

Chapter 19.15. Conditional Use Permit.

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19.15.01. Purpose.

1. In General

- a. The purpose of this Chapter is to establish standards for the approval of conditional uses in the City. In accordance with Utah law, a conditional use shall be entitled to approval if reasonable conditions can be imposed to mitigate the reasonably anticipated detrimental impacts of the proposed conditional use in accordance with applicable standards. 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. The purpose of this Chapter is to establish the applicable standards for the imposition of reasonable conditions and the standards for which a conditional use may be granted or denied.

2. Discontinuation of Conditional Use Permits

- a. Effective January 23, 2020, it is the intent of the City Council to discontinue the use of Conditional Use Permits.
- b. This chapter shall remain a part of the Land Development Code solely for the purpose of governing uses that have non-conforming rights pursuant to existing, approved, and unexpired CUPs.

(Ord. 20-7, Ord. 17-17, Ord. 13-16, Ord. 11-9)

19.15.02. Conditional Use Permit.

1. **Required.** A Conditional Use permit shall be required for all uses listed as a Conditional Use in the zone regulations. A Conditional Use permit may be revoked upon failure to comply with conditions precedent of the original approval of the permit or failure to comply with the City Code.
2. **Application.** Application for a Conditional Use permit shall be made by the property owner or his duly authorized agent to the Planning Department.

3. Accompanying Data.

- a. Applications for Conditional Uses in New or Expanded Structures and Sites shall be accompanied by:
 - i. a Site Plan application and supporting materials, and
 - ii. a description of the use, and
 - iii. the Planning Director may require additional information to be presented on the Project Plan so long as the information is reasonably necessary to determine whether the proposed conditional use complies with City ordinances, regulations, and standards.
 - b. Applications for Conditional Uses in Existing Structure and Sites shall be accompanied by:
 - i. a Project Plan which represents existing building siting, parking, vehicular circulation, landscaping, lighting, fencing, trash enclosures, signage, and storm drainage, and any site changes necessary for the new use.
 - ii. The Planning Director may require additional information to be presented on the Project Plan so long as the information is reasonably necessary to determine whether the proposed conditional use complies with City ordinances, regulations, and standards.
- 4. Granting of a Permit.** In considering an application for a Conditional Use permit, the Land Use Authority may deny a permit or may grant a permit subject to the requirements of this Chapter. The granting of a Conditional Use permit shall not exempt the applicant from other relevant provisions of this Chapter, other ordinances, regulations, or standards of the City, or the Utah Code.
- 5. Fee.** The application for any Conditional Use permit shall be accompanied by a fee set by resolution of the City Council, and applicants shall pay the cost to post and mail public hearing notices.

(Ord. 14-23-1, Ord. 13-16, Ord. 12-9, Ord. 11-9)

19.15.03. Approval Process.

The approval process for a Conditional Use permit shall be as follows:

1. Conditional Use Permit for a Use in a New or Expanded Structure or Site:
 - a. Upon receipt of a completed application and subsequent review for application completeness, the Planning Director shall review the application for compliance with the standards in this Title.
 - b. If a site plan is required, the Conditional Use Permit shall follow the process contained in Chapter 19.13.04.
 - c. If a site plan is not required, the Planning Director shall be the Land Use Authority and shall approve, approve with conditions, or deny the application, or may defer action if there is insufficient application information provided.
2. Conditional Use Permit for a Use in an Existing Structure or Site:
 - a. Upon receipt of a completed application and subsequent review for application completeness, the Planning Director shall review the application for compliance with the standards in this Title.

- b. If the application does not include external changes to the site, the Planning Director shall be the Land Use Authority and shall approve, approve with conditions, or deny the application, or may defer action if there is insufficient application information provided.
- c. If the application includes major changes to the site, a site plan amendment shall be required and shall be reviewed by the Planning Commission. The Conditional Use Permit shall follow the process contained in 19.13.04.

(Ord. 17-14, Ord. 14-23-1, Ord. 13-16, Ord. 12-9, Ord. 11-9)

19.15.04. Determination.

- 1. The Land Use Authority may only permit a Conditional Use to be located within zone where the particular Conditional Use is listed as a Conditional Use by the use regulations of this Title.
- 2. 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 the standards contained in this Chapter.
- 3. 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 the standards contained in this Chapter, the conditional use may be denied.

(Ord. 14-23-1, Ord. 13-16, Ord. 12-9, Ord. 11-9)

19.15.05. General Standards and Considerations Governing Conditional Uses.

In reviewing an application for a Conditional Use permit, the following considerations and standard shall be applied:

- 1. The siting of the structure or use, and in particular:
 - a. the adequacy of the site to accommodate the proposed use or building and all related activities;
 - b. the location and possible screening of all outdoor activities;
 - c. the relation of the proposed building or use to any adjoining building with particular attention to protection of light, air, and peace and quiet;
 - d. the location and character of any display of goods and services; and
 - e. the size, nature, and lighting of any signs.
- 2. Traffic circulation and parking, and in particular:
 - a. the type of street serving the proposed use in relation to the amount of traffic expected to be generated;
 - b. the adequacy, convenience, and safety of provisions for vehicular access and parking, including the location of driveway entrance and exits; and
 - c. the amount, timing, and nature of traffic generated by the proposed conditional use.

3. The compatibility of the proposed conditional use with its environment, and in particular:
 - a. the number of customers or users and the suitability of the resulting activity level to the surrounding uses;
 - b. hours of operation;
 - c. adequacy of provisions for the control of any off-site effects such as noise, dust, odors, light, or glare, etc.;
 - d. adequacy of provisions for protection of the public against any special hazards arising from the intended use;
 - e. the expected duration of the proposed building, whether temporary or permanent, and the setting of time limits when appropriate; and the degree to which the location of the particular use in the particular location can be considered a matter of public convenience and necessity.

4. The Conditional Use shall meet the following standards:
 - a. the 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;
 - b. the use will be consistent with the intent of the land use ordinance and comply with the regulations and conditions specified in the land use ordinance for such use;
 - c. the use will be consistent with the character and purposes stated for the land use zone involved and with the adopted Land Use Element of the General Plan;
 - d. the use will not result in a situation which is cost ineffective, administratively infeasible, or unduly difficult to provide essential services by the City, including roads and access for emergency vehicles and residents, fire protection, police protection, schools and busing, water, sewer, storm drainage, and garbage removal; and
 - e. the proposed use will conform to the intent of the City of Saratoga Springs General Plan.

5. When necessary, the Land Use Authority may attach conditions to ensure compatibility with the surrounding area and to mitigate harmful effects. Such conditions may include the following:
 - a. additional parking;
 - b. water, sewer, and garbage facilities;
 - c. landscape screening to protect neighboring properties;
 - d. requirements for the management and maintenance of the facilities;
 - e. changes in layout or location of uses on the lot; and
 - f. any other condition the land use authority finds necessary to reasonably ensure that the proposed Conditional Use will comply with the standards noted above.

6. The Land Use Authority shall make its decision based upon the facts presented for the record; expressions of support or protest alone shall not constitute the basis of approval or denial.

(Ord 16-17, Ord. 14-23-1, Ord. 13-16, Ord. 11-9)

19.15.06. Special Standards and Considerations Governing Particular Uses.

In addition to the general standards and considerations set forth in 19.15.08, the following

special standards shall be considered in relation to an application for a Conditional Use permit for any of the following uses:

1. **Automobile refueling stations and car wash operations.** As Conditional Uses, automobile refueling stations and car wash (self-serve) operations may be permitted under the following conditions:
 - a. The proposed location of the Conditional Use is in accord with the Land Use Ordinance and land use zone in which the site is located.
 - b. They do not break up contiguity for pedestrians of retail store frontage.
 - c. They will not be a nuisance to residences and other surrounding uses.
 - d. They will not cause traffic hazards or undue traffic congestion.
 - e. For automobile refueling stations or free standing car washes, the lot frontage, if located on a major street, shall not be less than 125 feet.
 - f. For automobile refueling stations or car wash operations with gasoline, diesel, or natural gas pumps shall have buildings of the type of construction as required in applicable building codes, and are to be located at a distance of not less than twenty-five feet from property or building setback lines, whichever is greater.
 - g. Gasoline pumps and pump islands for car wash operations or automobile refueling stations shall have a canopy and the setback, measured from the edge of the canopy, shall be not less than twenty-five feet from any property lines or shall be in conformity with the building setback lines of the zone, whichever is greater.
 - h. Driveway design and spacing for automobile refueling stations or car wash operations shall be reviewed by the City Engineer, whose recommendation will be forwarded to the Planning Commission.
 - i. The minimum closest distance from the automobile refueling stations or car wash with gas pumps site to an existing school, park, or playground shall not be less than 500 feet.
 - j. No outdoor storage of rental trucks or trailers, stacks of tires, or other merchandise will be provided by the automobile refueling stations or car wash operation except when such equipment or merchandise is screened by an approved fence not less than six feet in height.

2. **Non-residential Group Day Care and Preschool Center Special Conditions.** Development or operation of a group day care or preschool center must be approved in advance by the Land Use Authority and must be found to conform to the following conditions:
 - a. it must be compatible with existing and proposed land uses in the vicinity;
 - b. it must receive the approval of the Utah Department of Health;
 - c. it must provide off-street parking spaces on the site meeting the same requirements as commercial uses.
 - d. new construction must be compatible in design and scale of building with existing development in the area; and
 - e. the site must have frontage on a street with an existing or proposed right-of-way of 66 feet, or greater, as identified on the Transportation Element of the General Plan.

3. **Residential Pre-school Special Conditions.** Approval of a residential pre-school shall also require a Home Occupation business license and shall be reviewed according to the

review criteria found in Chapter 19.08. In addition, a residential pre-school shall conform to the following conditions:

- a. it must receive the approval of the Utah Department of Health;
 - b. it must provide off-street parking spaces on the site meeting the same requirements as commercial uses and an adequate pickup and delivery area; and
 - c. new construction must be compatible in design and scale of building with existing development in the area.
4. **Private or Quasi-public School.** Conditional Use approval of Private or Quasi-public Schools shall only be given based on the following conditions and considerations:
- a. If the Private or Quasi-public School includes boarding facilities, the City may impose such limitations as the City believes to be in the public interest relating to the sex, age, and number of students that may be boarded or otherwise participate in the schooling and other services provided by the school. The City may also impose student-to-staff ratio requirements for the school.
 - b. The number of students allowed to attend or to be boarded at a Private or Quasi-public School shall be determined based, in part, on the size of the parcel of property on which the school is to be located.
 - i. The minimum property required for any Private or Quasi-public School shall be ten acres. More acreage shall be required for larger facilities as determined by the City.
 - ii. Property for the Private or Quasi-public School may, with the consent of the City, be dedicated to the City for public use in lieu of remaining in the private ownership of the school. The City may allow more credit for property dedicated to the City for public use than for similar acreage remaining in private ownership.
 - c. If a Private or Quasi-public School is to provide any counseling (other than educational counseling) that will require the school to obtain a license from any state or other agency (such as a license for residential treatment), the City may limit and restrict the types of counseling that the school may provide. The City may also impose limits on the students that may attend or be boarded at the Private or Quasi-public School based on the types of counseling and other services needed by the students.
 - d. Since Private or Quasi-public Schools are primarily for educational purposes and not treatment or correctional purposes, the City will place restrictions on the students that may attend or be boarded at the school.
 - i. The City shall not allow such schools to accept students with serious mental or behavior disorders, students with current or recent drug or alcohol problems, students that are sex offenders, or students that are having or have recently had problems with the law.
 - ii. The City may provide that the school may not contract with any correctional office or agency for placement of students nor accept students placed or referred by judicial or correctional offices or agencies.
 - e. The City shall impose such reporting, inspection, certification, review, and self-regulating conditions on Private or Quasi-public Schools as the City deems necessary to assure compliance with the limitations imposed by the City for its Conditional Use approval.
 - f. The City may restrict the location of Private or Quasi-public School in the interest of the community. Such restrictions shall include not allowing Private or Quasi-

public Schools to be located in close proximity to similar schools and facilities or to facilities, improvements, or developments that may be negatively affected by such schools or that may create potential risks or problems for the schools.

5. **Vehicle Storage.** Conditional Use approval shall be given based on compliance with all other standards in this Chapter, and upon compliance with the following conditions and considerations:
 - a. Storage areas shall be completely enclosed by a minimum six foot opaque wall or fence.
 - b. Storage shall not occur adjacent to residential development.
 - c. Approvals shall be given for a maximum term of five years, and all vehicle storage shall be removed at the conclusion of the approval period.
 - d. Additional five year terms shall be granted upon the following findings:
 - i. That the storage complies with the original conditions of approval.
 - ii. That the storage complies with all other Code requirements in place at the time of extension.
 - iii. That the storage is still not adjacent to residential development. At such time as the surrounding area develops in a residential manner, no further extensions shall be granted.

6. **Public Utility Building or Facility and Public Building Sites.**
 - a. This subsection does not apply to wireless telecommunication equipment which is regulated by Chapter 19.05.
 - b. Minimum lot size, lot width, lot frontage, lot coverage, and building size requirements do not apply to Public Utility Buildings or Facilities and Public Building Sites that are not intended for occupancy and are owned by a governmental entity or public utility company in the State of Utah.
 - c. Utility structures and Public Buildings shall not encroach onto a public utility easement. However, this does not preclude the use of the public utility easement for service delivery.
 - d. Setbacks: The following setbacks shall apply to buildings and structures that are not intended for occupancy. All buildings that are intended for occupancy shall comply with the setback requirements within the underlying zone.
 - i. In residential zones, above-grade buildings and structures over 200 square feet in size and/or 15 feet in height, shall comply with the minimum front setback within the underlying zone. The side and rear setbacks shall be ten feet minimum.
 - ii. For all other buildings and structures (including those in non-residential zones), including below-grade structures, the minimum setbacks shall be equal to the required public utility easements.
 - iii. Greater setbacks may be required through the conditional use process in order to mitigate detrimental effects to the health, safety, and general welfare of the public.
 - e. Fencing:
 - i. Because of security concerns or specific site or facility design, the Public Utility site or Facility or Public Building site shall not be required to have fencing or walls.

1. Vinyl-coated chain link is allowed for facilities more than 200 feet from an existing residential dwelling that is in a residential zone. Chain link fence shall be setback five feet from the right of way.
 2. Notwithstanding fencing requirements contained in Chapter 19.06, barbed wire may be used in conjunction with a chain-link fence if warranted because of a legitimate security concern related to the health, safety, or general welfare of the public.
 3. Vinyl-coated chain link shall be earth-tone or dark in color.
- ii. Installation of fencing or walls or type of fencing or walls, if used, shall be determined at the discretion of the property owner, and subject to final approval through the site plan process. Fencing shall consist of one or more of the following: masonry, wrought iron style, or steel reinforced pre-panelized polyethylene. Vinyl-coated chain link may be used subject to subsection (i).
 - iii. If fencing or walls are used, the location shall comply with all clear sight triangle requirements.
 - iv. Fencing or walls taller than three feet may be permitted in the front yard after review and recommendation by the Development Review Committee and subject to final approval through the site plan review process.
 - v. Fences and walls that require a building permit shall not encroach onto a public utility easement, but may cross it if needed.
 - vi. The maximum height of a utility fence or wall shall be eight feet.
- f. Landscaping.
- i. All structures intended for occupancy shall meet the landscaping requirements in Chapter 19.06. All other structures shall meet the requirements below.
 - ii. The park strip adjacent to Public Utility Building or Facility sites and Public Building Sites shall be landscaped with trees spaced no more than 30 feet on-center, rock mulch, and/or additional vegetation.
 - iii. All tree requirements contained in Chapter 19.06 with respect to size and clear sight triangle shall apply.
 - iv. Additional landscaping may be installed on-site at the discretion of the property owner.
 - v. If landscaping is not used internally to the site, the ground shall be prepared to prevent weed growth.
 - vi. Native vegetation may be used to meet the landscaping requirements in this subsection. Irrigation systems are not required if there are no reasonably available water sources and the developer successfully establishes the non-native vegetation with other means of watering.
 - vii. If water sources are not reasonably available, the tree requirement in this subsection shall not apply.
- g. Access. Access to the site is required via easements or driveways.
- h. Site and Architectural design. Public utility buildings and facilities and Public Buildings that are not intended for occupancy shall be exempt from Chapter 19.16, Site and Architectural design standards, and shall comply with the following requirements:
- i. Buildings shall be constructed of masonry with a standing seam metal roof and include an anti-graffiti coating.
 - ii. Buildings shall include a minimum of a 4:12 gabled pitched roof.

- iii. Building colors shall be earth-tones.
- iv. Notwithstanding, nothing in this section shall preclude imposing additional conditions in order to mitigate detrimental effects to the health, safety, and general welfare of the public.
- v. Temporary/portable structures are prohibited, except for those used by municipalities, and shall not be required to meet the above architectural requirements in this subsection (h).

(Ord. 17-27, Ord. 17-14, Ord. 15-29, Ord. 15-21, Ord. 14-23-1, Ord. 13-16, Ord. 12-9, Ord. 11-9)

19.15.07. Optional Conditions.

Applicants for Conditional Use permits shall meet all applicable requirements of this Title. In addition, the City Council may establish conditions as outlined herein to meet the concerns of safety for persons and property, health and sanitation, environment, master plan proposals, and neighborhood needs, performance, and administration. More specifically, the City Council may require:

1. Conditions Relating to Safety of Persons and Property.

- a. Building elevations and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding.
- b. The relocation, covering, or fencing of irrigation ditches, drainage channels, and other potential attractive nuisances existing on or adjacent to the property.
- c. Increased setback distances from lot lines where the Land Use Authority determines it to be necessary to ensure the public safety and to ensure compatibility with the intended characteristics of the zone as outlined in applicable land use ordinances.
- d. Appropriate design, construction, and location of structures, buildings, and facilities in relation to any earthquake fault which may exist on the property, and limitations and restrictions on the use and location of uses due to special site conditions, including geologically hazardous areas, flood plains, fault zones, and landslides areas.
- e. Limitations and control of the number, location, color, size, height, lighting, and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards and appearance and harmony with adjacent development.
- f. Plans for the location, arrangement, and dimensions of truck loading and unloading facilities.
- g. Construction of curbs, gutters, drainage culverts, sidewalks, streets, fire hydrants, and street lighting.

2. Conditions relating to Health and Sanitation.

- a. A guarantee of sufficient culinary water to serve the intended land use and a water delivery system meeting standards adopted by the City.
- b. A wastewater disposal system and a solid waste disposal system meeting standards adopted by the Land Use Authority.
- c. Construction of water mains, sewer mains, and drainage facilities serving the proposed use, in sizes necessary to protect existing utility users in the vicinity and to provide for an orderly development of land.

3. **Conditions Relating to Environmental Concerns.**
 - a. Limitations and restrictions on the use and location of uses in sensitive lands.
 - b. Processes for: the control, elimination, or prevention of land, water, or air pollution; the prevention of soil erosion; and control of objectionable odors and noise.
 - c. The planting of ground cover or other surfacing to prevent dust and erosion.
 - d. Restructuring of the land and planting of the same as directed by the Planning Commission when the Conditional Use involves cutting or filling the land, and where such land would be adversely affected if not restructured.

4. **Conditions Relating to Compliance with the Intent of the General Plan and Land Use Ordinances and Characteristics of the Vicinity or Neighborhood.**
 - a. The removal of structures, debris, or plant materials incompatible with the intended characteristics of the zone outlined in this Title.
 - b. The screening of yards or other areas as protection from obnoxious land uses and activities.
 - c. Landscaping to ensure compatibility with the intended characteristics of the zone as outlined in this Title.
 - d. Limitations or controls on the location, heights, and materials of walls, fences, hedges, and screen plantings to ensure harmony with adjacent development, or to conceal storage areas, utility installations, or unsightly development.
 - e. The relocation of proposed or existing structures as necessary to provide for future streets on the Transportation Master Plan of Saratoga Springs, adequate sight distance for general safety, groundwater control, or similar problems.
 - f. Provision for, or construction of, recreational facilities necessary to satisfy needs of the Conditional Use.
 - g. Population density and intensity of land use limitations where land capability or vicinity relationships make it appropriate to do so to protect health, safety, and welfare.
 - h. Other improvements which serve the property in question and which may compensate, in part or whole, for possible adverse impacts to the zone from the proposed Conditional Use.

(Ord. 14-23-1, Ord. 13-16, Ord. 12-9, Ord. 11-9)

19.15.08. Inspection.

Following issuance of a Conditional Use permit by the Land Use Authority, the City staff shall ensure that development is undertaken and completed in compliance with the Conditional Use permit and building permit.

(Ord. 14-23-1, Ord. 13-16)

19.15.09. Time Limit.

The Conditional Use Permit shall expire by operation of law without any action by the City unless construction or the use itself begins within one year of issuance and continues so as not to result in an expired building permit under applicable building codes. Construction must be

complete within two years after issuance of the permit; otherwise, the permit shall expire by operation of law without any action by the City.

(Ord. 13-16)