

2. The Responsible Official shall provide posted notice of a public hearing in accordance with Section 2.3.2.1 and Table 2.1 for a CUP related to the on-premise consumption of alcohol or a CUP related to purpose built student housing.

B. Planning and Zoning Commission Action. Conditional use permits shall be decided by the Planning and Zoning Commission, subject to appeal to City Council, unless otherwise stated in this Development Code.

1. The Planning and Zoning Commission shall conduct a public hearing on the application in accordance with Section 2.3.3.1.
2. The Planning and Zoning Commission shall determine whether to approve, approve with conditions or modifications, or deny the permit.
3. The Planning and Zoning Commission may require modifications in the proposed use and attach conditions to the conditional use permit deemed necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this Section.

C. City Council Action. Conditional use permits expressly determined by this code to be decided by the City Council shall first receive a recommendation by the Planning and Zoning Commission then follow the procedure below:

1. The City Council shall conduct a public hearing on the application in accordance with Article 3, Division 3 of this Chapter 2.
2. The City Council shall decide whether to approve, approve with conditions or modifications, or deny the permit.
3. The City Council may require modifications in the proposed use and attach conditions to the conditional use permit deemed necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this Section.

D. Conditions Listed in Permit. Each approved conditional use permit shall list all applicable conditions.

Section 2.8.3.4 Criteria for Approval

A. When considering an application for a conditional use permit, the Planning and Zoning Commission or City Council shall evaluate the impact of the proposed conditional use on and its compatibility with surrounding properties and residential areas to ensure the appropriateness of the use at the particular location, and shall consider the extent to which:

1. The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;
2. The proposed use is consistent with any adopted small area plan or neighborhood character study for the area.
3. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
4. The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes Improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;
5. The proposed use does not generate pedestrian and vehicular traffic which shall be hazardous or conflict with the existing and anticipated traffic in the neighborhood;
6. The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;
7. The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and
8. The proposed use meets the standards for the applicable district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

Section 5.1.4.4 Two-Family

- A. Defined.** Two dwelling units located on a single lot which may or may not be located in a single principal structure. An accessory dwelling unit on the same lot as a single family home is not considered a two family lot.
- B. Use Standards.** Where two-family dwelling units are allowed as a limited use the following standards apply:
 1. Occupancy of each unit is restricted to a family and up to one other person who is not related to any of the other family members by blood, legal adoption, marriage, or conservatorship.

Section 5.1.4.5 Single Family Attached

- A. Defined.** Two or more units in a single principal structure where each unit is attached vertically by a common side wall and is located on a separate lot. Units cannot be vertically mixed.
- B. Use Standards.** Where single family attached units are allowed as a limited use the following standards apply:
 1. Occupancy of each unit is restricted to a family and up to one other person who is not related to any of the other family members by blood, legal adoption, marriage, or conservatorship.

Section 5.1.4.6 Small Multi-Family (up to 9 units)

- A. Defined.** Three to nine dwelling units on a single lot that do not meet the definition of single family attached or cottage court above.
- B. Use Standards.** Where small multi-family is allowed as a limited use the following standards apply:
 1. Occupancy of each unit is restricted to a family and up to one other person who is not related to any of the other family members by blood, legal adoption, marriage, or conservatorship; and
 2. No more than three bedrooms are permitted to be constructed per unit.

Section 5.1.4.7 Courtyard Housing (up to 24 units)

- A. Defined.** Up to 24 dwelling units arranged around a common courtyard and located on a single lot or up to 24 attached units arranged around a common courtyard.
- B. Use Standards.** Where courtyard housing is allowed as a limited use the following standards apply:
 1. Occupancy of each unit is restricted to a family and up to one other person who is not related to any of the other family members by blood, legal adoption, marriage, or conservatorship; and
 2. No more than three bedrooms are permitted to be constructed per unit.

Section 5.1.4.8 Multi Family (10 or more units)

- A. Defined.** Ten or more dwelling units on a single lot.
- B. Use Standards.** No more than three bedrooms are permitted to be constructed per unit.

Section 5.1.4.9 Purpose-Built Student Housing

- A. Defined.** One or more buildings, each containing two or more living units, that are designed, marketed, or used for the primary purpose of housing college students.

B. Use Standards

1. **Student Leases.** Any residential dwelling lease that is executed and effective before the issuance of a certificate of occupancy by the City enabling the tenant to occupy the premises shall include a late delivery provision providing as follows:

“In the event the Leased Premises are unavailable for occupancy on or before the commencement date of this Lease, Landlord shall offer Tenant the choice of: 1) accepting temporary safe, decent, and sanitary housing, provided by Landlord, at an alternate location within the City of San Marcos, or within a seven mile radius of the Leased Premises, with Tenant remaining bound by the terms of the Lease; or 2) terminating the Lease with no financial penalty and with full reimbursement to Tenant of all deposits and pre-paid items within 10 days.”

- a. Before execution of any such lease, applicant or applicant's successor or assignee operating the purpose built student housing allowed by a conditional use permit shall, first, provide a copy of its form lease to the City for review and written approval consistent with this paragraph.
 - b. In the event of a late delivery, the applicant or applicant's successor or assignee operating the purpose built student housing allowed by a conditional use permit shall, first, provide a copy of any correspondence communicating information about the late delivery and/or the student's options for temporary housing to the City for review and written approval.
2. Where purpose built student housing is allowed as a conditional use it may be permitted by the City Council upon a recommendation by the Planning and Zoning Commission in accordance with Section 2.8.3.1. A conditional use permit request for purpose built student housing shall not become effective except by the favorable vote of three-fourths of all members of the City Council when the P&Z recommends denial of the request and be subject to the following criteria:
 - a. The ability for the development to transition in the future to accommodating a more diverse population;
 - b. The durability, energy efficiency, and longevity of the building;
 - c. The location of the development in relation to alternative transportation networks to and from the university including sidewalks, bike lanes, and transit networks;
 - d. Mitigation of any adverse effects on adjacent property or neighborhoods; and
 - e. Compliance with the Comprehensive Plan, Downtown Master Plan, and any other adopted city plans or policies.

Section 5.1.4.10 Manufactured Home

- A. **Defined.** A single family unit located on a single lot and manufactured to meet the requirements of a HUD-Code Manufactured Home.

Section 5.1.4.11 Mobile Home Community / Manufactured Home Park / Tiny Home Village

- A. **Defined.** A site, lot or tract of land where two or more Mobile Homes and/or HUD-code Manufactured Homes are located.
- B. **Tiny Home Village.** A lot where multiple tiny homes are situated on individual spaces in accordance with Section 7.6.1.1

(Ord. No. 2020-60, 9-1-2020)

Section 5.1.4.12 Group Living

- A. **Defined.** Residential occupancy of a structure by not more than 6 people that does not meet the definition of household living. Generally, group living areas have a common eating area for residents. Group living includes the following:

1. Community home.
2. Fraternity or sorority.

B. Community Home

1. **Defined.** A place where no more than six persons are provided room and board, as well as supervised care and rehabilitation by no more than two persons. The limitation on the number of persons applies regardless of the legal relationship of those persons to one another.
2. **Use Standards.** Where a community home use is limited, residents include no more than six physically or mentally impaired or handicapped persons being provided room and board, as well as supervised care and rehabilitation by no more than two persons as licensed by the Texas Department of Mental Health and Mental Retardation (also see Chapter 123 of the Texas Human Resources Code - Community Homes for Disabled Persons Location Act). The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another.

C. Fraternity or Sorority House