

ORDINANCE 2023-09

**AN ORDINANCE OF THE SOUTH WEBER CITY COUNCIL
AMENDING TITLE 10 CHAPTER 7 CONDITIONAL USES**

WHEREAS, conditional uses are crucial to successful land use planning by allowing control and regulation of specific properties within a municipality; and

WHEREAS, in an effort to establish the most clear and applicable code, the Code Committee has been reviewing Title 10 for an extended period of time; and

WHEREAS, they present these alterations to align with the goals and objectives of the General Plan and zoning regulations; and

WHEREAS, the Planning Commission discussed these proposed changes on November 9, 2023 and recommend removal of the articles and approval of the complete rewrite of Chapter 7; and

WHEREAS, the City Council has also studied the changes and agree the chapter will likely ensure a more transparent and consistent process for conditional use evaluation and granting permits;

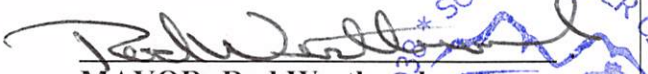
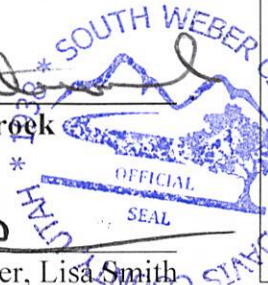

NOW, THEREFORE, BE IT ORDAINED by the City Council of South Weber City, State of Utah:

Section 1. Amendment: Title 10 Chapter 7 shall be amended to read as included in **Exhibit 1** attached hereto.

Section 2. General Repealer. Ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 3. Effective Date. The City Council of South Weber City, State of Utah, has determined that the public health, safety, and welfare requires that this ordinance take effect immediately. Therefore, this ordinance shall become effective immediately upon passage and publication as required by law.

PASSED AND ADOPTED by the City Council of South Weber, Davis County, on the 12th day of December, 2023.


MAYOR: Rod Westbrook


ATTEST: City Recorder, Lisa Smith

Roll call vote is as follows:		
Council Member Halverson	FOR	AGAINST
Council Member Petty	FOR	AGAINST
Council Member Soderquist	FOR	AGAINST
Council Member Alberts	FOR	AGAINST
Council Member Dills	FOR	AGAINST

CERTIFICATE OF POSTING

I hereby certify that Ordinance 2023-09 was passed and adopted on the 12th day of December, 2023 and that complete copies of the ordinance were posted in the following locations within the City this 13th day of December, 2023.

1. South Weber City Building, 1600 E. South Weber Drive
2. City Website www.southwebercity.com
3. Utah Public Notice Website Utah.gov/pmn



Lisa Smith, City Recorder

EXHIBIT 1 TITLE 10 CHAPTER 7 CONDITIONAL USES

TITLE 10 ZONING REGULATIONS CHAPTER 7 CONDITIONAL USES

10-7	Conditional Uses
10-7-1	Purpose
10-7-2	Authority
10-7-3	Initiation
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10-7-5	Application Requirements
10-7-6	Conditional Use Application Requirements
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10-7-9	Required Findings for Approval or Denial of a Conditional Use Application
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10-7-11	Appeals
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10-7-13	Conditional Use Approval Amendment
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10-7-1 **Purpose**

The purpose of a conditional use application is to request land uses that, because of the unique characteristics or potential impact of the land use on the City, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts. This chapter identifies and provides the procedures for the review, approval, and appeal of conditional use applications.

10-7-2 **Authority**

With the exception of applications to allow a short-term rental, the Planning Commission is hereby authorized to review and to render a decision for all conditional use applications in residential zones. The Planning Commission shall review and make a recommendation to the City Council on all conditional use applications in non-residential zones and for short-term rentals. The City Council is hereby authorized to make the final review and to render a decision for all conditional use applications in non-residential zones and for short-term rentals, in accordance with the requirements of this chapter.

10-7-3 **Initiation**

All requests to establish a conditional use, as identified in the Land Use Matrix, shall be made on an application form provided by the city. A property owner or an agent of the property owner may present a conditional use application for review and decision. A lessee of the property owner may present a conditional use application for review and decision only if such application is accompanied by a property owner affidavit of authorization.

10-7-4 Standards & Conditions

The Planning Commission or City Council shall approve an application for a conditional use if the proposed use complies with the requirements of the underlying zone(s) and reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the following standards and conditions:

A. Compatibility with or impact to neighboring properties:

1. Location within zone: The placement of conditional uses only in specific areas of a zoning district (i.e., along an arterial or collector street).
2. Site Configuration: Size, configuration, and location of the site, and proposed site plan layout.
3. Screening: The screening of yards or other areas as protection from certain land uses and activities.
4. Height: Limitations or controls on the location, height, and materials of walls, fences, hedges, and screen plantings to ensure harmony with adjacent development, or to conceal storage areas, utility installations, or other unsightly development.
5. Setbacks: The relocation of proposed or existing structures as necessary to provide for street widening or street placement within the area under application, as provided in the General Plan, adequate sight distances for general safety, groundwater control, or similar issues.
6. Density/Intensity/Livability: Modification to allowed population density and intensity of land use and activities where land capability and/or vicinity relationships make it appropriate to do so to protect health, safety, and welfare; and

The provision of useable open space, public features, and recreational amenities to serve the uses and activities on the site.

B. Safety of persons and property:

1. Flooding: Building elevation and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding.
2. Attractive Nuisances: The relocation, covering, or fencing of irrigation ditches, drainage channels, and other potential attractive nuisances existing on or adjacent to the property.

3. Setbacks: Increased setback distances from lot lines where it is determined to be necessary to ensure public safety and to ensure compatibility with the intended characteristics of the zoning district, or where the lot abuts an arterial or collector street.
4. Fault Lines: Appropriate design, construction, and location of structures, buildings, and facilities in relation to an earthquake fault which may exist on the property, and limitations and/or restrictions to use and/or location of use due to special site conditions, including but not limited to, geologically hazardous areas, flood plains, fault zones, and landslide areas other than may be required by the sensitive lands overlay development regulations.
5. Signs and similar structures: Limitations and control of the number, location, color, size, height, lighting, and landscaping of signs and structures in relation to the creation of traffic hazards.
6. Loading Zones: Plans for the location, arrangement, and dimensions of truck loading and unloading facilities.
7. Street Features: Construction of curbs, gutters, drainage culverts, sidewalks, streets, fire hydrants, and street lighting.

C. Health and Sanitation:

1. Water: A guarantee of sufficient water to serve the intended land use and a water-delivery system to meet the needs of the proposed use and development.
2. Wastewater: A wastewater disposal system and a solid waste-disposal system to meet the needs of the proposed use and development.
3. Utilities: Construction of water mains, sewer mains, and drainage facilities serving the proposed use, in sizes necessary to protect existing utility users in the zoning district and to provide for an orderly development of land.
4. Trash Collection: Provision of appropriate storage and collection areas for trash and refuse generated by the use and development.
5. Snow Removal: Sufficient space on the property to manage and store snow during the winter season

D. Environment:

1. Sensitive Areas: Limitations and/or restrictions on the use and/or location of uses in sensitive areas due to soils capabilities, wildlife, and plant life.

2. Pollution: Processes/designs for the control, elimination, or prevention of land, water, or air pollution.
 3. Erosion: The prevention of soil erosion.
 4. Odors: The control of objectionable odors.
 5. Noise: The control of objectionable noise; and
Fencing, screening and landscape treatments and other features designed to protect adjoining property owners from noise.
 6. Dust: The prevention of dust or debris.
 7. Light: No light pollution.
 8. Nuisance: Measures directed at minimizing or eliminating potential nuisance factors including, but not limited to noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances, and radiation.
 9. Natural Conditions: Measures designed to protect the natural features of the site, including wetlands and drainage ways, around water protection, wildlife habitat, historic and archeological site protection, and other natural site features.
- E. Traffic, Circulation, and Parking:
1. Traffic: The proposed use and development shall not generate enough traffic to be detrimental to the immediate neighborhood, overload the carrying capacity for which local streets were designed, shall not reduce the performance of existing roads from their current level of service, and shall provide safe site ingress and egress to existing and proposed roads and streets.
 2. Circulation: Internal traffic circulation shall not adversely affect adjacent residential properties. The site shall provide sufficient circulation to manage loading and unloading, deliveries, and queueing of vehicles without such activities leaving the site and impacting adjacent roads.
 3. Parking: Parking facilities shall not adversely affect neighboring properties, shall be effectively screened from adjacent residential properties. The relationship between structures and parking shall be complimentary to the aesthetics of the general area. The location and amount of off-street parking and loading areas shall be sufficient to serve the proposed use and development. There shall be sufficient parking to serve the proposed use and development and to store snow removed from the parking areas during winter months.

10-7-5 Application Requirements

Applications for conditional use are required to comply with all requirements of this chapter and this ordinance, and includes the requirements for a building permit, as applicable, and all other applicable requirements. All conditional use applications shall be determined complete by the City Manager or designee before they may be considered by the Planning Commission or City Council.

10-7-6 Conditional Use Application Requirements

All conditional use applications shall be submitted to the City Manager or designee. Applications shall be provided in electronic PDF format and as directed by the City Manager or designee, shall include any of the following information:

- A. A completed application form, as provided by the city.
- B. Title report and survey of the subject property.
- C. Proposed plans, including a site plan, elevation drawings and building renderings which display the following information:
 - 1. Property boundaries and the location of all existing and proposed buildings on the subject property and buildings located within three hundred (300) feet of the subject property.
 - 2. Building setbacks, heights, and lot coverage dimensions to demonstrate compliance with dimensional standards of the site's zoning district.
 - 3. The location of all fences and walls, identifying proposed height, materials, and colors shall be shown.
 - 4. Landscape plan(s) shall be provided, prepared by a registered landscape architect, identifying all proposed landscape, screening, and buffering features, plant materials and sizes.
 - 5. Proposed vehicular and bicycle parking, loading, and traffic circulation plan. This plan must consider snow removal and storage during winter months.
 - 6. The location of all existing and proposed roads and streets serving the property, and including any permits as required by Davis County or the Utah Department of Transportation.
 - 7. All public and private rights-of-way and easements located on, or adjacent to the property, proposed to be continued, created, relocated, or abandoned shall be shown.

8. The location and dimension of all existing natural property features including existing vegetation, wetlands, streams, drainage ways, flood plains, waterbodies, and wildlife habitat areas.
 9. Existing topography of the property, including the existing grade, and identifying the proposed finished grade of the site shown.
 10. The location and dimension of all trails, sidewalks, and biking facilities.
 11. All existing and proposed utilities, including culinary water, secondary water, sanitary sewer, storm drainage, power, gas, telephone lines and facilities, streets and roads with design plans for any new water, sewer and storm drainage lines and facilities, as applicable, streets and roads, meeting the design and construction requirements of the city, or other agencies, as applicable, and prepared by a licensed engineer, at a scale acceptable to the City. Access to all utilities and points of utilities connections shall be shown.
 12. Building plans and drawings shall be provided, as required, to meet the adopted building code. The exterior elevations of every side of all proposed buildings and structures shall be provided, clearly showing proposed building materials and colors proposed for all exterior building facades.
 13. Lighting plan showing identifying proposed site and building lighting, type, design, location, intensity, height, and direction of all site and building lighting. All lighting shall be dark-sky compliant, utilize a full cut-off design, and be directed downward and away from any adjacent residential uses.
 14. The location of all associated mechanical and ancillary equipment shall be provided, including any screening treatments proposed. The location and dimensions of all proposed solid waste collection areas and storage areas, including the proposed method of screening shall be identified.
 15. An erosion control plan with Information identifying proposed temporary and permanent erosion control measures.
 16. Information shall be provided identifying the phases of construction, a construction schedule, and a list of all permits necessary for the proposed use(s).
- D. A narrative, accompanied by necessary tables and other information, describing the proposed conditional use application, to assist city staff, Planning Commission, and City Council in reviewing the conditional use application identifying the following:
1. A calculation, identifying all pervious and impervious areas.

2. A description of all proposed uses and buildings, including the total site area and building square footage, by building.
 3. Projected increase in traffic trips.
 4. Projected water and sewer demand.
 5. How the proposed use and accompanying site and building plans comply with the general plan.
- E. Proposed materials board displaying all building, sign and fencing materials and colors.
- F. If required by staff, the Planning Commission, the City Council, or the City Engineer, a traffic impact analysis will be required. At a minimum, unless additional information is required, a traffic impact analysis shall be prepared by a licensed engineer and include the following information:
1. Projected traffic from the proposed development project,
 2. The area within the general vicinity of the proposed project as outlined by the City Engineer,
 3. Potential traffic to be generated by other undeveloped sites within the established study boundaries, and
 4. Recommendations of land use and/or appropriate traffic engineering modifications to mitigate traffic impacts and maintain an acceptable level of service.

10-7-7 Approval Standards for A Conditional Use Application

The City shall review the conditional use application and determine if the application, from the materials presented by the applicant complies with the following:

- A. The proposed use is consistent with the General Plan.
- B. The proposed use is an allowed conditional use within the zoning district.
- C. The proposed conditional use and the accompanying site plan complies with all requirements of the zoning district, as applicable, including minimum area, front, rear and side-yard setbacks, building and structure height, and all other requirements applicable in the zoning district.
- D. Complies with all site plan requirements.

- E. Complies with all applicable dedication requirements of the city and provides the necessary infrastructure, as required.
- F. The proposed conditional use meets and will be conducted in compliance with the requirements of this ordinance, all other applicable land use ordinances, and all applicable federal, state, or local requirements.
- G. The property on which the conditional use is proposed is of adequate size to permit the conduct of the proposed conditional use in a manner that will not be detrimental to adjoining and surrounding properties.

10-7-8 Reasonable Conditions for a Conditional Use Authorized

The City is authorized to impose such reasonable requirements and conditions with respect to location, construction, maintenance, operation, site planning, traffic control, hours of operation, and other items for the Conditional Use deemed necessary for the protection of adjacent properties and the public interest. Among other conditions deemed appropriate by the City, these conditions may include but shall not be limited to:

- A. Size, configuration, and location of the site, and proposed site plan layout.
- B. Proposed site ingress and egress to existing and proposed roads and streets.
- C. The provision of public facilities and amenities, including roads and streets, culinary water, sanitary sewer, storm drainage, public safety and fire protection, and other utilities.
- D. The location and amount of off-street parking and loading areas.
- E. Site circulation pattern for vehicular and pedestrian traffic.
- F. Building size and location, building design and exterior building features.
- G. The location and design of all site features, including proposed signage, lighting, and refuse collection.
- H. The provision of usable open space, public features, and recreational amenities.
- I. Fencing, screening and landscape treatments and other features which are designed to increase the attractiveness of the site and protect adjoining property owners from noise and visual impacts.
- J. Measures directed at minimizing or eliminating potential nuisance factors including, but not limited to noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances, and radiation.

- K. Measures designed to protect the natural features of the site, including wetlands and drainage ways, around water protection, wildlife habitat, historic and archeological site protection, and other natural site features.
- L. The regulation of operating hours for activities affecting normal schedules and functions.
- M. Identifying a time for regular review and monitoring, as determined necessary, to ensure the Conditional Use continues to operate in compliance with all conditions and requirements of approval.
- N. Such other conditions determined reasonable and necessary by the Planning Commission or City Council to allow the operation of the proposed conditional use, at the proposed location in compliance with the requirements of this Ordinance.

10-7-9 Required Findings for Approval or Denial of a Conditional Use Application

- A. If the Planning Commission or City Council finds that the Conditional Use Application complies with all the requirements of this Ordinance, the adopted Building Codes, and all other applicable Land Use Ordinances, the Conditional Use Application shall be approved, with or without reasonable conditions necessary to comply with this Ordinance, the adopted Building Codes, and all other applicable Land Use Ordinances. Following the approval of a Conditional Use Application, with or without conditions, a Building Permit Application may be reviewed, and a Building Permit issued if such an application is found to comply with the Building Code, as adopted.
- B. If the Planning Commission or City Council finds that the Conditional Use Application does not comply with all the requirements of this Ordinance, the adopted Building Codes, and all other applicable Land Use Ordinances, the Conditional Use Application shall be denied and no Approval, Permit, or License issued by the city, including a Building Permit.

10-7-10 Effect of Approval of a Conditional Use Application

Approval of a Conditional Use Application by the Planning Commission or City Council shall authorize the establishment of the approved use, subject to any use or site plan reasonable conditions. Approval of a Conditional Use Application shall not be deemed an Approval of any other Application, Permit, or License.

10-7-11 Appeals

Any person aggrieved by a decision of the Planning Commission or City Council regarding a Conditional Use Application may appeal the decision, as provided by Title 10, Chapter 4 of City Code.

10-7-12 Revocation or Modification Of A Conditional Use Approval

- A. A Conditional Use approved in accordance with the provisions of this Ordinance may be revoked by the same body that made the approval – the Planning Commission or City Council – if any of the conditions of approval are not met, or if the permit is used to violate any law or Ordinance.

- B. The City Manager or designee shall notify the approved Conditional Use holder by certified mail of any violation, or if a violation exists in any conditions of approval. If no attempt to correct the violation is made within ten (10) days after notification, the Conditional Use approval may be revoked by the Planning Commission or City Council, if the Planning Commission or City Council finds that one or more of the following circumstances exists:
 - 1. The Conditional Use approval was obtained in a fraudulent manner.
 - 2. The use for which the approval was granted has now ceased for at least six (6) consecutive calendar months.
 - 3. One (1) or more of the conditions of approval have not been met.
 - 4. Additionally, the Planning Commission or City Council, following a public hearing, may modify the conditions under which the use approval was originally approved if the Planning Commission or City Council finds that the use or related development constitutes or is creating a nuisance.

10-7-13 Conditional Use Approval Amendment

The procedure for amending any Conditional Use Application approval shall be the same procedure as required to approve the Conditional Use Application.

10-7-14 Expiration of a Conditional Use Approval

A Conditional Use Application approval shall expire and shall be invalid if a building, activity, construction, or occupancy, as authorized by the approval, is not commenced within one hundred eighty (180) days from the date of approval. If work has not commenced, or a use established within one-hundred eighty (180) days from date of approval, the approval shall be void and a new Conditional Use Application required. Upon receipt of a written request submitted at least thirty (30) days before the expiration of a conditional use permit approval and showing good cause for the failure to commence work, the City Manager may extend the expiration period by up to six (6) months.

10-7-15 Decision Document

Every decision document granting a conditional use permit shall include the following, as applicable:

- A. Heading. A heading containing:
 - 1. The name of the issuing authority;
 - 2. The title of the document, clearly indicating that it is a decision document granting a conditional use permit; and
 - 3. The date of issuance.

- B. Project Details. A concise description of the project or activity for which the conditional use permit is being granted shall be provided. The description should encompass the following information:
 - 1. Location of the project or property;
 - 2. Purpose of the proposed conditional use; and
 - 3. The scope and scale of the conditional use.

- C. Background and Purpose. An explanation of the background and purpose of the conditional use permit, addressing:
 - 1. The legal or regulatory basis for granting the conditional use permit; and
 - 2. The criteria and considerations used to evaluate permit applications.

- D. Findings. The decision document shall summarize the findings of the evaluation process, demonstrating that the proposed use meets the necessary conditions for approval. The findings shall include:
 - 1. Reference to specific criteria or standards outlined in municipal code; and
 - 2. Justification for the approval based on the compliance of the proposed use with the specified criteria.

- E. Conditions and Limitations: The conditions and limitations imposed on the conditional use permit. The conditions and limitations shall be:
 - 1. Directly related to mitigating potential impacts or ensuring compliance with regulations; and
 - 2. Reasonable and enforceable.

- F. Duration and Renewal. The decision document shall specify:
 - 1. The duration of the conditional use permit, including the start and end dates; and
 - 2. Any requirements or criteria for permit renewal, if applicable.

- G. Compliance and Monitoring. An outline of the following:
 - 1. Requirements for compliance with the conditions specified in the permit;
 - 2. Monitoring or reporting obligations imposed on the permit holder; and
 - 3. Consequences of non-compliance.

- H. Signatures and Approvals. Spaces for the signatures of the issuing authority, relevant officials, or decision-making bodies involved in the permit approval process.

- I. Attachments. Relevant supporting documents, maps, plans, or reports shall be annexed to the decision document.