

**CITY OF MT. SHASTA  
PLANNING DEPARTMENT  
305 No. MT. SHASTA BLVD.  
MT. SHASTA, CALIFORNIA 96067  
(530) 926-7510 Telephone (503) 926-0339 FAX**

**GUIDELINES AND APPLICATION  
FOR CONDITIONAL USE PERMIT**

**Purpose**

In each zoning classification of the City's zoning ordinance, the different uses, which are permitted and prohibited for property in that zone, are listed. Each zoning classification also lists various "Conditional Uses" which are permitted subject to a Use Permit. The Conditional Use Permit allows the inclusion in the zoning ordinance uses considered by the legislative body to be essentially desirable to the community, but which because of the nature thereof, and their impacts (noise, traffic, congestion, effect on values, etc.) are not desirable within the designated zone, or any location without restrictions tailored to fit the special problems which the uses present.

The purpose of the Use Permit is to allow special consideration of uses not specifically permitted or prohibited in the zoning classification. The permit process is designed to provide the City sufficient flexibility to determine whether a specific land use on a certain site will be compatible with its environs, the General Plan, and the zoning on adjacent parcels. Conditional Use Permits are done pursuant to Chapter 18.29 of the Municipal Code.

In reviewing a Use Permit application, the staff and Planning Commission will evaluate such items as building placement and size, traffic generation, architectural design, color, landscaping and compatibility of use with adjoining properties as well as other related development impacts.

Consideration of a CUP is a discretionary act. A CUP application tendered by a project proponent is considered at a public hearing and, if approved, is generally subject to a number of pertinent conditions of approval. Depending on local ordinance requirements, hearings are typically held by the planning commission. The owners of property near the site are sent advance notice of the date, time, and place of the hearing.

California State law provides that a Conditional Use Permit can be approved only if specific findings can be supported by evidence on the record.

**The findings needed have been developed through legislation and case law. In essence, the standards for the findings are as follows:**

**General Welfare Standard:**

"The establishment, maintenance or conducting of the use for which a use permit is sought will not, under the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood" (*Hawkins v. County of Marin* (1976) 54 Cal.App.3d 586).

**Nuisance Standard:**

"Any use found to be objectionable or incompatible with the character of the city and its environs due to noise, dust, odors or other undesirable characteristics may be prohibited" (*Snow v. City of Garden Grove* (1961) Cal.App.2d 496).

**General Plan Consistency Standard:**

"Although use permits are not explicitly made subject to a general plan meeting the requirement of state law, that condition is necessarily to be implied from the hierarchical relationship of land use laws. Thus, use permits are struck from the mold of the zoning law, the zoning law must comply with the adopted general plan, and the adopted general plan must conform to state law; the validity of the permit process derives from compliance with this hierarchy of planning laws (*Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176).

**Zoning Consistency Standard:**

"To obtain a use permit, the applicant must generally show that the contemplated use is compatible with the policies in terms of the zoning ordinances, and that such use would be essential or desirable to the public convenience or welfare, and will not impair the integrity and character of the zoned district or be detrimental to the public health, safety, morals or welfare" (*O'Hagen v. Board of Zoning Adjustment* (1971) 19 Cal.App.3d 151).

In addition to the general standards discussed, there also exist other limitations on conditional use permits. Conditional use permits run with the land not the applicant (*Cohn v. County Board of Supervisors* (1955) 135 Cal.App.2d 180). That is, where conditional use permits are concerned, all related property and personal rights are freely transferable, unless expressly prohibited by law (*Anza Parking Corporation v. City of Burlingame* (1988) 195 Cal.App.3d 855). Inversely, a conditional use permit may not lawfully limit the permittee from transferring it with the land since such a condition is beyond the power of the zoning authority (*Anza, supra*).

The conditions which are imposed on a conditional use permit must be expressly attached to the permit and cannot be implied. For example, if a conditional use permit contains language that restricts a building's height to five stories and requires the developer to submit and obtain planning commission approval of a landscaping plan, among other things, the permit itself does not imply a height limitation on trees within the development (*Pacifica Homeowners' Association v. Wesley Palms Retirement Community* (1986) 178 Cal.App.3d 1147).

A conditional use permit is not granted solely on the merits of a project, but only if the decision making body can support the required findings.

**Specific findings the Planning commission will be required to support for an approval of a Conditional Use Permit are”**

- (A) The proposed use is consistent with the Mt. Shasta General Plan, any applicable

- specific plan, and the provisions of this code.
- (B) The subject property is adequate in land area to accommodate the proposed project, its required parking area, access, landscaping, and site improvements.
  - (C) The proposed land use is compatible with neighboring land use and zoning.
  - (D) The public and private roads providing access to the subject property meet necessary standards to provide safe and adequate access, or have been amended by conditions of project approval to satisfy the access requirements.
  - (E) Conditions of project approval are necessary for protection of the public health, safety, and welfare, and to reduce or eliminate potential environmental effects.
  - (F) Any requirements for the dedication of land are reasonably related to the use of the property.
  - (G) The requirements for the posting of improvement security for installation of public or private improvements is reasonably related to the use of the property.

## **Process**

### **Step 1. REVIEW ALL CODES RELATED TO YOUR PROJECT.**

Early in the consideration of a potential use, the applicant should carefully review what the Zoning Ordinance and General Plan call for in the location or area affected or the type of use proposed. It is important that the proposed use is consistent with the City's General Plan and Zoning Ordinance for the area, and is compatible with its environment. In addition, local utilities and other special agencies should be contacted regarding requirements for future development in the area, if necessary.

**Step 1: PREAPPLICATION MEETING. A pre-application meeting is required. Please see the attached ordinance for a detailed explanation of what a Pre-application meeting entails. There are no exceptions. See the handout for "pre-application meetings."**

### **Step 2: Filing of an Application** (Applications are available at City Hall)

The completed application is to be submitted to the Planning Department, who will review the materials to make sure all the necessary items are furnished. The application cannot be officially accepted if the submittal is incomplete. Applications reviewed and found to be complete will be prepared for submittal to the Planning Commission.

The applicant will be required to pay certain fees with the application, including but not limited to: filing fees, duplication, posting and mailing fees, consultation fees (if required), additional staff research, and staff preparation of maps, graphs, drawings and photographs.

### **Step 3: Environmental Review**

All Use Permit requests are subject to CEQA. Depending on the details of the project, that could mean a document such as a Notice of Exemption of a mitigated negative declaration or at times an Environmental Impact Report. The Use Permit process will proceed concurrently with the environmental review process.

#### **Step 4: Planning Commission**

The Mt. Shasta Planning Commission consists of seven volunteer members of the community who meet the 3<sup>rd</sup> Tuesday of every month to review land use projects for the City. The meetings are currently held within the Mt. Shasta Community Center, 629 Alder Street at 7:00 p.m. Applicants or their representatives are advised to attend all meetings relating to their project.

Following notification to affected agencies, property owners and residents within 300 feet of the project area; the Planning Commission will conduct a public hearing. At the meeting, the Chairman of the Planning Commission will state the request for the Use Permit and any recommendations thereon. The applicant or representative will state their reasons or need for the Use Permit. The Planning Commission, after deliberation, may approve, conditionally approve, or deny the application for the Use Permit.

For approval, the Planning Commission must make the required findings. The nature of findings is described above.

The Planning Commission may designate such conditions in connection with the Use Permit as it deems necessary to secure the purposes of the zoning classification and may require that such conditions will be complied with by the applicant.

#### **Step 5: Appeal of Planning Commission Decision**

Decisions by the Planning Commission may be appealed within five (5) days after rendition of the decision. The appeal, in writing, on a form available at City Hall, must be filed with the City Clerk by the applicant or others affected who are not satisfied with the action of the Commission. Applications for appeal will be required to pay certain fees with the application. A hearing shall be set before the City Council.

The Planning Commission shall submit a report to the Council, setting forth the reasons for the action taken by the Commission. A public hearing will be held on the appeal. All appeals are done pursuant to chapter 18.32 of the Municipal Code.

#### **Step 6: City Council Action if appealed**

The City Council consists of five elected members of the City of Mt. Shasta. The City Council meets the 2<sup>nd</sup> and 4<sup>th</sup> Monday of every month. The meetings are currently held within the Mt. Shasta Community Center, 629 Alder Street at 7:00 p.m. Applicants or their representatives are advised to attend all meetings relating to their project.

At the public hearing, the applicant or other interested parties may present testimony in support or opposition to the request. The City Council may reverse, set aside, affirm, amend or modify the action of the Commission, or may remand the matter back to the Commission for further study or action.

#### **Estimated Time of Process**

The estimated time for the processing of a Use Permit application will vary depending upon the complexity and magnitude of the proposal, staff and Planning Commission workload, but is generally *estimated* as follows:

Review of Application for Completion	30 days
Circulation to Agencies and Affected Property Owners/Residents	30 – 45 days
Staff Review of Comments and Preparation of Staff Report	7 days
Planning Commission Public Hearing & Determination	30 days
Preparation of Negative Declaration	up to 180 days
To run concurrently with Application	
Preparation of Environmental Impact Report	up to 365 days
To run concurrently with Application	

## APPLICATION SUBMITTAL REQUIREMENTS

Depending on the type and magnitude of the project, some or all of the following may be required. If you are unsure of some of the requirements, staff will be pleased to assist you.

1. Application form – typed or printed – completed and signed
2. Copy of Preliminary Title Report. Title report to be prepared within last twelve months.
3. Filing Fee. Checks made payable to City of Mt. Shasta
4. County of Siskiyou Filing Fee. Checks made payable to Siskiyou County Clerk for projects exempt from CEQA. If your project is found exempt from CEQA, this fee will be required to file the Notice of Exemption.
5. Site Photographs. Photographs must show all elevations, topography, vegetation, landscaping, and existing on-site and adjacent structures.
6. Site Plan. The submittal depends on the size of the project. Large scale plans require at least 12 copies, folded to be no larger than 9" by 12". Smaller scaled projects require at least three clear reproducible copies not larger than 11" x 17". Check with the Planning Department if you have questions regarding your projects requirement. Provide a vicinity map indicating nearby cross streets in relation to the site (need not be to scale). Plans must be clear, fully dimensioned and scaled as necessary, but combine data when possible. Site plans shall include the following (Note, some items may be omitted, please contact the Planning Department for specific project):
  - a) Identify exterior boundary lines of the property indicating easements, dimensions and lot size. Label all adjacent streets or rights-of-way.
  - b) Identify location, elevations, size, height, dimensions, materials and proposed use of all buildings and structures (including walls, fences, signs, lighting and hooding devices) existing and intended to be on the site.
  - c) Identify distances between all structures and between all property lines or easements and structures. Show any nearby buildings relevant to application.
  - d) Identify all existing trees on the site. Give circumference, type, location, and any significant plant material.
  - e) Identify any existing significant natural features such as rock outcroppings or watercourses.
  - f) Identify the location, number of spaces and dimensions of off-street parking spaces, loading docks and maneuvering areas; indicate internal circulation. Indicate if, and how, areas are improved.
  - g) Identify pedestrian, vehicular and service points of ingress and egress; driveway widths and distances between driveways.
  - h) Identify proposed landscaping. Include landscape diagram clearly showing quantity, location, varieties and container sizes of proposed plantings. Also, provide the square footage of all landscaped areas.
  - i) Submit proposed preliminary grading plan if applicable. Identify direction and path of drainage on, through, and off the site. Indicate any proposed drainage channels, facilities and/or improvements. All commercial development with new parking facilities is required to submit a site drainage plan with their application.

- j) Scale. Note scale on all plans and diagrams. Provide **bar scale** on reproducible copy.
- k) North Arrow. North arrow is required on all plans and diagrams.
- l) Vicinity Map. Vicinity map indicating nearby cross streets in relation to the site (need not be to scale).
- m) Preliminary Drainage Plan if applicable as per the Storm Water Drainage Master Plan. See Planner for details.
- n) Acoustical Analysis: When noise levels due to non-transportation noise sources exceed acceptable noise level standards, incorporate noise mitigation measures. Proposed noise-sensitive land uses in areas exposed to existing or projected exterior noise levels, which exceed acceptable noise standards, shall include an acoustical analysis as part of the environmental review process so that noise mitigation may be included in the project design. Proposed non-residential land uses which are likely to produce noise levels exceeding the acceptable noise standards at existing or planned noise sensitive uses, shall require an acoustical analysis as part of the application review process to ensure that methods of achieving noise standards are included in project design.
- o) Traffic Impact Study: All discretionary projects are required to include a generalized traffic study providing an estimate for the proposal's average daily traffic.
- p) Commercial facilities of more than forty thousand square feet located away from the downtown area shall submit an economic impact analysis as part of the environmental documents.
- q) Other such data as may be required to permit the Planning Commission to make the required findings for approval of the specific type of project.

## **NOTICE TO ALL APPLICANTS**

1. Pursuant to California Fish and Game Code Section 711.4, the City of Mt. Shasta is required to collect the following filing fees for the Siskiyou County Clerk of the Board, on behalf of the California Department of Fish and Game, for the following projects:
  1. Any project for which a Negative Declaration or Mitigated Negative Declaration is prepared pursuant to the California Environmental Quality Act but having no effect on fish and wildlife: County documentary handling fee for Department of Fish and Game Certificate of Fee Exemption [Fish and Game Code Section 711(c)(d)(1)(2) & (e)].
  2. Any project for which a Negative Declaration or Mitigated Negative Declaration is prepared pursuant to the California Environmental Quality Act and having some effect on fish and wildlife: [Fish and Game Code Section 711.4(d)(3)].
  3. Any project for which an Environmental Impact Report is prepared pursuant to the California Environmental Quality Act and having some effect on fish and wildlife: Fish and Game Code Section 711.4(d)(4)], plus a \$25 County documentary handling fee. Upon an environmental determination concerning your project/application by the City of Mt. Shasta, a check made payable to the

Siskiyou County Clerk in the appropriate amount will be required of you before processing of your application can be completed.

***PLEASE NOTE: A PROJECT APPROVED PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AS DESCRIBED ABOVE IS NOT OPERATIVE, VESTED, OR FINAL UNTIL THE FILING FEES REQUIRED UNDER SECTION 711.4 OF THE FISH AND GAME CODE ARE PAID. THE CITY OF MOUNT SHASTA DOES NOT RECEIVE ANY PART OF THESE FEES.***

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**CONDITIONAL USE PERMIT APPLICATION**

(Print or Type in Black Ink Only)

APN \_\_\_\_\_

PROJECT NO. \_\_\_\_\_

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PLANNING DEPARTMENT

CASHIER

\_\_\_\_\_ Application Received  
\_\_\_\_\_ Accepted as Complete  
\_\_\_\_\_ Received By

\_\_\_\_\_ Application Fee  
\_\_\_\_\_ Receipt Number  
\_\_\_\_\_ Received By

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**APPLICANT:**

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE / FAX # \_\_\_\_\_

**OWNER:**

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE / FAX # \_\_\_\_\_

**REPRESENTATIVE:**

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE / FAX # \_\_\_\_\_



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*PROPERTY OWNER SIGNATURE REQUIREMENT*

I hereby certify that the facts, statements, and information presented within this application are true and correct to the best of my knowledge and belief. I hereby understand and certify that any misrepresentation or omissions of any information required in this application form may result in my application being delayed or not approved by the City of Mt. Shasta. I hereby certify that I have read and fully understand all the information required in this application form.

By signing this application, I (we) hereby authorize City, County, State and Federal agencies, requested to review this application, to enter my property for the purpose of reviewing and commenting on this application. The authorization is valid from the date of filing this application until the City formally acts to approve or deny this project.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
Address

\_\_\_\_\_  
**City/State/Zip**

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Date

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Signature

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**Printed Name**

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\_\_\_\_\_  
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*APPLICANT SIGNATURE REQUIREMENT*

I have read and understand the application guidelines and submittal requirements.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date