

## Chapter 17.70

### CONDITIONAL USES

#### Sections:

#### 17.70.010 Authorization to grant or deny.

#### 17.70.040 Time limit on permit.

#### 17.70.010 Authorization to grant or deny.

(1) Approval Criteria. A conditional use may be approved, pursuant to GMC Division VII (administrative procedures), if the applicant demonstrates that the proposed use:

(a) Is listed as a conditional use in the underlying zoning district or is authorized pursuant to GMC Chapter 17.74 (authorization of similar uses);

(b) Is suitable for the proposed site, considering size, shape, location, topography, existence of improvements and natural features;

(c) Is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use;

(d) The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the area and neighborhoods surrounding the subject site.

(e) Satisfies the policies of the comprehensive plan that apply to the proposed use.

(2) Conditions of Approval. In addition to the specific requirements of this title, including those set forth in GMC Chapter 17.62 (special uses), and the comprehensive plan, approval of a conditional use may be granted subject to additional conditions that are found necessary to protect the best interests of the surrounding area or the city as a whole. These conditions may include, but are not limited to, the following:

(a) Limiting the hours, days, place and manner of operation;

(b) Requiring design features that minimize environmental impacts such as noise,

vibration, smoke, dust, fumes and glare;

(c) Requiring increased setbacks, lot area, lot depth and lot width;

(d) Limiting building height, size, lot coverage and location on the site;

(e) Designating the size, number, location and design of vehicle access points;

(f) Requiring street right-of-way to be dedicated and streets to be improved;

(g) Requiring landscaping, screening, drainage and surfacing of parking and loading areas;

(h) Limiting the number, size, location, height and lighting of signs;

(i) Regulating the location and intensity of outdoor lighting; and

(j) Requiring a sight-obscuring fence or hedge to screen the conditional use from adjacent to or nearby property.

(3) Nonconforming Uses. When a non-conforming use is classified in this title as a conditional use, any change in the use, lot area or a structure associated with the use, shall comply with the requirements of this chapter, except:

(a) Normal maintenance, as defined in GMC Subsection 17.70.010(4), shall be permitted without conditional use review;

(b) Nonconforming single family dwellings may be expanded, remodeled, altered or replaced where there is no increase in the number of dwelling units, and where substantial construction of any replacement occurs within one (1) year of destruction, without conditional use review;

(c) Uses operating between the hours of 12:00 a.m. and 5:00 a.m., prior to the date uses operating between those hours were classified as conditional uses, shall be permitted without conditional use review, unless:

(i) There is a change in the underlying use of the given property. For instance, a restaurant that operated between 12:00 a.m. and 5:00 a.m., prior to the date uses operating between those hours were classified as conditional uses, could continue to operate between those hours after said date, without conditional use review. Furthermore, a restaurant that operated between 12:00 a.m. and 5:00 a.m. prior to said date could be operated as a different restaurant after said date and continue to operate between those hours, without conditional use review.

However, a restaurant that operated between 12:00 a.m. and 5:00 a.m. prior to said date could not continue to operate between those hours as a tavern, convenience store, etc., unless conditional use approval was sought and received. The city believes this approach to be rationally related to the city's desire to ensure that any such change in the underlying use of a given property can be made compatible with and have a minimal impact upon surrounding neighborhoods if continued late night operation is desired.

(4) Modifications. With the exception of normal maintenance and the expansion, remodeling, alteration or replacement of a single-family dwelling, modification of an existing conditional use shall comply with the requirements of this chapter. Normal maintenance of structures and premises that are part of a conditional use shall be permitted provided there are no significant use or structural alterations. Normal maintenance may include painting, roofing, siding, interior remodeling, electrical work, plumbing work, re-paving of access roads and parking/loading areas, replacement of landscaping elements or other similar tasks. Normal maintenance does not include increasing the number of dwelling units, constructing new structures or constructing additions to existing structures except to the extent that an addition is necessary to render a structure accessible to the disabled. Normal maintenance performed shall be consistent with previous approvals of the conditional use. Expansion, remodeling, alteration or replacement of a single-family dwelling shall not qualify for the exception under this subsection if the modification would result in an increase in the number of dwelling units.

(5) Under GMC 17.16.040, 17.18.040 and 17.20.040, a use shall be deemed operating if the use is open for operation to serve the general public, or open for operation to serve a private membership, without limitation.

**Statutory Reference:** ORS Ch. 197 and 227

**History:** Ord. 1131 §2 (part), 1990; Ord. 1341 (part), 2003.

17.70.020 **History:** Ord. 1131 §2(part), 1990; Repealed by Ord. 1323 §1 (part), 2002.

17.70.030 **History:** Ord. 1131 §2(part), 1990; Ord. 292 §1 (part), 2000; Repealed by Ord. 1323 §1 (part), 2002.

#### **17.70.040 Time limit on permit.**

(1) Approval of a conditional use shall expire if substantial construction has not occurred within one (1) year-or such lesser time as may be specified as a condition of approval-of the date of the final decision.

(2) Upon request, the one (1) year period may be renewed once by the Planning Commission for not more than one (1) year.

**Statutory Reference:** ORS Ch. 197 and 227

**History:** Ord. 1131 §2 (part), 1990; Ord. 1323 §1 (part), 2002.

17.70.050 **History:** Ord. 1131 §2 (part), 1990; Repealed by Ord. 1323 §1 (part), 2002.