

## **SECTION 800. CONDITIONAL USE PERMITS**

### **801. Permit Required**

Before a building or premises is devoted to any use classified under "Uses by Conditional Use Permit" in this Ordinance, a Conditional Use Permit (CUP) must be granted by the Council following a Public Hearing and recommendation by the Commission.

### **802. Procedures to Follow** *(Ord No 2002-C)*

- .01 The following exhibits shall be required unless waived by the Commission or Zoning Officer *(Ord No 12-10-2015-2)*:
  - (1) The boundary survey and plot plan as required for building permit applications
  - (2) Building plan, drainage information and soil conditions
- .02 Procedures shall be followed by the City in considering CUP applications within the Floodplain District. *(Ord No 2002-C)*
  - (1) Require the applicant to furnish the following information and additional information as deemed necessary by the City for determining the suitability of the particular site for the proposed use:
    - (1.1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures and the relationship of the above to the location of the stream channel
    - (1.2) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities
  - (2) One copy of the information described in Subsection .02(1) shall be transmitted to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters
  - (3) Based upon the technical evaluation of the designated engineer or expert, the City shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard

**803. Notice**

A notice of the time and place of the Public Hearing shall be published in the official newspaper of the City, at least 10 days prior to the date of the hearing. A similar notice shall be mailed at least 10 days before the date of said hearing, to each owner of affected property, and property situated, wholly or partly, within 350 feet of the property to which the CUP relates. A copy of the notice and a list of the owners and addresses to which notice was sent, shall be attested by the responsible person and shall be made a part of the proceedings. Failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bonafide attempt to comply with this provision has been made. If a CUP is requested in the Floodplain District, the City shall submit, by mail to the Commissioner of Natural Resources, a copy of the application for proposed conditional use at least 10 days before the date of said hearing. *(Ord No 2002-C)*

A copy of all decisions granting CUPs in the Floodplain District shall be forwarded by mail to the Commissioner of Natural Resources within 10 days of such action. *(Ord No 12-15-2011-1)*

**804. Standards for Granting Conditional Use Permits**

A CUP may be granted by the Council after presentation of evidence by the applicant demonstrating that: *(Ord No 3-20-2008-1)*

- .01 The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- .02 The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
- .03 The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in this District.
- .04 Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.
- .05 Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
- .06 The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
- .07 In the Floodplain District, the Council shall consider all relevant factors specified in other sections of the Zoning Ordinance and: *(Ord No 2002-C)*
  - (1) The danger to life and property due to increased flood heights or velocities caused by encroachments
  - (2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures

- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner
- (5) The importance of the services provided by the proposed facility to the community
- (6) The requirements of the facility for a waterfront location
- (7) The availability of alternative locations not subject to flooding for the proposed use
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future
- (9) The relationship of the proposed use to the City's Comprehensive Plan and Floodplain Management program for the area
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site
- (12) Such other factors which are relevant to the purposes of the Zoning Ordinance

**805. Review Procedures** (*Ord No 12-10-2015-2*)

- .01 Commission Recommendation. The Commission, upon completion of the public hearing, shall submit to the Council a recommendation of approval or non-approval of the CUP within 10 days. In the course of its deliberation, the Commission may consult such people as may be deemed helpful or necessary. The Commission may recommend conditions which will improve the proposal or protect adjacent properties from any adverse effects. The Commission, when submitting a recommendation to the Council, shall also submit findings.
- .02 City Council Action. The Council may grant the CUP subject to reasonable limitations or conditions as it may deem appropriate to enhance the appearance of the property, to reduce any adverse effects on nearby property or their occupants, to preserve the character of the neighborhood to protect or enhance the view from this or other properties, or to make it more acceptable in other ways. The Council shall issue written findings stating the reasons for its decision and any conditions imposed, and send a copy of the findings to the Applicant by mail within 10 days after its decision.
  - (1) In recommending and granting a CUP, the Commission and the Council shall clearly identify in writing: (*Ord No 3-20-2008-1*)

- (1.1) The specific evidence which demonstrates that the standards stated in this Ordinance will be satisfied
- (1.2) How granting a CUP is consistent with the City's Comprehensive Plan
- (2) In denying a CUP, the Commission and the Council shall clearly identify in writing:
  - (2.1) The specific evidence which demonstrates that the standards stated in this Ordinance will not be satisfied
  - (2.2) The standards stated in this Ordinance for which the applicant failed to provide adequate evidence demonstrating that the standards will be satisfied
  - (2.3) How granting a CUP is inconsistent with the City's Comprehensive Plan

The Council must make a decision on each application within sixty (60) days after receiving the completed CUP application, except that the City is allowed a longer time if:

- (1) The City states in writing to the Applicant that a longer time is needed to protect against serious and significant harm to the public health, safety, or welfare, states the reason why, and specifies the additional time needed
- (2) The City states in writing to the Applicant that a longer time is needed to comply with state or federal requirements, states the requirements, and specifies the additional time needed; or
- (3) An agency that must take action on an application is a multimember board that meets periodically, in which case the agency must complete its action within sixty (60) days after its first meeting after receipt of the application, or within a longer period established under this Section.
- (4) *(Repealed - Ord No 12-10-2015-2)*
- (5) *(Repealed - Ord No 12-10-2015-2)*

#### **806. Conditions**

The Commission may recommend, and the Council may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary for the protection of the public interest and to secure compliance with the requirements specified in this Ordinance. In the Floodplain District, such conditions may include, but are not limited to, the following: *(Ord No 2002-C)*

- .01 Modification of wastewater treatment and water supply facilities.
- .02 Limitations on period of use, occupancy, and operation.
- .03 Imposition of operational controls, sureties, and deed restrictions.
- .04 Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

- .05 Flood proofing measures, in accordance with the State Building Code and the Zoning Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

**807. Revocation of Conditional Use Permits**

Where a CUP has been issued pursuant to the provisions of this Ordinance, such permit shall become null and void without further action by the Commission or the Council unless work thereon commences within one year of the date of granting such conditional use. A CUP shall be deemed to authorize only one particular use and shall expire if that use shall cease for more than 12 consecutive months. The work shall be completed within 12 months of the granting of the CUP unless an approved staging plan is adopted at the time of the original CUP action. Two six-month extensions may be granted by the Zoning Officer administratively upon receipt of a written request from the applicant. Additional extensions, if necessary, require Council action.

**808. Rehearing**

No applicant or representative shall be entitled to present any reapplication for a CUP within six months of the time the original application was denied by the Council when such application is substantially the same as the original application. This provision shall not apply to applications withdrawn before Council action.

**809. SUR – Special Use Residential** *(Repealed - Ord No 12-10-2015-2)*

**810. Manufactured Homes** *(Repealed – Ord No 1-21-2010)*