

**CHAPTER 16.40
CONDITIONAL USES**

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16.40.000 PURPOSE FOR REVIEW OF CONDITIONAL USES. A conditional use is an activity generally similar to other uses permitted in a zone but because of the manner in which land and buildings could be developed to accommodate such use a review of the specific proposed use, and the imposition of special conditions, are often needed to ensure compatibility with land uses in the vicinity.

16.40.010 AUTHORIZATION. Uses listed as conditional uses in a zone classification or otherwise identified as a conditional use in this ordinance may be approved if the procedures in Chapters 16.36 and 16.37 MCC are followed and if findings can be made that the criteria in MCC 16.40.020 and the zone, have been satisfied. Conditional uses shall be established and maintained in accordance with the applicable development standards in the zone and in Chapters 16.23 through 16.34 MCC, and any conditions imposed as part of the approval.

16.40.02 CONDITIONAL USE CRITERIA. The following criteria, in addition to other applicable criteria in this title, shall be used to review and decide conditional use permit applications.

- A. The use is listed as a conditional use in the zone, or is otherwise identified as a conditional use and is consistent with the intent and purpose of the zone and the provisions that authorized consideration as a conditional use.
- B. The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.
- C. The proposed use, as conditioned, will not substantially limit, impair, or preclude the use of surrounding properties for the uses permitted in the applicable zone.
- D. The proposed use, as conditioned, will not have a significant adverse effect on air or water quality.
- E. Adequate public and utility facilities and services to serve the use are available or will be made available prior to establishment of the use.

16.40.030 AUTHORIZATION OF CONDITIONS. When deemed necessary to ensure the use meets the criteria for approval, conditions addressing the following matters may be imposed:

- A. Size, height, and location of buildings and accessory structures;
- B. Landscaping when necessary to provide screening from incompatible adjacent uses or from public right-of-way;
- C. Retention of existing trees and vegetation for buffering purposes;
- D. Size, location, screening, drainage, and surfacing of driveways, parking and loading areas, and street access;

- E. Size, height, location and illumination of signs;
- F. Size, height, location, and materials for the construction of fences to screen the subject property from incompatible adjacent uses or from public right-of-way.
- G. Location and intensity of outdoor lighting;
- H. Hours of operation or conduct of particular activities;
- I. Abatement, mitigation, or prevention of nuisances.
- J. Availability and improvement of urban services, including street improvements, dedication of street right-of-way, traffic signs and signals, sewer, storm drainage, water, and turn-outs and shelters for mass transportation; provided the condition applies only to the subject property or public right-of-way or easements abutting the subject property.
- K. Turn-lane improvements at street intersections may be required when: (1) an unsafe condition would be created by the development without the improvements, or (2) the projected increase in traffic generated by the new or expanded use will lower the level of service to level "D" or below, as determined by the 1985 edition of the Highway Capacity Manual published by the Institute of Transportation Engineers. As an alternative the determination may be based on an estimate of traffic increase prepared by a licensed traffic engineer.
- L. Conditions may require that all or part of the development or use be deferred until the happening of certain events such as the availability to the subject property of a certain level of service.
- M. Conditions may require that requirements imposed under this section be filed in the deed records of Marion County.

16.40.040 LIMITS ON CONDITIONS. The following limits and requirements apply to conditions imposed pursuant to MCC 16.40.030:

- A. Conditions shall be clear and objective; shall be reasonably related to the public health, safety, and welfare; and shall be designed to reasonably effectuate their intended purpose.
- B. The provisions of Chapter 16.47 MCC shall apply to conditions imposed in a conditional use permit.
- C. If the dedication of street right-of-way or street improvements are required as provided in MCC 16.40.030(J) or (K) provision of the dedication, improvements or funding shall be deferred until a building permit or certificate of occupancy is required .

16.40.050 TRANSFER OF CONDITIONAL USE. Unless otherwise provided in the final decision granting the conditional use, any conditional use granted pursuant to this chapter shall run with the land, and shall automatically transfer to any new owner or occupant subject to all conditions of approval.

16.40.060 STRUCTURES AND ACCESSORY USES ASSOCIATED WITH CONDITIONAL USES. Approval of a conditional use shall generally be limited to allowing those structures and improvements identified in the application or as limited in the decision. However, without a new conditional use being required, a structure or improvement identified in the approved application may subsequently be expanded by not more than 20 percent of the area of the subject structure or improvement unless expressly limited in the conditional use permit. Uses and structures accessory and incidental to the approved conditional use may also be allowed unless expressly limited. All applicable development standards must be met for the expansion or addition.