

TITLE 10
CHAPTER 4

CONDITIONAL USES

SECTION:

- 10-4-1: Description and Purpose
- 10-4-2: General Applicability
- 10-4-3: Use Permit Prerequisite to Construction
- 10-4-4: Applications
- 10-4-5: Public Hearing and Notice
- 10-4-6: Action
- 10-4-7: Effective Date
- 10-4-8: Expiration of Conditional Use Permit
- 10-4-9: Revocation
- 10-4-10: General Criteria
- 10-4-11: General Conditions
- 10-4-12: Additional Conditions

10-4-1: DESCRIPTION AND PURPOSE: Certain types of uses require special consideration prior to their being permitted in a particular district. The reasons for requiring such special considerations involve, among other things:

- A. The size of the area required for development of such uses;
- B. The effect such uses have on the public utility systems;
- C. The nature of traffic problems incidental to operation of the use;
- D. The effect such uses have on any adjoining land uses; and
- E. The effect such uses have on the growth and development of the community as a whole.

All uses permitted conditionally are declared to be in possession of such unique and special characteristics as to make impractical their being included as outright uses in any of the various districts created by this Title. The authority for the location and operation of certain uses shall be subject to Type III review by the Planning Commission and issuance of a conditional use permit. The purpose of review shall be to determine the type of uses permitted in surrounding areas and for the further purpose of stipulating such conditions as may be reasonable, so that the basic purposes of this Title shall be served.

10-4-2: GENERAL APPLICABILITY: Remodels and expansions of up to 25% of the floor area are allowed without a new conditional use permit as long as the remodel or expansion is consistent with the original approval.

10-4-3: USE PERMIT PREREQUISITE TO CONSTRUCTION: When a conditional use permit is required by the terms of this Title, no building permit shall be issued until the conditional use permit has been granted by the Planning Commission, and then only in accordance with the terms and conditions of the conditional use permit. Conditional use permits may be temporary or permanent.

10-4-4: APPLICATIONS: The application for a conditional use permit shall be made in writing to the Planning Commission by the owner of the land in consideration or his agent, duly authorized in writing. The application shall include the following information:

- A. Site and building plans and elevations.
- B. Existing conditions on the site and within three hundred feet (300') of a site that is one (1) acre or larger and within one hundred feet (100') from a site that is less than one (1) acres in size.

- C. Existing and proposed utility lines and easements.
- D. Operational data explaining how the buildings and uses will function.
- E. Any other pertinent information requested by the Planning Commission such as architectural renderings of the buildings and structures involved in the proposed development.
- F. Other information and format as required by FCC 10-1-1-4.

10-4-5: PUBLIC HEARING AND NOTICE: The Planning Commission shall hold at least one public hearing on each conditional use permit application.

10-4-6: ACTION: The Planning Commission shall make specific findings for granting or denying a conditional use permit in accordance with the general criteria and/or conditions of Section 10-4-9 of this Title.

10-4-7: EFFECTIVE DATE: A conditional use permit shall become effective at the close of the appeal period.

10-4-8: EXPIRATION OF CONDITIONAL USE PERMIT:

- A. Authorization of a conditional use permit shall be void one (1) year after the date of approval of a conditional use application, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation.

The applicant may apply to the Planning Commission for a one-time extension of one (1) year maximum duration based on compliance with the following criteria:

1. The request for an extension is made in writing prior to expiration of the original approval.
2. There are special or unusual circumstances that exist which warrant an extension.
3. No material changes of surrounding land uses or zoning has occurred.

The Planning Commission may deny the request for an extension of a conditional use if new land use regulations have been adopted that affect the applicant's proposal. (Ord. 26, 2008)

- B. The discontinuance of a conditional use for twelve (12) consecutive months shall constitute expiration of that conditional use. The use occupying the premises thereafter shall conform to the regulations of the zoning district in which it is located.

10-4-9: REVOCATION: The Planning Commission, after notice and public hearing, may revoke a conditional use permit for any of the following reasons:

- A. Failure to comply with any prescribed requirement of the conditional use permit.
- B. Violation of any of the provisions of this Title.
- C. The use for which the permit was granted has ceased to exist or has been suspended for six (6) consecutive months or for eighteen (18) months during any three (3) year period.
- D. The use for which the permit was granted has been so exercised as to be detrimental to the public health, safety or general welfare, or so as to constitute a nuisance. (Ord. 625, 6-30-80).

10-4-10: GENERAL CRITERIA: A conditional use permit may be granted only if the proposal conforms to all the following general criteria: (Ord. 669, 5-17-82)

- A. Conformity with the Florence Comprehensive Plan.
- B. Compliance with special conditions established by the Planning Commission to carry out the purpose of this Chapter.
- C. Findings that adequate land is available for uses which are permitted outright in the district where the conditional use is proposed. Available land can be either vacant land or land which could be converted from another use within the applicable zoning district. Land needs for permitted uses may be determined through projections contained in the Florence Comprehensive Plan or other special studies.
- D. Conditional uses are subject to design review under the provisions of Chapter 6 of this Title, except single family and duplex residential use. (Ord. 625, 6-30-80) See Code Section 10-6-3 for Design Review requirements.
- E. Adequacy of public facilities, public services and utilities to service the proposed development.
- F. Adequacy of vehicle and pedestrian access to the site, including access by fire, police and other vehicles necessary to protect public health and safety. (Ord. 669, 5-17-82).

10-4-11: GENERAL CONDITIONS: The Planning Commission may require any of the following conditions it deems necessary to secure the purpose of this Chapter. Where a proposed conditional use is permitted in another district, the Planning Commission may apply the relevant development standards from the other district. In addition, conditions may be required by the Planning Commission. Such conditions may include:

- A. Regulation of uses, special yard setbacks, coverage and height.
- B. Requiring fences, walls, screens and landscaping plus their maintenance.
- C. Regulation and control of points of vehicular ingress and egress.
- D. Regulation of noise, vibration, odors, and sightliness.
- E. Requiring surfacing of parking areas.
- F. Requiring rehabilitation plans.
- G. Regulation of hours of operation and duration of use or operation.
- H. Requiring a time period within which the proposed use shall be developed.
- I. Requiring bonds to insure performance of special conditions.
- J. Regulation of tree and vegetation removal to maintain soil stability, preserve natural habitat, protect riparian vegetation, buffer conflicting uses, and maintain scenic qualities.
- K. Such other conditions as will make possible the development of the City in an orderly and efficient manner and in conformity with the intent and purpose of the Florence Comprehensive Plan.

10-4-12: ADDITIONAL CONDITIONS: Some land uses by the nature of the activity associated with them require separate and intense consideration by the Planning Commission prior to their establishment. Such uses and additional conditions are as follows:

A. Places of Worship:

1. Any building used for worship purposes in a residential district, except freestanding parsonages, shall provide and maintain a minimum setback of twenty feet (20') from any property line which is under a different ownership and is zoned for residential use.
2. Places of Worship may provide housing or space for housing in a building that is detached from the place of worship, provided:
 - a. At least 50 percent of the residential units provided are affordable to households with incomes equal to or less than 60 percent of the median family income for Lane County.
 - b. The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.
3. Housing and space for housing provided under ORS 227.500 and FCC 10-4-12-A-2 must be subject to a covenant appurtenant that restricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit designated as affordable housing as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for Lane County for a period of 60 years from the date of the certificate of occupancy.
4. Places of worship may apply for up to three (3) Recreational Vehicles (RVs) or park models for sleeping or living purposes, provided the following requirements are met:
 - a. The property owner submit a complete application for the conditional use permit together with a basic site plan (scale drawing not necessary) and allow access by city officials to the project site and the location of the recreational vehicles or park models for the purposes of inspection and enforcement of the terms and conditions of the permit, including towing the recreational vehicles or park models and removal of temporary sewer and water service connections, whether or not the permit has expired.
 - b. The conditional use permit must be issued before the RVs or park models are used for sleeping or living purposes.
 - c. Before an RV or park model is used for sleeping or living purposes, the owner and/or occupant of the recreational vehicle or park model must sign a release allowing access to and towing of the recreational vehicle or park model for purposes of inspection and enforcement of the terms and conditions of the permit.
 - d. The property owner shall make available connections to an on-site municipal water line and sanitary sewer line in accordance with all applicable state codes and city regulations.
 - e. The property owner shall make available electrical connections in accordance with all applicable state codes and city regulations.
 1. Electrical connections may be extension cords from an outlet or permitting and installing a pedestal for plug-in per FCC 4-1.
 2. No hard connections or use of generators shall be permitted.

- f. The property owner shall subscribe to and pay for solid waste collection service.
 - g. The RV or park model occupants are associated with a self sufficiency service or program.
 - h. Areas occupied by RVs or park models maintain a minimum fifteen-foot (15') buffer from adjacent single-family residential uses.
 - i. The conditional use is limited to two years and one two (2) year extension.
- B. Hospitals: Any building used for hospital purposes shall provide and maintain a minimum setback of fifty feet (50') from rear and side property lines, except on the street side of a corner lot. Alleys contiguous to or within the property being used for hospital purposes may be included as part of the required setback.
- C. Public or Private Schools: Any building used for school purposes shall provide and maintain a minimum setback of fifty feet (50') from rear and side property lines, except on the street side of a corner lot. Alleys contiguous to or within the property being used for school purposes may be included as part of the required setback.
- D. Service Stations: as used herein, service station means a facility designed to provide fuel and automotive services for passenger-type vehicles. Truck stops or service centers will be treated separately and distinctly from service stations.
 - 1. Location: Service stations shall be located adjacent to and integrated with other commercial uses, but not allowed in "spot" locations. They shall be located adjacent to an arterial street.
 - 2. Site Dimensions: The minimum size for a service station shall be one hundred fifty foot (150') frontage and one hundred foot (100') depth. They shall not abut existing residential districts and there shall be a minimum distance of four hundred feet (400') between service stations except at intersections. No more than two (2) service stations will be allowed at any intersection.
 - 3. Landscaping: Shall be installed in accordance with the standards set forth in FCC 10-34 Landscaping.
 - 4. Curb Cuts: No more than two (2) curb cuts will be allowed off any arterial street and these shall be located a distance no less than thirty feet (30') from any point of intersection with a public right of way.
 - 5. Signs: Signs shall be in accordance with the sign regulations of Title 4 Chapter 7 of this code.
 - 6. Hazards and Nuisances: Noise shall be controlled so as not to exceed the normal ground level of adjacent uses. Lighting shall be in accordance with Section 10-37 of this Title.
 - 7. Operations:
 - a. Only vehicles awaiting service will be stored on the premises.
 - b. Operations outside permanent structures shall be limited to dispensing gasoline, oil and water, changing tires, adjusting tire pressure, attaching and detaching trailers and washing vehicles.
 - c. Rental vehicles or utility trailer, not exceeding ten (10) in number, may be stored for rental, provided that any screening required by the City is in place and maintained.

- d. No merchandise shall be displayed or stored outside, except for oil in racks adjacent to the pumps.
 - 8. Discontinuance of Operations:
 - a. When a service station is not operated for any nine (9) months out of any eighteen (18) consecutive months, the conditional use permit for the service station may be revoked.
 - b. When a service station is not operated for any nine (9) months out of any eighteen (18) consecutive months, the buildings and structures may be removed at the expense of the property owner(s).
 - c. If the property owner fails to remove the buildings and structures within six (6) months of the revocation of the conditional use permit, the City may remove such buildings and structures at the expense of the owner(s).
 - 9. Design: An architectural rendering of the proposed service station shall be submitted in addition to the other information required for a conditional use permit. (Ord. 625, 6-30-80)
- E. Temporary Mobile Building Space:
- 1. A conditional use permit may be issued to provide adequate temporary building space for the following uses:
 - a. Temporary building space accessible to the general public for use during construction or remodeling.
 - b. Temporary building space for education, nonprofit and government agencies.
 - 2. Conditional Use Permits for Mobile Homes, Recreational Vehicles (RVs), or park models: A conditional use permit may be issued to an applicant showing an undue medical hardship. The applicant must demonstrate to the Commission with supporting factual information that this action is necessary to provide adequate and immediate health care for a person or persons who need close attention, but who would otherwise be unable to receive needed attention from the hospital or care facility, provided that the mobile home, RV or park model is to be used in conjunction with another permanent residential structure on the same lot. The written application for medical hardship special use permit shall be submitted to the Planning Commission and shall contain:
 - a. A written medical report from a licensed physician indicating the nature of the medical or disability hardship and the amount and type of care needed by the affected person or persons;
 - b. A property plan showing in detail the proposed location and site of the mobile home, RV or park model with respect to the surrounding area, setbacks, existing structures and improvements to be made.
 - c. Conditions of approval:
 - 1. There shall be no change in occupancy under the permit.
 - 2. The mobile home, park model or RV shall not be expanded or attached to a permanent structure.
 - 3. The mobile home, park model or RV shall have approved connections to utility systems and the owners shall be allowed to hook to an existing residential sewer service lateral without paying a sewer hookup charge.

4. The mobile home, park model or RV shall be required to meet all setback requirements of residential dwellings and shall be situated so as to have the least possible visual exposure to adjoining streets.
 5. The owner agrees that the mobile home, park model or RV shall be removed from the property when the temporary need allowed by this permit ceases.
3. Temporary Construction Site dwelling: A conditional use permit may be issued for a temporary construction site dwelling on sites with an active grading or building permit, provided the following requirements are met:
- a. The Temporary Construction Site dwelling may take the form of an RV, park model or similar structure.
 - b. The dwelling may not occupy public right-of-way or obstruct sidewalks.
 - c. The dwelling may be occupied either by the property owner or by a person or persons who will be principally engaged in construction associated with an active grading or building permit on-site.
 - d. One dwelling is permitted per site.
 1. Dwellings must be located on the site where construction is taking place.
 2. For large projects, such as a Subdivision or Planned Unit Development, more than 1 dwelling may be permitted by Planning Commission.
 - i. Large projects may have up to one dwelling per ten lots.
 - ii. Proposals of greater than five (5) Temporary Construction Site dwellings shall provide hygiene trailers and amenities sufficient to provide for adequate health and sanitation.
 - e. Dwellings may not occupy the setbacks of the base zone or any other applicable setbacks.
 - f. Construction shall not prevent the removal of a Temporary Construction site dwelling.
 - g. Temporary Construction Site dwellings must be removed prior to the issuance of a Certificate of Occupancy. A Certificate of Occupancy will not be issued until the dwelling is removed. For projects where no Certificate is issued, then the dwelling must be removed within 3 days of final inspection approval.
- F. Bed and Breakfast Facility:
1. A bed and breakfast facility must be in a one-family dwelling.
 2. A maximum of three bedrooms shall be rented.
 3. The bed and breakfast shall be an owner occupied residence. No separate structures shall be utilized.
 4. Rooms may not be rented for more than seven consecutive days, and no more than fifteen (15) days per person in any thirty (30) day period.
 5. The exterior of the building and the yard shall maintain a residential appearance.

6. A morning meal must be served on premise and included within the room charge for guests of the facility and shall be the only meal provided.
7. The facility must meet applicable county and state health, safety (including but not limited to the Uniform Building Code requirements concerning maximum occupancy) and liability requirements.
8. One off-street parking space will be required for each rented bedroom, in addition to the number of spaces required for each dwelling unit.
9. One sign shall be permitted on the premises with a maximum area of four (4) square feet.
10. The city, upon receipt of a citizen complaint, will review a conditional use permit approved for a bed and breakfast facility. The planning commission may withdraw the permit, at any time if it is determined that the conditions of the permit have been violated after reviewing written complaints and the staff report. The operator of a facility will be notified by the city in writing prior to the planning commission determination to allow the operator to appear and show cause why the conditional use permit should not be withdrawn.
11. An increase in the number of rooms rented, over those previously permitted and not to exceed 3 rooms, will require a new conditional use permit with the conditional use fee reduced to one-half.
12. The applicant must have written approval from the Board of Directors of any applicable Homeowner's Association. (Amended by Ord. No. 13, Series 2002)

G. Waste Related Industrial Use:

1. Any waste related industrial use shall provide and maintain a minimum vegetated buffer of twenty feet (20') from any property line which is under a different ownership and/or zoned for residential use.
2. A solid fence and/or wall a minimum of six feet (6') to a maximum of eight feet (8') in height shall be provided and located along side and rear property lines (except corner lots), behind the front yard landscaped setback and behind the side yard landscaped setback on corner lots.
3. Dangerous or hazardous materials and equipment shall be enclosed within a secure fenced area.
4. All necessary State and County permits shall be obtained to ensure the environmental health and safety of the public.

H. Residential Caretaker Unit;

1. Residential caretaker unit must be located a minimum of twenty feet (20') from any property line abutting a street.
2. Provision of a residential caretaker unit must be necessary to ensure adequate security and monitoring of the site and/or viable business operations (e.g. on-call persons, emergency maintenance).

I. All Medical and Recreational Marijuana Uses requiring licensing or registration by the Oregon Liquor Control Commission or the Oregon Health Authority.

1. Medical marijuana dispensaries, recreational marijuana retailers, medical and recreational marijuana processing sites, recreational producers, and marijuana wholesalers are permitted conditionally except as specifically provided for in the Pacific View Business Park District and Limited Industrial District and where permitted as a home occupation. Where

a licensed marijuana use is not listed among the uses permitted conditionally or outright in a particular zoning district, the marijuana use is not permitted in that zoning district.

2. Prior to submitting an application for a medical marijuana or recreational marijuana conditionally permitted use, the applicant shall attend a pre-development meeting with Community Development staff. In addition, prior to submitting the conditional use permit, the applicant shall submit a zone verification request for the development site to determine whether the proposed development site complies with the necessary separation requirements for a medical marijuana or recreational use.
3. Medical marijuana dispensaries and marijuana retailers must be separated from the following by a minimum of the listed distance:
 - a. 175 feet from residential zones
 - b. 200 feet from public libraries.
 - c. 200 feet from public parks, except Miller Park which shall be 400 feet.
 - d. 200 feet from child care facilities licensed by the Oregon Department of Education (registered family child care homes, certified family child care homes, and certified child care centers).
 - e. 1,000 feet from:
 1. Public elementary or secondary school for which attendance is compulsory under ORS 339.020.
 2. Private or parochial elementary or secondary school, teaching children as described in ORS 339.030.

School buffers listed in “3.e.” above shall be measured as follows: a straight line measurement in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising a school to the closest point of the premises of a retailer or dispensary. For all other buffers, distance is measured in a straight line measurement in a radius extending for the buffered distance in every direction from any point on the boundary line of the real property comprising the buffered use to the nearest primary or accessory structure used for marijuana facility use. The distance limitations are based upon the uses surrounding the proposed marijuana facility location at the time the conditional use application is deemed complete.
4. All medical marijuana and recreational marijuana uses shall:
 - a. Not be a home occupation, except Medical Marijuana Production and Processing and Recreational Marijuana Producers and Processors in a permanent building as discussed in ‘c’ below.
 - b. Not locate in a building that also contains a dwelling or caretaker facility.
 - c. Only locate in a permanent building and shall not locate in a temporary or movable structure, such as a high tunnel, greenhouse, trailer, cargo container or motor vehicle, except as provided in ‘i’. Medical and Recreational Production not in a residential zone and not a home occupation may conduct outdoor grow operations, excepting in the Highway District.
 - d. Not have a drive-up window or walk-up window.

- e. Provide exterior lighting after sunset during business hours to light the public entrance to the facility. The lighting shall be positioned so as to not negatively impact the picture quality of any video surveillance system used by the facility.
 - f. Provide overhead lighting after sunset during business hours for any on-site parking area.
 - g. Have only one public entrance and the single public entrance shall face a public street.
 - h. Not share an air circulation system with another use.
 - i. Not locate in greenhouses or high tunnels, except for producers and production sites that are not home occupations may use those structures in non-residential districts where the business use is permitted.
 - j. Provide effective odor control system such as by carbon filtration.
 - k. Not use artificial lighting after sunset and before sunrise with outdoor grow sites and production or those operating in greenhouses or high-tunnels.
 - l. Position security cameras in such a way as to only show the licensee's property and surrounding public right-of-way.
5. All medical marijuana and recreational marijuana uses must have a current and active registration and/or license to conduct business as a facility from the Oregon Health Authority and from the Oregon Liquor Control Commission, as applicable and must have a current City business license.
6. All medical marijuana grow sites and recreational producers must provide the city a 'will serve' letter or equivalent from Florence Public Works, Central Lincoln PUD and Heceta Water PUD (as applicable) prior to submission of a land use permit application or business license, whichever application is made first.

Sections: 10-4-4; 10-4-6; 10-4-7 Amended by Ord. 26, 2008

Section: 10-4-11-F: July, 2009 (housekeeping)

Section 10-4-11 amended by Ord. No. 9, Series 2009

Section 10-4-11 amended by Ord. No. 4, Series 2010 (effective 4/5/10)

Sections 10-4-3-B, 10-4-11-D-3, and 10-4-11-D-5 amended, AND Section 10-4-10-D deleted and subsequent sections renumbered by Ordinance No. 4, Series 2011 (effective 4/22/11)

Section 10-7-7 amended; sections 10-4-2 and 10-4-7-B added; and subsequent sections renumbered by Ord. No. 3, Series 2013 – See Exhibit B (effective 7-31-13)

Section 10-4-12-D-6 amended by Ord. No. 12, Series 2014 (effective 12-31-14)

Section 10-4-12-I added by Ord. No. 1, Series 2015 (effective 3-15-14)

Section 10-4-12-I amended by Ord. No. 12, Series 2015 (effective 1-1-16)

Sections 10-4-1, 10-4-4, and 10-4-12-C and -I amended by Ord. No. 11, Series 2016 (effective 11-16-16)

Section 10-4-12-A amended by Ord. 4, Series 2018 (effective 6-21-18)

Sections 10-4-12-A & E amended by Ord. 7, Series 2019 (effective 12-18-19)