

ORDINANCE NO. 2017-26

AN ORDINANCE AMENDING CHAPTER 11-20: "CONDITIONAL USE PERMITS" OF THE BLUFFDALE CITY LAND USE CODE ESTABLISHING A LIST OF MITIGATION STANDARDS FOR CONDITIONAL USES AND UPDATING THE CODE TO CONFORM WITH REQUIREMENTS OF UTAH STATE LAW

WHEREAS the City of Bluffdale has made an effort to update its land use code to conform with requirements of Utah State Law, and proposed revisions to the chapter governing conditional use permits and;

WHEREAS the text amendments set forth herein have been reviewed by the Planning Commission and the City Council, and all appropriate public hearings have been held and public notice given in accordance with Utah law and local ordinance to obtain public comment regarding the proposed amendments to the Bluffdale City Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLUFFDALE, UTAH:

Section 1. Text Amendments. The City Council hereby amends Chapter 11-20: "Conditional Use Permits" of the Bluffdale City Land Use Code.

Section 2. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.


APPROVED, ADOPTED AND PASSED and ordered published by the Bluffdale City Council, this 13th Day of December, 2017.

CITY OF BLUFFDALE



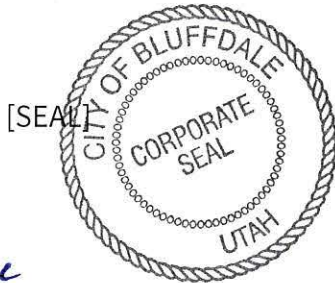
Mayor

ATTEST:



Wendy Deppe

Bluffdale City Recorder



Council members

Voting:

AYE NAY

Alan Jackson Absent _____

Ty Nielsen X _____

Boyd Preece X _____

Justin Westwood X _____

Megan Kallas X _____

Chapter 20

CONDITIONAL USE PERMITS

11-20-1: PURPOSE:

The purpose of this chapter is to provide for a reasonable application, review, and approval process for land uses that are specified as "conditional," such that proposed new land uses meet City ordinances, Federal and State Law, and are properly integrated into the community through the imposition of conditions, based on standards, intended to mitigate, the reasonably anticipated detrimental effects of a particular conditional use. Mitigate, as defined in State Law, means reduce, and does not mean eliminate. Conditional uses shall be approved on a case-by-case basis provided the applicant adequately demonstrates that the reasonably anticipated detrimental effects of the proposed use can be mitigated through the imposition of reasonable conditions, based on standards in the City ordinances. Uses designated as conditional uses require approval by the Planning Commission, acting as the Land Use Authority. This chapter sets forth procedures for considering and approving conditional use permits.(Ord. 2014-10, 6-10-2014)

11-20-2: PERMIT REQUIRED:

No person or entity ~~shall~~ may operate or conduct a use designated as a conditional use within the applicable zone without first obtaining a conditional use permit from the city. ~~(Ord. 2014-10, 6-10-2014)~~ No new use nor a significant expansion of over 25% of the approved use, may be added to any property unless the use is allowed in the zone, properly licensed, or unless a new Conditional Use permit or amendment has been properly issued for the use.

11-20-3: APPROVAL PROCEDURE:

An application for a conditional use permit, or an amendment to an existing conditional use permit, shall be processed as provided in this section:

A. A complete application shall be submitted to the city and shall include at least the following:

1. The name, address, e mail, and telephone number of the applicant.
2. The name, address, e mail, and telephone number of the property owner if different than the applicant.
3. The address and parcel number of the subject property.
4. A complete description of the proposed conditional use.
5. A plot plan showing the following:
 - a. Applicant's name.
 - b. Site address.
 - c. Property boundaries and dimensions.
 - d. A conceptual site plan including the layout of existing and proposed buildings, landscaping, lighting, drainage, grading, and parking areas, as applicable to the project. Engineering details are not required.
 - e. Conceptual elevations and materials of proposed buildings
6. Applicants for an accessory dwelling unit shall provide a floor plan of the entire home, showing both the primary and accessory dwellings.
7. Applicants for commercial uses shall provide an accurate and complete description of proposed business activities.
8. Such other and further information or documentation as ~~staff~~ the Zoning Administrator or designee or the Planning Commission may deem necessary in order to allow the Planning Commission to make a well-informed decision.
9. An application fee as indicated on the consolidated fee schedule.

10. Mailing labels, first class postage, and envelopes for all properties located within one thousand feet (1,000') of the property on which the conditional use is proposed to be located.

11. Complete Applications. Only applications deemed complete by the Zoning Administrator or designee will be processed. Complete applications include appropriate application forms, drawings, texts, and signatures as required in this section. All required documentation shall meet City standards unless a waiver is being sought as part of the application. A request for a letter or email confirming the completeness of the application may be requested by the applicant.

B. After a complete application is submitted and reviewed, ~~staff~~ the Zoning Administrator or designee shall schedule a public hearing before the Planning Commission. Notice of the meeting shall be given in accordance with section 11-3-7 6 of this title.

C. Application review.

1. The Zoning Administrator or designee shall administer an application review procedure in which the application is evaluated for compliance with all applicable ordinances and codes and for reasonably anticipated detrimental effects.

2. The application review procedure may contain the following components:

a. A review of the application, and associated documents for compliance with applicable sections of the zoning ordinance;

b. A review of the application to ascertain potential reasonably anticipated detrimental effects and whether conditions based on standards can be imposed to mitigate those effects.

3. The application review procedure may include the following:

a. If applicable, referral of the application to governmental or regulating entities having actual jurisdiction over the site in question, for recommendations;

b. A pre-application meeting, in which preliminary applications are reviewed and discussed prior to a formal application being submitted for review;

c. An on-site review of the proposal by the Zoning Administrator or designee;

d. A requirement that the applicant submit impact studies or other technical studies regarding grading, drainage, traffic, geologic hazards, noise, and environmental contamination.

4. The Zoning Administrator or designee shall present a review, summary, and recommendation to the Planning Commission after having provided the applicant with a copy as required by State law. The recommendation shall remain part of the public record.

~~CD.~~ After the owners within 1000' have been provided a notice, the Planning Commission shall hold a public hearing and thereafter shall approve, approve with conditions, or deny the application pursuant to the standards set forth in section 11-20-4 of this chapter and other applicable standards from this Title. Any conditions of approval shall be limited to conditions needed to conform to the conditional use permit approval standards.

~~DE.~~ After a decision is made by the Planning Commission, staff the Zoning Administrator or designee shall provide the applicant written notice of the decision along with any conditions and findings. (~~Ord. 2014-10, 6-10-2014~~)

11-20-4: APPROVAL STANDARDS:

~~A. A conditional use permit may be issued for a use to be located within a zone where the particular conditional use is allowed by the use regulations of the zone. The Planning Commission has the authority to approve or approve with conditions, based on standards, all conditional use applications. Denial of an application shall only be considered if there are no conditions that can be imposed to mitigate the reasonably anticipated detrimental effects of the use. All conditional uses are presumed to be compatible in the zone and compatible with the intent of the General Plan.~~

~~B. A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.~~

~~1. Conditions may concern use, construction, character, location, landscaping, screening, lighting, parking, hours of operation, and other matters relating to the purposes and objectives of this chapter.~~

2. Any conditions shall be expressly set forth in the motion authorizing the conditional use permit.

All Conditional Use Permits run with the land and may require the applicant to record documents to that effect. The Planning Commission may impose site plan modifications and conditions to mitigate the reasonably anticipated detrimental effects of a conditional use **and may require additional information from the applicant, staff, or qualified experts to evaluate the proposed use.** All conditional uses shall meet the following standards:

- a. The proposed conditional use shall comply with City ordinances, Federal, and State Law, as applicable to the use and to the site where the conditional use will be located, and;
- b. Mitigation is required of reasonably anticipated detrimental effects arising from the conditional use, including:
 1. Detrimental effects of decreased street service levels and/or traffic patterns including the need for street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, lot surfacing and design of off-street parking and circulation, loading docks, as well as compliance with off-street parking standards, including other reasonable mitigation.
 2. Detrimental effects on the adequacy of utility systems, snow removal, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, or preserving existing systems, including other reasonable mitigation.
 3. Detrimental effects on connectivity and safety for pedestrians and bicyclists.
 4. Detrimental effects by the use due to its nature, including noise that exceeds sound levels normally found in residential areas, odors beyond what is normally considered acceptable, within a neighborhood including such effects as environmental impacts, dust, fumes, smoke, odor, noise, vibrations; chemicals, toxins, pathogens, gases, heat, light, electromagnetic disturbances, and radiation. Detrimental effects by the use may include hours of operation and the potential to create an attractive nuisance.
 5. Detrimental effects that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people arising from, but not limited to, waste disposal, fire safety, geologic hazards, soil or slope conditions, liquefaction, potential, site grading/topography, storm drainage/flood control, high ground water, environmental health hazards, or wetlands.
 6. Detrimental effects of modifications to exterior lighting that conflict with abutting and nearby properties.
 7. Detrimental effects arising from site or building design in terms of use, scale, intensity, height, mass, setbacks, character, construction, solar access, landscaping, fencing, screening, and architectural design and exterior detailing/finishes and colors within the area, defined as the properties within 500' ~~1000'~~ of the subject property, in which the conditional use will be located.
 8. Detrimental effects on public safety, emergency fire service and emergency vehicle access.
 9. Detrimental effects on usable/functional/accessible open space.
 10. Inadequate maintenance of the property and structures in perpetuity including performance measures, compliance reviews, and monitoring.
 11. Detrimental effects on appearance from graffiti.

C. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

~~D. The following factors shall be reviewed and considered in determining whether a conditional use permit application should be approved, approved with conditions, or denied:~~

- ~~1. Whether the proposed use will cause unreasonable risks to the safety of persons or property because of vehicular traffic or parking, large gatherings of people, or other causes.~~
- ~~2. Whether the proposed use will unreasonably interfere with the lawful use of surrounding property.~~
- ~~3. Whether the proposed use will create a need for essential municipal services which cannot be reasonably met.~~
- ~~4. Whether the proposed use will in any other way be detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity.~~

~~C. Decision. Each conditional use application shall be:~~

- ~~1. Approved if the proposed use, including the manner and design in which a property is proposed for development, complies with the standards of this Code for approval or as outlined in Section 11-20-4 B; or~~
- ~~2. Approved with conditions if the anticipated detrimental effects of the use, including the manner and design in which the property is proposed for development, can be mitigated with the imposition of reasonable conditions to bring about compliance with the standards outlined in Section 11-20-4 B; or~~
- ~~3. Denied if the anticipated detrimental effects of the proposed use cannot be mitigated with the imposition of reasonable conditions of approval to bring about compliance with the standards outlined in Section 11-20-4 B.~~

~~E D. A change in the market value of real estate shall not be a basis for the denial of a proposed conditional use. (Ord. 2014-10, 6-10-2014)~~

11-20-5: DURATION:

~~Unless otherwise specified by the planning commission, and subject to the provisions in section 11-20-8 of this chapter relating to the amendment or revocation of a conditional use permit, a conditional use permit shall be of indefinite duration and shall run with the land. The planning commission may grant a conditional use permit for a limited period of time if it finds that a limited permit is requested and it is able to meet the standards of this ordinance. necessary to protect the health, safety or welfare of the community. (Ord. 2014-10, 6-10-2014)~~

11-20-65: APPEALS:

~~The applicant and/or any person adversely affected by a decision of the Planning Commission regarding the transfer, issuance, or denial of a conditional use permit may appeal such decision to the city council Board of Adjustment, acting as the Appeal Authority, by filing written notice of appeal with the planning department within ~~fourteen (14)~~ ten (10) calendar days from the date of such decision. (Ord. 2014-10, 6-10-2014)~~

11-20-76: EXPIRATION:

~~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. (Ord. 2014-10, 6-10-2014)~~

11-20-87: AMENDMENT OR REVOCATION ENFORCEMENT:

The Zoning Administrator or designee may review approved Conditional Use permits at any time for compliance with all final conditions of approval.

If the Zoning Administrator or designee determines that the holder of a Conditional Use permit is in violation of the terms or conditions upon which the permit was issued, the City Recorder shall notice the permit holder and schedule an evidentiary hearing before the Planning Commission at which the permit holder must show cause to the Planning Commission why the Conditional Use permit should not be revoked. If the Planning Commission determines that the terms or conditions of the permit have been violated, it shall cause the permit holder to specify how the holder will promptly comply with the terms and conditions of the permit in a designated time frame, or it shall revoke the permit if the applicant is not able and willing to comply with the previously set conditions in a reasonable time frame. The **Planning** Commission shall detail such findings for revocation in their final decision.

- A. Authority; Interested Party: Any interested party may apply to the city for the amendment or revocation of 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 city.
 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.
- B. Fee: Any person or entity, other than the city, seeking to amend or revoke a conditional use permit, shall pay a fee in an amount established by the city council.
- C. Procedure: The procedure for amending or revoking a conditional use permit shall be the same as the original application procedure set forth in section 11-20-3 of this chapter.
- D. Conditions: A conditional use permit may be amended at the request of the holder of the permit upon a showing of good cause. A conditional use permit may be amended or revoked at the request of any other interested party if the city council finds one or more of the following:
1. The conditional use permit was obtained by misrepresentation or fraud.
 2. The use for which the permit was granted has ceased or has been suspended for twelve (12) months.
 3. 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.
 4. The holder or user of the conditional use permit has failed to comply with any city regulations governing the conduct of the use.
 5. 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.
 6. 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.~~

~~E. Hearing: No conditional use permits shall be amended or revoked against the wishes of the applicant for the permit without first giving the applicant an opportunity to appear before the planning commission and show cause as to why the permit should not be amended or revoked. Amendment 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. (Ord. 2014-10, 6-10-2014)~~

11-20-98: 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. (Ord. 2014-10, 6-10-2014)~~ Such violations may be remedied or punished as allowed by law with penalties as specified in Chapter 1-4.