

## **CHAPTER 17.32**

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## CHAPTER 17.32

### CONDITIONAL USE PERMIT PROCEEDINGS

#### **17.32.010      CONDITIONAL USE**

A Conditional Use Permit provides for specific uses, other than those specifically permitted in a district, which may be appropriate in the district under certain safeguards or conditions. Conditional uses may also be used in transitional districts. Conditional uses for each district are listed in the applicable chart of each district.

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#### **17.32.020      CONDITIONAL USE REQUIREMENTS**

No structure or land may be used for any purpose in any district where such use is not a permitted use, unless such use is listed as a Conditional Use in this title and approval for that use is obtained through the proper procedure. Conditional Use permits shall be granted only by the City Council when the use complies with the following:

1. The use conforms to the objectives of the Growth Policy and intent of this title.

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#### **17.32.030      CONDITIONAL USE PERMIT PROCEDURE**

1. Completed and signed application provided by the City for a Conditional Use Permits shall be filed at City Hall with the Administrative Official and the filing fee shall be paid. The fee is non-refundable. The application form must be signed and acknowledged by the property owner and applicant if different.
2. Conditional Use applications shall be reviewed within ninety (90) business days after submittal to the Zoning Commission. If additional information is needed from the applicant, the time may be extended upon written agreement between the Zoning Commission and the applicant.
3. The designated Administrative Official and Zoning Commission shall then cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each such application shall be consistent with the intent and the purpose of this title.

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#### **17.32.040      ZONING COMMISSION CONSIDERATION AND RECORD FOR CONDITIONAL USE PERMITS**

- A. The Administrative Official and Zoning Commission shall review the application for a Conditional Use permit for compliance with the requirements of this title and compliance with the following conditions.

1. That the site is adequate in size and topography to accommodate such use, and all yards, spaces walls, and fences, parking, loading and landscaping is adequate to properly relate such use with the land and uses within vicinity.
2. That the proposed site for the proposed use will have no material adverse effect upon the abutting property.
3. That any additional conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare. Such conditions may include, but are not limited to:
  - a. Regulation of use;
  - b. Special yards, spaces and buffers;
  - c. Special fences, solid fences and walls;
  - d. Surfacing of parking areas;
  - e. Requiring street, service road or alley dedications and improvements or appropriate bonds;
  - f. Regulation of points of vehicular ingress and egress;
  - g. Regulation of signs;
  - h. Requiring maintenance of the grounds;
  - i. Regulation of noise, vibrations and odors;
  - j. Regulation of hours for certain activities;
  - k. Time period within which the proposed use shall be developed;
  - l. Duration of use;
  - m. Requiring the dedication of access rights;
  - n. Other conditions as will make possible the development of the City in an orderly and efficient manner;
  - o. That the right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special Conditional Use permit procedure.

B. That all of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Beaverhead County Clerk and Recorder's Office at the expense of the property owner prior to the issuance of any building permits, final development plan approval or commencement of the Conditional Use.

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**17.32.050 PUBLIC NOTICE**

A. The notice requirements in chapter 17.100, Noticing and Hearing Procedure shall be followed. The property owners within two hundred (200) feet of the property boundary of the proposed Conditional Use shall be notified of the application. The measurement shall be the closest boundary of adjacent property(s). Names and addresses of the adjoining property owners will be provided to the City by the applicant and be certified

by the County Recorder. Notice will be posted in two places upon on the property at least ten (10) days prior to the date of the public hearing before the Zoning Commission.

- B. The application will be considered at a hearing before the Zoning Commission and one member of the Planning Board and the Administrative Official shall attend the hearing.
- C. The Zoning Commission with assistance of Administrative Official shall prepare a written report with its recommendation and submit the report to the City Council. A copy of the report of the Zoning Commission will be made available to the applicant.
- D. Upon receipt of the report from the Zoning Commission, the City Council shall hold a public hearing on the application at which the Zoning Commission's report shall be read and additional testimony may be taken from interested parties.

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**17.32.060      CONDITIONAL APPROVAL**

- A. The City Council shall review the recommendations of the Zoning Committee at the next regular City Council meeting.
- B. The City Council may make the granting of a Conditional Use permit subject to reasonable conditions as it may deem necessary to enhance the appearance of the property, to reduce any adverse effects on nearby property or residences, to the preserve the character of the area, or to make it more acceptable in other ways.
- C. The applicant shall be notified in writing of the approval, approval with conditions or denial and will include a automatic termination date. If the conditional use has been granted, the permit shall be issued upon the signature of the Administrative Official.

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**17.32.070      CONDITIONAL USE-HOME OCCUPATIONS**

Any home business is a Conditional Use within any district and shall comply with the requirements in Chapter 17.60 Residential District.

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**17.32.080      REVOCATION OF CONDITIONAL USE PERMIT**

Failure of any person who holds a Conditional Use permit to comply with the restrictions and conditions of the Conditional Use Permit shall be grounds for the City Council to revoke the conditional use permit and order that the conditional use be discontinued within thirty (30) days after revocation of the Conditional Use Permit. If the property is occupied by a tenant, the property owner shall also be notified of the action taken by the City Council.

A. Termination/Revocation of Conditional Use Permit approval.

1. Conditional use permits are approved based on an analysis of current local circumstances and regulatory requirements. Over time, circumstances may change and the use may no longer be appropriate to a location. A Conditional Use permit will be terminated and of no further force or effect if:
  - a. After having been commenced, the approved use is not actively conducted on the site for a period of twelve (12) continuous months;
  - b. Final zoning approval to reuse the property for another principal or Conditional Use is granted;
  - c. The use or development of the site is not begun within the time limits set in the conditions.
2. A Conditional Use which has terminated may be reestablished on a site by the review and recommendation of a new Conditional Use permit application as provided in the Conditional Use Permit Procedure.
3. If the activity begins for which a Conditional Use permit has been approved, all activities must comply with conditions of approval and requirements of this title. Should there be a failure to complete all conditions of the Conditional Use Permit within twelve (12) months or maintain compliance, the City may revoke the approval of the permit through the procedures outlined in 17.104, Administration, Fees and Penalties.

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