



This is an electronic fillable form.
 Place the cursor in grey text boxes and start typing.
 Left-click twice on the boxes to check or un-check them.
 If the text appears too small please use the zoom button.

CITY OF PENDLETON

Planning Department (541) 966-0204 Fax (541) 966-0251
 500 SW Dorion Avenue, Pendleton, OR 97801

CONDITIONAL USE APPLICATION

File No. CUP _____ Fee \$ _____

NOTICE TO APPLICANT: Applicants are advised to review the list of submittal requirements indicated on each application form prior to submitting an application. **Incomplete applications will not be acted upon or scheduled for a public hearing until the Planning Department receives all required submittal materials and fees. Failure to provide complete and/or accurate information may result in delay or denial of your request.**

APPLICANT

Mailing address _____

Phone _____ Fax _____ Email _____

Applicant's interest in property _____

Signature _____

Date _____

PROPERTY OWNER

Mailing address _____

Phone _____ Fax _____ Email _____

Signature _____

Date _____

If same as applicant, mark SAME. If there is more than one property owner, please attach additional sheets as necessary.

SITE LOCATION AND DESCRIPTION

Tax Map #(S) _____ Tax Lot #(s) _____ Zoning _____

Tax Map #(S) _____ Tax Lot #(s) _____ Zoning _____

Adjacent property under same ownership (*list tax lot ID*) _____

Frontage street or address _____ Nearest cross street _____

Site size (*acres or square feet*) _____ Dimensions _____

BUSINESSES Are any businesses operating on the property? If yes, please describe.

All businesses operating within the City of Pendleton must obtain a Business License.

SPECIFIC REQUEST

New Construction Alteration Change of Use

Describe _____

SUBMITTAL REQUIREMENTS

The following items must be received in order to deem an application complete and schedule it for a hearing before the Planning Commission. If you need assistance completing the forms, please contact the Planning Department. If you do not have a copy of the deed to your property to verify ownership, contact the Umatilla County Office of County Records at (541) 278-6236 or www.co.umatilla.or.us/records.htm.

1. Original, signed **Application form**. This information is public record and must be reproduced so please type or write clearly using dark ink.
2. All information required above and below, unless specifically waived by the Director.
3. The appropriate **fee**.
4. **10 copies** of all submittal materials for staff and Planning Commission distribution.

OFFICE USE ONLY.

This institution is an equal opportunity provider and employer.

120 day time limit	Accepted as complete _____	Final decision by _____
DLCD 45-day notice required	Y/N Date mailed _____	Date of first hearing _____
Planning Commission hearing date	_____	Notice mailed _____
Notice to media	Publication date _____	Emailed _____
Notice of Decision	Date mailed _____	Appeal deadline _____
Associated applications	_____	

Describe in detail how the site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this ordinance.

Describe in detail how the site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.

Describe in detail how any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other ordinance standards, or other reasonable conditions of approval.

In areas designated as requiring preservation of historic, scenic or cultural resources and attributes, **describe in detail how proposed structures will be of a design complementary to the surrounding area.**

The Zoning Ordinance accepts that certain uses, while not permitted outright, can be compatible uses in certain zones. The applicant bears the burden of proof to show that the proposed use is compatible or can be made compatible with the surrounding neighborhood and/or zone through appropriate mitigation.

Electronic submittals to accompany this application form are encouraged. All text submittals should be provided in Microsoft Word; plans and other images should be formatted as a pdf.

The application will not be scheduled for a hearing until deemed complete.

Use additional sheets if necessary.

City of Pendleton Unified Development Code
Article XI. Zoning and Related Decisions

- 11.01.1 **Pre-application Conferences.** The City encourages all persons considering any development that requires a land use action to schedule a pre-application conference. The purpose of a pre-application conference is to bring the applicant together with members of City staff to discuss a potential project and identify applicable development requirements, including possible opportunities and constraints.
- A. Participants. Staff at a pre-application conference will vary depending on the proposal. Typically meetings will include the Planner, Community Development Director, Building Inspector and Fire Marshall. Other parties may be included as appropriate.
 - B. Information provided. At such conference, the City Planning Official or designee shall:
 - 1. Cite the comprehensive plan policies and map designations applicable to the proposal;
 - 2. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
 - 3. Provide available technical data and assistance that will aid the applicant;
 - 4. Identify other governmental policies and regulations that relate to the application; and
 - 5. Reasonably identify other opportunities or constraints concerning the application.
 - C. Disclaimer. Failure of any member of City staff to provide information shall not constitute a waiver of any of the standards, criteria or requirements for the application;
 - D. Changes in the law. Due to possible changes in federal, state and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.
 - E. Waiver. Applicants are not required to attend a Pre-application conference. Failure to attend a pre-application conference may result in application delays if additional information is required from the applicant to deem an application complete.

11.06 Conditional Use Permits

- 11.06.1 **Purpose.** In all zones, conditional uses may be permitted subject to the granting of a conditional use permit. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this ordinance and their effect on surrounding properties.

The Planning Commission shall have the authority to approve, approve with conditions, disapprove or revoke conditional use permits subject to the provisions of this Section. Changes in use, expansion or contraction of site area, or alteration of structure or uses classified as conditional and existing prior to the effective date of this ordinance shall conform to all regulations pertaining to conditional uses.

- 11.06.2 **Allowances.** Those uses specifically identified as Conditional Uses in this Code may be considered for approval. This Code cannot anticipate every potential development proposal; uses that are similar in nature and impact to those that may be considered under the Conditional Use procedure, pursuant to a formal interpretation by the Planning Commission, may be processed and considered for approval under these standards.

- 11.06.3 **Findings of fact.** In order to grant any conditional use, the Planning Commission must find, based upon evidence, both factual and supportive, provided by the applicant, that:

- A. The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this ordinance.
- B. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.
- C. Any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other ordinance standards, or other reasonable conditions of approval.
- D. In areas designated as requiring preservation of historic, scenic or cultural resources and attributes, proposed structures will be of a design complimentary to the surrounding area.

- 11.06.4 **Conditions of approval.** In permitting a conditional use, the Planning Commission may impose, in addition to regulations and standards expressly specified in this ordinance, other conditions found necessary to protect the best interests of the surrounding property or neighborhood, or the City as a whole. These conditions may include, but not be limited to, the following:

- A. Increasing required lot size, yard dimensions, open spaces or buffer areas.
- B. Requiring fences, walls or landscape screening and/or buffering where necessary to reduce noise, glare and maintain the property in a character in keeping with the surrounding area.
- C. Requiring landscaping and maintenance thereof.
- D. Increasing street widths, controlling the location and number of vehicular access points to the property for ingress/egress.

- E. Requiring means of pedestrian/bicycle access pathways to serve the property.
- F. Increasing the number of off-street parking and loading spaces required; surfacing and proper drainage of parking areas.
- G. Limiting size, location and number of signs.
- H. Limiting the location, coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property.
- I. Limiting or prohibiting openings in sides of buildings or structures.
- J. Enclosure of storage areas and limitation of outside display and/or storage of merchandise.
- K. Requiring maintenance of grounds.
- L. Regulation of noise, vibration, odors, etc.
- M. Regulation of time for certain activities.
- N. Establishing a time period within which the proposed use shall be developed.
- O. The requirement of a bond for removal of such use within a specified period of time.
- P. Increase the size, type or capacity of any or all utility services, facilities or appurtenances.
- Q. Requirements under which any future enlargement or alteration of the use shall be reviewed by the Planning Commission and new conditions imposed.
- R. The Planning Commission may require that an applicant furnish the City a performance bond with a contractual agreement to assure its share of the development of streets, curbs, gutters, sidewalks, water, sanitary sewers, storm sewers or other necessary and essential public improvements to City standards; or an irrevocable consent to participate in an LID for those improvements has been executed.
- S. And such other conditions as will make possible the development of the City in an orderly and efficient manner and in conformity with the intent and purposes set forth in this Section.

11.06.5 **Limitations.** A conditional use permit shall not grant variances to regulations otherwise prescribed by the Development Code. Variance application(s) may be filed in conjunction with the conditional use application, and both applications may be reviewed at the same hearing.

11.06.6 **Procedure.** Conditional Use applications shall be processed according to the standards for a Type III application contained in Article 13.

11.06.7 **Appeal.** Appeal of a Conditional Use shall be processed according to the standards for appeal of a Type III decision contained in Article 13.

11.06.8 **Alterations.** The Commission may establish standards under which any future enlargement or alteration of the use shall (or shall not) require a new or modified Conditional Use application.

11.06.9 **Revocation.** Upon a determination that there are sufficient grounds, the Planning Commission may at any time initiate a review of the operation of any Conditional Use. A review shall be initiated if the Planning Director receives three documented and unresolved complaints within six months that a conditional use has not complied with the applicable conditions of approval or the applicable standards of this Section. If a review is initiated, the Commission shall hold a public hearing to determine whether the use is in compliance with applicable standards and conditions. Review of an existing Conditional Use shall be processed as a Type III procedure consistent with the standards for a new Conditional Use. At the conclusion of the hearing, the Planning Commission shall adopt findings of compliance or non-compliance for the conditional use. Upon adoption of findings of non-compliance, the property owner(s) shall submit a compliance schedule documenting that compliance will be achieved within forty-five (45) days or a shorter period of time if the Commission determines there is a cause for emergency action. Receipt of further documented and unresolved complaints will result in revocation of the conditional use permit.

Article XIII. Land Use Application Procedure

13.01 Application Submittal and Completeness Review

The City of Pendleton provides a consolidated procedure by which an applicant may apply at one time for all land use permits needed for a development project.

13.01.1 Application Forms and Checklists

- A. The Director shall supply land use application forms pursuant to the standards contained in the applicable state law, comprehensive plan, and implementing ordinance provisions. All applications provided for in this Ordinance shall be made on the application forms prescribed by the City.
- B. The Director shall supply checklists or information sheets for applications, which shall detail the specific information which must be contained in the application, including format and number of copies. Such checklists may be incorporated into the application forms.

13.01.2 Who May Apply

- A. An application for a Special Permit may be filed by:
 - 1. The owner or the contract purchaser of the subject property, or any person authorized in writing to act as agent of the owner or contract purchaser.
 - 2. The City Council, Planning Commission, City Manager, or the City Manager's designee, as to property owned by the City, including public right of way and easements, or which the City intends to acquire.
 - 3. Public agencies that own the property or have passed a resolution declaring that they intend to exercise their statutory authority to condemn the property.

13.01.3 Classification of Applications

- A. All applications shall be subject to the procedure type specified in this Code. If the Code does not specify a procedure type for a given application and another procedure is not required by law, the Director shall determine the appropriate procedure based on the following guidelines. Where two or more procedure types could be applied to a particular application, the selected procedure will be the type providing the broadest notice and opportunity to participate.
 - 1. A Type I (Ministerial) application is subject to non-discretionary criteria or criteria that require the exercise of professional judgment only about technical issues.
 - 2. A Type II (Ministerial) application is subject to criteria that require the exercise of limited discretion about non-technical issues and about which there may be limited public interest.
 - 3. A **Type III (Quasi-Judicial)** application is subject to criteria that require the exercise of substantial discretion and about which there may be broad public interest, although the application applies to a limited number of land owners and properties.
 - 4. A Type IV (Legislative) procedure typically involves the adoption, implementation or amendment of policy or law by ordinance. The subject of a Type IV procedure generally applies to a relatively large geographic area containing many property owners.
 - 5. When an applicant submits more than one complete application for a given proposal, where each application addresses a separate set of code requirements and the applications are subject to different procedure types, all of the applications are subject to the procedure type of the application which requires the broadest notice and opportunity to participate. For example, a Type II application will be consolidated with a Type III application for the same proposal on the same site, in which case, the Type II application will be reviewed by the decision making authority of the Type III application. The decision making authority's action on the Type II application will be based on the approval criteria governing the Type II application.
- B. In the event that the completed applications involve applications where the decision making authority is a combination of the Director and the Planning Commission, the decision making authority will be the Planning Commission.
- C. Notwithstanding any other provision and at no cost to the applicant, the Director may choose to combine multiple applications for the same development as a way to increase the efficiency of development review.
- D. For applications within the Historic District, the Director shall determine the appropriate decision-making authority between the Façade Committee, the Landmarks Commission and the Planning Commission. Such determination will be based upon the characteristics of the proposal and the associated application, if any.

13.01.4 Application Submittal

- A. Applications for development permits shall be submitted upon forms supplied by the Director. Partial submittal of applications will not be accepted. All of the following items must be submitted to initiate the completeness review:
 - 1. Applications for Type I and Type II actions which do not require a public hearing shall be processed administratively in the order they are received. One copy of the application and all attachments shall be submitted.
 - 2. All applications for **Type III quasi-judicial** actions shall be submitted to the Planning Department no less than 28 days before the next scheduled meeting of the Planning Commission. Ten complete sets of the application and all attachments shall be submitted.
 - 3. Any proposal for a Type IV Legislative action to amend the City of Pendleton Comprehensive Plan or any City of Pendleton land use regulation or to adopt a new land use regulation shall be submitted a minimum of 50 days prior to the first evidentiary hearing, consistent with the standards contained in ORS 197.760. Twenty complete sets of the application and all attachments shall be submitted.
 - 4. In no instance shall an application be scheduled for a public hearing if local or State notice requirements cannot be met. Applications submitted after applicable deadlines shall be scheduled for the next available hearing date upon determination of completeness.

- B. All applications shall provide the following minimum information, unless specifically waived by the Planning Director:**
1. Application form, including required notarized signature(s) that demonstrate consent of all owners of the affected property;
 2. Deed, title report or other proof of ownership;
 3. Completed checklist provided for each type of application, including all required materials;
 4. A narrative summarizing the project, including (but not limited to) such information as: the nature of the structure(s) and/or activities proposed (Residential, Commercial, Industrial, Institutional, Mixed Use, etc.) number of dwellings/employees/ students/participants, hours of operation, and any other information to assist staff and the public in understanding the proposal. If negative impacts are anticipated, please identify them and provide a proposal for mitigation.
 5. Plans and specifications, drawn to scale, showing the following:
 - a. The actual shape and dimensions of the lot or site to be built upon. Site drawings should be provided at a scale of 1" = 20' or 1" = 40' unless a large site dictates a more appropriate scale, which shall in all cases be consistent with a U.S. Standard Engineer scale.
 - b. The sizes and locations of all structures on the site (existing and proposed), including all setbacks.
 - c. Elevations of any proposed buildings, if part of or relevant to the application.
 - d. The number of dwelling units, if any, that exist on the site or are proposed for construction.
 - e. The relationship of the property to the surrounding area.
 - f. Documentation of the public improvements abutting the site (streets, curb/gutter, sidewalks, etc.).
 - g. Elevation Certificate and/or topographic map prepared by a registered land surveyor to show compliance with floodplain standards, if applicable.
 - h. Any other information deemed necessary by the Planning Director to determine conformance with this Ordinance or compatibility with the general neighborhood or zone.
 6. Special reports or plans required to demonstrate that the specific proposal and its site constraints comply with applicable codes. These are noted on the application checklist.
 7. Application narrative to address each applicable approval criteria and standards.
 8. Any mitigation proposed to address actual or potential negative impacts.
 9. A Trip Generation study or Traffic Impact Analysis, if deemed necessary pursuant to this Ordinance and/or the City of Pendleton Transportation System Plan.
 10. Electronic copies of all submittal materials, if possible.
 11. Payment for the appropriate land use application fee(s) and deposit(s), based on the fee schedule in effect on the date of application submittal.

13.01.5 Completeness Review

- A. The Director shall review the application submittal and advise the applicant in writing whether the application is complete or incomplete within thirty (30) calendar days after the city receives the application submittal.
- B. Incompleteness shall be based solely on failure to pay required fees, failure of the applicant's narrative to address the relevant criteria or development standards, or failure to supply the required information listed in the checklist and shall not be based on differences of opinion as to quality or accuracy. Determination that an application is complete indicates only that the application contains the information necessary for a qualitative review of compliance with the Development Code standards.
- C. Submittal and/or acceptance of the required fees shall not constitute acceptance of a complete application.
- D. Failure to provide necessary or relevant information may result in delay or denial of an application.
- E. If the application was complete when first submitted or the applicant submits additional information within 180 days of the date the application was first submitted, and a decision has not been issued, approval or denial of the application shall be based upon the standards and criteria that were in effect at the time the application was first submitted.
- F. If an application is incomplete, the Director shall prepare a notice of incompleteness. The notice shall list what information is missing and allow the applicant to submit the missing information. The completeness notice shall include a form, to be returned to the Director by the applicant, indicating whether or not the applicant intends to amend or supplement the application.
- G. The application will be deemed complete for purposes of this Section upon receipt by the city of:
 1. All of the missing information;
 2. Some of the missing information and written notice from the applicant that no other information will be provided; or
 3. Written notice from the applicant that no additional information will be provided.
- H. The application will be deemed void if the application has been on file with the city for more than 180 calendar days and the applicant has not met the obligations of subsection G. above.
- I. The City shall take final action on an application for a permit, limited land use decision or zone change consistent with the standards contained in ORS 227.178, including resolution of all appeals under ORS 227.180, within 120

days after the application is deemed complete. The 120 calendar day time limit may be extended pursuant to subsection J. below or as may otherwise be permitted under State law.

- J. The 120 calendar day time line may be extended at the written request of the applicant. The total of all extensions may not exceed 245 calendar days, for a total of 365 days from the date the application is deemed complete.

13.01.6 **Withdrawal of an Application**

- A. An applicant may withdraw an application at any time before the application is deemed complete.
 - 1. An applicant may withdraw an application previously deemed complete at any time prior to adoption of a final City decision if the Director determines that:
 - 2. The owners or contract purchasers or the interest holders in the property consent in writing to withdraw the application.
- B. No violation of this Code has been identified on the subject property and processing of the application would not correct the identified violation.
- C. The City Manager or his designee may withdraw any City-initiated application at any time.
- D. If an application is withdrawn after public notice has been mailed, the Director shall send written notice stating the application has been withdrawn to all persons to whom notice of the application or hearing has been sent. This provision shall not apply to legislative applications that require Citywide mailed notice.
- E. Once an application has been withdrawn, the application fees shall be refunded by the following formula:
- F. Application withdrawn prior to being deemed complete: 85%.
- G. Application withdrawn prior to publication or distribution of public notice: 50%.
- H. Application withdrawn after publication or distribution of public notice: no refund.
- I. There shall be no refund of fees for appeal of a Type III/Planning Commission decision; appeal fees may be refunded if the appellant prevails in an appeal of a Type II decision pursuant to ORS 227.175.

Please refer to Section 13.04 *Type III Procedure (Quasi-Judicial)* of the Unified Development Code for procedural language for all Type III applications.

13.06 **Burden of Proof**

The following language shall be included with all decisions for Type II, III and IV actions.

The specific findings made in granting a Permit shall be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the approval of the Permit. If no evidence is produced by the applicant concerning any of the findings, the application may be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings relating to approval or denial of an application.

- A. The applicant has the burden of proof regarding all requests affecting a subject property, and the applicant recognizes that it is the sole obligation of the applicant to substantiate the request.
- B. If any administrative review, suit or action is instituted in connection with any appeal of a decision, the applicant shall be required to either (1) reimburse the City for all costs incurred in defending this action, including but not limited to attorney fees, staff costs, any materials and other related costs, or (2) notify the City that the applicant does not desire to undertake such costs and will drop its request.
- C. The applicant shall notify the City Manager within five (5) days from City's receipt of any notice of appeal by delivering a written statement to the City Manager within said five (5) days advising the City Manager whether the applicant will reimburse the City for all costs as described above or desires to drop the request.
- D. In the absence of written communication from the applicant within the allotted five (5) days the City may at its option presume the applicant desires to drop the request and the City shall have no obligation to defend the appeal.
- E. In appeals involving questions of City-wide significance, the City Council may determine to participate in part of the costs specified herein. Nothing in this condition shall affect applicant's right to retain independent counsel in making their own legal appearance upon appeal.
- F. If any suit or action, including rescission, is instituted by the applicant in connection with any controversy arising out of a request, there shall be taxed and allowed to the City as a part of the costs of the action, a reasonable amount to be fixed by the court as attorney fees in such suit or action, both at trial and upon appeal. In addition, the City may charge a fee for preparation of a written transcript, not to exceed the actual cost of preparing the transcript, up to \$500 plus one-half the actual costs over \$500.

Article XV. Administrative Provisions

15.03 Compliance with Ordinance Provisions

- 15.03.1 The provisions of this Ordinance shall be deemed minimum requirements for the preservation of the public safety, health, convenience, comfort, prosperity and general welfare of the people of the City of Pendleton.
- 15.03.2 A lot may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used only as this Ordinance permits.
- 15.03.3 No lot area, yard or other open space existing on or after the effective date of this Ordinance shall be reduced below the minimum required for it by this Ordinance.
- 15.03.4 No lot area, yard or other open space which is required by this Ordinance for one use shall be used as the required lot area, yard, or open space for another use.
- 15.03.5 Development shall not commence until the applicant has received all of the appropriate land use and development permits (including but not limited to a Development Permit and building permits).

15.12 Consent to Annexation Required

Pursuant to the Joint Management Agreement with Umatilla County, any land use action on land in the Joint Management Area (lands inside the Pendleton Urban Growth Boundary but not inside the Pendleton city limits) is subject to all City of Pendleton criteria and standards. However, such properties do not pay City taxes, rely on Umatilla County as the primary response for police and fire service, and are also subject to a surcharge for water and sewer service. In order to reduce inter-jurisdictional issues, all land use actions inside the JMA shall carry, as a condition of approval, that:

- A. If the property abuts the City limits of the City of Pendleton, property owner shall provide a consent to the City for annexation; or
- B. If the property is inside the Urban Growth Boundary but does not abut the City limits of the City of Pendleton, property owner shall provide a consent to the City for annexation at such time as the property does abut the city limits.

15.14 Violation of Conditions

The Planning Commission, on its own motion, may revoke any Permit for noncompliance with conditions set forth in the granting of said permit after first providing notice and holding a public hearing pursuant to the standards for a Type III application. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a Permit.

15.15 Agreements for Conditional Approvals

Conditions imposed upon rezoning approvals, discretionary permits, land divisions, or any other authorizations to applicants pursuant to this Ordinance, may be incorporated into an agreement which shall be binding on the applicant and the applicant's successors, heirs and assigns as a continuing obligation running with the property which is the subject of such authorization. The Mayor and City Recorder are hereby authorized to execute such agreements when approved by the Planning Commission in the case of discretionary permits, or by the City Council in the case of rezoning ordinances, appeals on discretionary permits, or other authorizations requiring Council action.

Where the conditions imposed by any provision of this Ordinance are less restrictive than comparable conditions imposed by any other provisions of this Ordinance or of any other ordinance, the provisions which are more restrictive shall govern.