



Conditional Use Permit

General Information

A conditional use is a use which is acceptable as a land use activity in a particular zone, but due to certain aspects of the activity certain conditions are necessary to ensure compatibility with adjacent properties. Conditional Use applications are reviewed in accordance with the Type II review procedures.

Review Criteria

Conditional Use Permits are approved when the applicant provides evidence substantiating that all the requirements of the Code related to the proposed use are satisfied. The conditional use must be listed as a conditional use in the underlying district, the characteristics of the site must be suitable for the proposed use, the proposed development must be timely for the area affected by the use and the proposed use cannot alter the character of the surrounding area.

Submittal Requirements

This information must be reproduced so please print clearly using black or blue ink. Be sure to address *ALL* of the following requirements.

- One (1) copy of the Conditional Use Permit application form with signatures of all property owners. Original signatures for all property owners must be provided.
- One (1) copy of the deed for each lot involved, including a legal description of the property.
- One (1) copy of the title report for each parcel or lot involved.
- Two (2) copies of a Preliminary Site Plan, that show all of the following:
 - Existing structures on properties involved, include combined square footage
 - Existing and proposed impermeable surfaces (parking lots, concrete slabs, driveways etc.)
 - Existing and proposed property lines, dimensions, square footage and areas of properties involved
 - Existing easements and/or proposed easements
 - Setbacks to existing and proposed property lines
 - Existing or proposed public services (i.e. water, sewer, telephone, cable, electrical, storm drainage, etc.)
 - The location of existing or planned streets and/or right-of-ways adjacent to the subject properties
 - Size, shape, location, topography and natural features of existing and/or planned property improvements
 - Existing natural hazards on the proposed and surrounding properties
 - Existing natural resources on the proposed and surrounding properties
 - Map and tax lot numbers or tax account numbers for subject properties
 - North arrow
 - Scale (the preferred scale is 1 inch equals 20 feet) on paper a minimum size of 11 x 17
- One (1) copy of a detailed landscaping plan showing all existing and proposed landscaping.
- One (1) copy of a natural hazards plan, explaining compliance with all requirements of each hazard.
- One (1) copy of a natural resources plan, listing the steps that will be taken to protect these resources.
- One (1) copy of a drainage plan.
- Contact information for all development consultants (engineering, planning etc.).
- Application Fee made payable to the City of Dayton.
- Narrative addressing all code criteria applicable to the application.

Process

The City of Dayton and the Dayton Planning Commission will use the information provided by the applicant to analyze the merits of the application and submittal information. Decisions to approve or deny the application is based on how well the applicant meets the standards and criteria set forth in the Dayton Land Use and Development Code.

Conditional Use Permits are reviewed in accordance with the Type II review procedures specified in Section 7.3.202.02 of the Land Use and Development Code and complete requests typically take eight to ten weeks to process.



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Process

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Conditional Use Permit Application

416 Ferry St - PO Box 339
 Dayton OR 97114
 Ph # (503) 864-2221
 Fax # (503) 864-2956
www.daytonoregon.gov
cityofdayton@daytonoregon.gov

For City of Dayton use:

Date Notice Received:	Received By:	File Number:
Public Hearing Date:	Fee Amount:	Deposit Amount:
Public Hearing Notice Mail Date:	Decision Date:	<input type="checkbox"/> Approved <input type="checkbox"/> Denied

Applicant Information:

Applicant Name: _____

Mailing Address: _____ City: _____ ST: _____ Zip: _____

Phone Number: _____ Email: _____

Site Address or Location: _____

Property Owner Information:

Property Owner(s): _____

Address: _____ City: _____ ST: _____ Zip: _____

Phone: _____ Email Address: _____

Property Information:

Existing Zoning: _____ Historic Property: Yes No Map & Tax Lot #: _____

Property Underlying District: _____ Comprehensive Plan Designation: _____

List All Property Deed Covenants and Restrictions: _____

Proposed Conditional Use (Be specific): _____

Property Owner Signanture: _____ Date: _____

Property Owner Signanture: _____ Date: _____

I/We the above signed Property Owner(s), consent to the proposed conditional use to our property as indicated on this application.

For Office Use

Fee:	Amount Paid:	Date Paid:	Receipt #
Applicant Notification Date:	Comments:		
Professional Services Amount:	Date Paid:	<input type="checkbox"/> Planner	<input type="checkbox"/> Engineer <input type="checkbox"/> Staff Time

Criteria for Approval:

Is the proposed use listed as a conditional use in the underlying district? _____

Please explain: _____

Are the characteristics of the site suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features? Please explain:

Is the proposed development timely, considering the adequacy of transportation systems, public facilities and services, existing or planned development for the area affected by the use? Please explain:

Will the proposed use alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district? Please explain:

Additional Information: _____

TITLE 7: LAND USE AND DEVELOPMENT CODE
SECTION 7.3.1 - APPLICATION REQUIREMENTS AND REVIEW PROCEDURES

7.3.107 **CONDITIONAL USE PERMITS**

7.3.107.01 **Purpose**

A conditional use is a use which is generally acceptable as a land use activity in a particular zone, but due to certain aspects of the activity, buffering, screening, time limitations or other conditions are necessary to ensure compatibility with adjacent property. Conditional uses are assumed permitted uses unless conditions to ensure their compatibility cannot be established.

7.3.107.02 **Review and Approval Process**

Conditional Use applications shall be reviewed in accordance with the Type II review procedures specified in Section 7.3.201.

7.3.107.03 **Application and Fee**

An application for a Conditional Use Permit shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

7.3.107.04 **Criteria for Approval**

Conditional Use Permits shall be approved if the applicant provides evidence substantiating that all the requirements of this Code relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

- A. The use is listed as a conditional use in the underlying district.
- B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features.
- C. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services, existing or planned development for the area affected by the use.
- D. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.

TITLE 7: LAND USE AND DEVELOPMENT CODE
SECTION 7.3.2 - ADMINISTRATIVE PROCEDURES

7.3.202.02 Procedures for Type II and Type III Actions

- A. Upon receipt of an application for Type II or Type III land use action, the City staff shall review the application for completeness.
 - 1. Incomplete applications shall not be scheduled for Type II or Type III review until all required information has been submitted by the applicant.
 - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:
 - 1. Upon receipt of the additional information to complete the application; or,
 - 2. If the applicant refuses to submit the information, the application shall be deemed complete for scheduling purposes only on the 31st day after the original submittal.
- C. Referrals will be sent to affected agencies such as City departments, police and fire departments, school district, utility companies, and applicable state agencies. When a land use development has either direct access or creates an additional 20% average daily traffic on a county road or state highway, then a referral shall be sent to the Yamhill County Public Works Department or ODOT, as appropriate.
- D. The Public Hearing shall be scheduled and notice shall be mailed to the applicant and adjacent property owners. Notice requirements shall comply with Section 7.3.204.
- E. Staff shall prepare and have available within 7 days of the scheduled hearing a written recommendation concerning the proposed action. This report shall be mailed to the applicant and available at City Hall for all interested parties.
- F. The public hearing before the Planning Commission shall comply with the provisions in Section 7.3.205.
- G. Approvals of any Type II or Type III action may be granted subject to conditions and performance agreement requirements.
- H. The applicant shall be notified, in writing, of the Planning Commission's decision or recommendation. In addition, notice of the Commission's decision or recommendation shall be mailed to individuals who request such notice at the public hearing, or, by those individuals who submitted a written request for notice prior to the public hearing.
- I. A Type II land use decision may be appealed to the City Council by either the applicant, persons receiving notice of the decision or the Manager. The appeal shall be filed within 15 days from the date of the decision, pursuant to the provisions of Section 7.3.207. Type III land use applications are automatically reviewed by the City Council.

7.3.204 PUBLIC NOTICE REQUIREMENTS

- 7.3.204.01 Type I Action. Consistent with State statutes, written notice of a Type I decision shall be mailed to the applicant and all property owners, including county and state agencies responsible for road and highways, within 100 feet of the subject property. Written notice for a Type I Action shall include the following:
1. Summary of the request.
 2. Relevant decision criteria.
 3. Findings of fact indicating how the request does or does not comply with the decision criteria.
 4. Conclusionary statement indicating approval or denial of the request including (where appropriate) conditions of approval.
 5. Information regarding the appeal process including who may appeal, where appeal must be submitted, fees and the appeal deadline.
- 7.3.204.02 Type II and Type III Actions. Written notice of any public hearing shall be mailed at least 20 days prior to the hearing date to the applicant and owners of property, including county and state agencies responsible for roads and highways, within 200 feet of the boundaries of the subject property.
- 7.3.204.03 Type IV Actions. Written notice of a hearing before the Planning Commission or City Council hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than 10 days prior to the date of the hearing before the Planning Commission and City Council.
- 7.3.204.04 Notice for Appeals. An appeal to either Planning Commission or City Council shall include written notice at least 10 days prior to hearing to the appellant, the applicant and any other individuals who received notice of the original decision.
- 7.3.204.05 Public Hearing Notice Requirements. Notice for any public hearing, including appeals, shall include the following:
- A. Explain the nature of the application and the proposed use or uses which could be authorized.
 - B. Cite the applicable criteria from the Code and the plan which apply to the application at issue.
 - C. Set forth the street address or other easily understood geographical reference to the subject property.
 - D. State the date, time and location of the hearing.
 - E. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient detail to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Appeals Board of Appeals.
 - F. Include the name and phone number of the City representative where additional information may be obtained.
 - G. State that a copy of the application, all documents and evidence relied upon by the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost.
 - H. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost.
 - I. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.

7.3.205 PUBLIC HEARING BEFORE THE PLANNING COMMISSION

7.3.205.01 General Provisions

- A. Land use actions which require a public hearing by the Planning Commission under the provisions of this Code shall be initially heard within sixty (60) days of the receipt of an application or appeal.
- B. The Planning Commission may continue a public hearing for additional, information, testimony or for decision only, to its next regular meeting or to a special meeting. In no instance, however, shall the decision be continued more than sixty (60) days beyond the initial hearing date.
- C. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing.
- D. Appeal of a Type I action shall be heard by the Planning Commission. The decision of the Commission on such appeal shall be final unless further appealed to the City Council.
- E. The decision of the Planning Commission on applications for Type II actions shall be final unless appealed to the City Council pursuant to Section 7.3.207.
- F. The recommendations of the Planning Commission on applications for Type III or Type IV actions shall be referred to the City Council for final determination.
- G. An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) may be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient specificity so as to afford the decision authority, and affected parties, an adequate opportunity to respond to each issue.

7.3.205.02 Public Hearing Procedures. The public hearings before the Planning Commission shall be conducted according to hearings procedures adopted by City Council resolution.

7.3.205.03 Evidence

- A. All evidence offered and not objected to may be received unless excluded by the Planning Commission on its own motion. Evidence may be received subject to a later ruling as to its admissibility.
- B. The Planning Commission may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence; but erroneous admission of evidence by the Commission shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. Any part of the evidence may be received in written, recorded, video tape or other suitable form.
- C. All evidence shall be offered and made part of the public record.
- D. Every party is entitled to an opportunity to be heard and to present evidence.
- E. All interested persons shall be allowed to testify.

7.3.205.04 Record of Hearing. A verbatim record of the proceeding shall be made by written, mechanical or electronic means, which record need not be transcribed except upon review of the record.

7.3.205.05 Limits on Oral Testimony. The Planning Commission Chair may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing.

7.3.205.06 Exhibits. All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be retained by the City.

7.3.207 APPEAL PROVISIONS

7.3.207.01 Appeal Period

- A. The decision of the City Manager shall be final for a Type I land use decision unless a notice of appeal from an appropriate aggrieved party is received by the City within 15 days of the date the final written notice is mailed. An appeal stays the proceedings in the matter appealed until the determination of the appeal.
- B. The decision of the Planning Commission for a Type II land use decision, or the appeal of a Type I decision, shall be final unless a notice of appeal from an aggrieved party is received by the City within 15 days of the date the final written notice is mailed. An appeal stays the proceedings in the matter appealed until the determination of the appeal.

7.3.207.02 Form of Appeal. Appeal requests shall be made on forms provided by the City. Appeals shall state the alleged errors in the original action.

7.3.207.03 Notice Requirements. Notice of public hearings by the Planning Commission or City Council on an appeal shall be as specified in Section 7.3.204.

SECTION 2: LAND USE AND PLANNING

City of Dayton Land Use and Planning Fees

Resolution: 2016/17-01

Effective: September 6, 2016

Adopted: September 6, 2016

TYPE OF LAND USE ACTION	APPLICATION FEE
Annexation	\$1500
Appeal from Planning Commission Decision	\$250
Appeal from Administrative Decision	\$250
Boundary/Lot Line Adjustment	\$300
Comprehensive Plan Amendment	\$1,500
Comprehensive Plan or Zoning Ordinance Text Amendment	\$1,500
Conditional Use Permit	\$1,850
Development Agreements	\$700
Historic Landmark Clearance / Building Alteration	\$100
Historic Landmark Notice of Delay	No Fee
Manufactured Home Park	\$4,300
Multiple Applications	100% of most expensive + 50% of all others
Nonconforming Use	\$450
Partition - Major	\$1,300
Partitions - Minor (Administrative)	\$1,250
Planned Development	\$4,000
Planned Development Amendment	\$300
Pre-Application Meeting	No Fee
Reimbursement District	\$1,000
Restricted Development Review	\$500
Sign Permit - Exterior	\$100
Similar or Temporary Use Permit	\$450
Site Plan/Design Review	\$1,200
Subdivision	\$4,000 +\$20 per/lot
Time Extensions	50% of original application cost
Transcripts	Actual costs of time to prepare
Urban Growth Boundary Amendment	\$2,100
Variance - Major	\$700
Variance - Minor (Administrative)	\$350
Zone Change	\$2,000

Note: The above fees and deposits are an estimate of the costs to process land use applications. **Applicants are responsible for paying the actual costs associated with processing their application,** including but not limited to, time for initial review by staff, costs of required public notices, City Planner review, Engineering and Public Works review and/or inspection and legal services.