



CITY OF LEBANON

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Lebanon Municipal Code Title 16: Development Code

Article Four: Land Use and development Reviews, Decision Requirements and Procedures

Chapter 16.21: Conditional Uses

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Chapter 16.21: Conditional Use

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CHAPTER 16.21: Conditional Use

16.21.010 INTRODUCTION

The Conditional Use review process, as set forth in this Chapter, can result in the approval of a “land use” and/or “site plan,” and attach a wide range of conditions of approval to either or both.

A. Conditional Use Review

A Conditional Use review is a Quasi-Judicial Review conducted by the Planning Commission with a public hearing (See Chapter 16.20 for review procedure). It applies to all development in the City, as identified for such review in this Code. A Conditional Use review ensures compliance with the land use and development standards in Chapters 16.05 – 16.11 (e.g., lot area, building setbacks and orientation, lot coverage, maximum building height), and the development standards and public improvement requirements in Chapters 16.12 – 16.19 (Community Development Standards).

B. Background

1. There are certain uses which, due to the nature of their potential impacts on surrounding land uses and public facilities, require a public hearing and decision process. These are identified as “Conditional Uses” in LDC Chapters 16.05 – 16.11. A Conditional Use is a use of land or a structure that is normally appropriate in the district where it is permitted, but due to the specifics of the use could cause a potential nuisance, health, or safety problem.
2. This Chapter provides the framework to assure that proposed development of land is in conformance with applicable land use requirements, and is designed in a manner to provide an appropriate level of architectural design and environmental quality, and which will not be detrimental to the public health, safety and general welfare, or detrimental to adjacent properties.
3. The Planning Commission must approve a site plan for each new building, structure, open land use or addition to an existing development prior to issuance of a building permit in all instances where a Conditional Use approval is required.
4. This Chapter provides 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 (see Chapter 16.20 for decision criteria and procedures).

C. Purposes

The purposes of this Chapter are to:

1. Provide standards and procedures so that uses that are classified as conditional uses can fit into a particular zone in a manner so that the best interests of surrounding property, the neighborhood, and the City are safeguarded.
2. Provide rules, regulations and standards for efficient and effective administration of land use and Conditional Use approval.
3. Implement the City's Comprehensive Plan goals and policies.
4. Promote the public health, safety and general welfare.
5. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards.
6. Encourage the conservation of energy resources.
7. Encourage efficient use of land resources, full utilization of urban services, mixed uses, transportation options, and detailed, human-scaled design.

16.21.020 APPLICATION PROCESS

A. Initial Application

An application for a Conditional Use approval shall be processed as a Quasi-judicial procedure. The application shall meet submittal requirements and the decision criteria noted below (also see Chapter 16.20).

B. Modification of an Approved or Existing Conditional Use Approval

Modifications to an approved or existing Conditional Use Approval shall be processed in accordance with Chapter 16.24 (Modifications).

C. Concurrent Variance Application(s)

Approval of a Conditional Use Approval shall not grant variances to regulations otherwise prescribed by this Development Code. A variance application(s) may be filed in conjunction with the Conditional Use application, and both applications may be reviewed at the same hearing. See LDC Chapter 16.29 for variances.

16.21.030 APPLICABILITY

A. Basic Land Uses Requiring Conditional Use Approvals

Conditional Use reviews are indicated as the required decision process for many types of land uses in the various tables in LDC Chapters 16.05 – 16.11. Such reviews are indicated in the tables by a “CU” indicating that a proposed development may be approved if it complies with the identified applicable decision criteria, as determined by the Planning Commission in a Quasi-judicial hearing (See Chapter 16.20).

B. New Development, Redevelopment, and Changes in Use

The Planning Commission must approve a site plan for each new building, structure, open land use or addition to an existing development prior to issuance of a building permit in all instances where Conditional Use approval is required.

C. Natural Features and Cultural/Historical Resources

The Planning Official shall require a Conditional Use Review in the following cases:

1. When the site contains a local, State or Federally inventoried or identified unique cultural, natural or historic resource, or has been included in a Statewide Planning Goal 5 natural or cultural resource inventory.
2. The site is located on a hillside area having a slope of greater than 15 percent.

D. Other Site Characteristics

The Planning Official may also require a Conditional Use Review in the following cases:

1. The site is traversed by a natural drainage way.
2. The site is located in a Riparian or Airport Overlay Zone.
3. The site is located in a natural hazard area, or a regulated floodplain or flood hazard area.

E. Significant Impacts on Transportation Facilities

Site Plans must be prepared and reviewed for all development, redevelopment, and changes in use when it is likely that review under this Chapter indicates the proposed actions will cause significant impacts or affects on transportation facilities as defined in the Glossary (Definitions) of this Code.

F. Consistency with Transportation System Plan

If review under this Chapter indicates that the use or activity is inconsistent with the Transportation System Plan, this Code, or any combination of the preceding, the procedures for Plan and Zoning amendments, as applicable, may be undertaken prior to or in conjunction with the Conditional Use hearing.

16.21.040 REVIEW PROCEDURES

A. Filing of Conditional Use Application

The applicant for a Conditional Use Approval shall file an application with the City on a form provided by the Planning Division. The application shall then be referred to the Planning Official for appropriate action (See Chapter 16.20 for complete details.).

B. Action by the Planning Official

Within 30 days following the filing of the application, the Planning Official shall make a determination of completeness regarding the application, and if deemed complete shall schedule a Planning Commission hearing. (See Chapter 16.20 for complete details.)

Figure 16.21-1: Conditional Use Review



16.21.050 APPLICATION SUBMITTAL REQUIREMENTS

All of the following information is, or may be, required for Conditional Use application submittal:

A. General Submittal Requirements

An application for a Conditional Use Approval shall contain all of the information required for a Quasi-Judicial hearing as per the requirements of Chapter 16.20, and provide additional information as noted in the following Subsections.

1. Public Facilities and Services Impact Study

The Public Facilities and Services Impact Study shall quantify and assess the effect of the development on public facilities and services. The applicant shall consult with the City regarding the scope of the study, including impacts to the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, and the sewer system. For each evaluated public facility system and type of impact, the study shall propose mitigation measures necessary to maintain City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property.

2. Traffic Impact Study

If required by the City Engineer, in consultation with the Planning Official and/or appropriate road authority, Traffic Impact Studies shall conform to the standards and procedures of this Code (Chapter 16.12, Subsection 16.12.010.B).

3. Dedication of Real Property

In situations where this Code requires the dedication of real property to the City, the City's decision shall include written findings that the dedication is related to the nature of the development and is roughly proportional to the projected impacts of the development.

B. Specific Submittal Information Requirements for a Conditional Use Hearing

In addition to the general submittal requirements noted above (16.21.050.A), an applicant for Conditional Use hearing shall provide the following additional information, as deemed applicable by the Planning Official. Redevelopment may trigger requirements similar to but proportional in scope to any and all of those listed below.

1. Site Analysis Map (Existing Conditions)

The professional quality scaled map shall contain at least the following:

- a. The subject property and the surrounding property to a distance (at least 300 feet) sufficient to determine the location of the development in the City, and the relationship between the subject property and adjacent properties and development. The subject property boundaries, dimensions and gross area shall be identified.
- b. Topographic contour lines at 2-foot intervals for slopes of less than 10 percent, and 5-foot intervals for steeper slopes.
- c. Identification of slopes greater than 15 percent.
- d. The location and width of all public utilities, public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the subject property and adjoining the subject property.
- e. Existing land uses.
- f. Identified or potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, ponding, unstable soils, and areas mapped by the City, County, or State as having a potential for geologic hazards.
- g. Mapped, identified, or known natural resource areas, including marsh and wetland areas, streams, designated and/or functioning riparian areas, and wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection.
- h. Site features, including existing structures, pavement, large rock outcroppings, canals and ditches.
- i. Locally, State or federally designated historic and cultural resources on the subject property and adjacent parcels or lots.
- j. The location, size and species of trees and other vegetation having a caliper (diameter) of 12 inches for deciduous trees, and 18 inches for evergreens or greater at four feet above existing grade.

- k. North arrow, scale, names and addresses of all persons listed as owners of record of the subject property.
- l. Name and address and professional certification (stamp) of project designer, engineer, surveyor, and/or planner, if applicable.
- m. Any other relevant and essential information or site details that support and enhance the decision making process of the review body.

2. Proposed Development Site Plan

The site plan shall contain the following information:

- a. The proposed development site, including boundaries, dimensions, and gross area.
- b. Features identified on the existing site analysis maps that are proposed to remain on the site.
- c. Features identified on the existing site map, if any, which are proposed to be removed or modified by the development.
- d. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements, including proposed fire lanes.
- e. The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan.

f. Transportation Elements:

- (1) Off-street parking facilities design for both motor vehicles and bicycles. Such required plans shall, include ingress and egress points, striping plan, number of spaces, and type of bicycle parking facilities, and proper drainage.
- (2) Internal circulation plans for motor vehicles, bicycles and pedestrians for new commercial, industrial, office, and multi-family residential developments. Such required plans shall include:
 - (a) Techniques for achieving efficient access and circulation such as the clustering of buildings, construction of hard surface walk and bike ways, landscaping, accessways, and/or similar techniques.
 - (b) Connections of the site's internal pedestrian and bicycle circulation system with those of existing or planned external pedestrian and bicycle circulation systems.
- (3) The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access.
- (4) The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops).
- (5) Locations and dimensions of all ADA accessible parking and circulation routes.
- (6) Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails.
- (7) Any vehicle access support facilities, such as reader boards, speakers, key entries, or other interactive points.

- g. Access to loading and service areas for waste disposal, recycling, loading and delivery.
- h. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements.
- i. Location, type, height, and illumination area (extent) of outdoor lighting.
- j. Location of mail boxes.
- k. Name and address of project designer, if applicable.
- l. Locations of bus stops and other public or private transportation facilities.
- m. Locations, sizes, and types of signs.
- n. Locations of existing and proposed fire hydrants.

3. Architectural Drawings

Architectural drawings showing one or all of the following shall be required for new buildings and major remodels:

- a. Building elevations (as determined by the Planning Official) with building height and width dimensions.
- b. Roof pitches.
- c. Building materials, colors and type.
- d. Floor plans.
- e. The name of the architect or designer.

4. Preliminary Grading Plan

- a. A preliminary grading plan prepared by an Oregon licensed engineer shall be required for development sites ½ acre or larger.
- b. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed.
- c. The development of a site is not permitted to adversely impact the historic surface drainage patterns of adjacent properties.
- d. Surface water detention and treatment plans may also be required, in accordance with Subsections 16.16.040.F and 16.16.040.G of this Code.

5. Landscape Plan

A landscape plan shall be required and shall include at least the following:

- a. The location, size, and species of the existing and proposed plant materials (at time of planting and at time of maturity).
- b. The location and height of existing and proposed fences, buffering or screening materials.
- c. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play-areas.
- d. Existing and proposed building and pavement outlines.
- e. Specifications for soil at time of planting, irrigation if plantings are not drought-tolerant (may be automatic or other approved method of irrigation) and anticipated planting schedule.
- f. An arborist's report may be required for sites with mature trees that are to be protected and retained under the provisions of Chapter 16.15 (Landscape, Street Trees, Fences and Walls) of this Code.
- g. Other information as deemed appropriate by the Planning Official.

6. Signage Detail Drawings

Detailed signage drawings shall be required in conformance with the City's Sign standards (LDC Chapter 16.18), and shall include design features, methods of construction, as well as proposed illumination.

7. Deed and Use Restrictions and Other Encumbrances

Copies of all existing and proposed restrictions or covenants, including those for access control.

8. Traffic Impact Analysis Study

When required, shall be prepared in accordance with the provisions of this Code (Chapter 16.12, Subsection 16.12.010.B).

9. Narrative

Letter or narrative report documenting compliance with the applicable decision criteria contained in Section 16.21.060 of this Chapter.

10. Phasing Plan

A Phasing plan shall be submitted when development is proposed to take place in phases, and shall include appropriate staging plans.

11. Other information

As determined by the Planning Official, the City may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., noise, environmental features, natural hazards, etc.), in conformance with this Code.

16.21.060 APPROVAL OF A CONDITIONAL USE REQUEST

Uses listed in this Code as requiring Conditional Use Approval may be permitted, altered or expanded when in conformance with the standards and procedures set forth in this Chapter and other relevant Sections of this Code.

A. Decision Criteria

The City shall approve, approve with conditions, or deny an application for a Conditional Use or to enlarge or alter a Conditional Use approval based on findings of fact with respect to each of the Decision Criteria (standards and use criteria) listed below.

1. Use Criteria

- a. The application complies with all of the applicable provisions of the underlying Land Use Zones (LDC Chapters 16.05 – 16.11), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other special standards as may be required for certain land uses.
- b. 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, odor, dust, visibility, safety, and aesthetic considerations.
- c. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval.
- d. All required public facilities have adequate capacity to serve the proposal.
- e. Existing conditions of approval required as part of a prior land use decision shall be met.
- f. The applicant shall be required to upgrade any existing development that does not comply with the applicable land use district standards, in conformance with Chapter 16.30, Non-Conforming Uses and Development.
- g. **Existing Uses:** In the case of a use existing prior to the effective date of this ordinance and classified in this Code as requiring a Conditional Use Hearing, a change in use, or in lot area or an alteration or enlargement of a structure shall conform to the requirements for Conditional Use review.

2. Community Development Standards

The application complies with all of the Community Development Standards in LDC Chapters 16.12 – 16.19.

B. Conditions of Approval

In approving a Conditional Use application, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this Code, additional conditions that are determined to be necessary to assure that the proposed development meets the decision criteria established in Section 16.21.060.A, as well as the best interests of the surrounding properties, the neighborhood, and the City as a whole. These conditions may include, but are not limited, to the following:

1. Requiring larger setback areas, lot area, and/or lot depth or width.
2. Regulating time periods for the conduct of certain activities. Limiting the hours, days, place and/or manner of operation.
3. Limiting the building or structure height, size or lot coverage, and/or location on the site.
4. Regulating yard dimensions and the height of buildings to protect solar access.
5. Controlling the location and number of vehicle access points. Designating the size, number, location and/or design of vehicle access points or parking areas.
6. Requiring dedication of additional street right-of-way or increasing the street width. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved.
7. Increasing the number of required off-street parking or off-street loading spaces.
8. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas.
9. Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
10. Requiring and designating the size, height, location and/or materials for fences.
11. Limiting the number, size, location and lighting of signs.
12. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting.
13. Designating sites for open space or outdoor recreation areas.
14. Requiring ongoing maintenance of buildings and grounds, including the provision of an irrigation system.
15. Regulating noise, vibration, odors and similar factors that may have a substantial negative effect on the development of the surrounding area.
16. Requiring site, and architectural or building design features that minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust.
17. Providing internal property improvements such as utilities, drainage facilities, streets, curbs, gutters, walkways, parking areas, landscaping, fencing, screening, or recreation areas in order to enhance the area and to protect adjacent or nearby property.

18. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance.
19. Requiring the protection and preservation of existing trees, soils, vegetation, riparian zones, watercourses, habitat areas, drainage areas, historic resources, cultural resources. [Site development incentives may be developed by the City to protect significant trees.]
20. Establishing a limited duration for which the Conditional Use is approved.
21. Requiring the providing of public improvements such as streets, sidewalks, public utility facilities, drainage facilities and other basic services that are directly benefiting the proposed development or, requiring participation in an improvement district to insure provision of basic services, parks, or streets and sidewalks directly benefiting the proposed development.
22. Requiring the staggering of units to avoid a barrack-like effect.
23. Requiring the placement of buildings in a manner, that would fully utilize the solar potential of the site or protect the solar access of an adjacent site.
24. Requiring the installation of fire and intrusive alarm systems.
25. Requiring the dedication or granting of an easement (maintenance and access) adjacent to any drainage ways and over existing or proposed public utilities.
26. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the adopted plans, or requiring the recording of a local improvement district non-remonstrance agreement for the same.

C. Additional Transportation Access-Related Issues

If applicable, proposed Conditional Use development impacting transportation facilities, requires that the applicant shall address the following access criteria:

1. **Access Placement Criteria:** Access shall be properly placed in relation to sight distance, driveway spacing, and other related considerations, including opportunities for joint and cross access.
2. **Road/Street System and Building Access:** The road/street system shall provide adequate access to the buildings for the appropriate users, such as residents, visitors, patrons, employees, service and delivery vehicles, and emergency vehicles.
3. **Pedestrian and Bicycle Facilities:** An internal system of sidewalks and/or pathways for pedestrians and bicyclists shall provide connections to both motor vehicle and bicycle parking areas, and entrances to the development and its buildings, as well as open space, recreational and other community facilities associated with the development. Streets shall have sidewalks on both sides, unless other configurations have been approved. Pedestrian and bicycle linkages shall be provided to the peripheral street system.
4. **Consistency with Transportation System Plan:** All access shall be consistent with the access management standards of this Code (see Chapter 16.12), which are in turn consistent with those of the City's Transportation System Plan.

16.21.070 BUILDING PERMITS FOR APPROVED CONDITIONAL USE REQUESTS

Building permits for all or any portion of a Conditional Use shall be issued only on the basis of the approved Conditional Use. A building permit may not be issued until the applicant has signed a form stating that they are aware of any and all conditions placed upon the proposed development.

16.21.080 DEVELOPMENT IN ACCORDANCE WITH PERMIT APPROVAL

- A.** Construction of public improvements shall not commence until the City has approved all required public improvement plans and issued public improvement permits (e.g., utilities, streets, public land dedication, etc.).
- B.** Development shall not commence until the applicant has received all of the appropriate land use and development approvals (i.e., Conditional Use approval), building permits, and other agency approvals.
- C.** The City may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with the provisions of this Code (see Chapter 16.16).

16.21.090 MODIFICATIONS TO APPROVED PLANS AND DEVELOPMENTS

Minor modifications of an approved plan or existing development, as defined in Chapter 16.24, shall be processed as an Administrative Review procedure. Major modifications, as defined in Chapter 16.24, shall be processed as an Administrative or Quasi-Judicial Review procedure and shall require a Conditional Use Hearing (see Chapter 16.20 for details regarding Review Procedures). For Modification decision criteria, please refer to Chapter 16.24.

16.21.100 EXPIRATION OF AN APPROVED CONDITIONAL USE

See Subsection 16.20.07O.J (Chapter 16.20).

16.21.110 PHASED DEVELOPMENT

Conditional Use approval may also include approval of Phasing for a development, subject to the following standards and procedures:

A phasing plan shall be submitted with the Conditional Use application.

- A.** The Planning Commission may approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than 5 years without reapplying for Conditional Use approval.
- B.** Approval of a phased Conditional Use requires that the public facilities required to serve each phase are constructed in conjunction with or prior to each phase.
- C.** An application for phasing may be approved after Conditional Use approval as a modification to the approved plan, in accordance with the procedures for modifications (Chapter 16.24).

16.21.120 TERMINATION OF A CONDITIONAL USE APPROVAL

A Conditional Use Approval may be revoked or modified by the Planning Commission, after a public hearing initiated by the City, on any one or more of the following grounds:

- A.** Approval of the Conditional Use was obtained by fraud or misrepresentation.
- B.** The use for which approval was granted has ceased to exist.
- C.** The use does not meet the conditions specifically established in the Conditional Use Approval.
- D.** The use is in violation of any provision of this Code or of any other applicable statute, ordinance, or regulation.