

CHAPTER 19.61

CONDITIONAL USE PERMITS

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19.61.010 PURPOSE AND INTENT

The conditional use permit procedure is intended to provide for uses that are:

A. *Types of Uses*

1. Necessary or desirable for the development of the community or region but are not permitted uses in the individual district due to the use's unique character, including, but not limited to, the possible effect of the use on public facilities or surrounding uses; or
2. Appropriate as accessories to the development of neighborhoods or the community; or
3. Appropriate uses in the district in which they are allowed subject to a conditional use permit, but requiring specific consideration of the proposed use or development.

B. *Conditions*

In granting any conditional use permit, the City Council shall affix those conditions which it determines will tend to safeguard the public health, convenience and general welfare in the City.

19.61.020 APPLICATION QUALIFICATIONS

Applications for conditional use permits will be accepted only from persons having legal authority to take action in accordance with the permit, such as owners or lessees of property, or their agents, or persons who have contracted to

purchase property contingent upon their ability to acquire the necessary permits under this Chapter, or the agents of such persons who may make application in the name of such owners, lessees or contract vendees.

19.61.030 APPLICATION PROCEDURE

A. Application Requirements

1. The application for conditional use permit shall be made to the Development Services Department on forms provided by the City.
2. All applications for conditional use permits must be complete before the City is required to consider the application. An application is complete when it contains all the information that is necessary for the City to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Chapter.
3. The application shall contain thereon full and complete information pertaining to the request, including a site plan of the proposed conditional use and development, and any additional and supplementary materials requested by the Director of the Development Services Department, such as detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.).
4. The applicant must provide the City with a list of property owners and their addresses who reside within a radius of 300 feet of the exterior boundaries of the property, using for this purpose persons who have listed for taxation real property within that area. The list of such persons shall be certified by a title company to ensure actual property ownership.
5. Upon filing an application for a conditional use permit, a uniform fee, as established by City Council resolution and any amendments thereto, shall be paid for the purpose of defraying the costs incidental to the proceedings.

B. Investigation and Prohibition

1. The City Council shall investigate the facts bearing on each case to provide information necessary to assure action consistent with the intent and purpose of this Code.
2. A person may not file and the Director of the Development Services Department shall not accept an application which is the same or substantially the same as an application upon which final action has been taken by the City within 12 months prior to the date of said application, unless accepted by a motion of the City Council.

(Ord. 1255, 6/09)

19.61.040 PUBLIC HEARING

Upon the filing of a verified application, the Development Services Department shall set a public hearing before the City Council when the Director of Development Services has determined that the application is in compliance with this Code and the California Environmental Quality Act.

The notice and public hearing procedure shall be consistent with Chapter 19.56, PUBLIC HEARING PROCEDURES.

19.61.050 FINDINGS AND CONDITIONS

The City Council may not grant a conditional use permit for any use for which a conditional use permit may be granted under any provision of this Code unless it has first found from the evidence admitted during the hearing before the Council that the proposed use meets the findings contained in Section 19.54.040 C.

19.61.060 REVOCATION

A. Public Hearing

The City Council, on its own motion at a public hearing with or without a recommendation from the Planning Commission, may revoke or modify a conditional use permit upon making one of the findings in Section 19.61.060 C. (Ord. 1126 § 4, 2004)

B. Written Notice

Written notice of such public hearing shall be served on the owner of the property for which such conditional use permit was granted and in accordance with Section 19.56, at least 10 days before such public hearing. Said notice shall be served upon the permittee either personally or by registered mail, postage prepaid, return receipt requested.

C. Revocation Findings

A Conditional Use Permit may be revoked or modified upon the making of one or more of the following findings: (Ord. 1126 § 4, 2004)

1. That the use is detrimental to the public health or safety or is a nuisance.
2. That the conditional use permit was obtained by fraud.
3. The use for which the permit was granted is not being exercised.
4. That the use for which the permit was granted has ceased or discontinued for a period of one year, or been suspended or abandoned for a period of one year or more.
5. That the conditions of the improvements, if any, on a property for which a nonconforming conditional use permit is operative, is such that they can be used or altered so as to be used in conformity with

the uses permitted in the zone in which such property is located without impairing the constitutional rights of any person.

6. That the property owner has not complied with any or all conditions of the conditional use permit.

D. City Council Action

After a hearing upon the revocation of a conditional use permit, the City Council shall report its findings of fact and recommendations and shall determine the facts and may revoke, modify, or allow to remain unchanged the conditional use permit in accordance with the City Council's final determination in such matters.

19.61.070 EXISTING PERMITS

Any conditional use permit granted pursuant to any zoning ordinance enacted prior to the effective date of the ordinance codified in this Chapter shall be construed to be a conditional use permit under this Title, subject to all conditions imposed in such permit unless otherwise provided in this Chapter. Such permit may, however, be revoked or voided as provided in Section 19.61.060.

19.61.080 EFFECTIVE DATE

No conditional use permit granted or authorized as provided in this Chapter shall become effective until 10 days after the date of the decision of the City Council granting and authorizing said conditional use permit or until the effective date thereof as provided in the permit; provided, that the latter date is more than 10 days later than the effective date of said resolution.

19.61.090 TIME LIMIT

The determination of the City Council granting a permit shall contain as a condition thereof the following: "The permit hereby allowed is conditioned upon the privileges being utilized within 36 months after the effective date, and if they are not utilized or less than 10 percent of the total cost of construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site, this authorization shall become void, and any development deemed to have lapsed." The City Council or Planning Commission, however, shall have authority to extend the time limit in accordance with Section 19.50.070 upon a finding of unavoidable delay. Once any portion of the conditional use permit is utilized, the other conditions thereof become immediately operative and must be strictly complied with. (Ord. 1255, 6/09)

19.61.100 TERM

Each Conditional Use Permit lawfully existing at the time of adoption of the ordinance amending this Section, and those Conditional Use Permits granted in compliance with the provisions of this Chapter, shall remain in effect for the effective life of the business service, or use authorized by such Permit, subject to any conditions of approval or operating standards imposed by the Planning Commission or City Council. Such Permit shall remain in effect upon a change of ownership, provided the new owner/operator agrees in writing to all applicable conditions and operating standards prior to reopening or maintaining the use under new ownership. To allow for minor deviations in operating standards and conditions, the Development Services Director may make an administrative determination that a use is in substantial compliance with an approved Conditional Use Permit.

The Development Services Director may approve minor changes to the required conditions and operating standards of an approved Conditional Use Permit. (Ord. 1126 § 5, 2004)

19.61.110 REVISIONS TO SITE PLAN

A. *Approval of Minor Revisions*

Minor revisions to a site plan approved as part of a conditional use permit may be made after review and approval by the Director of Development Services. Minor revisions are defined as revisions which in no way violate the intent of any of the standards or conditions of the permit or of the zone.

B. *Non-Minor Revisions*

Revisions other than minor revisions, as defined in subsection (A) of this section, may be pursued consistent with the regular conditional use permit procedures set forth in this Chapter.

C. *Approved Site Plans*

All copies of the approved revised site plan shall be dated and signed by the Director of Development Services and made a part of the record of the subject conditional use permit. One copy of said approved revised site plan shall be mailed to the applicant.

19.61.115 ADMINISTRATIVE COMPLIANCE REVIEW

The Development Services Department will monitor compliance with required conditions of approval and will conduct an administrative compliance review every five years after approval of any Conditional Use Permit. However, nothing in this section shall preclude the Director of Development Services, at his/her discretion or upon the direction of the City Council, from initiating an

administrative compliance review at any time during the effective life of a Conditional Use Permit. The permittee shall pay the required fee as adopted by resolution for an administrative compliance review.

During the administrative compliance review, the Development Services Department shall inspect the subject property to determine compliance with all conditions of approval or other operational standards. Upon determination that the property or use is not in compliance, the permittee shall immediately bring the property or use into compliance. The Development Services Department may grant a limited extension provided the permittee agrees in writing to a schedule for bringing the property or use into compliance.

If after the administrative compliance review the property or use is not brought into compliance in accordance with this Section, the Development Services Department may, in addition to any other remedy, recommend to the Planning Commission or City Council that the Conditional Use Permit be revoked or modified. (Ord. 1126 § 6, 2004)

19.61.120 FAILURE TO COMPLY

Noncompliance with any condition on a conditional use permit shall be a violation of this Title and constitute a criminal misdemeanor offense unless, at the discretion of the City Attorney, such offense is charged as an infraction pursuant to Section 1.16.010 of this Code.