

CHAPTER 15. CONDITIONAL AND TEMPORARY USES

ARTICLE A: CONDITIONAL USES

SECTION:

9-15A-1: Purpose

9-15A-2: Conditional Use Permit Process

9-15A-1: Purpose.

A conditional use, because of its unique characteristics or potential impact on the county, surrounding neighbors or adjacent land uses, may not be compatible in some areas of Kane County, Utah or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

9-15A-2: Conditional Use Permit Process.

An approved Conditional Use Permit shall be required for each conditional use listed in this Ordinance. No building permit, other permit or license shall be issued for a conditional use by any officer or employee of Kane County unless a Conditional Use Permit shall have been approved by the Kane County Land Use Authority:

- 1) Application for a Conditional Use Permit shall be made at the office of the Kane County Land Use Authority on forms provided for that purpose. Return the completed application to the Land Use Authority Administrator two weeks prior to the next scheduled Planning Commission meeting. The Administrator will schedule the Conditional Use Permit request on the Planning Commission's agenda.

- 2) Development Plan: The applicant for a Conditional Use Permit shall prepare a site plan of the proposed buildings, fences, landscaping, automobile parking and loading areas, and any other information the Land Use Authority may deem necessary.

- 3) Fee: The application for any Conditional Use Permit shall be accompanied by the appropriate fee as determined by the Board of County Commissioners.

- 4) Hearing: A public hearing need not be held; however, a hearing may be held when the Land Use Authority shall deem a hearing to be necessary to serve the public interest.

- 5) Land Use Authority Action: The Land Use Authority shall approve a Conditional Use Permit if conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. In approving any Conditional Use Permit, the Land Use Authority may impose conditions deemed necessary to protect the public welfare, ensure compatibility with other uses in the vicinity, and ensure that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions may include the following:
 - a. assurance that the use will not be detrimental to the health, safety, comfort, order, or general welfare of persons residing or working in the vicinity;
 - b. assurance the use will:
 - i) comply with the intent, spirit and regulations of the Kane County Land Use Ordinance and Kane County General Plan.
 - ii) make the use harmonious with other neighboring uses in zone;
 - c. 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, order, dust, visibility, safety, and aesthetic considerations;
 - d. evidence that all required public facilities have adequate capacity to serve the proposed conditional use;
 - e. limiting the hours, days, place and/or manner of operation;
 - f. requiring size or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, glare, erosion, order and/or dust;
 - g. requiring larger setback areas, lot area, and/or lot depth or width;
 - h. limiting the building height size or lot coverage, and/or location on the site;

- i. designating the size, number, location and/or design of vehicle access points or parking areas;
- j. requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved provided that:
 - i) an essential link exists between a legitimate governmental interest and each exaction; and
 - ii) each exaction is roughly proportionate, both in nature and extent to the impact of the proposed development;
- k. requiring landscaping, screening, drainage, water quality facilities and/or improvements of parking and loading areas;
- l. limiting the number, size, location, height and/or lighting of signs;
- m. limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
- n. requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
- o. requiring and designating the size, height, location and/or materials for fences;
- p. encouraging the protection and preservation of natural features including existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, slopes, cultural resources, and/or sensitive lands;
- q. requiring the protection and preservation of groundwater recharge areas;
- r. limiting noise generation;
- s. minimizing environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities;
- t. requiring turn-lane improvements at street intersections when:
 - i) an unsafe condition would be created by the development without the improvements; or
 - ii) the projected increase in traffic generated by the new or expanded use will lower the level of service;
- u. providing for emergency access;
- v. requiring pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby

- residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks;
 - w. requiring approval of septic and of water systems;
 - x. requiring buildings to be built to specific requirements
- 6) In approving a conditional use, the Land Use Authority shall find:
- a. That the proposed use is necessary or desirable and will contribute to the general well-being of the community;
 - b. That the use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to the property or improvements in the vicinity;
 - c. That the proposed use is in harmony with the intent of the General Plan and the zone in which it is located.
- 7) Appeals: Appeal of any decision of the Land Use Authority shall be to the Appeal Authority. Appeal shall be in writing and shall be filed at the office of the Land Use Authority not more than 30 days after the written decision by the Land Use Authority. The Appeal Authority may affirm, modify or reverse the decision of the Land Use Authority. However, the Appeal Authority shall present, in writing, the reasons for its action.
- 8) Inspection: The Building Official shall inspect the conditional use during the course of construction to insure that it complies with the conditions of the permit.
- 9) Time Limit: Action authorized by a Conditional Use Permit must commence within one (1) year of the time the permit is issued. If the permit holder has not commenced action under the permit within this time, the permit shall expire and the holder must apply for a new permit. The Land Use Authority may grant an extension for good cause shown.
- 10) Revocation: A Conditional Use Permit may be revoked upon failure to comply with the conditions imposed with the original approval of the permit and upon failure to comply with all local, state, and federal laws, including remaining current on property tax payments.

ARTICLE B. TEMPORARY USE PERMITS

SECTION:

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9-15B-1: Purpose.

The purpose of this section is to provide for a Temporary Use Permit and standards for the permitting process for non-permanent uses in order to protect the health, safety and general welfare of the public and surrounding zones and to avoid uses which will be detrimental to adjacent properties.

9-15B-2: Temporary Use Permit Process.

Unless otherwise stated in this Ordinance, temporary activities shall be allowed upon the issuance of a temporary use permit by the Land Use Authority. The Land Use Authority may issue a Temporary Use Permit after the applicant has provided the following information:

- 1) A description of the proposed temporary use, the proposed beginning and ending dates, and the proposed hours of operation.
- 2) A description of the property to be used for the temporary use, including the location of the use in relation to other buildings, and the location of streets to be used for access.

- 3) Sufficient information to determine that adequate provisions for trash disposal and sanitary facilities shall be provided.
- 4) Additional information required by the Land Use Authority in order to ensure surrounding land uses are not negatively impacted by the temporary use.
- 5) Any provision set forth in the conditional use permit process that may be deemed necessary for a temporary use.

9-15B-3: Considerations.

The applicant of a Temporary Use Permit shall demonstrate that the considerations listed below have been addressed. If an application is denied, the denial shall specify which of these considerations if any, were not addressed to the satisfaction of the Land Use Authority:

- 1) Circulation: The effect on local traffic and the location of access points to the property.
- 2) Adjacent Property: The effects of the proposed use on nearby property, including but not limited to the effects of noise, glare, odor, and traffic.
- 3) Refuse and Service areas: The amount of refuse and service areas (garbage receptacles and bathrooms) necessary for the proposed use, the location of the refuse and service areas, and a plan for adequate maintenance of the areas.
- 4) Utilities: Location and availability of utilities.
- 5) Screening and Landscaping: Installation of screening and fencing where necessary to protect adjacent property.
- 6) Compatibility: The level of general compatibility with nearby properties and the appropriateness of the use in relationship to other properties.
- 7) Any other review factors which the Land Use Authority considers to be appropriate to the property in question.

9-15B-4: Requirements.

The Land Use Authority may approve, approve with additional requirements or deny a Temporary Use Permit application. If additional requirements are deemed appropriate, the Land Use Authority may place requirements on the temporary use as part of the approval to assure that adequate mitigation measures are associated with the use. The requirements shall become part of the temporary use permit approval. Violations of any of the requirements shall be treated in the same manner as other violations of this title.

9-15B-5: Temporary Asphalt or Concrete Batch Plant.

Temporary asphalt or concrete batching plants may be approved by the Land Use Authority subject to the following additional requirements:

- 1) The batch plant shall not be located within 600 feet of a residence.
- 2) Hours of operation, defined as any activity that results in producing an asphalt or concrete product, shall be limited to Monday through Friday, beginning one half hour before official sunrise and ending one half hour after official sunset, unless the plant is located more than 5,000 feet from a residence or a commercial facility.
- 3) The batch plant permit shall be valid for a maximum (6) six month period, unless an extension is approved by the Land Use Authority for a second 6 month period (maximum of one (1) year).
- 4) No portion of the batch plant or its operation shall be located on a public or private street.
- 5) The batch plant shall only furnish concrete, asphalt, or both, to the specific project for which the Temporary Use Permit is issued. The placement of a temporary batching plant for a private project is restricted to the site of the project.
- 6) The temporary plant shall be operated in a manner that minimizes dust, noise and odor to meet the requirements of the

Utah State Department of Environmental Quality, including, but not limited to, covering trucks, hoppers, chutes, loading and unloading devices and mixing operation, and maintaining driveways and parking areas free of dust.

- 7) The site must be clear of all equipment, material and debris upon completion of the project.
- 8) All public improvements that are damaged during the operation of the temporary batching plant must be repaired or replaced within 30 calendar days of completion of the project.
- 9) A reclamation bond shall be required sufficient to ensure restoration of the site to original or other substantially beneficial condition consistent with local plans.
- 10) At termination of the permit and/or removal of plant, permittee shall notify the Land Use Administrator. The permittee or its agent shall conduct an inspection with the Land Use Administrator to verify sufficient restoration in compliance with county standards.

9-15B-6: Temporary Field Office.

A permit for a temporary field office may be approved by the Land Use Authority under this article under the following requirements:

- 1) The structure or shelter shall be used in connection with an approved development or building project and is located on the site of the project.
- 2) The structure shall be used only as an administrative and supervisory office and/or for sheltering employees and equipment during the construction phase of a project.
- 3) The structure or shelter shall be promptly removed following the completion of the development or project.

9-15B-7: Temporary Sales Office.

A temporary sales office may be approved by the Land Use Authority, subject to the following additional requirements:

- 1) The sales office is used for the sale of property within a subdivision under construction.
- 2) The sales office is located on land located within the subdivision.
- 3) The sales office is removed within one (1) year of completion of the subdivision construction.

9-15B-8: Temporary Recreational Vehicle.

- 1) Upon application of the land owner, the Land Use Authority may approve a Temporary Use Permit for the occupation of more than two recreational vehicles on one residential property depending upon the size and contour of the property.
- 2) Upon application of the land owner, the Land Use Authority may approve a Temporary Use Permit for the occupation of recreational vehicles on one residential property for a period exceeding six (6) months but not more than nine (9) months in any calendar year.

9-15B-9: Resubmittals – Appeals.

An application for a temporary use which has been denied may be resubmitted only if there has been a substantial change in circumstances as determined by the Land Use Administrator. Appeals to all final Land Use Administrator and Planning Commission decisions shall be made to the Appeal Authority within 30 days of denial of the Temporary Use Permit.

9-15B-10: Termination.

- 1) A Temporary Use Permit shall become null and void in the following cases:
 - a. The use for which the permit was approved is terminated.
 - b. The time granted for the use in the approved permit has expired.

- c. The Land Use Authority or other county agent as assigned finds that the terms of the permit have been violated or that there is a hazard to the public health, safety and welfare.
- 2) The site shall be cleared of all debris at the end of the temporary use. All temporary structures shall be cleared from the site within (5) five days after the use is terminated.
- 3) Temporary Use Permits granted for onsite construction must remove the mobile home or recreational vehicle from the premises and the utilities disconnected within thirty (30) days after the property owner receives a certificate of occupancy for the permanent dwelling. Recreational vehicles may be properly stored on the property.

9-15B-11: Expiration – Extensions.

Temporary Use Permits shall expire six (6) months from the date of approval or when the temporary use for which the permit was issued has terminated, whichever is sooner. The Land Use Authority may grant an extension of up to an additional six months for each extension. Unless otherwise stated in this article, no Temporary Use Permit shall extend beyond a maximum of three (3) years.

9-15B-12: Allowed Temporary Uses.

The temporary uses listed in this section shall not require a permit but shall be conducted in compliance with the other requirements listed in this Article and shall comply with all other state and local laws and ordinances.

- 1) Temporary commercial sales or special events conducted by the owner of the property for a period not exceeding thirty (30) days, including, but not limited to, farmers' market, Christmas tree sales, garage/yard sale, produce stand.