

- Sec. 20. - CONDITIONAL USE PERMIT.

The purpose of this procedure is to provide for review and discretionary approval of uses typically having unusual site development features or unique operating characteristics requiring special consideration so that they may be located, designed, and operated compatibly with uses on surrounding properties and within the City at large. The Conditional Use Permit process is intended to encourage broad public review and evaluation of site development features and operating characteristics and to ensure adequate mitigation of potentially unfavorable impacts.

- Sec. 20.01. - Additional requirements for bed and breakfast uses.

All Bed and Breakfast use facilities shall be subject to the following additional requirements to those set forth otherwise in the City of Alpine's Ordinances:

A. Only overnight guests may be served meals except in zones permitting restaurant use. Such meals shall be limited to continental-type breakfast consisting of pastries prepared by a licensed provider, milk, cereal, fruit, fruit juice and coffee unless the facility meets the State of Texas and Brewster County Health Division requirements for commercial food service.

B. All signs must comply with the City's Sign Ordinance (Currently [Chapter 78](#) of the Code of Ordinances.)

C. All Bed and Breakfast facilities must comply with all State of Texas and City of Alpine building codes for existing or new construction, as applicable, including ADA standards.

D. Bed and Breakfast facilities shall comply with the regulations for Fire Protection set forth in the appropriate International Construction Codes, the latest version adopted by the City at the time of construction or conversion to Bed and Breakfast use using the "Lodging and Rooming Houses" regulations.

E. External lighting shall be shielded from adjoining properties.

F. All functions such as weddings, parties or other gatherings shall be limited to Commercial Zoning Districts.

(Ord. No. 23-014, 9-16-2013)

- Sec. 20.02. - Bed and breakfast compliance use permit.

A. All Bed and Breakfast uses must acquire and maintain a Bed and Breakfast Compliance Use Permit commencing on mm/dd/yyyy for new uses prior to the issuance of a certificate of occupancy and for existing uses on mm/dd/yyyy. The permit is valid for a two-year period and shall be renewed by the owner for each two-year period.

B. The permit will be issued pursuant to an application containing the name of the applicant and owner of the property if not the same, the address of the property, a diagram showing the

proposed layout of the property use and any other details required such as food service, signs, type of lighting and parking, and any other information required by the City's **Administrative** Official to implement the provisions hereof.

C. For all renewing permits, proof that the City of Alpine Hotel-Motel Tax has been continuously paid as required for the previous period. This requirement may be waived if all reports are on file with the City.

D. Any evidence required by the City's Administrative Official that the property complies with all Zoning District regulations applicable to the property, and additional requirements for a Bed and Breakfast as set forth in 20.01 and 20.02.

E. Payment of the fee set forth by the City Council in Sec 20.04.

F. The permit, or any renewal will be denied or revoked if the above conditions are not complied with and maintained for the permit period. Any person or entity denied a permit or renewal or from whom or from which a permit was revoked may appeal such denial to the **District Court** following the notice and rules of procedure set forth for the **(District Court)** in this Code of Ordinances.

G. The ability of the City to deny or revoke the permit shall not prohibit the City from exercising other remedies, such as prosecution for ordinance violation, seeking an injunction or any other remedy available to it.

- Sec. 20.03. - Jurisdiction.

The City Council shall have jurisdiction with respect to all Conditional Use Permits. The Planning and Zoning Commission shall review and submit a recommendation to the City Council on all applications for a Conditional Use Permit.

- Sec. 20.04. - Application and Fee.

Application for a Conditional Use Permit shall be filed with the Administrative Official. The application shall include the following:

Name and address of the owner and applicant.

Address and legal description of the property.

If the applicant is not the legal owner of the property, a signed statement by the owner that the applicant is the authorized agent of the owner of the property.

A statement describing the nature and operating characteristics of the proposed use, including any data pertinent to the finding required for approval of the application. For uses involving public assembly or industrial processing, or uses generating potentially high volumes of vehicular traffic, the **Administrative** Official may require specific information relative to the

anticipated peak loads and peak use periods, relative to industrial standard or substantiating the adequacy of proposed parking, loading and circulation facilities.

Site plans, preliminary building elevations, preliminary improvement plans, and such additional maps and drawings, all sufficiently dimensional as required to illustrate the following:

The date, scale, north point, title, name of owner and name of person preparing the site plan.

The location and dimensions of boundary lines, with distances and bearings, easements, and required yards and setbacks, water courses, drainage features and location and size of existing and proposed streets and alleys and the one hundred (100) year flood plain.

The location, height, bulk, general appearance, and intended use of existing and proposed buildings on the site, and the approximate location of existing buildings on abutting sites within fifty (50) feet.

The location of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, landscaped areas, utility or service areas, fencing and screening, signs and lighting.

The location of water courses and drainage features.

The number of existing and proposed off-street parking and loading spaces, and a calculation of applicable minimum requirements.

For sites with an average slope greater than ten (10) percent, a plan showing existing and proposed topography and grading and proposed erosion control measures.

The relationship of the site and the proposed use to surrounding uses, including pedestrian and vehicular circulation, current use of nearby parcels, and any proposed off-site improvements to be made.

An application for a Conditional Use Permit shall be accompanied by a fee set forth by the City Council in the amount of **\$250.00**.

- Sec. 20.05. - Concurrent Applications.

Application for a Conditional Use Permit and for Rezoning for the same property may be made concurrently, subject to the fee applicable for a Rezoning and Conditional Use Permit.

- Sec. 20.06. - Public Hearing.

Within sixty (60) days after filing of a completed application, the Planning and Zoning Commission shall hold a public hearing on such application for a Conditional Use permit. Notice shall be given as prescribed in [Section 20.17](#). At the public hearing, the Planning and Zoning Commission shall review the application and shall receive pertinent evidence concerning the

proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the findings prescribed in [Section 20.07](#).

- Sec. 20.07. - Recommendation of the Administrative Official.

The Administrative Official shall review each application and shall prepare a recommendation thereon which shall be filed with the Planning and Zoning Commission and made available to the applicant at least **five (5)** days prior to the public hearing.

- Sec. 20.08. - Action by the Planning and Zoning Commission.

The Planning and Zoning Commission shall act on the application within twenty (20) days following the closing of the public hearing. The Planning and Zoning Commission shall determine whether, in its opinion, the request is consistent with the objectives of this Ordinance and with the Comprehensive Plan, and shall recommend to the City Council that the Conditional Use Permit be enacted, enacted in modified form or be denied.

- Sec. 20.09. - Review and Evaluation Criteria.

The Planning and Zoning Commission and City Council shall review and evaluate Conditional Use Permit applications using the following criteria:

Conformance with applicable regulations and standards established by the Zoning Regulations.

Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development, access and circulation features.

Potentially unfavorable affects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonably may result from use of the site for a permitted use.

Modifications to the site plan which would result in increased compatibility, would mitigate potentially unfavorable impacts, would be necessary to conform to applicable regulations and standards and would protect the public health, safety, and general welfare.

Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonable and anticipated in the area; existing zoning and land uses in the area.

Protection of persons and property from erosion, flood or water damage, fire, noise, glare and similar hazards and impacts.

Location, lighting, and type of signs; the relation of signs to traffic control and adverse effect of signs on adjacent properties.

Adequacy and convenience of off-street parking and loading facilities.

Determination that the proposed use is in accordance with the objectives of these Zoning Regulations and the purposes of the zone in which the site is located.

Determination that the proposed use will comply with each of the applicable provisions of these Zoning Regulations.

Determination that the proposed use and site development, together with any modifications applicable thereto, will be compatible with existing or permitted uses in the vicinity.

Determination that any conditions applicable to approval are the minimum necessary to minimize potentially unfavorable impacts on nearby uses and to ensure compatibility of the proposed use with existing or permitted uses in the same district and the surrounding area.

Determination that the proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

- Sec. 20.10. - Actions by the City Council.

Within forty (40) days following receipt of the recommendation of the Planning and Zoning Commission, the City Council shall hold at least one public hearing on the Conditional Use Permit. Notice shall be given as prescribed in [Section 20.17](#). Within twenty (20) days following the closing of a public hearing, the City Council may grant a Conditional Use Permit as the Permit was applied for in a modified form or subject to conditions, or may deny the application. The City Council shall notify the applicant of its decision.

- Sec. 20.11. - Conditions.

The Planning and Zoning Commission, in considering and determining its recommendation, and the City Council, on any request for a Conditional Use Permit, may require from the applicant's plans, information, operation data and expert evaluation concerning the location, function and characteristics of any building or use proposed. The City Council may, in the interest of the public welfare and to ensure compliance with this Ordinance, establish conditions of operation, location, arrangement and construction of any use for which a permit is authorized or may allow a variance from property development standards. In authorizing the location of any of these uses listed as Conditional Use Permits, the City Council may impose such development standards and safeguards as the conditions and location indicate important to welfare and protection of adjacent property from excessive noise, vibration, dust, smoke, fumes, gas, odor, explosion, glare, offensive view or other undesirable or hazardous conditions. The City Council, in approving or conditionally approving a Conditional Use Permit, may set forth in its decision reasonable conditions which will ensure the intent and purposes of the Zoning Regulations and avoid the creation or detrimental effect upon abutting properties which may include, but not limited to the following:

Duration of use	Time period in which the proposed use shall be developed or constructed
Fences, hedges and walls	Surfacing of parking areas
Regulation of noise, vibration, odors, etc.	Regulation of time for certain activities
Regulation of use or uses	Special yards, spaces and buffers
Requiring street, service road or alley dedications and improvements or appropriate bonds	Regulation of locations of vehicular ingress and egress

Including such other conditions that will make possible the development occurs in an orderly and efficient manner, and in conformity with the intent and purposes of applicable ordinances.

- Sec. 20.12. - Protest Provisions.

If the Planning and Zoning Commission has not recommended approval of the Conditional Use Permit Request, or if there is a protest against the request signed by the owners of twenty (20) percent of the property immediately adjoining the same and extending two hundred (200) feet there from, such request shall not become effective except by the favorable vote of three-fourths (¾) of the members of the City Council.

- Sec. 20.13. - Suspension and Revocation.

Upon violation of any applicable provision of this ordinance or, if granted subject to conditions, upon failure to comply with conditions, a Conditional Use Permit shall be suspended after thirty (30) days written notification to the owner of a use or property subject to a Conditional Use Permit.

- Sec. 20.14.-Discontinuance.

A conditional use permit is automatically terminated upon a change in use, upon discontinuance, being defined as non-operation or non-use for 365 successive days. Discontinuance may be, but not required to be, evidenced by termination of utility service, the failure to maintain regular hours of operation, the utilization of the premises for other purposes, abandonment or by other reasonable means.

Upon failure to start construction or establish a use within one (1) year of approval of a conditional use permit.

- Sec. 20.15. - Prior Special Permits and Covenants.

A use legally established pursuant to a Specific Use Permit prior to the date of adoption of these Zoning Regulations shall be deemed a pre-existing conditional use and shall be permitted to continue, provided that it is operated and maintained in accord with any conditions prescribed at the time of its establishment.

Alteration or expansion of a pre-existing specific use shall be permitted only upon the granting of a Conditional Use Permit as prescribed in these regulations, provided that alterations not exceeding \$2,500 in value as determined by the **Administrative** Official, shall be without the granting of a Conditional Use Permit.

A Conditional Use Permit shall be required for the construction of a structure housing a pre-existing use if the structure is destroyed by fire or other calamity, by specific act of God or by the public enemy to an extent greater than fifty percent (50%). The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the **Administrative Official** and shall be based on the minimum cost of construction in compliance with the Building Code.

- Sec. 20.16. - PUBLIC NOTICE PROCEDURE AND FEES.

Notice of a public hearing for consideration of a Conditional Use Permit shall be as follows:

- Sec. 20.17. - Procedure.

Notice of the initial hearing before the Planning and Zoning Commission shall be given by publication of a legal notice in a newspaper of general circulation in Alpine, Texas at least fifteen (15) days prior to the date of the hearing.

Notice shall be given by mail to the applicant at least ten (10) days prior to the date of the hearing.

Notice shall be given by mail to the owner of each site within two hundred (200) feet of the subject property at least ten (10) days prior to the date of the hearing.

At the option of the **Administrative Official**, notice may be given by mail to the owner of any site more than two hundred (200) feet from the subject property at least ten (10) days prior to the date of the hearing.

At the option of the **Administrative Official**, notice may be given by mail to any neighborhood organization having a potential interest in the application.

At the option of the **Administrative Official**, notice may be given by posting a notice on or adjacent to the subject property at least ten (10) days prior to the date of the hearing.

- Sec. 20.18.- Fees

Fees per 20.04 of the Code of Ordinances.

- Sec. 20.19. - Time of Payment.

The fees are due and payable at the time of the initial request or the application and entitle the applicant to consideration only and not affirmative disposition.

- Sec. 20.20. - Waivers.

The intent of this section is further to ensure that no citizen or group is denied access to due process of law through an inability to pay for such services. When an individual or group requests an action under this Ordinance for which a fee is required, the City Manager is hereby authorized to inquire into hardships which may be caused by this payment of such fees and may instruct that all or part of such fee is to be waived.

- Sec. 20.22. - Refunds.

The fees established shall be non-refundable to the applicant, unless the request is completely withdrawn before the procedure of notices as set forth in Sec 20.16 have begun.