

# MIDWAY CITY

- Planning Office -

75 North 100 West  
Midway, Utah 84049

Phone: 435-654-3223 x 105  
Fax: 435-654-2830  
[mhenke@midwaycityut.org](mailto:mhenke@midwaycityut.org)

## Application for Conditional Use Permit

**Application Fee: \$500 + \$.50 per letter + Professional Review Deposit: \$1000.00 (required at staff's discretion and \$.50 per letter and any Engineering Review expenses and legal noticing)**

### Owner(s) of Record:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

### Applicant or Authorized Representative:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**Reason for Conditional Use:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Property Location:** \_\_\_\_\_

**Parcel Number(s):** \_\_\_\_\_

**Zoning District:** \_\_\_\_\_

### FOR OFFICE USE ONLY

**STAFF:**

Date Received: \_\_\_\_\_

Received By: \_\_\_\_\_

Fee Paid: \_\_\_\_\_

Application Number \_\_\_\_\_

Zone: \_\_\_\_\_

Tax ID Number: \_\_\_\_\_

**PLANNER:**

Complete / Incomplete

Date: \_\_\_\_\_ Reviewed by: \_\_\_\_\_



## **CONDITIONAL USE APPROVALS AND REGULATIONS:**

### **Section 16.26.12 Conditional Use Approvals and Regulations**

The consideration of an application for a conditional use shall be governed by the following standard of Utah Code:

- (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- (b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied. The following approval requirements and regulations shall apply to all conditional use applications. These requirements are in addition to any conditions specifically or requirements specifically listed for a given conditional use. In the case of conflicting requirements, the more restrictive shall apply.

A. General Standards for Conditional Use Approval. An applicant for a conditional use approval shall provide within the application information to clearly demonstrate to the City compliance with the following, in addition to any specific requirements of this Section attached to the conditional use applied for:

1. 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.
2. Nuisance Standard. Any use found to be objectionable or incompatible with the character of the City and its environs due to noise, light, traffic, dust, odors or other undesirable characteristics may be prohibited.
3. General Plan Consistency Standard. To obtain a use permit, the applicant must generally show that the contemplated use is compatible with the City's land use policies in terms of the general plan and 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.

B. After receiving the application at its next available regular meeting, the Planning Commission shall recommend the granting or denying of the conditional use permit based on the standards set forth in this Section. The Planning Commission may also recommend conditions to be imposed on the use if the permit is granted. After the Planning Commission makes its recommendation, the City Council shall advertise and hold a public hearing in the same manner specified above. After the public hearing, the City Council shall make a decision whether to grant or deny the proposed conditional use permit. The Council shall record its decision in writing and shall recite the findings upon which the decision is based. The City Council may approve and/or modify a conditional use or special exception permit application in whole or in part, with conditions, only if all of the following findings are made:

1. The proposed use is conditionally permitted within the Land Use Title, and would not impair the integrity and character of the intended purpose of the subject zoning district and complies with all of the applicable provisions of this Code.
2. The proposed use is consistent with the General Plan.
3. The approval of the conditional use or special exception permit for the proposed use is in compliance with the requirements of state, federal and Midway City or other local regulations.
4. There will be no potential, significant negative effects upon environmental quality and natural resources that could not be properly mitigated and monitored.
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses with the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City.
6. The subject site is physically suitable for the type and density/intensity of the use being proposed.
7. There are adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to insure that the proposed use would not be detrimental to public health and safety.

C. The Planning Commission may recommend, and the City Council may impose, conditions on the requested use which are additional to any conditions which are specifically listed in conjunction with all conditional uses or special exceptions prescribed within this Ordinance Title. All conditions imposed shall meet the following criteria:

1. The condition is within the police powers of Midway City.
2. The condition must substantially further a legitimate public purpose.
3. The condition must further the same public purpose for which it was imposed.
4. The property owner may not be required to carry a disproportionate load in furthering the public purpose.
5. Dedications of land and other contributions as conditions of approval must be "reasonably related" to the use of the property for which the conditional use or special exception permit is requested. There must also be a "rough proportionality" between the extent of the condition and the particular demand or impact of the project. In addition, a performance bond cannot be required for the installation of public improvements that are not reasonably related to the property use. 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 25 feet and requires the developer to submit and obtain Planning Commission and City Council approval of a landscaping plan, among other things, the permit itself does not imply a height limitation on trees within the development.

D. Public Participation and Notification. The public participation requirements for conditional use permits and special exceptions, as outlined in Title 16, shall be required. Public notice shall be per Utah law and per Title 16 of the Midway City Municipal Code.

E. Appeal. The decision of the City Council on the granting or denying of the conditional use permit or special exception shall be the final decision of the City on the matter. Appeal shall be to a court of competent jurisdiction in the manner and within the time prescribed by Utah law.

F. Right to Conditional Use. The right to a conditional use shall benefit only the particular land applied for by the applicant and shall not be transferable to other land. A conditional use approval shall remain valid for only one year, i.e., if the approved use has not begun in one year from approval, the approval shall expire and must be applied for again, unless otherwise specified in the approval conditions.

G. In the event that complaints concerning a conditional use or special exception are filed with the City, the Zoning Administrator shall investigate problems identified in the complaint to determine if the conditional use is in violation of this Title. If the Zoning Administrator determines the conditional use is in violation of this Title, the Administrator shall pursue the elimination of the violating activity in accordance with pertinent sections of this Title.

#### **CHECKLIST:**

- A detailed statement of how your application supports the General welfare Standard, the Nuisance Standard, and the General Plan Consistency Standard (see A. 1, 2, 3);
- Completed application and all fees paid; Fees include the application fee, \$.50 per letter and the cost of any engineering review expenses and legal noticing;
- An accurate list of the names and addresses of all property owners of current record within six hundred (600) feet of the property, including your own. This information is available in the Wasatch County Recorder's Office;
- Unsealed stamped envelopes addressed to each property owner on the list above;
- One (1) 24"x36" copy of plans drawn to scale of 1"=100' if applicable
- Three (3) 11"x17" copies of plans
- Any other requirements as identified by staff