

LAND USE ORDINANCE 2008-04

CHAPTER 7

CONDITIONAL USES

Amended by Ordinance 2009-19

7.1. PURPOSE OF CONDITIONAL USE PROVISIONS.

Certain uses, which may be harmonious under special conditions and in specific locations within a zone, but be improper under general conditions and in other locations, are classed as conditional uses within the various zones and require conditional use permits for approval

7.2. PERMIT REQUIRED.

A conditional use permit shall be required for all uses listed as conditional uses in the district regulations or elsewhere in this Ordinance. Conditional use permits are subject to review at any time and may be revoked upon failure to comply with conditions precedent to the original approval of the certificate. No building permit or other permit or license shall be issued for a use requiring conditional use permit without first being reviewed and recommended by the Leeds Planning Commission and approved by the Leeds Town Council. A conditional use permit once granted stays with the property unless it is revoked upon failure to comply with conditions precedent to the original approval of the certificate or if the use has been abandoned.

7.3. APPLICATION.

A conditional use permit application shall be made to the Leeds Planning Commission as provided in this Ordinance. Applications for a conditional use permit shall be accompanied by maps, drawings, statements, and other documents as required by the Leeds Planning Commission. The Conditional Use application may be obtained from the Leeds Town Clerk during normal business hours.

7.4. FEE.

The application fee for any conditional use permit shall be according to the Town of Leeds Consolidated Fee Schedule.

7.5. CATEGORIES.

There are four categories of conditional use permits. The categories are as follows:

7.5.1. Category I.

7.5.1.1. Home Occupation business that specifically requires a Conditional Use Permit under Chapter 24 of this Land Use Ordinance.

7.5.2. Category II.

7.5.2.1. Accessory buildings in residential zone required or requested due to a Conditional Use.

7.5.2.2. Limited farming as defined in the Land Use Ordinance meaning a specific number and type of farm animals.

7.5.3. Category III.

7.5.3.1. Businesses that require a license other than a business license.

7.5.3.2. Conditional Use for kennel, animal hospital/clinic.

7.5.3.3. Private recreation facility.

7.5.3.4. All construction in a Commercial zone including alteration, modification, new, structural, and non-structural.

7.5.3.5. All retail sales including but not limited restaurants, food stores.

7.5.3.6. All other requests for a Conditional Use Permit will be Category III unless judged by the Town Council as belonging in either Category I, II, or IV. If it is determined that the Conditional Use requested fits into either of these categories the applicant may decide whether or not they wish to proceed with the request.

7.5.4. Category IV.

7.5.4.1. Any Conditional Use associated with a residential, commercial or industrial development, including temporary rock crushing operations associated with an approved development plan.

7.5.4.2. Any business that has a potential hazard including but not limited to service station, propane station, gun dealer, and any store that handles flammable chemicals.

7.5.4.3. Mobile Home Park or Recreational Vehicle Park in the M-H zone.

7.5.4.4. Planned Unit Development.

7.5.4.5. Multi family dwelling (3 or more) in the R-M-7 zone or any Planned Unit Development.

7.5.4.6. Any sexual oriented business.

7.6. DEVELOPMENT PLAN.

The application for a conditional use permit shall contain a site plan with elevations (as may be necessary) for the site being proposed for development. The plan shall be drawn to scale and show all existing and proposed buildings, roads, parking, landscaping, signage, lighting, exterior veneer and other information that the Leeds Planning Commission may deem necessary.

7.7. PLANNING COMMISSION ACTION.

The Leeds Planning Commission shall recommend approval or denial of the conditional use permit. In recommending approval of any conditional use, the Leeds Planning Commission shall suggest regulations and conditions, which are necessary to protect the public health, safety, and welfare. In recommending approval of a conditional use permit, the Leeds Planning Commission shall find all of the following:

7.7.1. That the proposed use is necessary or desirable and will contribute to the general well-being of the community or that the use will not be detrimental to the health, safety, or welfare of persons residing, or working in the vicinity, or injurious to property of improvements in the vicinity.

7.7.2. That proposed use will comply with the regulations of this Ordinance.

7.7.3. That the proposed use is in harmony with the intent and purpose of the Leeds General Plan.

7.7.4. That the request satisfies all evaluation criteria for the district in which the request is being made.

7.8. TOWN COUNCIL ACTION.

All conditional use permits must be voted on by the Leeds Town Council after recommendation by the Leeds Planning Commission. The Leeds Town Council may approve, modify and approve, or deny the conditional use application. In approving any conditional use, the Leeds Town Council shall impose written regulations and conditions as are necessary to protect the public health, safety, and welfare of the Town and its citizens.

7.9. CONDITIONAL USE EVALUATION CRITERIA.

When an application for a specific conditional use in a zone in which the requested use is listed under “conditional use” in the Zoning Chapters and applies to the property to be used, the application will be evaluated based on the following criteria. The criteria listed below are a minimum of what is required. Additional criteria may be used depending on the location, environment, circumstances involved, and proximity to other residential areas or land uses. In addition, all conditional use requests must comply with all Ordinances for the Town of Leeds. Conditional uses are to be granted only under unusual conditions and then only with strict conditions placed on the person applying for the permit that will allow the requested conditional use to fit harmoniously into the neighborhood. Because the possibility of a conditional use permit may be authorized under unusual conditions it does not imply that conditional uses permits are granted automatically. If the conditional use being requested is not listed for the property in the zone in which the property is located, the use is automatically denied.

7.9.1. GENERAL REVIEW CRITERIA.

An applicant for a conditional use in the zone must demonstrate all of the following:

- 7.9.1.1.** The application complies with all applicable provisions of this chapter, state, and federal law.
- 7.9.1.2.** The structures associated with the use are compatible with surrounding structures in terms of use, scale, mass, and circulation.
- 7.9.1.3.** The use is not detrimental to the public health, safety, and welfare.
- 7.9.1.4.** The use is consistent with the Leeds General Plan.
- 7.9.1.5.** Traffic conditions are not adversely affected by the proposed use including the existence or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets.
- 7.9.1.6.** There is sufficient utility capacity.
- 7.9.1.7.** There is sufficient emergency vehicle access.
- 7.9.1.8.** The location and design of off street parking as well as compliance with off street parking standards.
- 7.9.1.9.** A plan for fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses.
- 7.9.1.10.** Exterior lighting complies with the Leeds Lighting Ordinance.

7.9.1.11. Within and adjoining the site, impacts on the aquifer, slope retention, and flood potential have been fully mitigated and is appropriate to the topography of the site.

7.9.2. Specific review criteria for certain conditional uses. In addition to the foregoing, the Planning Commission must recommend and the Town Council must evaluate the applicant's compliance with each of the following criteria when considering whether to approve, deny, or conditionally approve an application for the following conditional use(s):

7.9.2.1. Adult Oriented business.

The purpose and objective of the section is to establish reasonable and uniform regulations to prevent the concentration of adult-oriented business or their location in areas deleterious to the health, safety, and welfare of the Town, and to prevent inappropriate exposure of such businesses to the community. This section regulates the time, place, and manner of the operation of sexually-oriented businesses, consistent with the United States and Utah State Constitutions.

7.9.2.1.1. No adult-oriented business may be located within the distance specified for each following category:

7.9.2.1.1.1. Religious institution, school, school bus stop, day care facility, boys club, girls club, or similar existing youth organization, cemetery, public park or public building. Minimum separation distance is two thousand six hundred and forty (2,640) feet.

7.9.2.1.1.2. Residential zoning boundary or properties actually used for residential use. This would include Mobile Home Zones, Recreational Vehicle Parks, Mobile Home Parks, and Open Space Zones that have residential homes on the property. Minimum separation distance is two thousand six hundred and forty (2,640) feet.

7.9.2.1.1.3. Liquor store. Minimum separation distance is one thousand (1,000) feet.

7.9.2.1.1.4. Other adult-oriented business. Minimum separation distance is one

thousand (1,000) feet.

7.9.2.1.2. For the purpose of this section, distance is measured in a straight line, without regard to intervening structures or objects, from the closest property line of the adult-oriented business to the closest property line of any of the above categories.

7.9.2.1.2.1. The closest exterior wall of another adult-oriented business.

7.9.2.1.2.2. The closest property line of any school, day care facility, public park, library, cemetery, or religious institution.

7.9.2.1.2.3. The nearest property line of any residential zone

7.9.2.2. Temporary Rock-Crushing Associated with an Approved Development Plan

7.9.2.2.1. The operation of a rock crusher and associated equipment in any Zoning District within the Town is only permitted under the following conditions:

7.9.2.2.1.1. Applicant completes and submits Temporary Rock Crushing permit application to Town Clerk with required fee and obtains conditional use approval.

7.9.2.2.1.2. Development approval, including approval of construction drawings and associated grading plan(s) has been granted by Town Council in the form of an approved Final Plat or site plan for at least one phase of development in which rock crushing and related activities are to be conducted.

7.9.2.2.1.3. A grading and site plan for additional land included in future phases must accompany the permit application.

7.9.2.2.1.4. All environmental and other regulatory

requirements of the State of Utah and the United States of America government must be met in addition to the Town's conditional use permit requirements.

7.9.2.2.2. An applicant for a Temporary Rock Crushing permit must agree to the following conditions and provide the following required information:

7.9.2.2.2.1. A map showing the location of the crusher and any other equipment to be used in the operation. The rock crushing equipment shall be set up as far away as practicable from any existing residence but in no case shall the setback be less than six hundred fifty (650) feet, unless special circumstances can be shown.

7.9.2.2.2.2. The map must also show the location of residences and/or businesses in the area within one thousand (1,000) feet of the operation. Prior to public hearing, applicant shall send a notice via US Postal service to each of the residences and/or business within one thousand (1,000) feet of the operation. Applicant shall provide to the Town evidence of the mailing of such notice. Required notice shall state the date, time and place of the scheduled public hearing; describe the operations; detail hours of operation; detail the duration of the operation; and contain a contact phone number for the operator.

7.9.2.2.2.3. A detailed plan of operations showing the route and frequency of vehicles used in the operation. The plan of operations must also show that road ingress and egress are sufficient to allow safe travel for vehicles and pedestrians surrounding the conditional use.

- 7.9.2.2.2.4.** The plan of operations must also describe the crusher and other equipment to be used in the operation and indicate the expected highest decibels that will be emitted at the source of operation.
- 7.9.2.2.2.5.** The plan of operations must include a plan for dust control and show the location of water source. Dust pollution shall not negatively impact surrounding uses in existence at the time of the operation.
- 7.9.2.2.2.6.** The plan of operations will also describe the hours of operation for crushing, processing or hauling rock products. Operations shall not begin prior to 7 am or go beyond 7 pm and shall not significantly impact surrounding uses in existence at the time the conditional use is granted.
- 7.9.2.2.2.7.** The Town may restrict the hours of operation and roads available for the conditional use in areas where there are schools or residences in close proximity to the operation.
- 7.9.2.2.2.8.** The plan of operations must also include a plan for reclamation of land that complies with the applicable provisions of Leeds Land Use Ordinances, the Leeds Subdivision Ordinance (2008-04) and all state and federal law.
- 7.9.2.2.2.9.** If the applicant is interested in selling rock, crushed or otherwise, pursuant to Section 7.9.2.2.3. below, the plan of operations must also include a detailed Rock Disposal Plan describing 1) what rock, crushed or otherwise, the applicant desires to sell; 2) how much rock, crushed or otherwise, the applicant anticipates selling; 3) a plan

to dispose of unsold rock, crushed or otherwise.

7.9.2.2.2.10. If deemed necessary at the Town's sole discretion, a letter from the State of Utah Department of Environmental Quality confirming all potential environmental hazards associated with materials to be crushed have been mitigated.

7.9.2.2.2.11. The operation of a rock crusher and associated equipment shall be limited to the crushing of rock and materials extracted from a proposed development for the purpose of leveling it and preparing it for ultimate construction into a residential, commercial or industrial development. A Temporary Rock Crushing permit will not be granted for operation of a rock crusher and associated equipment to be used to crush rock or other materials brought from off-site locations.

7.9.2.2.2.12. The duration of rock crushing operations shall be limited to no longer than thirty (30) days following the completion of development construction of approved phase or grading and site plan, unless the developer obtains prior approval for a longer time period or approval of an extension of time from the Town Council.

7.9.2.2.2.13. Town representative(s) shall inspect rock crushing operations periodically to assure conformance with this ordinance.

7.9.2.2.2.14. A permit for temporary rock crushing shall include a repair and restoration bond in the amount of \$25,000. This repair and restoration bond is in addition to the performance bond required by the Subdivision Ordinance

and shall be in a similar form to the performance bond. The Town shall execute the bond when Town infrastructure or property is damaged as a result of the temporary rock crushing operations and the applicant does not repair the damage to the Town's satisfaction.

- 7.9.2.2.2.15.** Any permit for temporary rock crushing granted in accordance with this Ordinance may be revoked if any of the conditions or terms of such permit are violated.

7.9.2.2.3. Selling of Crushed Rock

- 7.9.2.2.3.1.** Excavated crushed material not used for on-site construction or landscaping shall be stockpiled, at the Town's sole discretion, at a Town-approved location within fifteen (15) days of completing the crushing operation.

- 7.9.2.2.3.2.** Developer may sell the rock, crushed or otherwise, only after fulfilling the following conditions:

7.9.2.2.3.2.1. Developer must apply for and pay the appropriate fee to obtain a business permit from the Town of Leeds.

7.9.2.2.3.2.2. All other guidelines set forth in Section 7.9.2.2. of this chapter shall be followed. Under no circumstances shall rock be brought from a location other than that approved for a temporary rock crushing permit pursuant to Section 7.9.2.2. to be crushed.

7.9.2.2.3.2.3. Sale of rock, crushed or otherwise, may not continue for more than two (2) months from time designated in Section 7.9.2.2.2.12.

unless the applicant obtains prior approval of a longer time period for sale or approval of a time extension from the Town Council.

7.9.2.2.3.2.4. If applicant does not sell all rock, crushed or otherwise, prior to the deadline established by Section 7.9.2.2.3.2.3., all excess rock, crushed or otherwise must be disposed of according to the approved Rock Disposal Plan referenced in Section 7.9.2.2.2.9. above.

7.9.2.2.3.3. Any business license for temporary rock crushing granted in accordance with the terms of this Ordinance and the business license ordinance may be suspended and/or revoked if any of the terms or conditions of such license is violated.

7.10. EXPANSION OF A CONDITIONAL USE.

No use or structure in which a conditional use is located may expand without first repeating the process shown above in this chapter, including review and recommendation of the Leeds Planning Commission and approval by the Leeds Town Council. Before expanding, the applicant shall present to the Leeds Planning Commission a development plan meeting the requirements of 7.5. above. However the Leeds Planning Commission or Town Council may deem a public hearing necessary.

7.11. INSPECTION.

7.11.1. Following the issuance of a conditional use permit, the Leeds Building Inspector shall approve an application for a building permit, if all required information is included and conditions for a permit are satisfied. The Building Inspector shall also verify that development is undertaken and completed in compliance with said conditional use and building permit.

7.11.2. The Leeds Town Council, to assure that the conditional use requirements are being fully complied with, can at any time request a qualified person to inspect any structure or use that was granted under a conditional use permit. A written finding will be provided to the Town Council. If the findings identify non-compliance, the property owner will be given written notice and a reasonable specified time to bring the use in compliance with the conditions stated in the

approval. If compliance is not satisfied in the time period, the Town Council shall revoke the conditional use permit.

7.12. REVOCATION.

A conditional use permit may be revoked upon failure to comply with the conditions imposed with the original approval of the permit and all applicable Leeds Ordinances and the applicant shall be so notified of revocation by the Town of Leeds. The permit may be reinstated upon determination by the Leeds Town Council that the cause for revocation has been corrected and that the applicant intends to proceed according to the plans approved by the Leeds Town Council at the time the permit was originally issued, or as they might have been properly amended by the Leeds Town Council from time to time during the period of the conditional use. The conditional use will be considered rescinded if the conditional use that was permitted was clearly abandoned for a period of one (1) year or longer.

7.13. APPEAL.

The applicant has the option of appealing the decision of the Leeds Town Council by filing an appeal with the Clerk/Recorder to be heard by the Leeds Board of Adjustment, as per Chapter 3 of the Town of Leeds Land Use Ordinance.