

CHAPTER 119
CONDITIONAL USES

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119.010. GENERAL CONCEPT. A conditional use is an activity which is basically similar to other uses permitted in the zone, but due to some of the characteristics of the conditional use, which are not entirely compatible with the zone, such use could not otherwise be permitted in the zone. Review of the proposed conditional use by the Planning Director and/or a public hearing and review by the Hearings Officer will ensure that the use will be in consonance with the purpose and intent of the zone. [Amended by Ordinance #88-21, dated November 30, 1988.]

119.020. APPLICATION. An application for a conditional use may be filed by the following only:

- (A) The owner of the property.
- (B) A purchaser thereof under a duly executed written contract when he states that he is the contract purchaser on the application and the seller consents in writing to such application.
- (C) A lessee in possession of the property and the owner consents in writing to such application.
- (D) Or the agent for any of the foregoing when duly authorized in writing by the property owner and the agent states on the application that he is the duly authorized agent.

The application for a proposed conditional use, or to enlarge, expand, or alter a conditional use shall be on a form provided by the Planning Director and shall contain such information as the Hearings Officer or Planning Director feels is necessary to fully assess the effect of the conditional use on the surrounding area.

[Amended by Ordinance #88-21, dated November 30, 1988.]

119.025. ADMINISTRATIVE REVIEW. Conditional use applications shall be processed as a Type B procedure pursuant to Section 110.240, unless otherwise specified by the Zoning Ordinance.

119.030. POWER TO HEAR AND DECIDE CONDITIONAL USES. The Hearings Officer or Planning Director (refer to Section 111.240) shall hear and decide only those applications for conditional uses, their expansion or alteration, which are listed in this ordinance. The Hearings Officer or Planning Director shall decide whether or not the conditional use may be placed in the zone and may impose the conditions listed below, subject to the restrictions and provisions of this ordinance. [Amended by Ordinance #88-21, dated November 30, 1988.]

119.040. HEARINGS. Hearings where required shall be held per Chapter 111. [Amended by Ordinance #88-21, dated November 30, 1988.]

119.050. CONDITIONAL USE AND CONCURRENT VARIANCES. Variances may be processed concurrently and in conjunction with a conditional use application and when so processed will not require an additional public hearing or additional filing fee.

119.060. CONDITIONS. The Hearings Officer or Planning Director may prescribe restrictions or limitations for the proposed conditional use, but may not reduce any requirement or standard which is specifically required by this ordinance to be included as a condition to the use. Any reduction or change of other requirements of the ordinance must be considered as varying the ordinance and must be requested as a concurrent variance request, as described in Section 119.050. The Hearings Officer or Planning Director shall impose conditions only after it has been determined that such conditions are necessary for the public health, safety or general welfare, or to protect persons working or residing in the area, or the protection of property or improvements in the area. The Hearings Officer or Planning Director may prescribe such conditions as are necessary to fulfill the purpose and intent of this ordinance. [Amended by Ordinance #219, dated September 22, 1978, and by Ordinance #88-21, dated November 30, 1988.]

119.070. FINDINGS OF THE HEARINGS OFFICER OR PLANNING DIRECTOR.

Before granting a conditional use, the Hearings Officer or Planning Director shall determine:

- (A) That he or she has the power to grant the conditional use.
- (B) That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone.
- (C) That such conditional use, as described by the applicant, complies with any specific provisions for such a use as provided by the zone or by Section 119.150.
- (D) That the imposition of conditions is deemed necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood. [Amended by Ordinance #88-21, dated November 30, 1988.]

119.075 NOTICE OF HEARINGS OFFICER OR PLANNING DIRECTOR DECISION.

Notice of the decision by the Planning Director or Hearings Officer regarding s conditional use application shall be provided as required by Section 111.270, unless otherwise specified by the Zoning Ordinance.

119.080. EFFECTIVE DATE OF CONDITIONAL USE. Conditional Uses granted by the Hearings Officer or Planning Director under the provisions of this ordinance shall not be effective until 10 days after the mailing of the notice of decision or after the regular meeting of the Polk County Board of Commissioners following such mailing, whichever is later. However, if the matter has been called up by the Board under Section 111.290, or the matter has been appealed under Section 111.280, the land use action does not become effective until the Board has taken final action.

119.090. CONDITIONAL USE MUST BE EXERCISED TO BE EFFECTIVE. A

Conditional use granted under this ordinance shall be effective only when the exercise of the right granted thereunder shall be commenced within one (1) year after the effective date of that conditional use, unless a longer period be specified or thereafter allowed by the Hearings Officer or Planning Director. In case such right has not been exercised, or extension obtained, the conditional use shall be void. A written request for an extension of time filed with the Planning Director at least 30 days prior to the expiration of the application shall extend the running of the one year period until the Planning Director has acted on said request.

119.100. CESSATION OF CONDITIONAL USE. Discontinuance of the exercise of any right heretofore or hereafter authorized for any conditional use for a continuous period of six (6) months shall be deemed an abandonment of such conditional use.

119.110. TRANSFER OF CONDITIONAL USE. Any valid conditional use granted pursuant to this ordinance is transferrable unless otherwise provided at the time of the granting of such conditional use.

119.120. APPEAL TO THE BOARD OF COMMISSIONERS. An appeal may be taken to the Board of Commissioners by any person whose interests are adversely affected or who is aggrieved by the determination of the Hearings Officer or Planning Director on an application for a conditional use. Such an appeal shall be filed in accordance with the provisions of Section 111.280 of the Zoning Ordinance.

The Board of Commissioners shall review the action of the Hearings Officer or Planning Director, conduct a public hearing, and render a decision as prescribed in Chapter 111 of the Zoning Ordinance.

119.130. RESUBMISSION OF CONDITIONAL USE APPLICATION. No portion of a conditional use application which has been denied by the Hearings Officer, Planning Director, or

by the Board of Commissioners shall be resubmitted within a period of one year after such denial. This section does not prevent resubmission of applications withdrawn prior to approval or denial, upon payment of the fee prescribed for a new application.

119.140. REVOCATION OF CONDITIONAL USE PERMIT. Any conditional use permit granted under this Ordinance may be canceled by the Hearings Officer, Planning Director, or Board of Commissioners if it develops or is ascertained that the application therefore contains any false statements. In case of such cancellation, the matter may be referred to the County Counsel for an opinion. In such case, it shall be unlawful for any person to exercise any right granted by the Hearings Officer, Planning Director, or the Board of Commissioners pursuant to such application.

119.150. SPECIFIC CONDITIONAL USES.

- (A) **Manufactured Home Parks.** After holding a public hearing pursuant to Chapter 111 of the Zoning Ordinance, the Hearings Officer may permit a manufactured home park to be located in the RL, RM, RH or CO zone as a conditional use, subject to the conditions and provisions herein set forth. Without qualifying as a conditional use, manufactured home parks may be located in the CR, CG, or IC zone, subject to the minimum requirements set forth in subsections (1) and (3). The intent of this section is to permit, after appropriate review, and subject to minimum standards and conditions, the construction of new manufactured home parks only as a form of multi-family or apartment-type facilities. It is not the intent of this section to regulate the placement of individual manufactured homes or vacation trailers on separate, individual lots, either separately or in conjunction with a dwelling or any other building in the RM zone.
 - (1) **Minimum Requirements.** All newly developed manufactured home parks and additions to existing manufactured home parks in CR, CG or IC zones are subject to the minimum standards and conditions set forth in this section. The Hearings Officer may prescribe such additional conditions for manufactured home parks in an RL, RM, RH or CO zone as the particular circumstances may require for the protection of the health, safety and welfare of the residents in the vicinity of the development consistent with the intent and provisions of this ordinance.
 - (a) **Density:** The maximum density of a manufactured home park shall not exceed 12 manufactured homes per gross acre.
 - (b) **Minimum Area:** No manufactured home space shall contain less than 2,000 square feet and the average area of all manufactured home spaces within a manufactured home park shall not contain less than 3,000 square feet and no yard, area, driveway, play area, service area or other area required by this ordinance shall be considered as providing any part of the required manufactured home space.
 - (c) **Yards:**
 - (i) Adjacent to any street, there shall be a yard of at least 20 feet in depth, measured from the street right-of-way line of such street, unless such yard be adjacent to a street with a special setback line, as described in Chapter 112 of the Zoning Ordinance, in which case the greater requirement shall prevail.
 - (ii) Adjacent to any property line, other than along a street, there shall be a building, dwelling or other main building for the first story of such building. Accessory buildings may occupy not more than 25 percent of such yard area and may not come closer than five (5) feet to any property line or exceed 15 feet in height.

- (d) Driveways: All driveways shall be paved with an asphaltic material or concrete and shall be properly drained and shall be a minimum width of 20 feet. In addition, if parking along the driveway is to be permitted, there shall be provided a parking lane of a least eight (8) feet in width for each side of the driveway on which parking is to be permitted. As a condition to permitting a manufactured home park, the Hearings Officer may require the erection of signs prohibiting parking when sufficient parking facilities are not provided.
- (e) Parking: There shall be provided at least one (1) automobile parking space for each manufactured home space, plus one (1) additional automobile parking space for every three (3) manufactured home spaces or any portion thereof for guests, visitors, service vehicles and additional automobiles of the tenants of the manufactured home park.
- (f) Walks: Provisions shall be made for hard-surfaced, well-drained walks, not less than 30 inches in width, from each manufactured home space to the park service building and to a paved street.
- (g) Lighting: There shall be provisions for adequate night lighting of common driveways and walks in the manufactured home park.
- (h) Play areas: If the manufactured home park accommodates children under 14 years of age, there shall be provided a separate play area restricted to that use. At least 100 square feet of play area shall be provided per manufactured home space; provided, however, that no such play area, regardless of the number of manufactured home spaces, shall be less than 2,500 square feet. The play area will be protected from all streets, driveways, and playing areas by a fence, or the equivalent, at least 30 inches in height.
- (i) Fences: The Hearings Officer may require that an ornamental fence, wall, or hedge be established and maintained between the manufactured home park and other land use.
- (j) Signs: Sign requirements shall be the same as for an apartment house in the RM zone.
- (k) Street Names: If the private driveways are to be named and street addresses assigned to the individual manufactured home space, they will be named and numbered in accordance with the ordinances of the County.
- (l) Water, sewer and surface drainage: Adequate provisions shall be made for an ample supply of safe and potable water, and adequate provisions shall be made for sewage disposal and surface drainage and plans for such must have prior approval of the Environmental Health Department and Director of Public Works/County Engineer, before an manufactured home park is approved as a conditional use by the Hearings Officer.
- (m) Minimum width: No manufactured home space shall be less than 30 feet in width at its driveway frontage.
- (n) Boundaries of Space: The boundaries of each manufactured home space shall be clearly defined and marked by a fence, planting or other suitable means approved by the Hearings Officer or by clearly visible, permanent markers at each corner of the space.
- (o) Minimum Distances: Exclusive of trailer hitches, which shall not project beyond the manufactured home space, the minimum distance between a manufactured home and:

- (i) Any other manufactured home shall be 15 feet.
 - (ii) Any building, except when attached to the manufactured home, shall be ten (10) feet.
 - (iii) Any property line (excluding manufactured home space boundaries) shall be ten (10) feet.
 - (iv) Any public street shall be 20 feet.
 - (v) Any common driveway or common walk (excluding those in a manufactured home space) shall be five (5) feet.
- (p) Manufactured home space coverage: Not more than 40 percent of a manufactured home space may be occupied by a manufactured home and any other structures used in conjunction with such manufactured home whether or not it is attached to the manufactured home.
 - (q) Addition to manufactured homes: Carports, cabanas, ramadas, awnings and all other structures, whether defined herein or not, which are situated upon a manufactured home space, shall conform to the requirements of the county building code and Environmental Health Department regulations. Such additions and structures shall be considered as a portion of the manufactured home for determining the extent of lot coverage, setback lines and all other requirements for manufactured homes in like manner as if such additions and structures were a part of such manufactured home.
 - (r) Patio: Each manufactured home space shall have a slab or patio of concrete, asphalt or flagstone or similar substance not less than 20 feet in length and six (6) feet in width adjacent to each manufactured home parking site.
 - (s) Parking of manufactured homes: manufactured home parks in an RL, RM, RH or CO zones may accommodate only manufactured homes and not vacation trailers, except for storage. A manufactured home shall not remain overnight in a manufactured home park unless it is parked in a manufactured home space. Not more than one (1) manufactured home will be parked at one time in a manufactured home space.
- (2) **EXPANSION OR ALTERATION OF MANUFACTURED HOME PARKS.** Existing manufactured home parks may be expanded or altered after approval is obtained from the Hearings Officer. The application, filed by the owner or other part in interest, will be filed and processed in the same manner as an application for a new manufactured home park. The Hearings Officer, in granting permission for expansion of any existing park, shall require that those portions of the existing park which do not meet the minimum standards be brought to these minimum standards. The Hearings Officer may attach such conditions to the granting of permission to expand the manufactured home park as will ensure that the existing park will meet the established standards.
 - (3) **BUILDING CODE AND BUILDING PERMITS.** All structures within a manufactured home park shall comply with the provisions of the County building code. Building permits shall be obtained prior to construction of any portion of the manufactured home park facilities.
 - (4) **TEMPORARY WAIVERS.** The Hearings Officer may, at the time of the approval of the manufactured home park as a conditional use, grant a temporary waiver of the conditions in Section 119.150 (A) for a maximum time of six (6) months. Such waiver may be renewed by the Hearings Officer

on application by the owner for one (1) additional six (6) month period. Any requests for a permanent waiver shall be considered a request for a variance.

- (5) **VARYING REQUIREMENTS OF THIS AMENDMENT.** The Hearings Officer may, at the time of granting a manufactured home park conditional use, vary one or more of the requirements of Section 119.150 (A) in the same manner as any other provision of this ordinance may be varied as provided in Chapter 122, however, when such variances are requested at the same time as the application for a conditional use is filed, such variance request may be processed concurrently with the conditional use application and will not require an additional filing fee, separate public hearing, or separate notice of public hearing. [Amended by ordinance #88-21, dated November 30, 1988.]
- (B) **Duplex on a Corner Lot.** The Planning Director may permit a duplex on a corner lot as a conditional use in any zone where it is permitted provided:
 - (1) The lot shall have at least 7,000 square feet;
 - (2) Only one (1) dwelling unit of a duplex on a corner lot shall be permitted to face upon any one (1) street, and that the second unit shall face upon the intersecting street;
 - (3) The yards adjacent to any public right-of-way shall be 20 feet in depth; and
 - (4) The rear yard may be 14 feet in depth for a one (1)-story duplex and 20 feet in depth for a two (2)-story duplex, which yard may be provided adjacent to either interior lot line.
- (C) **Boat, Camper and Trailer Storage Area or Lot.** The Planning Director may permit a boat, camper, and trailer storage area or lot as a conditional use in any zone where it is permitted provided:
 - (1) No sales area, retail business, or service may be operated in connection therewith, nor shall any substantial maintenance or repair of any vehicle or equipment stored thereon be conducted on the premises, whether by the owner or otherwise, unless such work be performed wholly within a building;
 - (2) The front yard and any other yard adjacent to a street shall be landscaped with an evergreen ground cover; further, that this landscaping shall be adequately and permanently maintained;
 - (3) Any ornamental sight-obscuring fence, or wall, having a height of at least six (6) feet, or a compact evergreen hedge not less than three (3) feet in height when planted and capable of reaching at least six (6) feet within three (3) years be placed at the front yard setback line and at the setback line of any other yard adjacent to a street, and along all other property lines; provided, however, that the Planning Director may require additional screening and landscaping where topography or other special conditions indicate such to be necessary to adequately screen the area;
 - (4) The lot be paved in conformity with Section 112.280, with an oiled mat or gavelled and maintained in a manner so that dust shall be reasonably controlled;
 - (5) Lighting shall be so oriented to not shine or reflect upon abutting properties nor into the travelling lanes of any street in such a manner so as to constitute a nuisance;
 - (6) Any building used in conjunction with the storage lot shall conform to all yard setbacks as for the main buildings in the SR zone, and said building shall be architecturally designed and constructed of materials compatible with the residential development of the subdivision or neighborhood; and

(7) The area be operated by a non-profit neighborhood homeowners association.
[Amended by Ordinance #88-21, dated November 30, 1988.]

- (D) Temporary Use of a Manufactured Home or a Trailer During Certain Hardship Conditions. Notwithstanding any other provisions of this ordinance, the Planning Director may permit the use of a manufactured dwelling on a temporary basis, as a conditional use in the RL, RM, and RH zones during a family hardship condition. Such permit may be granted for a period of not more than two (2) years and may be renewed for successive periods of two (2) years on a proper showing that such hardship condition continues to exist. It is not the intent of this section to subvert the intent of these zones by permitting more than one (1) permanent residence on each property. The Planning Director may, in the granting of the request for the temporary use permit, impose conditions that will preclude the possibility of such temporary use becoming permanent. [Amended by Ordinance #219, dated September 22, 1978 and Ordinance #88-21, dated November 30, 1988. Subsection 120.040 amended by Ordinance #95-12.]

The term "Hardship" means a condition relating to the physical health of the infirm or persons otherwise incapable of maintaining a complete, separate and detached residence apart from their family. Such condition shall be certified by a physician familiar with the individual(s) involved. [Adopted by Ordinance #219, dated September 22, 1978. Amended by Ordinance #95-12, dated December 13, 1995.]

- (E) Custom Cabinet Shop and Sales Firm. The Planning Director may permit a custom cabinet shop and sales firm as a conditional use in any zone where it is permitted provided:
- (1) All activities, including finished products and materials storage, are to be conducted wholly within a building;
 - (2) Loading and unloading operations are conducted throughout the sides of the building which are not abutting, adjacent to, or across a street from any residential or CO zone;
 - (3) All parking, loading and yard areas are maintained in a neat and clean manner;
 - (4) Hours of operations shall be limited from 6:00 a.m. to 6:00 p.m.;
 - (5) All parking and loading areas are paved with an asphaltic or comparable permanent surface;
 - (6) Two (2) percent of the gross lot area shall be landscaped. Detailed landscape plans shall be submitted with the application for approval by the Planning Director; and,
 - (7) Provided that the County Building Official issues a Certificate of Occupancy prior to use of the building and site, after determining that the conditions set forth herein are fully satisfied. In the event such conditions are not continuously met, the Certificate of Occupancy shall be subject to revocation upon 30 days notice. [Amended by Ordinance #88-21, dated November 30, 1988.]
- (F) Church Conference and Campground. A church conference and campground, may be permitted by the Planning Director as a conditional use in any zone where it is permitted. The Planning Director may attach appropriate conditions and grant the application to promote the appropriate integration of the development with the surrounding area. [Amended by Ordinance #88-21, dated November 30, 1988.]
- (G) Rural Transportation Improvements. For transportation uses or improvements listed in Section 136.050(R)(3) through (6) and (14) of Exclusive Farm Use Zone (Chapter 136) and in Sections 177.040(V)(6) through (9) and (17) of the Timber Conservation Zone (Chapter 177), the Planning Director or hearings body shall, in addition to

demonstrating compliance with Section 136.060 or Section 177.050, whichever is applicable:

- (1) Identify reasonable build design alternatives, such as alternatives that are safe and can be constructed at a reasonable cost, not considering raw land cost, with available technology;
- (2) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment, and considering the effects of access to parcels created on farm and forest lands; and
- (3) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

A finding of compliance with subsections (1), (2) and (3) above, may be made for those transportation uses or improvements identified in an acknowledged amendment to the Transportation System Plan to include a refinement plan adopted pursuant to OAR 660, Division 12. The Planning Director or hearings body shall prescribe restrictions or limitations on the transportation use or improvement in order to minimize accessibility to rural lands from the proposed facility and to support continued rural use of surrounding land.” [Amended by Ordinance #01-10, dated November 14, 2001.]