
MEETING DATE: September 8, 2026

APPLICATION: Text Amendment – Conditional Use Regulations

APPLICANT: Fairfield (initiated by Town)

LOCATION: Town-wide (Zoning Ordinance)

STAFF CONTACT: Jim Spung, AICP
Planning Consultant

RECOMMENDED ACTION:

Hold a public hearing and forward a positive recommendation to the Town Council.

EXHIBITS:

- A. Resolution No. R2026-02 (March 25, 2026)
- B. Current Code (§154.180 through 154.188)
- C. Proposed Code (tracked changes)

OVERVIEW

Town Administration requests that the Planning Commission review a comprehensive amendment to Fairfield's conditional use regulations. This amendment replaces the existing conditional use provisions with a consolidated procedure addressing application requirements, review, public hearings, decision-making, mitigation, post-approval administration, and appeals. The Planning Commission is requested to hold a public hearing and forward a recommendation to the Town Council for final consideration.

BACKGROUND

On March 25, 2026, the Town Council adopted Resolution No. R2026-02 establishing a temporary moratorium on processing conditional use applications so the Town could review and update its conditional use ordinance (see Exhibit A). The resolution identified several deficiencies in the existing conditional use regulations, including a lack of clear procedures and standards, an incomplete application process, outdated and unclear provisions and code references, and review standards and conditions of approval requiring revision in response to recent legislative changes and court rulings.

Exhibit C includes the proposed text amendment, prepared in response to the concerns identified by the Town Council and intended to establish a clearer, more comprehensive, and predictable framework for reviewing and administering conditional uses.

SUMMARY

The draft retains the fundamental conditional use standard: approval is required when reasonably anticipated detrimental impacts can be mitigated through reasonable conditions; denial is permitted when those impacts cannot be substantially mitigated. Below is a summary of noteworthy proposed changes to the existing regulations.

- Establishes a complete application and review process, including an optional pre-application meeting, detailed submittal requirements, completeness review, referral to staff and agencies, application revisions, withdrawal, abandonment, and concurrent processing.
- Authorizes additional technical studies when reasonably necessary to evaluate anticipated impacts, including traffic, drainage, utilities, geotechnical hazards, noise, lighting, environmental resources, wildfire, emergency access, and construction impacts.

- Changes the CUP decision-making structure. The Planning Commission would hold a public hearing and forward a recommendation; the Town Council would serve as the land use authority and make the final CUP decision.
- Clarifies how conditional uses are evaluated by requiring conditions of approval to address specific anticipated impacts and be based on applicable Town standards. It also requires the basis for conditions and decisions to be documented in the record.
- Expands post-approval procedures for expiration, enforcement, revocation, minor modifications, amendments, extensions, and appeals. The draft removes the existing requirement for CUPs to be re-evaluated at least every five years and changes the inactivity/expiration framework to generally use a 12-month period instead of 6 months.
- Adds and refines definitions to support consistent administration, including complete application, decision-making body, extenuating circumstance, minor modification, qualified professional, reasonably anticipated detrimental impacts, and review criteria.

STAFF ANALYSIS

The proposed amendment directly addresses the deficiencies identified by the Town Council when Resolution No. R2026-02 was approved. This text amendment replaces the existing abbreviated application procedure with defined submittal and completeness requirements; consolidates review criteria and potential mitigation measures; clarifies the respective roles of staff, the Planning Commission, and Town Council; and establishes procedures for administering CUPs after approval.

The draft also provides a clearer record for decision-making. Staff reports, Planning Commission recommendations, conditions of approval, and Town Council decisions are tied to identified review criteria and reasonably anticipated detrimental impacts. These updates promote consistency and predictability for applicants, neighboring property owners, staff, and the Town's decision-making bodies.

This amendment does not change which uses are classified as conditional uses within each zoning district. Instead, it updates the procedures and standards for reviewing and deciding conditional use applications Town-wide. Use-specific standards continue to apply unless they conflict with the procedures, standards, or criteria established by the amended conditional use section.

PUBLIC HEARING & NOTICE

The Town posted and published a notice of public hearing on September 27, 2026, in accordance with Town Code and State law.

FINDINGS

1. The Town Council adopted Resolution No. R2026-02 on March 25, 2026, identifying deficiencies in the existing conditional use regulations and establishing a 180-day moratorium on the processing and approval of conditional use applications to allow the Town to update its regulations. The moratorium is scheduled to expire on September 21, 2026.
2. The existing conditional use standards contain limited application and processing procedures, distributes standards among multiple sections, and includes provisions identified by the Town Council as outdated, unclear, incomplete, or in need of revision.
3. This proposed amendment (Exhibit C) establishes a conditional use procedure addressing application completeness, technical review, public hearings, recommendations and decisions, mitigation, post-approval administration, enforcement, modifications, extensions, and appeals.
4. This proposed amendment clarifies that the Planning Commission will hold a public hearing and forward a recommendation, while the Town Council will serve as the land use authority and final decision-making body for conditional uses, unless otherwise specified.

5. The proposed review criteria require decisions and conditions to be based on applicable Code standards and reasonably anticipated detrimental impacts, providing a clearer and more consistent framework for administering conditional uses.
6. The proposed amendment does not change which uses are designated as conditional within each zoning district but updates the procedures and standards for reviewing and approving those uses.
7. This proposed amendment responds to the concerns raised in Resolution No. R2026-02 and provides a more complete, predictable, and efficient conditional use review process.
8. Exhibit C illustrates the proposed amendments using underline and strike-through formatting to identify changes to the current Code.
9. The Planning Commission is responsible for forwarding a recommendation to the Town Council, who is the final decision-making authority for amendments to the Fairfield Code of Ordinances.

STAFF RECOMMENDATION

Staff recommend the Planning Commission forward a positive recommendation to the Town Council.

MODEL MOTIONS

Approval:

I move that we forward a positive recommendation to the Town Council for the proposed text amendment to the Fairfield Code of Ordinances updating the Town's conditional use regulations, based on the findings and recommendations of this Staff Report.

Denial:

I move that we forward a negative recommendation to the Town Council for the proposed conditional use ordinance text amendment, based on the following findings:

- [List any findings for a negative recommendation].

Resolution No. R2026-02 Notice of Pending Ordinance related to changes in the Conditional Use Ordinance (Chapter 10.17.00). **Dated March 25, 2026**

WHEREAS, Utah Code 10-20-902 generally allows a land use applicant to be entitled to a municipality's land Use approval;

WHEREAS, However, Utah Code, 10-20-902(1)(a)(ii)(B) allows a municipality to not approve a land use application if "the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing.";

WHEREAS, During a thorough review of the Town's Conditional Use Ordinance, the Town found numerous concerning issues within Chapter 17 that, if it goes uncorrected, is a compelling, countervailing interest against the public and the Town;

WHEREAS, The Town finds the following:

1. In reviewing the Conditional Use Chapter, the regulations contained therein are significantly lacking in providing clear instructions and standards;
2. Additionally, it appears that the application process is lacking key components that are necessary to enforce Conditional Uses (10.17.50.);
3. The Standards of Review are incomplete and need to be revisited and amended (10.17.70) due to recent legislative changes and recent court rulings;
4. The Conditional Use Ordinance is outdated, unclear, contains incorrect references to missing or repealed Town Code provisions and is otherwise difficult to understand;
5. The Conditions for Approval need to be amended (10.17.60);
6. Sections 10.17.10., 10.17.30., 10.17.40., and 10.17.80 - 10.17.100 may be amended, removed, or moved to applicable zones.

NOW THEREFORE, Be it resolved by the Governing Body of Fairfield Town, Utah, that:

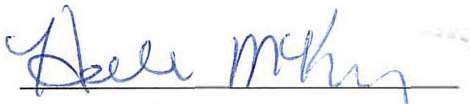
1. Based on the findings above, the Town concludes that a compelling, countervailing public interest would be jeopardized by approving any application for Conditional Use;

EXHIBIT A

2. The Town will not process any current or future Conditional Use applications until the Town formally adopts regulations for 10.17.00. Conditional Use or 180 days have passed, whichever is first. See Utah Code 10-20-902(1)(b)
3. This resolution shall take effect immediately upon passage.

Passed and adopted this 25th day of March 2026.

FAIRFIELD TOWN


Hollie McKinney, Mayor

Hollie McKinney	yes <u></u>	no _____	abstain _____
RL Panek	yes <u></u>	no _____	abstain _____
Tyler Thomas	yes <u>TT</u>	no _____	abstain _____
Michael Weber	yes <u></u>	no _____	abstain _____
Richard Cameron	yes <u>RSC</u>	no _____	abstain _____

ATTEST:


Stephanie Shelley, Recorder

(OFFICIAL SEAL)



EXHIBIT A

FAIRFIELD TOWN

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

I, Stephanie Shelley, Town Recorder of Fairfield Town, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of an ordinance passed by the Town Council of Fairfield Town, Utah, on the **25th day of March 2026**.

Resolution No. R2026-02 Notice of Pending Ordinance related to changes in the Conditional Use Ordinance (Chapter 10.17.00)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Fairfield Town, Utah, this **25th day of March 2026**.


Fairfield Town Recorder/Clerk



§ 154.180 PURPOSE.

The purpose of this subchapter is to establish standards for certain land uses listed in each zone as conditional uses.
(Prior Code, § 10.17.10)

§ 154.181 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. The property owner or authorized agent who submits an application for a conditional use permit under this subchapter.

CONDITIONAL USE. A land use that, because of its unique characteristics or potential impacts on the municipality, surrounding neighbors or the community, requires special consideration, evaluation and reasonable conditions to mitigate adverse effects.

CONDITIONAL USE PERMIT (CUP). An official authorization issued by the town allowing a conditional use to be established on a specific property, subject to compliance with conditions imposed by the land use authority to mitigate reasonably anticipated detrimental effects.

DETRIMENTAL EFFECTS. Reasonably anticipated adverse impacts of a proposed use, including, but not limited to, noise, traffic, environmental degradation, incompatible aesthetics, safety risks or disruption to the community character or adjacent properties.

FINDINGS OF FACT. A set of conclusions supported by the factual evidence presented during the CUP review process, used by the land use authority to determine compliance with the applicable standards.

LAND USE AUTHORITY. The designated body or individual responsible for reviewing and making decisions on land use applications, including conditional use permits. For purposes of this subchapter, the Planning Commission serves as the **LAND USE AUTHORITY** unless otherwise specified.

MITIGATION. Measures required to eliminate or minimize the negative impacts of a conditional use, such as screening, buffering, site design modifications, hours of operation restrictions or infrastructure improvements.

MONITORING PLAN. A strategy or schedule submitted by the applicant and/or required by the land use authority to ensure ongoing compliance with the conditions of approval for a conditional use over time.

REASONABLE CONDITIONS. Conditions imposed by the land use authority that are proportionate, related to mitigating anticipated detrimental effects and necessary to ensure the use is compatible with the surrounding area.

SITE PLAN. A detailed drawing or set of plans submitted with a conditional use application showing proposed improvements, structures, access, parking, landscaping, utility connections, drainage and other required elements.

SUBMITTALS. Documents and supporting materials required for a complete CUP application, including site plans, narratives, traffic studies, utility plans and other evidence necessary to demonstrate compliance with applicable standards.

USE COMPATIBILITY. The extent to which the proposed use is harmonious with surrounding land uses in terms of scale, intensity, operation, aesthetics and potential impacts.

VICINITY PLAN. A drawing or map showing the subject property and surrounding properties, land uses and infrastructure within a defined radius to help assess potential impacts of the proposed conditional use.

(Prior Code, § 10.17.20)

§ 154.182 LAND USE AUTHORITY.

(A) A land use authority shall approve a conditional use permit 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 and criteria.

(B) Unless stated otherwise in this code, the Planning Commission is hereby authorized, as the land use authority, to review and render a decision for all conditional use applications in accordance with the requirements of this subchapter.

(Prior Code, § 10.17.30)

§ 154.183 ZONES TO GOVERN ALLOWED CONDITIONAL USES.

Each zone will govern what conditional use will be allowed in that zone. Each zone may have additional conditions listed to fully mitigate adverse impacts.

§ 154.184 APPLICATION FOR A CONDITIONAL USE.

(A) (1) All requests for a conditional use as identified in this subchapter shall be made on an application form provided by the town.

(2) A property owner may present a conditional use application for review and decision, or an agent of the property owner or a lessee of the property may present a conditional use application for review and decision, provided such application is accompanied by a property owner affidavit of authorization. All applications shall be considered by the Planning Commission.

(B) The application process for conditional use is as follows:

- (1) Fill out business license application;
- (2) Applicant shall supply the town with addresses and envelopes for all landowners that are located within 300 feet of the proposed business (to be turned in with application);
- (3) Pay all appropriate fees;
- (4) Building Department shall review the application for approval;
- (5) Planning Commission shall review the application for approval and hold a public hearing;
- (6) Approval authority approves the CUP;
- (7) Mayor signs the building permit, if approved (no license is valid without the Mayor's signature);
- (8) Licensing Official issues approved business license to applicant;
- (9) Licensing Official mails said permit to applicant; and
- (10) Fire inspection may be required.

(C) The presentation/application to the Planning Commission shall include the following when appropriate. Those requirements not applicable may be removed by the Chairperson of the Planning Commission:

- (1) Size, configuration and location of the site, and proposed site plan layout;
- (2) Proposed site ingress and egress to existing and proposed roads and streets;
- (3) The provision of public facilities and amenities, including roads and streets, culinary water, sanitary sewer, storm drainage, public safety and fire protection and other utilities;
- (4) The location and amount of off-street parking and loading areas;
- (5) Site circulation pattern for vehicular and pedestrian traffic;
- (6) Building size and location;
- (7) The location and design of all site features, including proposed signage, lighting and refuse collection;
- (8) The provision of usable open space, public features and recreational amenities;
- (9) Fencing, screening and landscape treatments and other features designed to increase the attractiveness of the site and protect adjoining property owners from noise and visual impacts;
- (10) Measures directed at minimizing or eliminating potential nuisance factors, including, but not limited to, noise, vibrations, smoke, dust, dirt, odors, gasses, noxious matter, heat, glare, electromagnetic disturbances and radiation;
- (11) Measures designed to protect the natural features of the site, including wetlands and drainage ways, around water, wildlife habitats, historic and archeological sites and other natural site features;
- (12) The regulation of operating hours for activities affecting normal schedules and functions;
- (13) Identify a time for regular review and monitoring, as determined necessary, to ensure the conditional use continues to operate in compliance with all conditions and requirements of approval; and
- (14) Such other conditions determined as reasonable and necessary by the Commission to allow the operation of the proposed conditional use at the proposed location in compliance with the requirements of this subchapter.

(D) Applicants for a conditional use are required to comply with all requirements of this subchapter and this code, and including the requirements for a building permit, as applicable, and all other applicable requirements.

§ 154.185 CONDITIONS FOR APPROVAL.

The Planning Commission, in reviewing a conditional use application, may impose such requirements and conditions with respect to:

- (A) Location;
- (B) Proof of land ownership;
- (C) A site plan;
- (D) A vicinity plan;
- (E) A written narrative, including, but not limited to:
 - (1) Type of use proposed;
 - (2) Days and times of operation;
 - (3) Square footage of the building(s) proposed;
 - (4) Square footage used by the conditional use;
 - (5) Expected hardship on surrounding uses;
 - (6) Number of users or employees; and
 - (7) Other information the land use authority deems necessary to fulfill the purpose of this subchapter may be requested prior to approval.
- (F) The applicant shall also pay the appropriate fee outlined in the Town Fee Schedule before the Planning Commission may review the application.

(Prior Code, § 10.17.60)

§ 154.186 STANDARDS OF REVIEW.

Decisions of approval, approval with conditions or denial of the conditional use permit application is based on the following criteria:

- (A) The general plan and permitted zoning conditions:
 - (1) The CUP shall fit the town's future vision contained in its general plan; and
 - (2) The CUP shall follow the zoning conditions for its location.
- (B) The safety of people and property;
- (C) Size and location of the use;
- (D) Structures associated with the use are compatible with surrounding structures in terms of use, scale, mass and circulation;
- (E) Prevent or minimize floodwater damage where necessary;
- (F) Relocation, covering or fencing of irrigation ditches and drainage channels;
- (G) Location, dimensions of truck loading and unloading facilities;
- (H) Conditions hazardous to the public health or safety;
- (I) Traffic considerations, including:
 - (1) Traffic conditions are not adversely affected by the proposed use, including the existence or need for dedicated turn lanes, pedestrian access and capacity of the existing streets;
 - (2) The location and design of off-street parking as well as compliance with off-street parking standards;
 - (3) Provision of parking facilities, including vehicular ingress and egress, loading and unloading areas and the surfacing of parking areas and driveways to specified standards; and
 - (4) Internal traffic circulation.
- (J) Health and sanitation:
 - (1) The use is not detrimental to the public health, safety and welfare;
 - (2) Emergency vehicle access; and
 - (3) Screening of trash pickup or waste storage areas.
- (K) Environmental concerns:

- (1) The regulation of operating hours for activities affecting normal schedules and functions;
- (2) Utility capacity;
- (3) Usable and permanent open space considerations;
- (4) Signage;
- (5) Exterior lighting that complies with the lighting standards of the zone;
- (6) Noise, vibration, pollution, odors, steam or other factors that might affect people and property off-site;
- (7) Potential discharge into the air, groundwater, surface and subsurface water or soil; and
- (8) All buildings or other structures are designed to add to the quality of the area.

(L) Fencing, screening and landscaping:

(1) Fencing, screening and landscaping may be required to preserve the quiet, aesthetic and peaceful enjoyment of surrounding properties and to promote an aesthetically pleasing area to attract tourism and promote the prosperity and general welfare of the town:

(a) Shall be of acceptable design that blends into the natural surrounding areas;

(b) Shall follow the landscaping ordinance, §§ 154.225 to 154.229 of this chapter;

(c) May require screening to effectively block all views from adjoining roads and properties of any passive storage of materials or equipment, including, but not limited to, vehicles, equipment, junk, waste storage or other personal property; and

(d) Fencing may be required to be 95% opaque and made of long-lasting material. Cloth or temporary materials are not permitted.

(2) Walls shall be made from a solid surface. Walls and fences shall be of acceptable design with architectural detail to conform to or enhance the surrounding area; and

(3) Removal of structures, debris or plant materials incompatible with the characteristics of the underlying zone may be required, and property shall be maintained and kept weed-free.

(M) Provision of a reasonable guarantee, bond or other surety, as determined by the Planning Commission, that the proposed conditional use will be maintained and operated in compliance with all conditions and requirements;

(N) Identifying a time for regular review and monitoring, as determined necessary by the Planning Commission, to ensure the use continues to operate in compliance with all conditions and requirements of approval, not greater than five years;

(O) Any other items for the conditional use permit as deemed necessary for the protection of adjacent properties and the public interest. The Planning Commission may require guarantees or other evidence that such conditions will be met and complied with; and

(P) Preserve the quiet, aesthetic and peaceful enjoyment of surrounding properties.

(Prior Code, § 10.17.70)

§ 154.187 REVOCATION OR MODIFICATION OF A CONDITIONAL USE APPROVAL.

(A) A conditional use approved in accordance with the provisions of this subchapter may be revoked by the approval authority if any of the conditions of approval are not met, or if the permit is used to violate any law, code or ordinance.

(B) Conditional uses shall be re-evaluated and renewed at a minimum time interval of not less than once every five years, or at shorter intervals as the approval authority deems necessary.

(C) Conditional use requirements may change as a result of growth or unforeseen circumstances.

(D) The town staff shall notify the approved conditional use holder by certified mail of any violation, or if a violation exists in any conditions of approval. If no attempt to correct the violation is made within ten days after notification, the conditional use approval may be revoked by the approval authority if the approval authority finds that one or more of the following circumstances exists:

- (1) The conditional use approval was obtained in a fraudulent manner;
- (2) The use for which the approval was granted has now ceased for at least six consecutive calendar months;
- (3) One or more of the conditions of approval have not been met; or

(4) Additionally, the Planning Commission, following a public hearing, may modify the conditions under which the use approval was originally approved if the Planning Commission finds that the use or related development constitutes or is creating a nuisance.

(E) A conditional use application approval shall expire and shall be invalid if a building, activity, construction or occupancy, as authorized by the approval, is not commenced within 180 days from the date of approval. If work has not commenced or a use been established within 180 days from the date of approval, the approval shall be void and a new conditional use application required.

(F) Any person aggrieved by a decision of the Planning Commission regarding a conditional use may appeal the decision to the Town Council.

(Prior Code, § 10.17.80)

§ 154.188 ADDITIONS AND AMENDMENTS.

Though standards have been set for certain uses in this subchapter, the Planning Commission may add additional conditions providing § 154.185 of this chapter is followed.

(Prior Code, § 10.17.90)

EXHIBIT C

CONDITIONAL USES

§ 154.180 CONDITIONAL USE PERMIT PROCEDURE.

- (A) Purpose. The purpose of conditional use permit review is to allow a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may be suitable only if certain conditions are required that mitigate the detrimental impacts or, if the detrimental impacts or effects cannot be mitigated, to prohibit such use.¹
- (B) Applicability.
- (1) Each zone will govern what conditional use will be allowed in that zone. Each zone may have additional conditions listed to fully mitigate adverse impacts.²
 - (2) Any conditional use permit request that requires site plan, building permit, or another review shall also be subject to the applicable review procedures established in this Code for those procedures.
 - (3) The procedures, standards, and criteria of this Section shall apply to all conditional uses under this Title and shall control over any conflicting provisions elsewhere in this Title. Use-specific standards that do not conflict with this Section shall continue to apply.³
- (C) Land Use Authority.⁴
- (1) A land use authority shall approve a conditional use permit 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 and criteria.
 - (2) Unless stated otherwise in this code, the Town Council is hereby authorized, as the land use authority, to review and render a decision for all conditional use applications in accordance with the requirements of this subchapter.
- (D) Pre-Application Meeting. A pre-application meeting is optional and may be requested by the

¹ Replaces current 154.180.

² From current 154.183.

³ Sections 154.208(K)–(N), related to “Solar Power Plant–Large,” and 154.210(I), related to “Battery Energy Storage Systems,” contain separate conditional use procedures and review criteria. Rather than amending those provisions as part of this ordinance, this language clarifies the procedures, standards, and criteria of this Section govern where a conflict exists, while any nonconflicting use-specific standards continue to apply. This minimizes duplicating conditional use procedures and establishes a consistent review framework.

⁴ From current 154.182. Revised the decision-making body to be the Town Council rather than the Planning Commission.

EXHIBIT C

applicant.

- (1) The pre-application meeting is intended to provide an opportunity for Town staff and referral agencies to discuss details and potential impacts of the proposed project and to establish points of contact. Staff may review the zoning classification of the site, the applicable regulatory ordinances and materials, applicable procedures, and examine the proposed use and development of the property. Staff may advise the applicant in preparing the application and supporting documents as necessary.
 - (2) Any information or discussions held at the pre-application meeting shall not be binding on the Town, referral agencies, or the person that requested the meeting. Discussions of potential conditions to mitigate impacts do not reflect actions by a decision-making body until and unless a decision-making body takes formal action to attach that condition to an application.
 - (3) A pre-application meeting does not preclude an interested party from meeting with Town staff to discuss concepts, development, zoning, or other items as part of the owner or other party's due diligence or investigatory processes.
- (E) Application Submittal and Processing. Except for Town-initiated applications, the conditional use permit application shall be submitted by the property owner or by an authorized agent or lessee. Applications submitted by an agent or lessee shall include an affidavit of authorization from the property owner.⁵
- (F) Application Content. The application shall be submitted to the Town. Staff are available to assist as needed at Town Hall during regular business hours. The applicant shall submit:
- (1) The Town's completed conditional use permit application form;
 - (2) A description of existing uses, structures, and development on the property;
 - (3) A written narrative describing:
 - (a) The proposed use and the manner in which it will operate;
 - (b) The days and hours of operation;
 - (c) The anticipated number of employees, customers, residents, visitors, or other users;
 - (d) Anticipated traffic, parking, loading, deliveries, noise, lighting, odor, utility demand, drainage, public-safety needs, and other operational characteristics;
 - (e) Proposed construction, phasing, and the anticipated schedule;

⁵ From current 154.184(A)(2). Re-worded for clarity and consistency.

EXHIBIT C

- (f) Reasonably anticipated detrimental effects of the proposed use; and
- (g) Measures proposed to avoid or mitigate those effects and to demonstrate compliance with applicable Town standards.
- (4) A dated and scaled map showing the subject property, surrounding streets, parcels, zoning districts, and existing land uses, together with a north arrow;
- (5) A current boundary survey, recorded plat, or other document acceptable to the Planning Director or Mayor's Designee, showing property boundaries and dimensions;
- (6) A scaled site plan showing:
 - (a) Parcel boundaries and dimensions;
 - (b) Existing and proposed buildings and structures, including dimensions and setbacks;
 - (c) Access points, driveways, internal circulation, parking, loading areas, curbs, and sidewalks;
 - (d) Landscaping, open space, fencing, and refuse or waste facilities;
 - (e) Grading, drainage facilities, floodplains, slopes, waterways, sensitive lands, and other environmental features;
 - (f) Existing and proposed utilities, easements, lighting, and other site improvements; and
 - (g) Calculations for parking, landscaping, lot coverage, open space, floor area, occupancy, and other applicable land-use or development standards;
- (7) Floor plans, building elevations, landscape plans, lighting plans, grading and drainage plans, utility plans, circulation plans, and other technical plans relevant to evaluating the proposal; and
- (8) Photographs or other visual materials documenting existing site conditions when reasonably required by the Planning Director or the Mayor's Designee.
- (9) Additional studies or analyses may be required when necessary for the decision-making body to evaluate reasonably anticipated detrimental effects under the applicable review criteria. The decision-making body may require additional or revised information when a submitted study or analysis does not satisfy these requirements. Any required study or analysis shall:

EXHIBIT C

- (a) Be prepared by a qualified professional in the applicable field;
 - (b) Identify reasonably anticipated detrimental effects relevant to the proposed use or site;
 - (c) Describe measures necessary to demonstrate compliance with applicable standards and to avoid or mitigate identified detrimental effects; and
 - (d) Contain information, methodologies, assumptions, and conclusions determined by the decision-making body to be reasonable, accurate, and appropriate for evaluating the proposed use.
- (10) Examples of studies, analyses, or other supporting materials that may be required include:
- (e) A traffic or transportation-impact analysis;
 - (f) A parking or loading analysis;
 - (g) A drainage, stormwater, or floodplain analysis;
 - (h) A utility-capacity or public-facilities analysis;
 - (i) A geotechnical, geological-hazard, sensitive-lands, or slope-stability report;
 - (j) A noise, vibration, lighting, odor, air-quality, or environmental-resource analysis;
 - (k) A wildfire, emergency-access, fire-protection, public-safety, or security plan;
 - (l) Documentation of required health, environmental, state, county, or other agency approvals; and
 - (m) A construction-management, phasing, or mitigation plan addressing reasonably anticipated construction impacts.
- (11) In addition to any study or analysis required pursuant to paragraph (9), The Planning Director or Mayor's Designee may require additional information, plans, studies, or documentation reasonably necessary to determine:
- (a) If the proposed use complies with applicable laws, adopted plans, zoning regulations, and conditional use approval standards; or
 - (b) If reasonably anticipated detrimental effects can be avoided or mitigated

EXHIBIT C

through reasonable conditions.

- (12) Provide current ownership information and mailing labels, envelopes, postage, or a Town-approved equivalent necessary to address legally required notices to property owners within 300 feet of the subject property.
- (13) Town staff will not begin processing an application until the application materials submitted are determined to be complete in accordance with this section.

(G) Determination of Application Completeness.

(1) Applications.

- (a) Upon receiving an application, the Planning Director or Mayor's Designee shall determine whether the application is complete. A complete application is one that contains all information and materials required by this code, and that has sufficient detail and readability to evaluate the application for compliance with applicable review standards of this code.
- (b) An application shall not be accepted or deemed complete until all required initial application fees, as established in the Town Fee Schedule, have been paid.

(2) Incomplete Applications.

- (a) Upon determining whether the application is incomplete, the Planning Director or Mayor's Designee shall notify the applicant in writing of any submittal deficiencies. The applicant may correct the deficiencies and resubmit the application for a determination of completeness until the Planning Director or Mayor's Designee determines the application is complete.
- (b) An application shall not be reviewed for compliance with this code or scheduled for a public meeting or public hearing by any review or decision-making body until it is determined to be complete according to this section and all outstanding fees have been paid in full.
- (c) Upon determining the application is complete, the Planning Director or Mayor's Designee shall accept the application for review in accordance with the procedures and standards established in this code.

(3) Application Revisions.

- (a) An applicant may revise an application following a determination that the application is complete prior to any formal action taken by a review or decision-making body.

EXHIBIT C

- (b) Revisions may include changes that respond to comments or recommendations from Town staff, review agencies, review bodies, or the decision-making body, or other changes determined by the Planning Director or Mayor's Designee not to materially alter the application.
- (c) All other application revisions shall be processed as a new application, except those that constitute only minor additions, deletions, or corrections to the request, as determined by the Planning Director or Mayor's Designee.
- (4) *Abandoned Applications.* If a complete application has been reviewed and comments provided to the applicant for correction, but a resubmittal addressing staff-noted deficiencies has not been received within six months of staff providing the applicant with the comments, such application shall be deemed abandoned and all fees forfeited. The applicant may request, and the Planning Director or Mayor's Designee may grant one three-month extension to address staff-noted deficiencies. In extenuating circumstances, the Planning Director or Mayor's Designee may grant an additional 12-month extension period beyond the three-month extension outlined above. Abandoning an application terminates the review process and closes the application.
- (5) *Application Withdrawal.*
 - (a) After an application has been accepted for review, the applicant may withdraw the application by submitting a signed letter of withdrawal to the Planning Director or Mayor's Designee before the Town takes action by a vote of the decision-making body.
 - (b) An applicant is not entitled to a refund of application fees for withdrawn applications; however, application fees may be refunded at the Planning Director or Mayor's Designee's discretion if staff and review agencies have not provided the applicant with review comments and a public notice has not been sent.
- (6) *Concurrent Applications.*
 - (a) Whenever an application requires review under the provisions of more than one permit, approval, or process, staff may schedule the review procedures and hearings so that review for each different permit, approval, or process can be scheduled on the same agenda, to the extent practicable.
 - (b) Review and decision-making bodies considering applications submitted simultaneously shall render separate recommendations and decisions on each application based on the specific standards applicable to each approval.

EXHIBIT C

- (c) Some forms of approval depend on the applicant having previously received another form of approval or require the applicant to take particular action within some time period following the approval to avoid having the approval lapse. Therefore, even though this code intends to accommodate simultaneous processing, applicants should note that each of the permits and approvals set forth in this code has its own timing and review sequence, and so as a result, concurrent filings are not guaranteed to expedite the respective timing and review sequences of any particular permit or approval.
- (7) Authorization of Site Inspection. By submitting an application, the applicant is authorizing Town officials to inspect the subject property at any reasonable time to obtain information required for review of compliance with this code.
- (8) Examination of Application and Other Documents. Upon reasonable request, and during normal business hours, any person may examine an application and materials submitted in support of, or in opposition to, an application on file with the Town.
- (H) Application Review.⁶
- (1) Referral to Staff and Review Agencies. Upon acceptance of an application, the Planning Director or Mayor's Designee shall distribute the complete application to appropriate staff and review agencies. The Planning Director or Mayor's Designee shall review the application and prepare comments considering the review criteria in this section.
- (2) Application Review and Revisions. The Planning Director or Mayor's Designee shall review the application and may consult with applicable Town departments and referral agencies with jurisdiction over public health and safety or required public services, as necessary. The Planning Director or Mayor's Designee may submit recommendations and comments to the applicant. The application will not move forward for further review until the applicant has responded to the Town's recommendations and comments or requests in writing that the application proceed without further revisions.
- (I) Public Notice and Hearing
- (1) Planning Commission Review. The application shall be scheduled for a public hearing before the Planning Commission and noticed in accordance with Utah Code Ann. §10-20-Part 2.
- (2) Town Council Review. The application shall be scheduled for a public meeting before the Town Council and noticed in accordance with Utah Code Ann. §52-4-202.

⁶ Replaces current 154.184(B).

EXHIBIT C

(J) Application Decision and Action

(1) The Planning Director or Mayor's Designee Recommendation.

- (a) Staff Report. The Planning Director or Mayor's Designee shall prepare a written staff report that summarizes the proposal, findings, and staff recommendations.*
- (b) Distribution and Availability of Application and Staff Report. The Planning Director or Mayor's Designee shall submit a copy of the staff report to the applicant and the review and/or decision-making body and shall make the staff report and related materials available for public review prior to the public meeting or public hearing at which the application is scheduled to be heard.*

(2) Planning Commission. The Planning Commission shall review the application and forward its comments to the Town Council, subject to the following standards.

- (a) The Planning Commission recommendation shall be based on the applicable review criteria listed in this section.*
- (b) The Planning Commission shall consider the application, relevant support materials, staff report, and any evidence and public comments from the public hearing.*
- (c) The Planning Commission shall forward a positive or negative recommendation to the Town Council based on the review criteria. The Planning Commission may also table or continue the item pursuant to adopted policies and procedures. If a Planning Commission motion fails, the item shall be referred to the Town Council without a formal Planning Commission recommendation.*
- (d) The Planning Commission shall clearly state the factors and rationale considered in making its recommendation.*

(3) Town Council. The Town Council may approve, approve with conditions, or deny the application, in accordance with the conditional use permit review procedures and criteria in this section.

- (a) In granting a conditional use permit, the decision-making body may impose conditions of approval in accordance with the review criteria established in this section, that shall be satisfied before a certificate of occupancy or business license may be issued for use of the property or building subject to the conditional use review.*
- (b) Any cost of mitigating detrimental impacts or effects in excess of those*

EXHIBIT C

which could be reasonably expected to arise from a permitted use in the same zoning district shall become a charge against the development so as not to constitute a burden on the town, surrounding neighbors, or adjacent land uses.

- (c) If the decision-making body proposes reasonable conditions on a proposed conditional use, the decision-making body shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.
- (d) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the decision-making body may deny the conditional use request.

(4) Conditional Use Review Criteria.⁷

- (a) The decision-making body shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use, in accordance with this code and Utah Code.
- (b) The requirement to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.
- (c) Any detrimental impacts or effects from the proposed use on any of the following shall not exceed those that could reasonably be expected to arise from a use that is permitted in the district. In determining compliance with applicable objective standards of this Code, reasonably anticipated detrimental effects may include effects relating to the following:
 - 1. The health, safety, and welfare of the city and its present and future inhabitants and businesses;
 - 2. The prosperity of the city and its present and future inhabitants and businesses;
 - 3. The morals, peace and good order, comfort, convenience, and aesthetics of the city and its present and future inhabitants and businesses;
 - 4. The tax base;

⁷ Replaces current 154.184(C) and (D) and 154.186.

EXHIBIT C

5. Economy in governmental expenditures;
 6. The state's agricultural and other industries;
 7. Access to sunlight for solar energy devices; and
 8. Property values.
- (d) To mitigate reasonably anticipated detrimental effects and achieve compliance with applicable standards of this Code, the Town may impose conditions that address:⁸
1. Size, configuration, and location of the site and the proposed site plan layout;
 2. Proposed site ingress and egress to existing and proposed roads and streets;
 3. The adequacy, provision, relocation, or protection of public facilities and amenities, including roads and streets, culinary water, secondary water, sanitary sewer, storm drainage, public safety and fire protections, and other utilities;
 4. Design, location, and amount of off-street parking, loading areas and solid waste disposal, and refuse collection areas;
 5. Site circulation patterns for vehicular, pedestrian and other traffic;
 6. Massing, size, number, location, design, exterior features, materials, and colors of buildings, structures, and other facilities;
 7. The location and design of all site features, including proposed signage, lighting, and site furnishings;
 8. The provision of usable open space, public features, and recreational amenities;
 9. Fencing, screening and landscape treatments, and other features designed to increase the attractiveness and safety of the site and protect adjoining property owners from noise, visual, and other impacts;
 10. Measures directed at minimizing or eliminating possible nuisance factors including, but not limited to, noise, vibrations, smoke, dust, dirt, debris, plant materials, odors, gases, noxious matter, heat, glare, electromagnetic disturbances, and radiation;

⁸ Replaces current 154.185.

EXHIBIT C

11. Measures designed to protect the natural features of the site including wetlands and drainageways, groundwater protection, soils, wildlife, and plant life;
 12. The regulation of operating hours for activities affecting normal schedules and functions;
 13. Identifying a time for regular review and monitoring, as determined necessary, to ensure the use continues to operate in compliance with all conditions and requirements of approval;
 14. Measures to ensure compliance with all conditions and requirements of approval, including, but not limited to, bonds, letters of credit, improvement agreements, agreements to conditions, road maintenance funds, and restrictive covenants;
 15. Measures to preserve the quiet, aesthetic and peaceful enjoyment of surrounding properties.
 16. Other reasonable conditions necessary to mitigate reasonably anticipated detrimental effects and achieve compliance with applicable standards of this Code.
- (e) The proposed use complies with all applicable standards in this code, unless the standard is lawfully modified or varied through a procedure established in this code or by court order.
- (f) The proposed use is consistent with the terms and conditions of any prior land use approval, plan, or plat approval for all or part of the property that is in effect and not proposed to be changed. This includes consistency with any approved phasing plan(s) for development and installation of public improvements and amenities.

(K) Post-Decision Actions and Limitations.

(1) Building or Grading Permit Approval.

- (a) A building or land disturbance permit shall not be issued until all permits, reviews, guarantees of improvement (bonds), or approvals required by this code have been secured.
- (b) The securing of one required review or approval shall not exempt the recipient from the necessity of securing any other review or approval required by this code.

EXHIBIT C

(2) Effect of Approval.⁹

- (a) The granting of a conditional use permit has no effect on the uses permitted by-right and does not waive the regulations of the underlying zoning district.
- (b) The granting of a conditional use permit authorizes the use and establishes the terms of use.
- (c) This code shall not be construed to vest a right to any approved conditional use except upon complete and continued compliance with the conditions finally approved.
- (d) Conditional uses shall be subject to the standards of this code and applicable development permit review procedures. All required permits and approvals shall be obtained before any grading, construction, or use commences.
- (e) A conditional use permit shall continue to be valid upon a change of ownership of the site or structure that was the subject of the conditional use permit application, so long as the use is not modified, amended, or expired.

(3) Expiration.¹⁰

- (a) A conditional use permit shall expire if the use has not commenced within 12 consecutive months of the date of approval or the use ceases for a period longer than 12 consecutive months.
- (b) Upon expiration, a new conditional use permit application may be submitted following the procedures and regulations in effect at the time of re-application.
- (4) Failure to Comply with Conditions. Failure to comply with a condition of approval constitutes a violation of this Code and may result in suspension, revocation, or other enforcement action as provided in this section and the Fairfield Code of Ordinances. A conditional use permit may be suspended and/or revoked subject to the following:
 - (a) The Town shall notify the applicant in writing of the suspension and the reasons for the suspension and provide 10 days for the applicant to comply with the condition(s).

⁹ Did not carry forward current 154.187, requiring re-evaluation of conditional uses at least every 5 years.

¹⁰ Replaces current 154.187(D)(2) and 154.187(E) and changes the abandoned use clause from 6 months to 12 months. The 12-month timeframe is consistent with other communities and best practices.

EXHIBIT C

- (b) If the applicant fails to comply within 10 days, the original decision-making body may revoke the conditional use permit or take action necessary to ensure compliance with the approved conditional use permit if the original decision-making body finds that:
1. The actual detrimental effects or impacts are greater than anticipated;
 2. The conditional use permit was obtained by misrepresentation or fraud;
 3. One or more of the conditions of the conditional use permit have not been met;
 4. The holder or user of the conditional use permit has failed to comply with any city, state, or federal law governing the conduct of the use;
 5. The holder or user of the conditional use permit has failed to construct or maintain the site as shown on the approved plan; or
 6. The property or use is in violation of one or more of the standards of this code.
- (c) The decision to revoke a conditional use permit shall be in writing and shall clearly state reasons for revocation.
- (d) The decision to revoke a conditional use approval shall be final immediately following the decision, unless an appeal has been filed in accordance with §154.048: Appeal Authorities and Procedures, in which case the Appeal Authority shall render a final decision.
- (5) Modification or Amendment.¹¹
- (e) Minor modifications that do not materially alter the approved use, site plan, conditions of approval, or reasonably anticipated detrimental effects may be approved administratively by the Planning Director or Mayor's Designee. All other modifications or amendments shall require a new conditional use permit application. An application shall be submitted, accepted, and revised, and may be withdrawn, in accordance with this section.
 - (f) The Town Council, following a public hearing, may modify the conditions under which the use approval was originally approved if the Town Council finds that the use or related development constitutes or is creating a nuisance.

¹¹ Replaces current 154.187.

EXHIBIT C

(6) Extension Requests.¹²

- (g) The original decision-making body may grant an extension of the original approval by no more than 12 months, following a written request from the applicant explaining reasonable cause for such extension, prior to the expiration date. The original decision-making body shall determine whether or not there is reasonable cause for the requested extension and grant the extension for the minimum time-frame necessary, based on the criteria below.
- (h) In all requests for a time extension, the applicant shall provide substantial and verifiable evidence showing that:
1. In spite of the good faith efforts of the applicant, circumstances beyond their control have prevented the timely pursuit of the development and completion of the necessary requirements within the originally authorized time period; or
 2. The applicant has completed substantial property improvements, incurred substantial nonrecoverable monetary expenditures or commitments, or has completed supporting development improvements, or retained the services for preparation of supporting data in reliance upon the approval of the request.
 3. In either instance, the applicant is, in good faith, continuing to diligently pursue implementation of the development to the degree authorized by the Town and the applicant shall be current on all Town fees and has no code violations or environmental, health, or safety issues existing on the property.
- (i) In extenuating circumstances, the original decision-making body may grant an additional six-month extension period beyond the 12-month extension outlined above, subject to the same criteria established in paragraph (h) above.

(7) Appeals. A conditional use permit decision may be appealed pursuant to §154.048: Appeal Authorities and Procedures, with the following modifications:

- (a) Except as provided in paragraph (b) below, review of conditional use decisions shall be confined to the record developed by the conditional use permit decision-making body.
- (b) If the Appeal Authority determines there is good cause and that the record is incomplete or deficient, the matter may be reviewed de novo.

¹² New.

EXHIBIT C

- (c) Any decision by the Appeal Authority, except a remand to the original decision-making body, shall be final and subject to the conditions imposed by the original decision-making body. This code shall not be construed to vest a right to any conditional use except upon complete and continued compliance with the conditions finally approved.

§ 154.181 DEFINITIONS.¹³

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. The property owner or authorized agent who submits an application for a conditional use permit under this subchapter.

COMPLETE APPLICATION. An application containing all information and materials required by this Code in sufficient detail and readability to evaluate compliance with applicable review standards.

CONDITIONAL USE. A land use that, because of its unique characteristics or potential impacts on the municipality, surrounding neighbors or the community, requires special consideration, evaluation and reasonable conditions to mitigate adverse effects.

CONDITIONAL USE PERMIT (CUP). An official authorization issued by the town allowing a conditional use to be established on a specific property, subject to compliance with conditions imposed by the land use authority to mitigate reasonably anticipated detrimental effects.

DECISION-MAKING BODY. The body or individual designated as the land use authority and authorized to take final action on a land use application. For purposes of conditional use permits under this subchapter, the Town Council is the land use authority and shall serve as the decision-making body unless otherwise specified by this Code.

~~DETRIMENTAL EFFECTS. Reasonably anticipated adverse impacts of a proposed use, including, but not limited to, noise, traffic, environmental degradation, incompatible aesthetics, safety risks or disruption to the community character or adjacent properties.~~

~~FINDINGS OF FACT. A set of conclusions supported by the factual evidence presented during the CUP review process, used by the land use authority to determine compliance with the applicable standards.~~

~~LAND USE AUTHORITY. The designated body or individual responsible for reviewing and making decisions on land use applications, including conditional use permits. For purposes of this subchapter, the Planning Commission Town Council serves as the LAND USE AUTHORITY unless otherwise specified.~~

EXTENUATING CIRCUMSTANCE. An unusual or unforeseen circumstance beyond the reasonable control of the applicant that materially prevents or delays compliance with an applicable requirement or deadline despite the applicant's reasonable and diligent efforts.

¹³ This draft proposes several updates to definitions, as shown with the standard strikethrough and underline format. The eliminated terms are either no longer applicable or are defined with a different term.

EXHIBIT C

MINOR MODIFICATION. A change to an approved conditional use permit that does not materially alter the nature, location, scale, intensity, operation, site configuration, or reasonably anticipated detrimental effects of the approved use and does not conflict with or modify a condition of approval.

MITIGATION. Measures required to eliminate or minimize the negative impacts of a conditional use, such as screening, buffering, site design modifications, hours of operation restrictions or infrastructure improvements.

~~MONITORING PLAN. A strategy or schedule submitted by the applicant and/or required by the land use authority to ensure ongoing compliance with the conditions of approval for a conditional use over time.~~

QUALIFIED PROFESSIONAL. A person possessing the applicable professional license, education, training, experience, or other qualifications necessary to prepare or evaluate a particular technical study, analysis, or report.

REASONABLE CONDITIONS. Conditions imposed by the land use authority that are proportionate, related to mitigating anticipated detrimental effects and necessary to ensure the use is compatible with the surrounding area.

REASONABLY ANTICIPATED DETRIMENTAL EFFECTS. Adverse impacts or effects that may reasonably be expected to result from a proposed conditional use based on the nature, location, scale, intensity, or operation of the use and the characteristics of the site and surrounding area.

REVIEW CRITERIA. The applicable standards and criteria established by this Code for evaluating and taking action on a conditional use permit.

SITE PLAN. A detailed drawing or set of plans submitted with a conditional use application showing proposed improvements, structures, access, parking, landscaping, utility connections, drainage and other required elements.

~~SUBMITTALS. Documents and supporting materials required for a complete CUP application, including site plans, narratives, traffic studies, utility plans and other evidence necessary to demonstrate compliance with applicable standards.~~

~~USE COMPATIBILITY. The extent to which the proposed use is harmonious with surrounding land uses in terms of scale, intensity, operation, aesthetics and potential impacts.~~

~~VICINITY PLAN. A drawing or map showing the subject property and surrounding properties, land uses and infrastructure within a defined radius to help assess potential impacts of the proposed conditional use.~~

(Prior Code, § 10.17.20)