

SECTION 302. CONDITIONAL USE PERMITS.

A. PURPOSE.

Every zoning district contains certain buildings, structures and uses of land which are normal and complementary to permitted principal uses in the district, but which, by reason of their typical physical or operational characteristics, influence on the traffic function of adjoining streets or similar conditions are often incompatible with adjacent activities and uses. It is the intent of this Ordinance to permit Conditional Uses in appropriate zoning districts, but only in specific locations within such districts that can be designed and developed in a manner which assures maximum compatibility with adjoining uses, and where such uses will not be detrimental to the health, safety or welfare of the public. It is the purpose of this Section to establish principles and procedures essential to proper guidance and control of such uses.

B. GENERAL REGULATIONS.

1. Zoning district regulations established elsewhere in this Ordinance specify that certain buildings, structures and uses of land may be allowed by the Commission as Permitted Conditional Uses in a given district subject to the provisions of regulations. The Planning and Zoning Commission is empowered to grant and to deny applications for Use Permits and to impose reasonable conditions upon them.
2. Any building, structure or use existing on the effective date of this Ordinance which is reclassified as a Permitted Conditional Use by this Ordinance for the district in which it is located shall be considered as meeting the conditions which would otherwise be imposed upon such use by this Ordinance and its continuance shall not be subject to issuance of a Conditional Use Permit; provided, however, to the extent that such fails to conform to the requirements of this Ordinance, it shall be considered nonconforming as described in this Ordinance and its continuance shall be governed by all nonconforming use regulations applicable thereto.

C. CONDITIONAL USE PERMIT APPLICATION.

Application for a Conditional Use Permit (CUP) shall be filed with the Zoning Administrator on a form provided by the City. The application shall be forwarded to the Planning and Zoning Commission by the Zoning Administrator and when required by the Commission, shall be accompanied by a detailed site plan and related exhibits showing all information necessary to demonstrate that the proposed use will comply with the required findings and all special conditions as well as other regulations and requirements of this Ordinance. The applicant shall furnish the Commission any additional information it may consider relevant to investigation of the case.

D. COMMISSION ACTION AND FINDINGS.

1. It is the express intent of this Ordinance that any use for which a Conditional Use Permit is required shall be permitted as a Principal Use in the particular zoning district, provided that the required findings and all special conditions and requirements of this Ordinance are met.
2. Notification: Notice of the Conditional Use Permit applicant shall be posted on the property. The notice shall set forth the time and place of the public hearing and include a general explanation of the matter to be considered and a general description of the area affected.
3. A Conditional Use Permit granted pursuant to the provisions of this section shall thereafter run with the land and shall continue to be valid with successor ownership of the property provided the use is maintained in compliance with the conditions, stipulations and terms of the permit. If a use ceases to exist for six (6) months or more, the property owner shall be notified that the CUP shall be subject to possible revocation as described in this Section. The Planning and Zoning Commission can grant an extension to the CUP where the intent to continue the use in the same manner is demonstrated.
4. A Conditional Use Permit may be subject to review and possible revocation where a violation of the conditions of approval is indicated and where the required findings for revocation, as described in this Section, are demonstrated.
5. Conditions of Approval: The Commission may designate such conditions in connection with the Conditional Use Permit as it deems necessary to secure the intent and purposes of this Ordinance and may require such guarantees and evidence that such conditions are being or will be complied with.
6. Required Findings: A Conditional Use Permit shall only be granted if the approving body determines that the project conforms to the required findings in this Section. If it is determined that it is not possible to confirm the required findings for the proposed CUP, whether as submitted or through conditions that may be required, the application shall be denied. The specific basis for any decision shall be considered as the basis for the findings to approve, approve with conditions or deny the Conditional Use Permit:
 - a. General Findings: The location, size, design and operational characteristics of the proposed use shall not be detrimental to the health, safety or welfare of the surrounding properties or occupants, nor be substantially or permanently injurious to neighboring property;

- b. Compatibility with Surrounding Uses: The proposed use shall be compatible with surrounding uses in the vicinity with respect to the intensity of activity, times of use, scale of buildings, anticipated traffic, parking requirements, architectural and site improvements, landscaping, outdoor lighting and other property development standards;
- c. Traffic and Circulation: The proposed use shall have adequate access to public streets and highways to carry the type and quantity of traffic which may be generated by the subject use; and on-site circulation, including driveways, drive aisles, parking and loading facilities, and pedestrian and bicycle facilities, shall be provided in a manner which is adequate, safe, efficient and convenient;

E. APPEALS.

1. Any applicant or resident of the City of Cottonwood who is dissatisfied or aggrieved by the decision of the Planning and Zoning Commission may appeal such decision to the City Council by filing a written Notice of Appeal with the City Clerk, no later than fifteen (15) days from the date of the decision.
2. Notice of the appeal shall be made in the same manner as for the Conditional Use Permit, including timeframes indicated, posting on-site and publication of a legal notice.
3. Upon notice of a valid filing of an appeal, the Community Development Director shall thereafter prepare and submit a report to the City Council regarding the case that describes the reasons for the actions taken in the issuance or denial of the Conditional Use Permit. The City Council shall hold a public hearing and either uphold the action of the Planning and Zoning Commission, reverse the action, or make a decision of its own findings. The City Council may designate such conditions in connection with the permit as it deems necessary to secure the intent and purpose of this Ordinance and may require such guarantees and evidences that such conditions are being, or will be complied with.
4. The Council's decision shall be final and shall become effective immediately. Notice of the decision shall be mailed to the applicant at the address shown on the application.

F. TIME LIMITS.

1. Conditional Use Permits shall become effective fifteen (15) days after approval by the Planning and Zoning Commission, but in the event an appeal is filed, said permit shall not become effective until a decision is arrived by the City Council.

2. Any Conditional Use Permit issued by the Planning and Zoning Commission shall be commenced within six (6) months from the date of approval and diligently pursued, otherwise it shall be subject to revocation as per this Section.
3. No person shall re-apply for the same or substantially the same Conditional Use Permit on the same or substantially the same plot, lot or parcel of land within a period of six (6) months from the date of denial or revocation of said Use Permit.

G. REVOCATION.

1. A Conditional Use Permit granted pursuant to this Section may be revoked by the Planning and Zoning Commission, after holding a public hearing to determine whether any condition, stipulation, or term of the approval of the Conditional Use Permit has been violated.
2. The Zoning Administrator shall notify the permittee of a potential violation of a Conditional Use Permit by certified mail. If no attempt to bring the violation into conformance is made within fifteen (15) days after notification, and no attempt has been made to contact the City department providing the notification, a review of the Conditional Use Permit shall be scheduled with the Planning and Zoning Commission at their next available meeting at which time the CUP shall be subject to possible revocation.
3. The property owner and permittee, if separate, shall be sent notification of the hearing regarding possible revocation by certified mail at least thirty (30) days in advance of the hearing date.
4. Any Conditional Use Permit issued by the Planning and Zoning Commission shall be subject to revocation procedures if the conditions of approval have not been implemented within the required time frame or properly maintained thereafter. The Planning and Zoning Commission may revoke the CUP if it makes any of the following findings:
 - a. That the use is in substantial violation of the conditions of approval for the Conditional Use Permit, or there is or has been a violation of or failure to observe the terms or conditions of approval for the CUP, or the use has been conducted in violation of the provisions of this Ordinance;
 - b. That approval was obtained by means of fraud or misrepresentation of a material fact;
 - c. That the holder of the permit has failed to initiate construction or undertake the use in question within the six (6) month period following the effective

date of the permit. An extension of time for up to six (6) months or longer may be approved by the Commission where the permit holder has submitted a written request that adequately demonstrates their intent to proceed with establishing the use in a timely manner;

d. That an established use has ceased to exist or has been suspended for six (6) months or more; or

e. That the use to which the permit applies has been conducted detrimental to the health, safety or general welfare of the public, or so as to be considered an ongoing or habitual nuisance.

5. **Appeal of Revocation:** A permittee whose Conditional Use Permit has been revoked through these procedures may appeal such decision to the City Council according to the procedures for appeal described in this Section.

H. FEES.

The application for a Conditional Use Permit or appeal of such shall be accompanied by a filing fee in an amount established by a schedule adopted by resolution of the Council and filed in the office of the City Clerk. No part of the filing fee shall be returnable. Payment of the filing fee shall be waived when the petitioner is the City, County, State or Federal Government.