

MEMO

TO: Three Forks Staff, Counsel
FROM: Lee Nellis, FAICP
DATE: May 8, 2026

RE: Chapter 6

Here at long last is Chapter 6. This version incorporates several comments Kelly made on the procedures a long time ago (and that we discussed at a staff meeting, I think) and provides a list of cross-references to the various requirements for CUPs throughout the rest of the regulations.

CHAPTER 6 – CONDITIONAL USE PERMITS

11-6-1: PURPOSE:

This chapter establishes the administrative procedures for conditional use permits (CUPs). CONDITIONAL USES are established in some zoning districts to allow potentially affected neighbors input on the permitting of USES that will usually, though not always or without specific mitigating measures, be compatible.

11-6-2: WHEN A CUP IS REQUIRED:

CUPS are required by several specific sections of THESE REGULATIONS.

- A. Section 11-2-7.B requires a CUP for expansion, replacement, or change of **NONCONFORMING USES**, BUILDINGS, AND STRUCTURES.
- B. There are no conditional uses in the AG, which is established by Chapter 11-12. Uses, buildings, and structures that are not permitted BY RIGHT in that zoning district will require a zoning map amendment.
- C. Please see Section 11-13-4 for conditional uses in the DBD. They include certain multifamily dwellings and places of assembly.
- D. Please see Section 11-14-4 for conditional uses in the NBD. They include certain by-right uses that do not meet certain standards but may still be approved via a CUP, places of assembly, and outdoor storage.
- E. Please see Section 11-15-4 for conditional uses in the GI. They include H OCCUPANCY uses as classified by the International Fire Code, certain ARTISANAL INDUSTRIES, and SEXUALLY ORIENTED BUSINESSES.
- F. The requirement for a CUP in the PLI will be triggered by any of the by-right uses exceeding five percent (5%) LOT COVERAGE. Please see Section 11-16-4.

- G. Please see Section 11-17-4 for conditional uses in the RD. They include multiple-family dwellings with four or more units, certain home businesses, short term rentals, group homes, long term care facilities, and churches.
- H. There are no conditional uses listed in the SED, which is established by Chapter 11-18. Conditions of approval for development in that zoning district will be set at the time of annexation or subdivision. A CUP may be required in the SED as provided by Section 11-2-7.B or Section 11-26-8.
- I. Please see Section 11-21-4 for conditional uses for HOME BUSINESS.
- J. Section 11-26-8 requires a CUP for all SHARED PARKING AGREEMENTS.

11-6-3: APPLICATION:

- A. Applications for CUPs must be filed using the forms provided by the CITY. APPLICANTS are required to meet with STAFF to ensure that they understand what is required before filing an application. No more than six months may elapse between the meeting with Staff and the filing of the application.
- B. Applications for CUPs must be accompanied by the application fee set by resolution of the COUNCIL, as provided by Section 11-3-6.

11-6-4: PBZC REVIEW:

Applications for CUPs will be reviewed by the PBZC following these procedures.

- A. Staff will determine whether the application is complete within 20 business days. Incomplete applications will be returned to the applicant with a list of what is missing.
- B. Staff will schedule a public hearing on a complete application for the next regular PBZC meeting for which the required notice of that hearing can be given and at which time will allow its proper consideration.
- C. Delays due to time constraints may not be indefinite. Upon finding that a delay from the next regularly scheduled meeting is necessary, Staff shall set the hearing for the following regularly scheduled meeting. Staff may confer with the Chair of the PBZC about the possibility of a special meeting, but applicants are not entitled to special meetings.
- D. Notice of the PBZC hearing shall be published at least once, not more than 30 days before, and at least 10 days before the hearing required by B, above, in a newspaper of general circulation in the City. That notice shall also be made available to all other media and posted on the City's website.
- E. Notice of the PBZC hearing shall be sent by first-class mail to the applicant and to the owners of record of all properties within 150 feet of the perimeter of the lot on which a conditional use is proposed. The width of public rights-of-way shall be excluded in measuring that 150 feet. Staff

may expand the radius required for mailed notice in situations where doing so is needed to ensure that those who may be more or less directly affected receive notice.

- F. Staff will prepare a report with a compliance analysis, including recommended conditions of approval or denial that will be sent to the PBZC and the applicant, and made available to the public at least **four business days** before the hearing.
- G. The PBZC will hear public statements, then review the application for a CUP for compliance with these regulations and recommend approval, approval with conditions, or denial to the Council solely on the basis of compliance with these regulations. The applicant must be present to answer questions (they may or may not choose to make a statement) or the hearing will be continued.
- H. The applicant must be present to answer questions (they may or may not choose to make a statement) or the hearing will be continued.
- I. The PBZC may recommend any conditions of approval it finds necessary to ensure compliance. All such conditions shall cite the specific section of these regulations with which they are intended to ensure compliance.
- J. Staff will transmit the PBZC recommendation – which, as noted in G., above may be for approval, approval with conditions, or denial - and all supporting materials to the Council. Please see 11-6-5 for the Council review procedure.

11-6-5: COUNCIL REVIEW:

Applications for CUPs will be reviewed and acted upon by the Council, following these procedures.

- A. Staff will schedule a public hearing on the complete application for a CUP and the PBZC's recommendation at the next regular Council meeting for which the required notice of that hearing can be given and at which time will allow its proper consideration.
- B. Delays due to time constraints may not be indefinite. Upon finding that a delay from the next regularly scheduled meeting is necessary, Staff shall set the hearing for the following regularly scheduled meeting. Staff may confer with the Mayor about the possibility of a special meeting, but applicants are not entitled to special meetings.
- C. Notice of the Council hearing shall be published at least once, not more than 30 days before, and at least 10 days before the hearing required by B, above, in a newspaper of general circulation in the City. **That notice shall also be made available to all other media and posted on the City's website.****
- D. Notice of the Council hearing shall be sent by first-class mail to all who received notice of the hearing before the PBZC.

- E. The Council will hear public statements, then review the PBZC recommendation and supporting materials. The Council may accept the PBZC recommendation, amending it as they find necessary. The Council may also change the PBZC recommendation, substituting its own findings of compliance or failure to comply, and its own conditions. All such conditions shall cite the specific section of these regulations with which they are intended to ensure compliance.
- F. The applicant must be present to answer questions (they may or may not choose to make a statement) or the hearing will be continued.
- G. If the Council approves an application for a CUP, a letter of approval that details all conditions of approval shall be sent to the applicant and made available to the public within 30 business days after the Council's decision.
- H. If the Council rejects an application for a CUP, a letter detailing the reasons for denial shall be sent to the applicant and made available to the public within 30 business days after the Council's decision.

11-6-6: ZONING PERMIT:

A ZONING PERMIT to proceed with development in compliance with the CUP and these regulations is required before any work begins. Please see Chapter 11.5 for the zoning permit procedure.

11-6-7: EXPIRATION:

- A. CUPs are valid for one calendar year from the date they are approved and may be renewed for an additional six months by filing the renewal form provided by the city.
- B. If a zoning permit for the work allowed by the CUP has not been approved by the expiration of the deadline established in A, above, the CUP is void.
- C. Once a CERTIFICATE OF COMPLIANCE (CC) has been issued for the development authorized by a CUP, that development may continue until abandoned (see Section 11-2-7.C).

11-6-8: CHANGES:

Section 11-5-8 may permit minor changes in conditional uses. A new CUP will be required for any significant change.