

**ORDINANCE**

**AN ORDINANCE OF THE CITY OF MANITOU SPRINGS, COLORADO, AMENDING CERTAIN SECTIONS OF CHAPTER 18.30 REGARDING THE PROCEDURES RELATED TO CONDITIONAL USE PERMITS AND CREATED A MINOR CONDITIONAL USE PERMIT.**

**WHEREAS**, the City has desires to create a new minor conditional use permit process for certain types of conditional uses;

**WHEREAS**, the City has also determined that it is appropriate to revise the procedures regarding conditional use applications and permit revocations; and

**WHEREAS**, the City has determined that these revisions are in the best interests of the City and its residents.

**Section 1:** Sections 18.30.010 through 18.30.060 of Manitou Springs Municipal Code are hereby repealed and reenacted as follows:

**18.30.010 – Purpose.**

Conditional Uses are uses, which because of their character, size and potential impacts, may or may not be appropriate in particular zoning districts and therefore are not expressly permitted and instead, subject to the approval process in this Chapter. The conditional use requirement is intended to allow for the integration of certain land uses and structures within the City of Manitou Springs on recommendations imposed by the City Council and City Planning Commission. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district.

**18.30.020 – Approval required.**

Conditional use approval shall be required for those uses not specifically permitted in the particular zone district. A conditional use may be subject to a major or minor condition use permit process, as provided for in this Chapter and as designed in this Code. Uses subject to the minor conditional use permit process shall be designated as such in this Code. If a use is not designated as subject to the minor conditional use permit process, it shall be subject to the major conditional use permit process.

**18.30.030 - Processing of conditional uses.**

A. Pre-application Conference. A pre-application conference shall be held with the City Planner in order for the applicant to:

1. Become acquainted with the conditional use requirements and other related City requirements; and

2. Obtain a checklist of what the application shall include plus additional documentation that may be required as set forth in: Chapter 18.08, Specific Zone Designations; Chapter 18.14, Planning Permission; Chapter 18.72, Major Development Plan; and Chapter 18.74, Citizen Participation Plan and Report.

B. Application Letter Stating the Existing Use and Proposed Use. A person having an interest in the property to be developed shall file an application for approval of a conditional use. The application shall be made on a form provided by the City of Manitou Springs.

C. Documentation Required. The application for conditional use shall include all documentation specified as follows:

1. Site map indicating existing structures and their current uses; and existing surrounding structures and land uses;

2. A written statement of intent explaining the objective to be achieved by the development and a description of the possible impacts, both positive and negative, of the development;

3. Citizen Participation Plan and Report, identified in Chapter 18.74;

4. Traffic analysis indicating anticipated average daily traffic volumes, if required by the City;

5. A building floor plan indicating the proposed use(s) within existing or proposed structure(s);

6. If, in the opinion of the Planning Staff, additional, detailed technical studies/data are needed due to the scale, location or impact of the proposed development, the submission of such additional studies/data may be required;

7. Evidence of mailed notification as specified in Public Notice requirements Section 18.44.020(C);

8. An Environmental and Fiscal Impact Report shall be provided that complies with the requirements of Section 16.06.030(K) of the Manitou Springs Subdivision Regulations, as amended, and as defined in Chapter 18.60.

**Section 18.30.040 – Public notice.**

Public notice, as specified in Section 18.44.020(A), (B) and (C), shall be provided for all public hearings pursuant to this Section.

**Section 18.30.050 – Review procedures and approval.**

A. Basis for Issuance of a Conditional Use Permit. Conditional uses shall be permitted only if the City Council determines that the following criteria are met with respect to the type of use:

1. Surrounding Neighborhood. That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured, including:

a. That the proposed use furthers the architectural and historical qualities and character of the community as set forth in the Manitou Springs Design Guidelines.

b. The proposed use is compatible in function and design with surrounding land uses.

2. Intent of Zoning Code. That the conditional use is consistent with the intent and purpose of this Zoning Code to promote public health, safety and general welfare.

3. Manitou Springs Comprehensive Plan. That the conditional use is consistent with the Manitou Springs Comprehensive Plan of the City.

4. Conditional uses shall not be allowed where such use would create a nuisance, traffic congestion, a threat to the public health, safety, or welfare of the community or a violation of any provision of the Design Guidelines of the City of Manitou Springs, City Code, state law, rule or regulation promulgated pursuant thereto.

B. Procedure for a Minor Conditional Use Permit.

Submitted materials are reviewed by the Planning Department for completeness and, if complete, placed on the Planning Commission agenda for public hearing. After consideration of staff, professional/technical, agency and public comment, the Planning Commission shall approve, approve with conditions or deny an application based upon the criteria in Section 18.30.050(A).

C. Procedure for Major Conditional Use Permit.

1. Submitted materials are reviewed by the Planning Department for completeness and, if complete, placed on the Planning Commission agenda for public hearing. After consideration of staff, professional/technical, agency and public comment, the Planning Commission shall recommend approval, approval with conditions or denial of an application.

2. After Planning Commission has made its recommendation, the application shall be forwarded to City Council for consideration. City Council shall approve, approve with condition or deny an application based the criteria in Section 18.30.050(A) and Planning Commission's recommendation.

D. Except as otherwise decided by Planning Commission for minor conditional use permits or by the City Council for major conditional use permits, the development of a conditional use shall conform to the applicable regulations of the district in which it is to be located.

### **18.30.060 – Revocation**

Upon a determination by the Planning Department that there may be a failure to comply with a condition of a minor or major conditional use permit, the Planning Department may forward that determination to the Planning Commission for review subject to the following process:

A. For minor conditional use permits, the Planning Commission shall consider staff's recommendation and if Planning Commission determines to be a failure to comply with a condition of the minor conditional use permit exists, the Planning Commission shall issue an order to show cause why the permit should not be revoked. Such order shall be delivered to the permit holder. If the Planning Commission determines that there is no failure to comply with a condition of a minor conditional use permit, the Planning Commission shall take no further action. If Planning Commission issues an order to show cause, it shall conduct a public hearing on the revocation and may revoke the minor conditional use permit if it determines that a violation of a condition has occurred.

B. For major conditional use permits, the Planning Commission shall consider staff's recommendation and make a recommendation to City Council regarding whether a failure to comply with a condition of the major conditional use permit exists. Such recommendation shall be considered by City Council and if there appears to be a failure to comply with a condition of the major conditional use permit, City Council shall issue an order to show cause why the permit should not be revoked. Such order shall be delivered to the permit holder. If City Council determines that there is no failure to comply with a condition of a major conditional use permit, the City Council shall take no further action. If City Council issues an order to show cause, it shall conduct a public hearing on the revocation and may revoke the major conditional use permit if it determines that a violation of a condition has occurred.

**Section 2:** Section 18.30.080 of the Manitou Springs Municipal Code is hereby repealed and reenacted as follows:

### **18.30.080 - Expiration and discontinuance.**

A. Expiration. A conditional use granted pursuant to this part shall expire within twelve months from the date of final approval if action is not taken within that

time, unless said time is extended for up to one, six-month period for good cause shown to the City Council. For purposes of this subsection, "action" means obtaining a building permit, pursuant to the granting of the conditional use, or if a building permit is not required, obtaining a business license associated with the conditional use request, or the right which is granted pursuant to the conditional use is put to use pursuant to the conditional use approval.

B. Discontinuance and Termination of Right. Except as provided in subsection A of this Section, discontinuance of the exercise of any right heretofore or hereafter granted by any Conditional Use for a continuous period of twelve months shall terminate such right and invalidate the associated, approved development plan. Upon termination of right(s) associated with the conditional use, the property affected thereby shall be subject to all provisions and regulations of this Zoning Code applicable to the principal permitted uses within the zone in which such property is classified.

**Section 3:** Section 18.30.090 of the Manitou Springs Municipal Code is hereby repealed.

**Section 4:** Section 18.60.010 of the Manitou Springs Municipal Code is hereby amended by the revision to the definition of conditional use:

“Condition Uses” means a use that due to its impact and nature is not expressly permitted in a zone district but may be allowed through City approval as provided for in this Code.

**Section 5:** Section 18.06.010(J) of the Manitou Springs Municipal Code is hereby amended to read as follows:

Conditional Uses, subject to the granting of approval as provided for in this Chapter are allowed in all zones unless otherwise indicated.

**Section 6:** If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 7:** The repeal or modification of any provision of Manitou Springs Municipal Code by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

**Section 8:** This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Passed on first reading and ordered published this 17<sup>th</sup> day of May, 2016.

/s/ Donna Kast

City Clerk, Donna Kast

A Public Hearing on this ordinance will be held at the June 7, 2016, City Council meeting. The Council Meeting will be held at 6:00 P.M. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published: May 19<sup>th</sup>, 2016 (in full)

*City's Official Website and City Hall*

Passed on second reading and ordered published this 7<sup>th</sup> day of June, 2016.

Approved: /s/ Nicole Nicoletta

Mayor and City Council

Attest: /s/ Donna Kast

City Clerk, Donna Kast

Ordinance Published: June 9, 2016 (in full)

*City's Official Website and City Hall*