

## Chapter 4.4 Conditional Use Permits

### Sections:

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### **4.4.100 Purpose.**

There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as “Conditional Uses” in Chapter 2 - Land Use Districts. The purpose of Chapter 4.4 is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met.

### **4.4.200 Approvals Process.**

- A. Initial Application.** An application for a new conditional use shall be processed as a Type III procedure (Section 4.1.500). The application shall meet submission requirements in Section 4.4.300, and the approval criteria contained in Section 4.4.400.
- B. Modification of Approved or Existing Conditional Use.** Modifications to approved or existing conditional uses shall be processed in accordance with Chapter 4.6 - Modifications.

### **4.4.300 Application Submission Requirements.**

In addition to the submission requirements required in Chapter 4.1, an application for conditional use approval must include the following information (1-8), as applicable. For a description of each item, please refer to Section 4.2.500 - Site Design Review Application Submission Requirements:

1. Existing site conditions;
2. Site plan;
3. Preliminary grading plan;
4. A landscape plan;

**4.4.300 Application Submission Requirements.** *(continued)*

5. Architectural drawings of all structures;
6. Drawings of all proposed signs;
7. A copy of all existing and proposed restrictions or covenants;
8. Narrative report or letter documenting compliance with all applicable approval criteria in Section 4.4.400.

**4.4.400 Criteria, Standards and Conditions of Approval.**

The Town shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the following standards and criteria:

**A. Use Criteria.**

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;
2. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval; and
3. All required public facilities have adequate capacity to serve the proposal.

**B. Site Design Standards.** The criteria for Site Design Review approval (Section 4.2.600) shall be met.

**C. Conditions of Approval.** The Town may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, the following:

1. Limiting the hours, days, place and/or manner of operation;
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;

**4.4.400 Criteria, Standards and Conditions of Approval. (continued)**

4. Limiting the building height, size or lot coverage, and/or location on the site;
5. Designating the size, number, location and/or design of vehicle access points or parking areas;
6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;
7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
8. Limiting the number, size, location, height and/or lighting of signs;
9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands (Chapter 3.7);
13. Requiring the dedication of sufficient land to the public, and/or construction of a pedestrian/bicycle pathways in accordance with the adopted plans. Dedication of land and construction shall conform to the provisions of Chapter 3.1, and Section 3.1.300 in particular.

**D. Transportation System Facilities and Improvements.**

1. Construction, reconstruction, or widening of highways, roads, bridges or other transportation facilities that are (1) not designated in the Town's adopted Transportation System Plan ("TSP"), or (2) not designed and constructed as part of an approved subdivision or partition, are allowed in all Districts subject to a Conditional Use Permit and satisfaction of all of the following criteria:
  - a. The project and its design are consistent with the town's adopted TSP, or, if the town has not adopted a TSP, consistent with the State Transportation Planning Rule, OAR 660-012 ("the TPR").
  - b. The project design is compatible with abutting land uses in regard to noise generation and public safety and is consistent with the applicable zoning and development standards and criteria for the abutting properties.
  - c. The project design minimizes environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities, and a site with fewer

**4.4.400 Criteria, Standards and Conditions of Approval. (continued)**

- environmental impacts is not reasonably available. The applicant shall document all efforts to obtain a site with fewer environmental impacts, and the reasons alternative sites were not chosen.
- d. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
  - e. The project includes provisions for bicycle and pedestrian access and circulation consistent with the comprehensive plan, the requirements of this ordinance, and the TSP or TPR.
2. State transportation system facility or improvement projects. The State Department of Transportation (“ODOT”) shall provide a narrative statement with the application demonstrating compliance with all of the criteria and standards in Section 4.4.400.D. 1.b. – e. Where applicable, an Environmental Impact Statement or Environmental Assessment may be used to address one or more of these criteria.
  3. Proposal inconsistent with TSP/TPR. If the Town determines that the proposed use or activity or its design is inconsistent with the TSP or TPR, then the applicant shall apply for and obtain a plan and/or zoning amendment prior to or in conjunction with conditional use permit approval. The applicant shall choose one of the following options:
    - a. If the town’s determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional use permit application; or
    - b. If the town’s determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional permit application, apply for a plan/zone amendment, and re-apply for a conditional use permit if and when the amendment is approved; or
    - c. If the town’s determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall submit a plan/zoning amendment application for joint review and decision with the conditional use permit application, along with a written waiver of the ORS 227.178 120-day period within which to complete all local reviews and appeals once the application is deemed complete; or
    - d. If the town’s determination of inconsistency is part of a final decision on the conditional use permit application, the applicant shall submit a new conditional use permit application, along with a plan/zoning amendment application for joint review and decision.
  4. Expiration. A Conditional Use Permit for Transportation System Facilities and Improvements shall be void after three (3) years.

**4.4.500 Additional Development Standards for Conditional Use Types.**

- A. **Concurrent Variance Application(s)**. A conditional use permit shall not grant variances to regulations otherwise prescribed by the Development Code. Variance application(s) may be filed in conjunction with the conditional use application, and both applications may be reviewed at the same hearing.
  
- B. **Additional Development Standards**. Development standards for specific uses are contained in Chapter 2 - Land Use Districts.