



Planning Department

(541) 535-2050 Fax (541) 535-5769

112 W 2nd Street/PO Box 330, Phoenix, OR 97535

CONDITIONAL USE APPLICATION

File No. CUP _____

Fee \$ _____

NOTICE TO APPLICANT: Applicants are advised to review the list of submittal requirements indicated on each application form prior to submitting an application. **Incomplete applications will not be acted upon or scheduled for a public hearing until the Planning Department receives all required submittal materials and fees. Failure to provide complete and/or accurate information may result in delay or denial of your request.**

APPLICANT _____

Mailing address _____

Phone _____ **Fax** _____ **Email** _____

Applicant's interest in property _____

Signature _____ **Date** _____

PROPERTY OWNER _____

Mailing address _____

Phone _____ **Fax** _____ **Email** _____

Property Owner's Consent: I do by certify that I am the legal owner of record of the property described above and as such, I am requesting that the City of Phoenix process this application in accord with state and local ordinances.

Signature _____ **Date** _____

If same as applicant, mark SAME. If there is more than one property owner, please attach additional sheets as necessary.

SITE LOCATION AND DESCRIPTION

Address _____ **Tax Map #(S)** _____ **Tax Lot #(s)** _____

Address _____ **Tax Map #(S)** _____ **Tax Lot #(s)** _____

Adjacent property under same ownership (*list tax lot ID*) _____

Frontage street or address _____ **Nearest cross street** _____

Site size (acres or square feet) _____ **Dimensions** _____

BUSINESSES Are any businesses operating on the property? If yes, please describe. _____

All businesses operating within the City of Phoenix must obtain a Business License.

SPECIFIC REQUEST **Land Division** **New Use/Construction** **Alteration** **Change of Use**

Describe _____

SUBMITTAL REQUIREMENTS

The following items must be received in order to deem an application complete and schedule it for a hearing before the Planning Commission. If you need assistance completing the forms, please contact the Planning Department. If you do not have a copy of the deed to your property to verify ownership, contact the Jackson County Assessor at (541) 774-6059 or <https://jacksoncountyor.org/assessor>

1. Original, signed **Application form**. This information is public record and must be reproduced so please type or write clearly using dark ink.
2. All information required above and below, unless specifically waived by the Director.
3. The appropriate **fee**.
4. **7 copies** of all submittal materials for staff and Planning Commission distribution.

OFFICE USE ONLY.

This institution is an equal opportunity provider and employer.

120 day time limit Accepted as complete _____ Final decision by _____

DLCD 45-day notice required Y/N Date mailed _____ Date of first hearing _____

Planning Commission hearing date _____ Notice mailed _____

Notice to media Publication date _____ Emailed _____

Notice of Decision Date mailed _____ Appeal deadline _____

Associated applications _____

The following criteria must be satisfied in order to approve a request. See the specific language in Section 4.4.4.1 on page 3 of this form. Please tailor all responses to these criteria. All applications must also demonstrate compliance with applicable standards in Chapter 3 (Design Standards) of the LDC.

Is the proposed use listed as a Conditional Use in the underlying zone? Yes No

Describe in detail how the characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.

Describe in detail how the site and proposed development are timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.

Describe in detail how the proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.

Describe in detail how the proposal satisfies the goals and policies of the City Comprehensive Plan that apply to the proposed use.

Use this space to provide any additional information.

The Phoenix Land Development Code (LDC) accepts that certain uses, while not permitted outright, can be compatible uses in certain zones. The applicant bears the burden of proof to show that the proposed use is compatible or can be made compatible with the surrounding neighborhood and/or zone through appropriate mitigation.

Electronic submittals to accompany this application form are encouraged. All text submittals should be provided in Microsoft Word; plans and other images should be formatted as a pdf.

The application will not be scheduled for a hearing until deemed complete.

Use additional sheets if necessary.

Chapter 4.4 – Conditional Use Permits

4.4.1 – Purpose

There are certain uses that, 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 this Chapter 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.

4.4.2 – Approvals Process

- A. Pre-application. A Pre-application Conference is required in accord with Chapter 4.1.7 – General Provisions, Section C.
- B. Initial Application. An application for a new conditional use shall be processed as a Type III procedure subject to the process in Chapter 4.1.5 – Type III Procedure (Quasi-Judicial). The application shall meet submission requirements in Chapter 4.4.3 – Application Submission Requirements and the approval criteria contained in Chapter 4.4.4 – Criteria, Standards, and Conditions of Approval.
- C. Modification of Approved or Existing Conditional Use. Modifications to approved or existing conditional uses shall be processed in accordance with Chapter 4.6 – Modifications to Approved Plans and Conditions of Approval.

4.4.3 – Application Submission Requirements

In addition to the submission requirements required in Chapter 4.1 – Types of Applications and Review Procedures, an application for Conditional Use approval must include the following information, as applicable. For a description of each item, please refer to Chapter 4.2.5 – Site Design Review Application Submission Requirements:

- A. Existing site conditions;
- B. Site plan drawn to scale;
- C. Preliminary grading plan;
- D. A landscape plan;
- E. Elevations of all structures;
- F. Elevations of all proposed signs;
- G. A copy of all existing and proposed restrictions or covenants.
- H. Narrative report or letter documenting compliance with all applicable approval criteria in Chapter 4.4.4 – Criteria, Standards, and Conditions of Approval.
- I. If applicable for residential care, a description of the proposed use, including the number of residents and the nature of the condition or circumstances for which care, or a planned treatment or training program will be provided.
- J. The number of staff and the estimated length of stay per resident and the name of the agency responsible for regulating or sponsoring the use.

4.4.4 – Criteria, Standards, and Conditions of Approval

- 1. The Planning Commission 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 use is listed as a Conditional Use in the underlying district;
 - 2. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;
 - 3. The site and proposed development are timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use;
 - 4. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district;
 - 5. The proposal satisfies the goals and policies of the City Comprehensive Plan that apply to the proposed use.
 - B. Site Design Standards. The criteria in Chapter 4.2.6 – Site Design Approval Criteria shall be met.
 - C. Conditions of Approval. The Planning Commission 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 that minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust, no roof-mounted equipment;
 - 3. Requiring larger setback areas, lot area, and/or lot depth or width;

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 and covered bicycle parking;
6. Requiring street right-of-way to be dedicated and streets, sidewalks, curbs, planting strips, pathways, or trails to be improved;
7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of vehicle parking, covered bicycle 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;
13. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the adopted plans. Dedication of land and construction shall conform to the provisions of Chapter 3.2 – Access and Circulation;
14. Trash enclosures shall be screened and located towards the rear of the site.
15. The applicant shall meet a defined time limit to meet development conditions.
16. The Planning Commission may require any other reasonable restriction, condition or safeguard that would mitigate the zoning ordinance, and adverse effects upon the neighborhood properties by reason of the use, extension, construction or alteration allowed as set forth in the findings of the Planning Commission.
17. The Planning Commission may specifically permit, upon approval of a conditional use, further expansion to a specified maximum designated by the Planning Commission without the need to return for additional review.

4.4.5 – Additional Development Standards for Conditional Use Types

- A. Concurrent Variance Applications. A Conditional Use Permit shall not grant Variances to regulations otherwise prescribed by the Development Code. Variance applications 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.
- C. Traffic studies. Traffic studies may be required for any applications that the Planning Department or the Planning Commission deems necessary.
 1. For properties within the Trip Budget Overlay Zone (Chapter 2.9), a traffic analysis must be submitted to Oregon Department of Transportation (ODOT) and approved by ODOT.
- D. In the case of a use existing prior to the effective date of this ordinance, any change of use expansion of lot area or expansion of structure shall conform with the requirements for conditional use.

4.4.6 – Modifications

Any expansion to, alteration of, or accessory use to a conditional use shall follow procedures in Chapter 4.6.

4.4.7 – Revocation of Conditional Use Permits

The Planning Commission or the City Council may revoke any Conditional Use Permit previously issued by the city or, with regard to lands annexed by the city, those such permits issued by the county. The Planning Commission may revoke such permit upon determining:

- A. One or more conditions attached to the grant of the Conditional Use Permit have not been fulfilled; and
- B. The unfulfilled condition is substantially related to the issuance of the Conditional Use Permit.

Chapter 4.1 – Types of Applications and Review Procedures

4.1.5 – Type III Procedure (Quasi-Judicial)

- A. Pre-application conference. A pre-application conference is required for all Type III applications. The requirements and procedures for a pre-application conference are described in Chapter 4.1.7 – General Provisions, Section C.
- B. Application requirements
 1. Application forms. Type III applications shall be made on forms provided by the Planning Department.
 2. Content. Type III applications shall:
 - a. Include the information requested on the application form;
 - b. Be filed with copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action;

- c. Be accompanied by the required fee;
 - d. Include two sets of mailing labels for all property owners of record as specified in Chapter 4.1.5 – Type III Procedure (Quasi-Judicial), Section C (Notice of Hearing). The records of the Jackson County Department of Assessment and Taxation are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list;
 - e. Include an impact study for all Type III applications. The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, and the sewer system. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.
- C. Notice of Hearing (*see full text of LDC*)
 - D. Conduct of the Public Hearing (*see full text of LDC*)
 - E. The Decision Process
 - 1. Basis for decision. Approval or denial of an appeal of a Type II Administrative decision or a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the City as a whole;
 - 2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
 - 3. Form of decision. The hearings body shall issue a final written order containing the findings and conclusions stated in subsection 2, which either approves, denies, or approves with specific conditions. The hearings body may also issue appropriate intermediate rulings when more than one permit or decision is required;
 - 4. Decision-making time limits. A final order for any Type II Administrative Appeal or Type III action shall be filed with the City Recorder within ten business days after the close of the deliberation.
 - F. Notice of Decision. Written notice of a Type II Administrative Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within 30 business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.
 - G. Final Decision and Effective Date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notification and hearings procedures for Type III applications on appeal to the City Council shall be the same as for the initial hearing.
 - H. Appeals. (*see full text of LDC*)