

ARTICLE 14 – PERMITS FOR CONDITIONAL USES

SECTION 1401 PURPOSES

In certain districts, conditional uses are permitted subject to the granting of a use permit. Because of their unusual characteristics, conditional uses require special considerations so that they may be located properly with respect to the objectives of the zoning ordinance and their effects on surrounding properties. In order to achieve these purposes, and thus give the district use regulations of this ordinance additional flexibility necessary to achieve the objectives of this ordinance, the Planning Commission is empowered to grant or to deny applications for use permits and to impose reasonable conditions upon the granting of use permits.

SECTION 1402 POWERS OF THE PLANNING COMMISSION

The Planning Commission may grant use permits for such conditional uses in such districts as are prescribed in the district regulations of this ordinance, in accordance with the procedure prescribed in this article.

SECTION 1403 APPLICATION AND FEE

Application for a use permit shall be made to the Planning Commission, which shall include the following data:

- A. Name and address of applicant.
- B. Statement that the applicant is the owner of the property or is the authorized agent of the owner or the plaintiff in an action of eminent domain to acquire the property involved.
- C. Address or description of the property including parcel number.
- D. Statement setting forth the precise circumstances or conditions applicable to the land, structure or use which makes the granting of a use permit necessary for the preservation and enjoyment of a substantial property right, together with any other data pertinent to the findings prerequisite to the granting of a use permit.
- E. A drawing of the site and the surrounding area for a distance of at least three hundred (300) feet from each boundary of the site showing the existing locations of streets and property lines and a list of the names and last known addresses of the recorded legal owners, as shown on the latest adopted assessment roll of Sacramento County, of all properties shown on the drawing. County Assessor's maps may be used for this purpose.
- F. Preliminary floor plans and front, side and areas elevations of proposed structures, if available.

- G. Prints of a site plan, drawn to scale, which shall indicate clearly and with full dimensions, the information prescribed by the Building Official. Such information may include, but shall not be limited to, the following:
1. Lot or site dimensions.
 2. All buildings and structures: location, size, height, proposed use.
 3. Yards and space between buildings.
 4. Walls and fences: location, height and materials.
 5. Off-street parking and off-street loading: location, number of spaces and dimensions of parking and loading areas, internal circulation pattern.
 6. Access: pedestrian, vehicular, service; points of ingress and egress, internal circulation.
 7. Signs: location, size, height and type of illumination, including hooding devices.
 8. Lighting: location and general nature; hooding devices.
 9. Street dedications and improvements.
 10. Landscaping: location and type.
 11. Refuse containers: location and type.
 12. North arrow and scale of the drawing.
 13. Such other data as may be required by the Planning Commission to make the required findings.
- H. The site plan shall fulfill all requirements of Article 15, and shall be so prepared by the applicant to enable the Planning Commission to make the following findings:
1. All applicable provisions of this ordinance are complied with.
 2. The following are so arranged that traffic congestion is avoided and pedestrian and vehicular safety and welfare are protected and there will no adverse effect on surrounding property:
 - a. All facilities and improvements.
 - b. Vehicular ingress, egress and internal circulation.

- c. Setbacks.
 - d. Height of buildings.
 - e. Location of utilities and other services.
 - f. Walls.
 - g. Landscaping, including screen landscaping and street trees.
 - h. Drainage of site.
 - i. Trash enclosures and refuse pickup.
3. Proposed lighting is so arranged as to deflect the light away from adjoining properties and adjacent streets.
 4. Proposed signs will comply with all applicable provisions of Article 12.

In making the above findings, the Commission shall determine that approvals will be consistent with established legislative policies with respect to traffic safety, street dedication and street improvements.

- I. The application shall be accompanied by a fee set by resolution of the City Council sufficient to cover the cost of handling the application as prescribed in this article.

SECTION 1404 PUBLIC HEARING – NOTICE

The Planning Commission shall give notice and hold a public hearing on each application for a conditional use permit in accordance with the provisions of Section 1904 of this code.

SECTION 1405 PUBLIC HEARING – PROCEDURE

At the public hearing, the Commission shall review the application and the statement and drawings submitted therewith, and shall receive pertinent evidence and testimony concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the findings prescribed in Section 1407.

SECTION 1406 INVESTIGATION, REPORT AND NOTICE

The City Clerk shall give written notice to the applicant of the time when the application will be considered by the Commission. The City's Planner shall prepare a report for review with the Planning Commission analyzing the proposal and recommending the most appropriate Commission action, including conditions of approval.

SECTION 1407 ACTION BY THE PLANNING COMMISSION

The Planning Commission shall act on the application within thirty (30) days following the closing of the public hearing. The Commission may grant an application for a conditional use permit as the use permit was applied for or in modified form if, on the basis of the application and the evidence submitted, the Commission makes all of the following findings:

- A. That there are circumstances or conditions applicable to the land, structure or use which makes the granting of a use permit necessary for the preservation and enjoyment of a substantial property right.
- B. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purposes of the district in which the site is located.
- C. That the proposed use will comply with each of the applicable provisions of this ordinance.

A use permit may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the Commission may prescribe. The Commission may deny an application for a use permit. A use permit may not grant variances to the regulations prescribed by this ordinance for which variance procedures are prescribed by Article 18.

Within five (5) days following a decision of the Commission, the Secretary of the Commission shall transmit to the City Clerk the use permit application, the scale drawings of the site and surrounding area and all other data filed therewith, the minutes of the public hearing, staff reports, the findings of the Commission and its decision on the application.

SECTION 1408 CONDITIONS OF APPROVAL

In approving a conditional use permit, the Planning Commission shall state those conditions of approval necessary to protect the public health, safety and general welfare. Such conditions may cover any of the considerations listed in Section 1504 of this ordinance.

SECTION 1409 REVIEW BY THE CITY COUNCIL

At the first regular meeting of the City Council held more than ten (10) days after a decision on a use permit application by the Planning Commission, the City Council shall review the decision. The Council may affirm, reverse or modify a decision of the Planning Commission, provided that if a decision denying a use permit is reversed, or a decision granting a use permit is modified, the Council shall, on the basis of the record transmitted and such additional evidence as may be submitted, make the findings prerequisite to the granting of a use permit prescribed in Section 1407.

A use permit shall become effective immediately after it is granted by resolution of the City Council.

SECTION 1410 BUILDING PERMIT

Before a building permit shall be issued for any building or structure proposed as part of the approved conditional use permit application, the Building Official shall determine that the proposed building location, facilities and improvements are in conformity with the site plan and conditions approved by the Planning Commission.

SECTION 1411 LAPSE OF USE PERMIT

A use permit shall lapse and shall become void one (1) year following the date on which the use permit became effective unless by conditions of the use permit, a lesser or greater time is prescribed in accordance with Section 1412, or unless prior to the expiration of one (1) year, a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application. A use permit may be renewed for an additional period of one (1) year or for a lesser or greater period as prescribed in Section 1412, provided that, prior to the expiration of the time period granted, an application of renewal of the use permit is filed with the Planning Commission. The Planning Commission may grant or deny an application for renewal of a use permit.

SECTION 1412 TIME LIMIT FOR DEVELOPMENT; EXTENSION

The Planning Commission or City Council may establish a lesser or greater time limit than that provide by Section 1411, within which the subject property and use or any stage or phase thereof shall be commenced and completed. The time limits set by the Commission or Council shall be reasonable, based on the size, nature and complexity of the proposed development. Said time limit may be extended by the Commission or Council for good cause, such as proof of an unusual hardship not of the applicant's own making.

SECTION 1413 PRE-EXISTING CONDITIONAL USE AND USE PERMITS

A conforming conditional use established prior to enactment of this ordinance shall be permitted to continue. A conditional use permit granted under the provisions of the Sacramento County Zoning Code and amendments thereto prior to the enactment of this ordinance shall, upon the annexation of the property affected to the City, become null and void at the end of six (6) months following the date of its original approval or extension thereof granted by the County prior to the annexation, unless a building permit has been issued by the County and construction has commenced. Alteration or expansion of a conditional use established prior to enactment of this ordinance may be permitted upon the granting of a use permit.

A use permit shall be required for the reconstruction of a structure housing a conditional use established prior to enactment of this ordinance if the structure is destroyed by fire, or other calamity, or by act of God, or by the public enemy, to the extent of sixty percent (60%) or more. The extent of damage or partial destruction shall be determined by the Building Official on the basis prescribed in Section 1308 F of this ordinance.

SECTION 1414 REVOCATION

Upon violation of any applicable provisions of this ordinance, or, if granted subject to a condition or conditions, upon failure to comply with the condition or conditions, a use permit shall be suspended automatically. Notice of such suspension shall be sent immediately to the person or persons responsible for non-compliance by the City Clerk. Within thirty (30) days of the suspension, the City Council shall consider the suspension. If not satisfied that the regulation, general provision, condition or conditions are being complied with, the City Council may revoke the use permit or take such action as may be necessary to ensure compliance with the regulation, general provision, condition or conditions.

SECTION 1415 NOTATION ON CONDITIONAL USE MAP

The location of a conditional use permit shall be indicated on a map maintained for the purpose of identifying the location of such permit. The location shall be indicated by the use permit number (e.g., CUP ____), on or pointing to the site.

SECTION 1416 NEW APPLICATION

Following the denial of a use permit application or the revocation of a use permit, no application for a use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within six (6) months from the date of denial or revocation of the use permit, except when the City Council has acted to deny “without prejudice”.

SECTION 1417 USE PERMIT TO RUN WITH THE LAND

A use permit granted pursuant to the provisions of this article shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application.

SECTION 1418 MINOR REVISIONS TO A PREVIOUSLY APPROVED CONDITIONAL USE PERMIT

A use permit granted under the provisions of this article or a confirming conditional use established prior to the enactment of this ordinance may be revised as to features of the site plan previously approved, provided that such revisions are minor, as determined by the Planning Commission. Application for minor revisions to the site plan shall be made in writing, including three (3) copies of the revised site plan, to the Commission. The Commission may approve such revisions without public hearing, provided that the Commission can determine that the revisions will not substantially change the intensity or character of the use as previously approved by the City.