Memorandum

To: Glenwood Town

From: Megan Ryan, Land Use Consultant ULCT

Date:

Re: Summary of Conditional Use Permits (CUP)

# What is a CUP?

ULCT 2014

**CUP’s are regulated by the Utah State Code Title** **10-Chapter 9a**

**Here is the state definition**

**Title** **10-Chapter 9a-Section 507.**  
***“Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.”***

***A land use ordinance may include conditional uses and provisions for conditional uses***

***that require compliance with standards set forth in an applicable ordinance.***

What does this really mean? I like to say-



**What are the Rules?**

Here is my Cliff Notes Summary

1. You don’t have to have conditional use permits – you can allow them in one zone and not another

2. CUP’s are not for catch all items that you don’t know how to deal with

3. If you do you provide for CUP’s you are required to have the following in your development code

a. You need a detail list of what you will consider in each zone – you cannot consider an application that is not a use listed in your code

b. You need general standards of review for how you will consider each permit request

c. Any conditions you place on a CUP must be tied to one of these standards

* They are precise land uses that may or may not fit in your zone districts – you should not have many in each zone.
* CUP’S are an extra level of review used for small scale uses

4. You have very slim chances of denying a CUP

**Title** **10-Chapter 9a** *2) (a) 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.*

5. Suggested standards of review (you can add anything you want – it just needs to be written down)

* The safety of people and/or property.
* Health and Sanitation
* Environmental Concerns
* The General Plan and the Permitted Zoning and maybe
  + - * + traffic
        + lighting
        + esthetics
        + noise
        + landscaping
        + general use and design

6. After you have your standards of review then you can apply conditions to the CUP – they need to relate to each other. For example if you have traffic as one of your standards of review you could add a condition saying “no entry off of Main Street in order to prevent traffic jams etc…)

7. Read conditions into the final record and make findings as to why you are attaching the conditions.

8. Record the conditions with any maps or other land use approvals.

9. Keep a clear record so that you can enforce any violations if they occur.

10. The Council may revoke the CUP of any person upon a finding that the holder of the permit has failed to comply with any of the conditions imposed at the time the permit was issued.

**Good conditions make good neighbors**

 

The neighbors of this small bar, with its poorly placed dumpster, may not feel very neighborly. Conditional use standards could result in requiring limited hours of operation for the bar, and landscaping and other measures to conceal the dumpster.

APPENDIX

Fillmore Utah

CUP ORDINANCE

Example of what you should have in your development code

(Administrative CUP simply means that the Fillmore staff approves those – they decided that those uses did not need to go to the Planning Commission)

**Table 6-7-3.2: Uses**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Type** | **Allowed** | **Administrative Conditional Use** | **Conditional Use** | **Business License** |
| Accessory Structure, occupied |  |  |  |  |
| Accessory Structure, unoccupied |  |  |  |  |
| Agriculture |  |  |  |  |
| Apartment House |  |  |  |  |
| Child Care for Business   * Center: 8 children or less * Facility: 9 children or more |  |  |  |  |
| Athletic, Tennis |  |  |  |  |
| Church |  |  |  |  |
| Civic Club |  |  |  |  |
| Condominium |  |  |  |  |
| Dwelling - Single |  |  |  |  |
| Dwelling- 2 Family |  |  |  |  |
| Dwelling- 3 Family |  |  |  |  |
| Dwelling- 4 Family |  |  |  |  |
| Farm Animals/Livestock |  |  |  |  |
| Fence, Electric |  |  |  |  |
| Fence, Wildlife/Large Animal |  |  |  |  |
| Gated Communities |  |  |  |  |
|  |  |  |  |  |

**6-7-3.8 CONDITIONAL USE STANDARDS OF REVIEW.** The City shall not issue a conditional use permit unless the Planning and Zoning Administrator, in the case of an administrative conditional use, or the Planning Commission, for all other conditional uses, concludes that the application fully mitigates all identified adverse impacts and complies with the following general standards applicable to all conditional uses, as well as the specific standards for the use.

**1.** **GENERAL REVIEW CRITERIA** An applicant for a conditional use in the zone must demonstrate:

1. The application complies with all applicable provisions of this chapter, state and federal law;
2. The structures associated with the use are compatible with surrounding structures in terms of use, scale, mass and circulation;
3. The use is not detrimental to the public health, safety and welfare;
4. The use is consistent with the Fillmore City General Plan as amended;
5. Traffic conditions are not adversely affected by the proposed use including the existence or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets;
6. There is sufficient utility capacity;
7. There is sufficient emergency vehicle access;
8. The location and design of off-street parking as well as compliance with off-street parking standards;
9. A plan for fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses;
10. That exterior lighting that complies with the lighting standards of the zone;
11. That within and adjoining the site, impacts on the aquifer, slope retention, and flood potential have been fully mitigated and is appropriate to the topography of the site.

**2. SPECIFIC REVIEW CRITERIA FOR CERTAIN CONDITIONAL USES.** In addition to the foregoing, the Planning Commission must evaluate the applicant’s compliance with each of the following criteria when considering whether to approve, deny or conditionally approve an application for each of the following conditional uses:

A. Accessory Structure (Occupied). New development of an accessory structure intended for human occupancy is a conditional use and shall meet the following development standards:

1. Proximity**:** The accessory structure must be located no less than six feet (6’) from the main building.
2. Setbacks: The accessory structure must be located in either the rear or side yard, with no less than a ten foot (10') setback from the rear and side lot lines, unless the accessory structure is located at the front yard setback of an adjacent corner lot, in which case, the side yard setback to the nearest side lot line must be at least fifteen feet (15').
3. Height**:** The accessory structure height may not exceed twenty-four feet (24’) to the mid point for a sloped roof and twenty feet (20') to the cornice for a flat roof.
4. Building Area**:** The maximum area of an occupied accessory structure is the larger of nine hundred (900) square feet or thirteen percent (13%) of the lot area. No more than six hundred (600) square feet of the accessory structure shall be used for human occupancy.

B. Child Care Facility/Center. Each application for a childcare facility, center or home occupation must include and comply with:

1. Proof of application for state child care license;
2. Compliance with state, federal and local law;
3. A design that does not include a front yard playground;
4. A parking and traffic plan that adequately mitigates the adverse impacts of increased traffic in the neighborhood (if a facility or center);
5. Childcare providers as a home occupation may not exceed eight (8) children, 12 years of age or younger, including the providers own children at any given time;
6. Childcare providers as a home occupation may not provide services for more than 2 infants under the age of two at any given time.

C. Condominiums. Subject to the requirements set forth in Chapter 6-11 of the Fillmore City Municipal Code, condominiums are permitted as a conditional use in the R-2 zone with the following conditions:

1) Lot Size. The minimum lot size for any condominium project consisting of up to 4 individual condominium units shall be 15,000 square feet. 2,500square feet shall be added to the minimum lot size for each additional unit.

2) Open Space. For each individual condominium unit, an area of no less than 875square feet shall be preserved and dedicated as open space.

3) Parking. For each individual condominium unit, an area of no less than 875square feet shall be improved for parking. Property dedicated for parking may not overlap with property dedicated for open space.

4) Spacing of Building. Up to 4 condominium units may be located in a single building. Single-story building shall be spaced at least 15 feet apart from one another. Two­-story buildings shall be spaced at least 20 feet apart from one another.

D. Multiple Family Dwellings. Three-plex and four-plex dwellings may be allowed as a conditional use in the R-2 Zone with the following conditions.

1. Three-plex: 17,125 sq ft lot area which includes parking and open space requirements.
2. Four-plex: 20,380 sq ft lot area which includes parking and open space requirements.
3. Open Space requirement: 500 sf of open space per unit.

E. Intermittent Commercial Uses. The occasional use of dwellings, community buildings, private clubs, lodges, social or recreational establishments and/or their accessory buildings for commercial purposes may be allowed upon receiving a conditional use permit and provided the provisions of this section are complied with. The following standards shall apply to all intermittent commercial uses in addition to any conditions the Planning Commission deems necessary and desirable to protect the public health, safety and general welfare.

1. The display and sales of merchandise should be contained primarily within a building.
2. The building proposed for the intermittent commercial use must comply with setback and clear vision area requirements of this ordinance and with applicable building and fire codes.
3. A business license from the City is required to conduct an intermittent commercial use.
4. Adequate parking is provided to serve the commercial use that does not create a parking shortage for other existing uses on site.
5. The use does not cause noise, light, or glare which adversely impacts surrounding uses.

F. Home Occupation. Each application for a business license for a home occupation shall include the applicants agreement that the proposed use:

1. Shall not include outdoor storage, outdoor display of merchandise, nor parking/storage of any vehicle in excess of twelve thousand pounds (12,000 lbs) gross vehicle weight.
2. Shall not include identifying signage in excess of a six (6’) square foot name plate, attached to the dwelling;
3. Is limited to the on-site employment of immediate family members who occupy the dwelling. (This criteria is not intended to limit the number of employees who are engaged in business for the home occupation but work off-premises.);
4. Shall not alter the residential character or appearance of the dwelling or neighborhood;
5. Shall not occupy more than twenty-five percent (25%) of the main floor of the dwelling nor more than fifty percent (50%) of the floor area of any garage or outbuilding in which the use is conducted;
6. Shall not generate business-related vehicular traffic in excess of three (3) vehicles per hour;
7. Shall not cause a demand for municipal services in excess of that associated with normal residential use;
8. Shall be enclosed within a structure in complete conformity with international building codes as adopted by Fillmore City; and
9. Is not a mortuary, animal hospital, kennel, clinic, hospital, RV service, junkyard, auto repair service, public stable or adult oriented business.

G. Gated Communities. Applicants must comply with the following standards:

1. The applicants have demonstrated a need for an entry gate to effectively control ongoing negative health, safety and welfare issues; or, in highly unique circumstances, excessive non-neighborhood parking or traffic on a regular basis.
2. The private street is not a through street and traffic circulation through the neighborhood to other parts of the community is not impacted.
3. The entry gate shall be set back 25 feet.
4. A building permit for the gate must be approved.
5. The entry gate shall meet the following design standards:
   1. The clearance distance from the gate bottom to the ground shall be a minimum of 2’.
   2. The maximum height from the bottom to top rail shall be 3’.
   3. The gate shall be constructed from visually open materials that will not obstruct more than 50% visibility (i.e. open fencing).
   4. Fencing adjacent to the gate shall not exceed a height of 4’ for solid fencing materials and 6’ for open materials.
   5. Columns added for architectural interest shall not exceed 9’.
   6. The gate design shall be minimal in height and scale to accomplish the goal of preventing unauthorized access.
6. An access plan for emergency services and authorized City representatives shall be provided to and approved by the City.