

ARTICLE 6: CONDITIONAL USE PERMITS

Section 6.01 General Provisions

The City Council may authorize and permit conditional uses as designated in the use regulations of each district, after the following:

1. After a Planning Commission Public Hearing,
2. Referral by the Planning Commission; and
3. Conducting a City Council Public Hearing

Approval or denial shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The City Council may grant or deny a conditional use permit in accordance with the intent and purpose of this ordinance.

In granting a conditional use permit, the City Council may:

1. Authorize the use and
2. May prescribe and impose appropriate conditions, safeguards, and a specified time limit for the implementation of the identified conditional use permit.

Section 6.02 Application for Conditional Use Permit

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the City upon forms prescribed for the purpose.

The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions, data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted.

The application shall be accompanied with a non-refundable fee as established by the City Council.

Section 6.03 Public Hearing

Before issuance of any conditional use permit, both the Planning Commission and City Council shall hold Public Hearings after proper and legal notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of Fairbury, one time at least 10 days prior to said hearings.

The City Council will consider the application for the Conditional Use Permit together with the recommendations of the Planning Commission.

Section 6.04 Decisions

The Concurring vote of 2/3 (6 members) of the City Council shall be necessary to grant a Conditional Use Permit.

The applicant shall have 12 months from the approval of the Conditional Use Permit to commence the use, unless the City Council specifically grants a longer period of time upon the recommendation of the City Planning Commission. If the use stated within the Conditional Use Permit has not been commenced within 12 months, or approved time period, said Permit shall become invalid and any activity shall be required to apply for a new Conditional Use Permit.

All decisions by the City Council and the recommendations of the Planning Commission shall be required to provide findings of fact for their decision for either approval or denial.

The approval of any Conditional Use Permit shall require 2/3 (6 members) of the City Council to vote in the affirmative.

Section 6.05 Transferability

Any approved Conditional Use Permit is automatically transferable upon sale of the property from the original applicant to another party. However, the new owner shall assume the responsibility for complying with:

1. the conditions of the granted permit,
2. The use shall not change or be expanded unless a new Conditional Use Permit is approved,
3. Failure to comply with the conditions of the permit shall subject the new owner to the revocation process of this Article.

However, any Home Occupation or Home-based Business requiring a Conditional Use Permit shall not be able to transfer said CUP to a new owner until said new owner requests and receives their own CUP.

Section 6.06 Revocation

Any approved Conditional Use Permit may be revoked for failure to comply with the conditions approved by the City Council. Revocation shall require that the City notify the applicant of any noncompliance, in writing, and provide the applicant 30 days to correct the issue(s).

Failure to comply with the notice shall cause a Public Hearing to be scheduled by the Planning Commission, to review the permit and the approved conditions and the failure to act by the applicant. If the applicant is found to be noncompliant with the issued permit and conditions, the Planning Commission shall make a recommendation on the subject permit to City Council, provided applicant will not or cannot come into compliance with the conditions of the permit. Upon a recommendation being forwarded to the City Council, the City Council shall hold a Public Hearing and shall act on the revocation including the revocation of the permit and order the use to cease and desist.

Failure to follow a Cease and Desist order shall cause action to be filed by the City Attorney in District Court.

Revocation may also occur, if the City documents that the use has ceased operations for 12 consecutive months. The City shall notify the applicant of the revocation in writing. The permit shall become invalid in 30 days.

Section 6.07 Permit Review

The Planning Commission and/or City Council reserve the right to review any Conditional Use Permit for compliance either on an annual basis or upon a written complaint from any individual.

Section 6.08 Standards

No conditional use permit shall be granted unless the Planning Commission or City Council has found:

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
2. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
3. That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
5. Adequate measures have been or will be taken to provide ingress and egress on the property, so designed as to minimize traffic congestion in the public streets.
6. The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
7. The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
8. The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
9. The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any Public Street, road, or highway.
10. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
11. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

12. Applicants shall also be required to follow the criteria of Table 11.1 in Article 11 of this regulation.

