

Chapter 18.17

PERMITS FOR CONDITIONAL USES

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18.17.010 **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 code and their effects on surrounding properties. In order to achieve these purposes, and thus give the district use regulations of this title additional flexibility necessary to achieve the objectives of this title, the city council is empowered to grant and to deny applications for use permits and to impose reasonable conditions upon the granting of use permits. (Ord. 437 § 1 (part), 1989)

18.17.020 **Powers of the city council.**

The city council may grant use permits for such conditional uses in such districts as are prescribed

in the district regulations of this title, in accordance with the procedure prescribed in this title. (Ord. 437 § 1 (part), 1989)

18.17.030 **Application and fee.**

Application for a use permit shall be made to the community development department, 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.

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 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 Tulare 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 rear elevations of proposed structures, if available.

G. Nine prints of a site plan, drawn to scale, which shall indicate clearly and with full dimensions, the following information:

1. Dimensions. Lot or site dimensions.

2. All Buildings and Structures. Location, size, height, proposed use.

3. Yards. 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. Streets. Street dedications and improvements.

10. Landscaping. Location and type.

11. Refuse Containers. Location and type.

12. Other Data. Such other data as may be required by the city council to make the required findings.

H. The site plan shall fulfill all requirements of Chapter 18.18, and shall be so prepared by the applicant to enable the city council to make the following findings:

1. All applicable provisions of this title 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 be 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.

4. Proposed signs will comply with all applicable provisions of Chapter 18.14.

In making the above findings, the city council 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 chapter. (Ord. 437 § 1 (part), 1989)

18.17.040 Public hearing—Notice.

The city council shall hold a public hearing on each application for a conditional use permit. The public hearing shall be held within forty-five days after the applicant submits complete application materials as required under Section 18.17.030. Additional application review time may also be required for staff to conduct environmental impact review, consistent with the requirements of the California Environmental Quality Act and Section 18.18.070. Notice of the public hearing shall be given not less than ten days nor more than twenty-five days prior to the date of the hearing by: (1) mailing postage prepaid, a notice of the time and place of the hearing to all persons whose names appear on the property owners list submitted with the application; and (2) by publishing a notice at least once in a newspaper of general circulation in the city. (Ord. 486 § 20, 1997; Ord. 437 § 1 (part), 1989)

18.17.050 Public hearing—Procedure.

At the public hearing, the city council 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 18.17.070. (Ord. 437 § 1 (part), 1989)

18.17.060 Investigation, report and notice.

The community development director shall give written notice to the applicant of the time when the application will be considered by the city council. (Ord. 437 § 1 (part), 1989)

18.17.070 Action by the city council.

The city council shall act on the application within thirty days following the closing of the public hearing. The council 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 council 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 code 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 title.

A use permit may be revocable, may be granted for a limited time period or may be granted subject to such conditions as the council may prescribe. The council may deny an application for a use permit. A use permit may not grant variances to the regulations prescribed by this title for which variance procedures are prescribed by Chapter 18.21 of this title. A use permit shall become effective immediately after it is granted by the council. (Ord. 437 § 1 (part), 1989)

18.17.080 Conditions of approval.

In approving a conditional use permit, the city council shall, in its resolution, 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 18.18.040 of this title. (Ord. 437 § 1 (part), 1989)

18.17.090 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 community development director shall determine

that the proposed building location, facilities and improvements are in conformity with the site plan and conditions approved by the city council. (Ord. 437 § 1 (part), 1989)

18.17.100 Lapse of use permit.

A use permit shall lapse and become void one 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 18.17.110, or unless prior to the expiration of one 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 year or for a lesser period as prescribed in Section 18.17.110, provided that, prior to the expiration of the time period granted, an application of renewal of the use permit is filed with the community development department. The city council may grant or deny an application for renewal of a use permit. A conditional use permit approved concurrently with a tentative map shall have the same approval term, expiration date, and extension terms as the tentative map. The city council may also establish a different approval term for a conditional use permit approved concurrently with a tentative map, based on the circumstances of the application. (Ord. 486 § 21, 1997; Ord. 437 § 1 (part), 1989)

18.17.110 Time limit for development.

The city council may establish a lesser or greater time limit than that provided by Section 18.17.100, within which the subject property and use or any stage or phase thereof shall be commenced and completed. The time limits set by the council shall be reasonable, based on the size, nature and complexity of the proposed development. Said time limit may be extended by the council for good cause, such as proof of an unusual hardship not of the applicant's own making. (Ord. 437 § 1 (part), 1989)

18.17.120 Preexisting conditional uses and use permits.

A. A conforming conditional use established prior to enactment of this title shall be permitted to continue.

B. A conditional use permit granted under the provisions of the Tulare County zoning ordinance and amendments thereto prior to the enactment of this title shall, upon the annexation of the property affected to the city, become null and void at the end of six 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 title may be permitted upon the granting of a use permit. Accessory structures may be permitted under the provisions of Chapter 18.16.

C. A use permit shall be required for the reconstruction of a structure housing a conditional use established prior to enactment of this title 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 or more. The extent of damage or partial destruction shall be determined by the building official on the basis prescribed in subsection 18.15.080(G), of this title. (Ord. 437 § 1 (part), 1989)

18.17.130 Revocation.

Upon violation of any applicable provisions of this title, 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 noncompliance by the community development department. Within thirty 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. (Ord. 437 § 1 (part), 1989)

18.17.140 Notation on zoning map.

A use permit shall be indicated on the zone plan by a number located on or pointing to the site of the conditional use (e.g., CUP # _____). (Ord. 437 § 1 (part), 1989)

18.17.150 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 months from the date of denial or revocation of the use permit, except when the city council "without prejudice." (Ord. 437 § 1 (part), 1989)

18.17.160 Use permit to run with the land.

A use permit granted pursuant to the provisions of this chapter 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. (Ord. 437 § 1 (part), 1989)

18.17.170 Minor revisions to a previously approved conditional use.

A use permit granted under the provisions of this chapter or a conforming conditional use established prior to the enactment of this title may be revised as to features of the site plan previously approved; provided, that such revisions are minor, as determined by the city council. Application for minor revisions to the site plan shall be made in writing, including three copies of the revised site plan, to the council. The council may approve such revisions without public hearing; provided, that the council can determine that the revisions will not substantially change the intensity or character of the use as previously approved by the city. (Ord. 437 § 1 (part), 1989)

18.17.180 Temporary use permits.

Temporary use permits may be approved by the city council. Temporary uses are defined as non-permanent, special promotional, or seasonal land uses which are similar in nature and intensity to land uses in the underlying zone. The city council may approve temporary use permits, subject to the following findings and guidelines:

A. Temporary use permits shall be for a fixed period of time, not to exceed thirty calendar days per year for each outdoor temporary use, and six months for all other uses or structures.

B. Adequate and safe ingress and egress shall be provided to the project site. Directional signing, barricades, fences, and landscaping may be required as a condition of permit approval. Private security personnel may also be required for promotional events.

C. Adequate parking facilities shall be provided for each temporary use.

D. The proposed temporary use will not adversely impact traffic circulation or result in traffic congestion in the project area.

E. Upon termination of a temporary use, or abandonment of the site, the applicant shall remove materials and equipment, and restore the premises to its original condition.

F. Reasonable time limits for hours of operation may be set by the city council as a condition of permit approval.

G. Applicants for temporary use permits shall secure all other applicable licenses and permits prior to issuance of a temporary use permit.

H. Signing for temporary uses shall be subject to the approval of the community development department.

I. The city council may deny an application for a temporary use permit if it is determined that conditions exist which would be injurious or detrimental to existing improvements, land uses, or surrounding areas. (Ord. 489 § 2 (part), 1998)