

Article 7 Conditional Uses

Section 7.1 Issuance of Conditional Uses
Section 7.2 Specific District Requirements

7.1 Issuance of Conditional Uses

- A. Intent.** The purpose of this article is to provide for certain uses, which; because of their unique characteristics cannot be distinctly listed as a permitted use in a particular District. The Planning Commission may approve these conditional uses after consideration in each case, of the impact of such uses upon neighboring uses; the surrounding area and the public need for the particular use at the particular location. Limitations and standards are herein established to insure the use's consistency with the character, uses and activities in the district. Before any conditional use shall be approved, the Governing Body shall review the record of the hearing.
- B. Standards.** The Planning Commission, in accordance with the procedures and standards of this UDC, may authorize buildings, structures, and uses as conditional uses in the specific instances and particular districts set forth provided that the location is appropriate, consistent with the Comprehensive Plan, that the public health, safety, morals, and general welfare will not be adversely affected, and that necessary safeguards will be provided surrounding property, persons, and neighborhood values, and further provided that the additional standards of this Article specified as a condition of approval. Unless otherwise specified in this Article or as a condition of approval, the height, yard, lot area, design, environmental, and sign requirements shall be the same as other uses in the district in which the conditional use is located. No conditional use shall be authorized unless the Planning Commission finds that the establishment, maintenance, or operation of the Conditional Use meets the standards set forth in this Article. The burden of proof is on the applicant to bring forth the evidence and the burden of persuasion on all questions of fact that are determined by the Planning Commission.
- C. Criteria.** In order to recommend approval or disapproval of a proposed conditional use permit, the Planning Commission and Governing Body shall determine whether the proposed use is found to be generally compatible with surrounding development and is in the best interest of the City. In making such determination, the Planning Commission and Governing Body may consider all factors they deem relevant to the questions of compatibility and the best interest of the City, including the following:
- a. The extent to which there is a need in the community for the proposed use.
 - b. The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space.
 - c. The nature and intensity of the proposed use and its compatibility with the zoning and uses of nearby properties. Such determination should include the location, nature, and height of structures, walls, fences, and other improvements connected with the proposed use, their relation to adjacent property and uses, and the need for buffering and screening.
 - d. Suitability of the uses of the property without the proposed conditional use permit.
 - e. Length of time the subject property has remained vacant without the proposed conditional use permit.
 - f. The extent to which the proposed use may detrimentally affect nearby property.

- g. The adequacy of ingress and egress to and within the site of the proposed use, traffic flow and control, the adequacy of off-street parking and loading areas, the adequacy of required yard and open space requirements and sign provisions.
- h. The availability and adequacy of required utilities and services to serve the proposed use. These utilities and services include, but are not limited to, sanitary and storm sewers, water, electrical and gas service, police and fire protection, schools, parks and recreation facilities and services, and other similar public facilities and services.
- i. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the proposed use, or present parking problems in the vicinity of the property.
- j. The environmental impacts that the proposed use would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm.
- k. The economic impact of the proposed use on the community.
- l. The relative gain (if any) to the public health, safety, and welfare from a denial of the application for conditional use permit as compared to the hardship imposed upon the conditional use applicant from such denial.
- m. Consistency with the Comprehensive Plan, Capital Improvement Plan, ordinances, policies, and applicable City Code of the City of Edgerton, and the general safety, health, comfort and general welfare of the community.
- n. The recommendation of professional staff. (Ord. 798; 2005)

7.2 Specific District Requirements

A. Districts A-G, R-1, R-2 and R-3.

- 1. Bed and Breakfast.
 - a). Conditions listed in 7.1 (C) above.
 - b). No more than four (4) units for rent.
 - c). Proprietor must reside on the premises.
 - d). Food service limited to a breakfast meal.
 - e). No change or adaptation to the exterior of the structure that would alter the residential appearance.
 - f). Advertising limited to one monument sign no larger than four feet x four feet (4x4').
- 2. In Home Child or Elder Care
 - a). Approved state operating permit.
 - b). No more than 12 children and two supervisors may be employed on the premises.
 - c). The operation must be located in a safe and convenient area that will facilitate the delivery of and pickup of clients.
- 3. Communications Towers Over 60' in Height
 - a). Facility must not be located in an area used or planned for residential purposes.
 - b). The facility must be located a horizontal distance equal to its total height plus 50 feet from any building used for human habitation (other than the principal use), and/or any road.

- c). The applicant must demonstrate the necessity for the tower by demonstrating that this facility cannot reasonably be co-located on an existing tower or structure.
 - d). The applicant shall show that the new tower is designed to accommodate additional antennae equal in number to the applicant's present and future need, and will accommodate two co-located antennae requested by public or private concerns.
 - e.) Submission of an acceptable agreement to remove the tower and or antenna within 180 days after cessation of use.
4. Airport or Landing Strip
 - a). Conditions listed in 7.1 (C) above.
 5. Attendant Care of Nursing Home
 - a). Conditions listed in 7.1 (C) above.
 6. Private Kennels or Animal Sanctuary
 - a). Facility must be located a minimum of 1,000 feet from the nearest residence.
 - b). Operator must maintain a current license.
 - c). Conditions listed in 7.1 (C) above.
 7. Quarries and Sand/Gravel Extraction
 - a). Facility must be located a minimum of 1,000 feet from the nearest residence.
 - b). The road network must be capable of supporting the anticipated truck traffic.
 - c). Conditions listed in 7.1 (C) above.
 8. Camps, Travel Trailer or RV Parks
 - a). Conditions listed in 7.1 (C) above.
 9. E.C.H.O (Elderly Cottage Housing Opportunity) Housing.
 - a). Conditions listed in 7.1 (C) above.
 10. Nursery Stock – Nursery Office.
 - a). Conditions listed in 7.1 (C) above.
 - b). Sufficient off-street parking to accommodate all employees.
 - c). No accessory building located in the front yard.
 11. Riding Academies and Stables – Veterinary and Veterinary Supplies
 - a). Conditions listed in 7.1 (C) above.
 12. Uses Listed as Condition in Article 3 – R-1 Districts
 - a). Approval of a site plan that demonstrates adequate parking, circulation, and open space.
 - b). Screening and barrier separation as deemed necessary by the Planning Commission.
 - c). Conditions listed in 7.1 (C) above.

B. Districts C-1 and C-2 only.

1. All uses in the C (Commercial) zoning districts listed as conditional must submit a site plan for review and approval with special emphasis given to:

- a). Parking and circulation.
 - b). Screening of outdoor materials.
 - c). Conditions listed in 7.1 (C) above.
2. Adult Entertainment – Sex Oriented Businesses.
- a). Must be located a minimum of 1,000 feet or more from the nearest residence, school, day care center, cemetery, or another adult entertainment/Sex Oriented Business.
 - b). No service of alcoholic or cereal malt beverages.

C. Districts C-1, C-2, and C-D.

1. If a single family residential structure was inhabited and being used as a residence at the time the landowner made application for rezoning, and the residential use was a previously legal conforming use, such use may be continued in such structure with special emphasis given to:
- a) Conditions listed in 7.1 (C) above.
 - b) Accessory uses are prohibited except for any existing use which is accessory to a previously legal conforming use.
 - c) Use may not be changed, altered, or expanded beyond 25% in area unless the contemplated change would:
 - 1. Results in greater conformity.
 - 2. Correct deficiencies required for licenses or permits.
 - 3. Correct deficiencies that would endanger the life, safety, or health of the public or property owners.

Any conditional use permit granted pursuant to this provision shall have a duration of no more than one year after the effective date of the ordinance approving the conditional use permit. (Ord. 845; 2008)

D. Districts B-P, L-P, I-G, and I-H.

1. All uses in the I (Industrial) Zoning Districts listed as conditional must submit a site plan for review and approval with special emphasis given to:
- a) Parking, circulation, and loading.
 - b) Screening of outdoor materials.
 - c) Conditions listed in 7.1(C) above. (Ord. 845; 2008)
2. All uses in the L-P (Logistics Park) Zoning District listed as Conditional Uses must submit a site plan for review subject to the following requirements:
- a) Cargo Container Storage Facilities and Cargo Repair and Maintenance Facilities: All cargo container storage and cargo container repair and maintenance facilities (collectively referred to as “facilities”) shall be subject to the following performance provisions:
 - 1. Access: No cargo containers or semi-trailers (either on or off a chassis), or a chassis, may be stored in a manner that impedes access to public rights-of-way, public utility or drainage easements, structures, and buildings.

2. Exterior Lighting: Facilities shall provide lighting on-site, including at all vehicular entrances and exits. A lighting plan shall be submitted and approved.
3. Minimum Lot Size: Facilities shall have a minimum lot size of twenty (20) acres.
4. Noise: Noise from businesses and facilities shall not exceed 60 dB(A) in any adjacent residential district or 70 dB(A) in any adjacent commercial or industrial district or property.
5. Paving: All interior driveways, parking, loading, and storage areas shall be paved and dust-free. For purposes of this stipulation:
 - i. Paving shall mean concrete or asphalt: and
 - ii. Dust-free shall mean that all interior driveways and storage area surfaces shall be kept free of dust, dirt or other materials to prevent the migration of dust off-site.
6. Parking: Facilities shall comply with the Article 5.2 L-P District Off Street Parking and Loading regulations. No portion of any required off-street parking or loading/unloading areas shall be used for the storage of cargo containers, semi-trailers (either on or off a chassis), chassis or similar storage devices.
7. Cargo Container Stacking: Cargo containers shall not be stacked more than five (5) in number.
8. Chassis Stacking/Racking: Empty chassis may be stored on end (racking), or may be stacked. When stacked, chassis shall not be more than five (5) in number.
9. Screening and Landscaping: Screening may be required on the perimeter of the property. Screening shall be a combination of fencing and landscaping or berming and landscaping. Screening shall comply with requirements Article 5.2 L-P District Landscape Standards.
10. Setbacks and Separation Distance: All buildings, structures, parking and other uses on the property, shall be subject to the setback requirements in Article 5.2 L-P District Setback, Yard, Area Regulations, except, however, the parking or storage of cargo containers or semi-trailers (either on or off a chassis), and chassis (racked or stacked) shall be subject to the following setback standards that may vary depending upon the difference scenarios set forth below:
 - i. When abutting (touching), or across the street from non-residentially zoned property, such parking or storage shall be setback from any exterior property line of the subject property a distance equal to the height of the cargo container or semi-trailer (either on or off a chassis), and chassis (racked and stacked);
 - ii. When abutting (touching) public right-of-way, such parking or storage shall be setback from any exterior property line of the subject property a distance equal to the height of the cargo containers or semi-trailers (either on or off a chassis), and chassis (racked or stacked);

- iii. When abutting (touching), or across the street from, residentially zoned property, such parking and storage shall be setback a minimum of 250 feet from the nearest property line of the residentially zoned property;
 - iv. When abutting (trouching), or across the street from, a habitable dwelling, such parking and storage shall be setback a minimum of 300 feet from the nearest dwelling; and
 - v. For purposes of Stipulations 3 and 4 above, measurements shall be made between the nearest property line of the residentially zoned property or the nearest edge of a dwelling, and the nearest cargo container, semi-trailer (either on or off a chassis), or chassis.
11. Signage: Business signs shall be allowed according to Article 5.2 L-P District Signage regulations. No signage, other than shipping company identification logos and placards, shall be allowed on any cargo container, semi-trailer or chassis.
 12. Site Plan: A site plan shall be submitted with the application. The site plan shall be prepared in accordance with the requirements of Article 9 (B) (3) of these regulations.
 13. Other Rules and Regulations. All facilities shall abide by any and all governmental rules, regulations, codes and specifications now in effect or hereafter adopted that would be applicable to this permit or the use of the property by the applicant/landowner.
 14. Deviations: In the event that an applicant desires to deviate from the above performance standards and provisions for certain Conditional Uses, the applicant shall submit written information to the Governing Body indicating the circumstances which are believed to necessitate the need for a deviation(s), and the applicant shall provide a list of alternative materials, designs or methods that are equivalent to the performance standards and provisions for the L-P Zoning District, Section 5.4, Sections G through Q in the regulations. The application may only be approved if findings are made by the Governing Body that 1) due to the circumstances of the application, it would be unnecessary to impose the standards(s) and equivalent alternatives should be allowed, b) that the spirit and intent of the regulations are being met, c) that granting the deviation shall not adversely affect adjacent or nearby property, and d) the application shall otherwise comply with all building code(w) and safety requirements. (Ord. 915, 2012)

E. Additional Regulations for Conditional Uses.

1. A Conditional Use Fee, established within the Fee Schedule for the Unified Development Code, shall be submitted with the conditional use application.
2. The Board of Zoning Appeals/Planning Commission may impose any additional condition that it deems necessary to preserve the harmonious design of the community, lessen congestion, or preserve the public health, safety, and welfare.
3. The Board of Zoning Appeals/Planning Commission may recommend denial of any conditional use/special use listed in this Unified Development Ordinance that, in its opinion, would adversely impact the public health, safety, or welfare.