

ORDINANCE 22-07

AN ORDINANCE AMENDING TITLE 10, CHAPTER 10.26 OF THE MORGAN CITY CODE REGARDING CONDITIONAL USES TO COMPORT WITH STATE LAW CHANGES.

WHEREAS, it is often necessary to make amendments to the City Code in order to bring that code into compliance with the provisions of State Law; and

WHEREAS, the provisions regarding conditional uses have changed and it is the desire of the City Council to bring Morgan City's land use code into conformity with the provision so State Law; and

WHEREAS, the Planning Commission has reviewed the changes and has recommended approval of the changes to the City Council; and

WHEREAS, the City Council finds it to be in the best interest of the health, safety and welfare of the City and its citizens to adopt said changes.

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

**SECTION 1. Repealer.** If any provisions of the Morgan City Code heretofore adopted are inconsistent herewith, they are hereby repealed.

**SECTION 2. Enactment.** Title 10, Chapter 10.26 – Conditional Uses is hereby amended to read as follows:

**Chapter 10.26 CONDITIONAL USES**

- 10.26.010 PURPOSE
- 10.26.020 CONDITIONAL USE PERMIT
- 10.26.030 NOTIFICATION OF A CONDITIONAL USE DETERMINATION
- 10.26.040 APPEALS OF DECISION
- 10.26.050 INSPECTION
- 10.26.060 TIME LIMIT
- ~~10.26.070 DETERMINATION AND CONSIDERATION~~
- 10.26.0870 STANDARDS FOR CONDITIONS
- 10.26.0980 CONDITIONS RELATING TO SPECIFIC TYPES OF USES

**10.26.010 PURPOSE**

The purpose of this chapter is to allow the proper integration into the city of uses which may be suitable, only in certain locations in the city, and ~~only if such uses are designed or laid out on the site in a particular manner~~ in accordance with applicable standards.

**10.26.020 CONDITIONAL USE PERMIT**

A conditional use permit shall be required for all uses listed as conditional uses in the zoning district regulations or elsewhere in this title. A conditional use permit may be revoked upon failure to comply with or failure to maintain conditions precedent to the original approval of the permit.

- A. Application: Application for a conditional use permit shall be made by the property owner or certified agent thereof to the planning director.
- B. Considerations Of Conditional Use Procedure: The application shall be accompanied by maps, drawings, or other documents sufficient to meet the requirements of a site plan review (see MCC 10.18), for those conditional uses which require such a review, and sufficient to demonstrate that the general and specific requirements of this title will be met by the construction and operation of the proposed building, structure or use. ~~In considering an application for a conditional use permit, the planning commission shall give due regard to the nature and condition of adjacent uses and structures. The commission may deny a permit; may grant a permit as applied for; or may grant a~~

permit subject to such requirements and conditions with respect to location, construction maintenance, operation and duration of the proposed use as it may deem necessary for the protection of adjacent properties and the public interest. The granting of a conditional use permit shall not exempt the application from other relevant provisions of this or other ordinances of the city.

- C. Fee: The appropriate fee as authorized in MCC 10.02.160 shall accompany the application for any conditional use permit.

#### 10.26.030 ~~NOTIFICATION OF A CONDITIONAL~~ DETERMINATION

~~At least seven (7) days prior to the planning commission meeting during which the conditional use will be considered by the commission, a designated agent shall publish a notice in a newspaper of general circulation stating the proposed or requested use, and the date, time and location of the planning commission meeting in which the conditional use will be considered.~~

- A. Conditional use permit applications are determined by the planning commission acting as the designated land use authority. In considering an application for a conditional use permit, the planning commission shall give due regard to the nature and condition of adjacent uses and structures. The granting of a conditional use permit shall not exempt the application from other relevant provisions of this or other ordinances of the city.
- 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.
- 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. Conditions imposed by the planning commission shall be based upon options described in this chapter or any special conditions or requirements as may be specified elsewhere in this title.

#### 10.26.040 APPEALS OF DECISION

~~Any person shall have the right to appeal the decision of the planning commission to the city council. Such appeal shall be applied for within thirty (30) days from the date of the decision of the planning commission. Upon receipt of such appeal, the city council shall respond within forty five (45) days. Failure by the city council to respond shall be deemed to be an approval of the appeal~~Land Use Appeal Authority, in accordance with the provisions of MMC 10.10.

#### 10.26.050 INSPECTION

Following the issuance of a conditional use permit by the planning commission, the planning director may approve an application for a building permit and shall ensure that development is undertaken and completed in compliance with said certificate and permit.

#### 10.26.060 TIME LIMIT

Unless the uses and conditions prescribed in a conditional use permit are implemented within a maximum period of one year of its issuance, the conditional use permit shall expire. The planning commission may grant a maximum extension of six (6) months under exceptional circumstances. If the application is not approved, a reapplication shall not be submitted for the same purpose for a minimum period of twelve (12) months.

#### 10.26.070 ~~DETERMINATION AND CONSIDERATIONS~~

~~The planning commission may allow a conditional use to be located in any zoning district in which the particular use is allowed as a conditional use by this title. In authorizing any conditional use, the planning~~

~~commission shall impose such requirements and conditions necessary for the protection of adjacent properties and the public welfare. The planning commission shall not authorize a conditional use permit unless the evidence presented is such as to establish that the proposed use:~~

- ~~A. At the specified location, is in harmony with the general intent and purpose of the general plan and the applicable zoning district regulations;~~
- ~~B. Is necessary or desirable to provide a service or facility which will contribute to the general well-being of the community and the neighborhood;~~
- ~~C. Such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; and~~
- ~~D. Conditions imposed by the planning commission shall be based upon options described in this chapter or any special conditions or requirements as may be specified elsewhere in this title.~~

### **10.26.0870 STANDARDS FOR CONDITIONS**

Applicants for conditional use permits shall meet all specific requirements made in this title. In addition, the planning commission may establish conditions as outlined herein to meet the concerns of safety for persons and property, health and sanitation, environment, comprehensive plan proposals and neighborhood needs, performance and administration. More specifically, the planning commission may require:

- A. Compliance: Conditions relating to compliance with the intent of the comprehensive plan and characteristics of the zoning district:
  - 1. The placement of conditional uses only in specific areas of a district, e.g., along an arterial or collector street.
  - 2. The removal of structures, debris or plant materials incompatible with the desired characteristics of the district.
  - 3. The screening of yards or other areas as protection from obnoxious land uses and activities.
  - 4. Landscaping in addition to that already required ensuring compatibility with the intended neighboring land uses.
  - 5. Limitations or controls on the location, height and materials of walls, fences, hedges and screen plantings to ensure harmony with adjacent development, or to conceal storage areas, utility installations, or other unsightly development.
  - 6. The relocation of proposed or existing structures as necessary to provide for future streets on the master street plan, adequate sight distances for general safety, ground water control, or similar problems.
  - 7. Provision for construction of recreational facilities necessary to satisfy needs of the conditional use.
  - 8. Modification to allowed population density and intensity of land use where land capability and/or vicinity relationships make it appropriate to do so to protect health, safety and welfare.
  - 9. Other improvements which serve the property in question and which may compensate, in part or in whole, possible adverse impacts to the district from the proposed conditional use.

B. Safety: Conditions relating to safety for persons and property:

1. Building elevation and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding.
2. The relocation, covering or fencing of irrigation ditches, drainage channels, and other potentially attractive nuisances existing on or adjacent to the property.
3. Increased setback distances from lot lines where the planning commission determines it to be necessary to ensure the public safety and to ensure compatibility with the intended characteristics of the district as outlined in this title, or where the lot abuts an arterial or collector street.
4. Appropriate design, construction and location of structures, buildings and facilities in relation to an earthquake fault which may exist on the property, and limitations and/or restrictions to use and/or location of use due to special site conditions, including, but not limited to, geologically hazardous areas, floodplains, fault zones, and landslide areas other than may be required by the sensitive lands regulations.
5. Limitations and control of the number, location, color, size, height, lighting and landscaping of signs and structures in relation to the creation of traffic hazards and appearance and harmony with adjacent development, other than may be required in MCC 10.32.
6. Plans for the location, arrangement and dimensions of truck loading and unloading facilities.
7. Construction of curbs, gutters, drainage culverts, sidewalks, streets, fire hydrants and street lighting.

C. Health And Sanitation: Conditions relating to health and sanitation:

1. A guarantee of sufficient water to serve the intended land use and a water delivery system meeting standards adopted by the city.
2. A wastewater disposal system and a solid waste disposal system meeting standards adopted by the city council.
3. Construction of water mains, sewer mains and drainage facilities serving the proposed use, in sizes necessary to protect existing utility users in the district and to provide for an orderly development of land in the city.

D. Environment: Conditions relating to environmental concerns:

1. Limitations and/or restrictions on the use and/or location of uses in sensitive areas due to soils capabilities, wildlife and plant life.
2. Processes for the control, elimination or prevention of land, water or air pollution; the prevention of soil erosion; and the control of objectionable odors and noise.
3. The planting of ground cover or other surfacing to prevent dust and erosion.
4. Restructuring of the land and planting of the same as directed by the planning commission when the conditional use involves cutting and/or filling the land, and where such land would be adversely affected if not restructured.

**10.26.0980 CONDITIONS RELATING TO SPECIFIC TYPES OF USES**

- A. Wireless Telecommunication Equipment<sup>1</sup>: Wireless telecommunication equipment may be allowed with the following requirements:

1. Wall Mounted Antennas: Wall mounted antennas are conditional in residential zoning districts at institutional uses. Wall mounted antennas must comply with the following criteria:
  - a. Wall mounted antennas shall not extend above the roofline of the building more than four feet (4').
  - b. Antennas and all associated equipment shall be painted to match the color of the building or surrounding area.
  - c. Wall mounted antennas may have a maximum area of forty (40) square feet per each side of the building. The area is determined by drawing straight lines around the outermost portions of the antennas until enclosed.
  - d. All equipment associated with the use (excluding the antenna) must be screened by a view obstructing structure.
  - e. If the associated equipment is located on the ground it must be appropriately landscaped.
  - f. Any appeals from a decision by the city planner shall be to the planning commission and must be in writing, filed within ten (10) days of the city planner's decision.
2. Roof Mounted Antennas: Roof mounted antennas are conditional in residential zoning districts at institutional uses. The following provisions and any applicable provisions in subsection A1 of this section shall apply to roof mounted antennas:
  - a. Roof mounted towers can only be mounted on structures with flat roofs. Exceptions may be granted by staff with the following stipulations:
    - i. The tower will be mounted on the roof of a building such that the building will obstruct the view of the antenna from the front of the building.
    - ii. The antenna will be less visible from ground level than the typical antenna mounted on a flat roof.
    - iii. Staff decisions may be appealed to the planning commission.
  - b. Antennas must be set back from the building edge one foot (1') for every one foot (1') of antenna height to a maximum of fifteen feet (15').
3. Monopole Structures: Monopole towers may be allowed as conditional uses in residential zoning districts at community uses. Any applicable criteria in subsections A1 and A2 of this section, as well as the following criteria, shall apply to monopole structures:
  - a. All towers must be of a monopole construction. No lattice constructed towers of any kind shall be allowed.
  - b. All towers must allow for colocation and supply engineering calculations by a state certified engineer that will allow for as many as three (3) separate users on a single pole. A letter must also be supplied stating that the owners of the tower will allow for colocation and that the structure has been constructed to allow for this.
  - c. No tower may be located within a one mile radius to another tower unless grid documentation is supplied by an independent consultant stating that colocation will create an unreasonable hardship. Evidence of an unreasonable hardship shall

be provided by an independent engineering study provided to the city at cost to the applicant.

- d. Colocation on an existing monopole structure is a permitted use and is handled administratively.
- e. The agent must supply the city with a letter stating that if technology renders the tower obsolete and/or the tower is vacated, the agent will remove the tower, all other apparatus associated with it, the top three feet (3') of the footing, and restore the site to its original condition within ninety (90) days of the vacation of the tower.

B. Electronic Communication Equipment: The additional following criteria may be addressed for approval of electronic communication equipment in residential zoning districts at community uses:

1. Whether colocation of the antenna on existing structures in the same vicinity such as towers, buildings, water towers, utility poles, athletic field lights, parking lot lights, etc., is feasible without impacting neighboring uses.
2. The location of the antenna in relation to existing vegetation, topography, buildings, residential uses and zoning districts.
3. Whether there are any negative impacts associated with the use that must be mitigated through screening, height limits, or specifying construction materials and colors, etc.

C. Private Power Plants: Private power plants addressed in MCC 8.06.080 shall only be permitted as a conditional use upon meeting, at a minimum, the following conditions:

1. If the equipment and plant are, or are part of, or stored in, a separate structure, said structure and the attendant facilities must be architecturally consistent with the primary structure.
2. Any portion of the power plant connected to the primary structure must be architecturally integrated so as to maintain the appearance of the zone within which it is located. In residential zones, these plants and attendant facilities must blend in with the structure in such a way that their existence is not readily apparent.
3. If the proposed location is upon property that is included in a homeowners' association or similar organization, the conditional use application shall include a letter from said organization or association stating that the proposal is consistent with that group's bylaws, and has been approved by the group in accordance with its procedures.

D. Live-Work Units:

1. The intent of a live-work unit is to:
  - a. Provide for the appropriate development of homes that incorporate both living and working space in the C-G (general commercial) zone;
  - b. Provide flexibility for the development of live-work units, particularly within existing homes with direct frontage on State Street;
  - c. Protect commercial uses associated with live-work units and nearby residential uses from conflicts with each other;
  - d. Provide affordable options for small local businesses and incubator space to be combined with a residential dwelling;

- e. Allow live-work units that fit in with the existing residential land use fabric along State Street;
  - f. Ensure that the exterior design of live-work buildings is compatible with the exterior design of residential buildings in the area.
2. A live-work unit shall only be permitted as a conditional use in the C-G (general commercial) zone upon meeting, at a minimum, the following conditions:
- a. Within each live-work dwelling, the nonresidential use area shall not exceed fifty percent (50%) of the total floor area of the dwelling or no more than one thousand (1,000) square feet, whichever is smaller.
  - b. The garage space or carport shall not be used to conduct any portion of the business. The garage or carport shall be reserved for residential parking.
  - c. Live-work dwellings shall front onto or have direct access onto State Street. Where the C-G zone projects into the residential neighborhood or block area beyond the typical residential lot depth, a live-work use is not allowed.
  - d. At least one resident in each live-work dwelling shall maintain a valid business license for the business on the premises.
  - e. The residential dwelling must be owner occupied. At least one of the full time workers of the live-work unit needs to reside in the unit. The residential area shall not be rented separately from the working space. The business activity occupying the live-work unit may utilize employees in addition to residents as necessary.
  - f. The live-work unit may provide for up to three (3) outside employees that are not residents of the residential dwelling, provided that sufficient off street parking, for customers and nonresident employees, can be accommodated on the site.
  - g. The live-work unit shall provide at least two (2) off street parking stalls for the residential use, which is typically located in the garage, carport or driveway. Additional off street parking for the nonresidential use shall be on an asphalt or concrete surface.
  - h. The number of required stalls shall be one space for each two hundred fifty (250) square feet of nonresidential workspace and one space for each nonresident employee at the highest work shift.
  - i. Nonresidential parking may be provided in the front or side yard areas as described in a plot plan approved with the conditional use permit. A minimum of sixty percent (60%) of the front yard area shall be landscaped according to the standards outlined in MCC 10.20.
  - j. A reversion/conversion of a live-work unit may be acceptable to provide flexibility within the C-G zone along the State Street corridor.
  - k. Consideration should be given to the design and layout of the dwelling to provide a degree of separation between living and working portions that is appropriate to the particular work activity, the size of the workspace and the number of anticipated employees or customers/clients in that workspace.
  - l. Depending on the particular nonresidential use, building code considerations may be necessary because of the mixed occupancy nature of the use/structure. Items such as fire alarms, sprinkler systems and exiting may need to be addressed.

Disabled access may be necessary depending on the nature of the use and customer base. Plumbing, structural, and electrical improvements may require a building permit.

- m. A change of nonresidential use may trigger different building code and parking requirements for the site.
  - n. The residential dwelling space square footage shall meet the minimum requirement for that of any residential dwelling as required by the zoning ordinance.
  - o. Business hours for the nonresidential portion of the live-work unit shall be limited to the hours of between eight o'clock (8:00) A.M. and nine o'clock (9:00) P.M.
  - p. Live-work units shall have no outside or outdoor display of merchandise.
  - q. Signage for live-work units shall be low profile, meeting the requirements of MCC 10.32.130.
  - r. Lighting for the exterior of a live-work unit shall be shown on the required plot plan. Exterior lighting shall be designed such that light is directed down on the subject property and away from adjacent properties. All nonresidential lighting shall only be used during the allowed hours of operation.
3. Land uses allowed in live-work units shall typically be light commercial, service commercial and office space. More specifically, uses allowed in conjunction with a live-work unit shall be allowed as outlined in MCC 10.16.160, table 4-2, with the exception of the following prohibited land uses:

- Amusement, arcade.
- Athletic or swim club.
- Auto part sales.
- Bank or credit union.
- Big box retail.
- Building material sales.
- Car wash.
- Department or discount store.
- Fast food eating establishment.
- Grocery store.
- Hospital.
- Lumberyard.
- Muffler or brake shop.
- Paint and body shop.
- Pawnshop.
- Private commercial amusement.
- Storage of autos, travel trailers.
- Tire sales.
- Truck storage.
- Used auto parts sales, indoor.

E. Bed And Breakfast: This use may be allowed in a single-family residential zone under the following conditions:

- 1. The residential zoned property fronts onto State Street or Commercial Street;
- 2. The structure is a single-family dwelling;

3. There is sufficient off street parking for the residents and guests;
4. That the operation is not readily detectable from adjacent residential uses, through noise, traffic, or other conditions that would diminish the intended nature of the residential zone;
5. The use is in compliance with the requirements of the home occupation section; and
6. The use is subject to an annual review by the planning commission.

**SECTION 3. Enactment.** Title 10, Chapter 10.14. Section 10.14.060 – Wireless Telecommunication Equipment is hereby amended to read as follows:

Wireless telecommunication equipment may be allowed with the following requirements:

- A. **Wall Mounted Antennas:** Wall mounted antennas are permitted uses in C-H and M-D zoning districts. Wall mounted antennas must comply with the following criteria:
  1. Wall mounted antennas shall not extend above the roofline of the building more than four feet (4');
  2. The planning commission may require antennas and all associated equipment to be painted to match the color of the building or surrounding area;
  3. Wall mounted antennas may have a maximum area of forty (40) square feet per each side of a building. The area is determined by drawing straight lines around the outermost portions of the antennas until enclosed;
  4. All equipment associated with the use (excluding the antenna) must be screened by a view obstructing structure;
  5. If the associated equipment is located on the ground, it must be appropriately landscaped; and
  6. Any appeals from a decision by the planning staff shall be to the planning commission and must be in writing, filed within ten (10) days of the planning staff decision.
- B. **Roof Mounted Antennas:** Roof mounted antennas are permitted uses in the C-H and M-D zoning districts. The following provisions and any applicable provisions in subsection A of this section shall apply to roof mounted antennas:
  1. Roof mounted antennas can only be mounted on structures with flat roofs. Staff with the following stipulations may grant exceptions:
    - a. The tower will be mounted on the roof of a building such that the building will obstruct the view of the antenna from the front of the building;
    - b. The antenna will be less visible from ground level than the typical antenna mounted on a flat roof; and
    - c. Staff decisions may be appealed to the planning commission.
  2. Roof mounted antennas must be set back from the front building edge one foot (1') for every one foot (1') of antenna height to a maximum of fifteen feet (15').
- C. **Monopole Towers; Colocation:**
  1. Monopole towers are allowed in manufacturing zoning districts as a permitted use. Said towers must comply with all the requirements set forth in MCC 10.26.0980A3.

