

**Chapter 18.330**  
**CONDITIONAL USE**

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**18.330.010 Purpose**

- A. Purpose. 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. There are certain uses which due to the nature of the impacts on surrounding land uses and public facilities require a case-by-case review and analysis.

**18.330.020 Approval Process**

- A. Initial applications. A request for approval for a new conditional use shall be processed as a Type III-HO procedure, as regulated by Chapter 18.390.050, using approval criteria contained in Section 18.330.030.A and subject to other requirements in this chapter.

B. Major modification of approved or existing conditional use.

1. An applicant may request approval of modification to an approved plan by:
  - a. Providing the Director with five copies of the proposed modified conditional use site plan; and
  - b. A narrative addressing the proposed changes as listed in subsection B.2 below.
2. The Director shall determine that a major modification(s) has resulted if one or more of the changes listed below have been proposed:
  - a. A change in land use;
  - b. A 10% increase in dwelling unit density;
  - c. A change in the type and/or location of access ways and parking areas where off-site traffic would be affected;
  - d. An increase in the floor area proposed for non-residential use by more than 10% where previously specified;
  - e. A reduction of more than 10% of the area reserved for common open space and/or usable open space;
  - f. A reduction of specified setback requirements by more than 20%;

g. An elimination of project amenities by more than 10% where previously specified provided such as:

- (1) Recreational facilities;
- (2) Screening; or
- (3) Landscaping provisions; and

h. A 10% increase in the approved density;

3. Upon the Director determining that the proposed modification to the conditional use plan is a major modification, the applicant shall submit a new application in accordance with Section 18.390.050.

C. Minor modification of approved or existing conditional use.

1. Any modification which is not within the description of a major modification as provided in Subsection B above shall be considered a minor modification.
2. An applicant may request approval of a minor modification by means of a Type I procedure, as regulated by Section 18.390.030, using approval criteria in Subsection C.3 below.
3. A minor modification shall be approved, approved with conditions, or denied following the Director's review based on the findings that:
  - a. The proposed development is in compliance with all applicable requirements of this title; and
  - b. The modification is not a major modification as defined in Subsection A above.

D. Phased development approval. As part of the approval process, the Hearings Officer shall approve a time schedule for developing a site in phases over a period of time of one year, but in no case shall the total time period for all phases be greater than three years without reapplying for conditional use review. The criteria for approving a phased conditional use review proposal is that all of the following are satisfied:

1. The public facilities shall be constructed in conjunction with or prior to each phase.
2. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities. A temporary public facility is any facility not constructed to the applicable City or district standard.
3. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal.

E. Approval period. Conditional use approval by the Hearings Officer shall be effective for a period of 1-1/2 years from the date of approval. The conditional use approval by the Hearings Officer shall lapse if:

1. Substantial construction of the approved plan has not begun within a 1-1/2 year period; or

2. Construction on the site is a departure from the approved plan. (Ord. 09-13)

**18.330.030 Approval Standards and Conditions of Approval**

- A. Approval standards. The Hearings Officer 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 criteria:
1. The site size and dimensions provide adequate area for the needs of the proposed use;
  2. The impacts of the proposed use of the site can be accommodated considering size, shape, location, topography, and natural features;
  3. All required public facilities have adequate capacity to serve the proposal;
  4. The applicable requirements of the zoning district are met except as modified by this chapter;
  5. The applicable requirements of 18.330.050; and
  6. The supplementary requirements set forth in other chapters of this code including but not limited to Chapter 18.780, Signs, and Chapter 18.360, Site Development Review, if applicable, are met.
- B. Conditions of approval. The Hearings Officer may impose conditions on the approval of a conditional use, which are found necessary to ensure the use is compatible with other use in the vicinity, and that the impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions may include, but are not limited to the following:
1. Limiting the hours, days, place and/or manner of operation;
  2. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and/or dust;
  3. Requiring additional 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;
  6. Requiring street right-of-way to be dedicated and street(s) to be improved;
  7. Requiring landscaping, screening, drainage and/or surfacing of parking and loading areas;
  8. Limiting the number, size, location, height and/or lighting of signs;
  9. Limiting or setting standards for the location 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 and/or drainage areas;
  13. Requiring the dedication of sufficient open land area for a greenway adjoining and within the floodplain when land form alterations and development are allowed within the 100-year floodplain; and
  14. Requiring the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian/bicycle pathway plan.
- C. Exemptions. Manufactured home parks and manufactured home subdivisions are exempt from the provisions of Subsection B above. Manufactured home subdivisions are subject to approval under the provisions of Chapter 18.430, Subdivisions. Manufactured home parks are subject to approval under the provisions of Chapter 18.340, Site Development Review.

#### **18.330.040 Additional Submission Requirements**

- A. Additional submission requirements. In addition to the submission requirements required in Chapter 18.390, Decision-Making Procedures, an application for conditional use approval must include the following additional information in graphic, tabular and/or narrative form. The Director shall provide a list of the specific information to be included in each of the following:
1. Existing site conditions;
  2. A site plan;
  3. A grading plan;
  4. A landscape plan;
  5. Architectural elevations of all structures; and
  6. A copy of all existing and proposed restrictions or covenants.

#### **18.330.050 Additional Development Standards for Conditional Use Types**

- A. Concurrent variance application(s). A conditional use permit shall not grant variances to the regulations otherwise prescribed by this title. A variance application(s) may be filed in conjunction with the conditional use application and both applications may be heard at the same hearing.
- B. Additional development standards. The additional dimensional requirements and approval standards for conditional use are as follows:
1. Adult Entertainment:
    - a. No adult entertainment establishment shall be permitted to locate within 500 feet of any:
      - (1) Residential zone;
      - (2) Public or private nursery, preschool, elementary, junior, middle, or high school;

- (3) Day care center, nursery school, resident care facility or hospital;
  - (4) Public library;
  - (5) Public park; or
  - (6) Religious institution.
- b. Distance shall be measured in a straight line, without regard to intervening structures, objects or roads, from the closest point of the structure or portion of structure containing the use, to the closest portion of the residential zone or property line upon which a use specified in paragraph (a) above is listed;
  - c. Any sign shall comply with the sign requirements, Chapter 18.780;
  - d. Hours of operation shall be limited to 10:00 a.m. to 1:00 a.m.;
  - e. All windows less than seven feet from the ground shall be covered or screened in such a manner that the sales area and inventory are not visible from the sidewalk adjacent to the use;
  - f. Doors and windows shall at all times be closed except for normal ingress and egress;
  - g. No amplified or mechanically reproduced sounds shall emanate from the confines of the structure or portion of the structure in which the adult business is operated; and
  - h. All adult entertainment establishments shall comply with all applicable state laws.
2. Motor Vehicle Servicing and Repair:
- a. Setbacks:
    - (1) A five-foot perimeter setback shall surround all outdoor parking and storage areas;
    - (2) Buffer screening shall be provided along the perimeter of all outdoor parking and storage areas as required in Section 18.745.040; and
    - (3) All repair work shall be performed indoors.
3. Fleet Storage:
- a. No buildings or structures are allowed; and
  - b. Setbacks shall comply to those of the underlying zone.
4. Motor Vehicle Sales and Rental:
- a. Five feet of the perimeter setback shall be used for landscaping and screening purposes.

5. Community Recreation and Parks:

- a. All building setbacks shall be a minimum of 30 feet from any property line;
- b. There are no off-street parking requirements, except that five automobile parking spaces are required for a dog park or off-leash area with a fenced area of one acre or more, along with an approved parking plan for anticipated peak use periods. Off-site peak use or overspill parking shall require a signed agreement with the landowner providing the additional parking. Three automobile parking spaces are required for a dog park or off-leash area with a fenced area of less than one acre, along with an approved parking plan for anticipated peak use periods. Off-site peak use or overspill parking shall require a signed agreement with the landowner providing the additional parking.

6. Heliports:

- a. In all commercial and industrial zones, heliports shall be sited in accordance with the ODOT Aeronautics Division requirements and the FAA recommended design guidelines.

7. Vehicle Fuel Sales:

- a. Minimum lot size shall be 10,000 square feet;
- b. Setbacks:
  - (1) The front yard setback shall be 40 feet;
  - (2) On corner and through lots, the setback shall be 40 feet on any side facing a street; and
  - (3) No side or rear yard setback shall be required, except 20 feet where abutting a residential zoning district;
- c. Fuel tank installation shall be in accordance with the Uniform Fire Code; and
- d. Building height shall be the same as applicable zone.

8. Schools:

- a. There shall be no minimum lot size requirements for schools other than what is required for the applicable zoning district;
- b. Setbacks:
  - (1) The front yard setback shall be a minimum of 30 feet;
  - (2) On corner lots and through lots, the setback shall be a minimum of 20 feet on any side facing a street, plus meet visual clearance areas, Chapter 18.795;
  - (3) The side yard setback shall be a minimum of 20 feet; and
  - (4) The rear yard setback shall be a minimum of 30 feet.

9. Religious Institutions:

- a. Minimum lot size shall be 20,000 square feet;
- b. Setbacks:
  - (1) The front yard setback shall be a minimum of 25 feet;
  - (2) On corner lots and through lots, the setback shall be a minimum of 20 feet, plus meet visual clearance areas, Chapter 18.795;
  - (3) The side yard setback shall be a minimum of 20 feet;
  - (4) The rear yard setback shall be a minimum of 20 feet; and
  - (5) Each setback shall be increased five feet for every 10 feet of building height over 45 feet.

10. Medical Centers:

- a. Minimum lot size shall be 20,000 square feet plus 1,000 square feet for each bed over 15 beds;
- b. Setbacks:
  - (1) The front yard setback shall be a minimum of 25 feet;
  - (2) On corner lots and through lots, the setback shall be a minimum of 25 feet, plus meet visual clearance areas requirements, Chapter 18.795;
  - (3) The side yard setback shall be a minimum of 25 feet;
  - (4) The rear yard setback shall be a minimum of 25 feet; and
  - (5) Each setback shall be increased five feet for every 10 feet of building height over 45 feet.

11. Cemeteries:

- a. The minimum lot size shall be five acres;
- b. Setbacks:
  - (1) For graves only:
    - (a) The front yard setbacks shall be a minimum of 15 feet;
    - (b) The side yard setbacks shall be a minimum of 15 feet; and
    - (c) The rear yard setbacks shall be a minimum of 15 feet.

(2) For Structures Only:

- (a) The front yard setbacks shall be a minimum of 25 feet;
  - (b) On corner lots and through lots, the setbacks shall be a minimum of 25 feet on any side facing a street, plus meet visual clearance areas, Chapter 18.795;
  - (c) The side yard setback shall be a minimum of 25 feet; and
  - (d) The rear yard setback shall be a minimum of 25 feet;
- c. Adequate fencing shall be provided. A fence of at least four feet in height located at least 2-1/2 feet from any right-of-way shall completely surround the area and shall meet visual clearance areas; and
- d. There are no off-street parking requirements.

12. Social/Fraternal Clubs/Lodges:

- a. Minimum lot size shall be 20,000 square feet.

13. Major Event Entertainment:

- a. The minimum lot size shall be two acres;
- b. Setbacks:
  - (1) The front yard setback shall be a minimum of 30 feet;
  - (2) On corner lots and through lots, the setback shall be a minimum of 25 feet on any side facing a street, plus meets visual clearance areas, Chapter 18.795;
  - (3) The side yard setback shall be a minimum of 25 feet;
  - (4) The rear yard setback shall be a minimum of 30 feet; and
  - (5) Each setback shall be increased five feet for every 10 feet of building height over 45 feet.
- c. With regard to off-street parking: Exempt, if constructed with a school use for school activities only. Otherwise, requirements shall comply with Section 18.765;
- d. On school sites the use must be entirely within existing building of 10,000 square feet or greater. Expansions based on the original square footage, up to a maximum of 50% may be allowed.

14. Duplexes:

- a. The minimum lot size shall be 10,000 square feet; and
- b. The remaining dimensional requirements of the underlying zoning district shall apply.

15. Group Living:

- a. Minimum lot size shall be 5,000 square feet;
- b. Minimum setbacks shall be those in the applicable zone;
- c. Height limitation shall be that in the applicable zone;
- d. Compliance with all state requirements shall be required; and
- e. Off-street parking shall be in accordance with Chapter 18.765.

16. Emergency Services and Basic Utilities:

- a. Minimum lot size shall be 5,000 square feet;
- b. Minimum setbacks shall be those in the applicable zone;
- c. Height limitation shall be in accordance with Chapter 18.730;
- d. Off-street parking and loading requirement shall be in accordance with Chapter 18.765; and
- e. Screening shall be in accordance with Chapter 18.745.

17. Non-Accessory Parking:

- a. Minimum lot size shall be 5,000 square feet;
- b. Minimum setbacks: for structures: shall be those of the applicable zone; for parking area: five feet around perimeter of paved area for landscaping and screening purposes;
- c. Height limitation shall be that of the applicable zone;
- d. Off-street parking requirements shall be in accordance with Chapter 18.765; and
- e. Screening shall be in accordance with Chapter 18.745.

18. Manufactured/Mobile Home Parks (Also see Chapter 18.750):

- a. Minimum lot size shall be one acre;
- b. Minimum lot dimension:
  - (1) Frontage: 100 feet;
  - (2) Depth: 150 feet;
- c. Minimum setbacks:
  - (1) Front yard: 25 feet;

- (2) Rear yard: 25 feet;
- (3) Side yard: 10 feet;
- (4) Corner yard: 25 feet.
- d. Height limitation shall be that of the applicable zone;
- e. Off-street parking shall be in accordance with Chapter 18.765;
- f. Landscaping shall be equal to 20% of the project area;
- g. Screening shall be in accordance with Chapter 18.745;
- h. Outdoor recreation shall equal a minimum of 60 square feet area, suitably improved for recreational use, for each unit exclusive of required yards. Each recreation area shall have minimum size of 2,500 square feet.

19. Children's Day Care:

- a. Minimum lot size shall be 5,000 square feet;
- b. Minimum setbacks shall be those of the applicable zone;
- c. Height limitation shall be that of the applicable zone;
- d. State certification shall be obtained in accordance with ORS Chapter 418; and
- e. Off-street parking shall be in accordance with Chapter 18.765.

20. Drive-Up Windows:

- a. Minimum lot size shall be as required in the underlying zone.
- b. Minimum setbacks: Where access to the drive-up windows is not separated from abutting properties or a public right-of-way by parking, structures or landscaping, visual screening shall be provided to screen headlights from abutting property and the right-of-way.
- c. Height limitation shall be in accordance with the underlying zone.
- d. Drive-up window reservoir requirement: All uses providing drive-up service as defined by this title shall provide on the same site a reservoir for inbound vehicles as follows in Table 18.765.1 contained in Chapter 18.765, Off-Street Parking and Loading Requirements.
- e. Reservoir Parking: Restaurants providing drive-up window service shall provide at least two designated parking spaces immediately beyond the service window, or provide other satisfactory methods, to allow customers requiring excessive waiting time to receive their food while parked.

- f. Hours of operation: Hours of operation shall be limited for the drive-up window when the property with the drive-up window facility abuts a residential use. In this case, hours of the drive-up window shall be limited to 7:00 a.m. to 9:00 p.m.
- g. Walk-up service: Financial and other commercial establishments providing drive-up window facilities which do not provide for walk-in customer service (i.e., not allowing transactions within the structure) shall provide for safe, convenient and readily-accessible exterior walk-up window service, such as an automatic teller machine, at any time during regular business hours. Additionally, at a minimum, two parking spaces shall be provided allowing convenient access to the walk-up service window.
- h. Emergency exit: The design of the vehicle stacking area serving the drive-up window shall allow customers to leave the stacking line in their vehicle in the event of an emergency.
- i. Pedestrian access: On-site parking for walk-in customers shall be designed so that pedestrians do not have to cross drive-up window stacking lines to any public entrances into the building.
- j. Obstruction of rights-of-way: Establishments having drive-up window facilities shall have sufficient stacking area to insure that public rights-of-way are not obstructed.
- k. Sound systems: Communications sound systems shall not exceed a measurement of 55 decibels at the adjoining property line(s) at any time. (Ord. 07-12) ■