide evidence that the structure was constructed in accordance with the appropriate development ordinances of Payson City.
2. There is no violation of any other provision of any federal, state or Payson City ordinance, resolution, or law on the parcel or within the structure proposed for division including roadway improvements, beautification, off-street parking, improper business activity and other regulations.
3. Each unit shall have separate municipal utility service laterals, meters, and utility accounts established with Payson City.
4. Each unit shall satisfy all applicable regulations of the adopted building code and fire code.
5. Each unit shall provide adequate off-street parking in accordance with this Title.
6. If granted by the City Council, the applicant for an atypical conditional use shall subsequently apply for approval of a subdivision and satisfy all regulations of the development ordinances of Payson City, or in the case of the creation of condominium units, the regulations of Utah Code. If the applicant is unable to satisfy all regulations of the development ordinances of Payson City or State statute as the case may be, approval of an atypical conditional use by the City Council shall be null and void.

7. Courtesy notice for the purpose of converting an existing duplex into a twinhome or condominium structure is hereby reduced to include property owners within two hundred fifty (250) feet. (5-2-07)

In accordance with Section 19.13.7.4 herein, the City Council may deny the creation of a twinhome from an existing duplex if the provisions of this Section cannot be satisfied. Because each application will be different and involve extenuating circumstances, each application will be viewed individually in accordance with the criteria listed in this Section.

If it is determined by the City Council that the applicant is unable to satisfy the criteria listed in this Section, the application will be denied. There shall be no appeal of the decision rendered by the City Council, except in a court of competent jurisdiction.

19.13.7.3.2 Reduction of Off-Street Parking Stalls

In the rare instance that an applicant is unable to provide the appropriate number of off-street parking stalls, the City Council may consider approval of an atypical conditional use to reduce the off-street parking requirements of Chapter 19.4 herein. The City Council will consider the specific request of the applicant and determine the appropriate number of off-street parking stalls.

The reduction in parking stalls should be the last option after an applicant has exhausted all other potential solutions to provide the appropriate number of off-street parking stalls including sharing a parking area with adjacent property owners and employing the twenty (20) percent reduction allowed in Chapter 19.4.

The City Council may deny the reduction in parking stalls if the applicant is unable to demonstrate that all other remedies have been exhausted. Because each application will be different and involve extenuating circumstances, each application will be viewed individually to determine if the appropriateness of the reduction. (5-2-07)

If it is determined by the City Council that a reduction in parking stalls is not in the best interest of Payson City or any property owner or resident of the community, the application will be denied. There shall be no appeal of the decision rendered by the City Council, except in a court of competent jurisdiction.

Courtesy notice for the purpose of reducing parking stalls is hereby reduced to include property owners within two hundred fifty (250) feet. (5-2-07)

19.13.7.3.3 Slaughterhouses

Slaughterhouses, or meat processing plants and related activities are typically not harmonious with other land uses. Due to the potential for adverse impacts on surrounding properties, slaughterhouses will only be allowed in strict compliance with the following provisions:

1. The keeping of animals or any facility used in the slaughtering of animals shall be no less than three hundred (300) feet from any adjacent parcel zoned for residential or commercial uses and no less than three hundred (300) feet from any existing or proposed residential dwelling or commercial business.
2. All slaughterhouses shall satisfy the requirements of the Payson City drinking water source protection plan.
3. Delivery of animals to be slaughtered shall not have a negative impact on existing or proposed residential or commercial uses.
4. Retail sales are not permitted on site. (5-2-07)

19.13.7.3 Basis for Denial

The City Council may deny any application for an atypical conditional use that does not satisfy all criteria listed in Section 19.13.6 and 19.13.7 herein. Each applicant must understand that application for an atypical conditional use is a request for a more intensive use of property than generally allowed under the remaining provisions of this Title. Denial of an atypical conditional use will not affect the ability of a property owner to use the property in accordance with the regulations of the remainder of this Title. Therefore, each applicant understands that no Constitutional, statutory or regulatory taking claim will be valid based on denial of a request for an atypical conditional use. (5-2-07)

19.13.8 Duration

Unless otherwise specified by the City Council, and subject to the provisions in this Section relating to the amendment, suspension or revocation of a conditional use permit, a conditional use permit shall be of indefinite duration and shall run with the land. The City Council may grant a conditional use permit for a limited period of time if it finds that a limited permit is necessary to protect the health, safety or welfare of the community. (5-2-07)

19.13.9 Fees

Fees shall be established by the City Council by resolution, and shall be assessed as a condition of the submission of any conditional use permit application.

19.13.10 Other Requirements

An applicant or user of a conditional use permit shall be held to all of the requirements relating to project plan approval, improvement, bonding, maintenance and completion. The conditional use permit shall not be valid until a bond guaranteeing all required and proposed improvements has been posted. Nothing in this Chapter shall be interpreted to waive the bonding, licensing or permit requirements set forth in other City ordinances.

19.13.11 Appeals

Any person aggrieved by or affected by any decision of the City Council may appeal the decision to the Board of Adjustment.

19.13.12 Implementation

A conditional use permit shall expire and become null and void if the permit has not been implemented by the recipient within one year of the date of approval. The permit shall be considered implemented if the recipient either engages or participates in the conditional use or completes substantial construction on the project for which the permit was granted.

19.13.13 Amendment, Suspension or Revocation**19.13.13.1 Fee****19.13.13.2 Procedure to Amend****19.13.13.3 Procedure to Suspend or Revoke****19.13.13.4 Associated Actions**

Any interested party may request formal action from the City Council to amend, suspend or revoke a conditional use permit. For purposes of this Section, "interested party" shall include the following persons or entities:

1. The owner or lessee of the property for which the conditional use was granted.
2. The Payson City Corporation.
3. Any owner or lessee of property that lies within two hundred feet (200') of the property for which the conditional use permit was granted.
4. Any person that can show that the conditional use has a direct impact upon his or her health, safety or welfare. (5-2-07)

19.13.13.1 Fee

Any person or entity, other than the City, seeking to amend, suspend or revoke a conditional use permit, shall pay a fee in an amount established by resolution of the City Council. (5-2-07)

19.13.13.2 Procedure to Amend

The procedure for amending a conditional use permit shall be the same as the original application procedure set forth in 19.13.3 herein.

1. The interested party shall submit an application to amend a conditional use permit and payment of the fee established by resolution. The application shall contain, at a minimum:
 - a. An explanation of how the applicant is an interested party as defined in this Section.
 - b. A detailed explanation of why the conditional use permit should be amended. The explanation must include information about how the amendment will serve to further mitigate potential negative impacts of the conditional use.
 - c. Any evidence that supports the claim of the interested party that would allow the City Council to make a well-informed decision.
2. A conditional use permit may be amended at the request of any other interested party if the City Council finds one or more of the following:
 - a. That the conditional use permit was obtained by misrepresentation or fraud.
 - b. That the use for which the permit was granted has ceased or has been suspended for six months.
 - c. That the holder or user of the conditional use permit has failed to comply with any of the conditions placed on the issuance of the permit.
 - d. That the holder or user of permit has failed to comply with any federal, state, county or local regulation governing the conduct of the use.
 - e. That the holder or user of the conditional use permit has failed to construct or maintain the site as shown on the approved site plan or conducted the use in a manner that is inconsistent with the approval granted by the City Council. (5-2-07)
 - f. That the operation of the use or the character of the site has been found to be a nuisance or a public nuisance by a Court of competent jurisdiction in any civil or criminal proceeding.

3. In reaching a determination in relation to the proposed amendment, the Planning Commission and City Council may take the following action:
 - a. Amend the conditional use permit in a manner that will further mitigate the potential negative impacts of the use.
 - b. Suspend the conditional use permit until certain mitigating measures have been implemented by the applicant.
 - c. Take no action, by denial of the request to amend, and the provisions of the conditional use permit shall remain intact. (5-2-07)

19.13.13.3 Procedure to Suspend or Revoke

The procedure for suspending or revoking a conditional use permit shall be as follows:

1. The interested party shall submit an application to suspend or revoke the conditional use permit and payment of the fee established by resolution. The application shall contain, at a minimum:
 - a. An explanation of how the applicant is an interested party as defined in this Section.
 - b. A detailed explanation of why the conditional use permit should be amended, suspended or revoked.
 - c. Any evidence that supports the claim of the interested party that would allow the City Council to make a well-informed decision.
2. The City Council shall review the request of the interested party, determine if any additional information is necessary, and establish a date for a public hearing.
 - a. The City Council will determine the distance in which courtesy notice will be sent as an invitation to attend the public hearing based on the potential impact of the amendment, suspension or revocation of the conditional use permit.
 - b. Staff will post notice of the public hearing in accordance with Section 19.2.7 herein and mail notice to all parties selected to receive a courtesy notice by the City Council.
3. The City Council will conduct a public hearing to determine if the conditional use permit should be suspended or revoked, or if the conditional use permit shall stand as previously approved.
4. A conditional use permit may be suspended or revoked at the request of any other interested party if the City Council finds one or more of the following:
 - a. That the conditional use permit was obtained by misrepresentation or fraud.
 - b. That the use for which the permit was granted has ceased or has been suspended for six months.
 - c. That the holder or user of the conditional use permit has failed to comply with any of the conditions placed on the issuance of the permit.
 - d. That the holder or user of permit has failed to comply with any federal, state, county or local regulation governing the conduct of the use.
 - e. That the holder or user of the conditional use permit has failed to construct or maintain the approved site as shown on the approved site plan or conducted the use in a manner that is inconsistent with the approval granted by the City Council. (5-2-07)
 - f. That the operation of the use or the character of the site has been found to be a nuisance or a public nuisance by a Court of competent jurisdiction in any civil or criminal proceeding.
5. In reaching a determination in relation to the proposed suspension or revocation, the City Council may take the following action:
 - a. Suspend the conditional use permit until certain mitigating measures have been implemented by the applicant or; suspend the conditional use permit for a period of time as a punitive action against the permit holder for failing to conform to the provisions of the permit rather than revoking the permit.
 - b. Revoke the permit if it can be demonstrated that the permit holder cannot, refuses to, or has shown a lack of ability to satisfy the provisions of the condition use permit.
 - c. Take no action and the provisions of the conditional use permit shall remain intact. (5-2-07)

19.13.13.4 Associated Actions

If a conditional use permit is suspended or revoked, the business license issued for the conditional use permit is automatically suspended or revoked in kind. In order to subsequently conduct the conditional use permit, a business license must be reissued in accordance with the provisions of Title 4, Business License Ordinance. (5-2-07)

Conditional use permits shall not be amended, suspended or revoked against the wishes of the

applicant for the permit without first giving the applicant an opportunity to appear before the City Council and show cause as to why the permit should not be amended, suspended or revoked. Amendment, suspension or revocation of the permit shall not limit the City's ability to initiate or complete other legal proceedings against the holder or user of the permit. (5-2-07)

If a conditional use permit is amended, suspended or revoked, the City Council hereby grants the authority to the appropriate enforcement personnel to enter on and inspect the property where the conditional use is conducted to ensure compliance with the action taken by the City Council. (5-2-07)

19.13.14 Violation

A violation of any of the terms of this Chapter or any conditions imposed as part of a conditional use permit shall be unlawful, and may be remedied or punished as allowed by law.