

## Chapter 9-804 Use Permits

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### 9-804.010 PURPOSE AND APPLICABILITY

The purpose this Chapter is to provide a method of reviewing proposed uses which possess characteristics that require special appraisal in order to determine if the uses have the potential to adversely affect other land uses, transportation, or facilities in the vicinity. More specifically, this Chapter establishes procedures for the approval, conditional approval or disapproval of Use Permits when required by this Title. A Use Permit is an administrative permission for uses not allowed as a matter of right in a zone. The decision-maker (the Planning Commission or the Zoning Administrator) may require conditions of approval necessary to eliminate, or minimize to an acceptable level, any potential adverse effects of the use.

### 9-804.020 PLANNING COMMISSION'S AND ZONING ADMINISTRATOR'S RESPONSIBILITIES

- (a) **Conditional Use Permits.** The Planning Commission must approve, conditionally approve, or deny applications for Conditional Use Permits based on consideration of the requirements of this Title.
- (b) **Administrative Use Permits.** The Zoning Administrator must approve, conditionally approve, or deny applications for Administrative Use Permits based on consideration of the requirements of this Title. The Zoning Administrator may, at his/her discretion, refer any application for an Administrative Use Permit for a project that may generate substantial public controversy or involve significant land use policy decisions to the Planning Commission for a decision rather than acting on it himself/herself. In that case, the application must be processed as a Conditional Use Permit.

### 9-804.030 PROCEDURES

- (a) **Common Procedures.** Applications for Use Permits must be filed and processed in compliance with procedures in Chapter 9-802, Common Procedures.

- (b) **Public Notice and Hearing.** All applications for Conditional Use Permits require public notice and hearing before the Planning Commission, and all applications for Administrative Use Permits require public notice and hearing before the Zoning Administrator. All hearings shall be conducted in accordance with Chapter 9-802, Common Procedures.

#### **9-804.040 EXPANSION OF AN EXISTING USE OR STRUCTURE**

Existing uses subject to a Use Permit may be expanded pursuant to this Section.

- (a) **Required Conditions.** When an existing use has a Use Permit, the Zoning Administrator may approve plans for the expansion of the existing use when the expansion complies with all of the following conditions:
  - (1) The building or use expansion is incidental to the existing use;
  - (2) The building or use expansion does not result in a change of use;
  - (3) No building expansion involves more than a 25 percent increase in existing building floor area or over 10,000 square feet; whichever is less;
  - (4) The building or use expansion, in the opinion of the Zoning Administrator, would not have a substantial adverse effect on adjacent property; and
  - (5) The building or use expansion complies with existing requirements of agencies having jurisdiction and any other appropriate regulatory agency as determined by the Zoning Administrator.
- (b) **Conditions Not Met.** If a proposed expansion does not comply with the conditions in Subsection (a), a new Use Permit shall be required.

#### **9-804.050 REQUIRED FINDINGS**

Prior to approving an application for a Use Permit, the decision-maker (the Planning Commission or the Zoning Administrator) shall find that all of the following are true:

- (a) **Consistency.** The proposed use is consistent with the goals, policies, standards, and maps of the General Plan; any applicable Master Plan, Special Purpose Plan, Specific Plan, and Planned Development zone; and any other applicable plan adopted by the County;
- (b) **Improvements.** Adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, and the proposed improvements are properly related to existing and proposed roadways;
- (c) **Site Suitability.** The site is physically suitable for the type of development and for the intensity of development;
- (d) **Land Use Compatibility.** The location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect the livability

or appropriate development of abutting properties and the surrounding neighborhood;

- (e) **No Nuisance Created.** The proposed use will not create any nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding ambient conditions;
- (f) **Adequate Public Services and Facilities.** The site of the proposed use is adequately served by highways, streets, water, sewer, storm drainage, and other public facilities and services and
- (g) **Conformance with Development Title.** The proposed use complies with all applicable provisions of this Title.

#### **9-804.060 CONDITIONS OF APPROVAL**

The decision-maker has the authority to impose reasonable conditions that are:

- (a) Related and proportionate to what is being requested by the applicant,
- (b) As deemed necessary and appropriate to ensure that the provisions of the General Plan, any applicable Master Plan, Special Purpose Plan, Specific Plan or Planned Development zone adopted by the Board of Supervisors, and this Title are met; and
- (c) Are necessary to eliminate, or minimize to an acceptable level, any potential adverse effects of the use.

The decision-maker may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

#### **9-804.070 DECISIONS, APPEALS, EXPIRATIONS AND EXTENSIONS; MODIFICATIONS; REVOCATIONS**

- (a) **Appeals.** A decision of the Zoning Administrator may be appealed to the Planning Commission, and a decision of the Planning Commission may be appealed to the Board of Supervisors, in accordance with Section 9-802.140, Appeals.
- (b) **Expiration, Extensions and Modifications.** Use Permits are effective and may only be extended or modified as provided for in Chapter 9-802, Common Procedures.
- (c) **Revocations.** A Use Permit may be revoked pursuant to Section 9-802.130, Modification or Revocation.

#### **9-804.080 TEMPORARY USE PERMITS**

- (a) **Applicability.** A Temporary Use Permit is required for temporary uses that are not otherwise permitted in the base zoning district regulations but meet the standards of this section and for temporary uses identified in the regulations for individual zones

in the 200 Series or the regulations for specific uses in Chapter 9-407, Standards for Specific Uses and Activities as requiring a Temporary Use Permit.

- (b) **Procedures.** An application for a Temporary Use Permit must be filed and processed in compliance with procedures in Chapter 9-802, Common Procedures. An application must be submitted at least 30 days before the use is intended to begin. The application must include the written consent of the owner of the property or the agent of the owner.
- (c) **Decision-Maker.** The Zoning Administrator may approve, approve with conditions, or deny applications for temporary uses without a public hearing.
- (d) **Temporary Uses: Seventy-Two Hour Limit.** Within a nonresidential zone and the R-L and R-M zones, a temporary use may be authorized for a period not to exceed 72 hours per event once a month for up to 4 events per year per site for any of the following uses:
  - (1) A performance, exhibition, dance, celebration, or festival requiring a liquor license, entertainment police permit, and/or other County permit when sponsored by an organized group of residents and/or business operators in the neighborhood; or
  - (2) A performance, dance, or party requiring a liquor license, entertainment and/or other County permit, an art exhibit, or other similar exhibition in each case if sponsored by a residential or commercial tenant or group of tenants or owner-occupants of the property or structure in which the temporary use is authorized.
  - (3) When multiple events are proposed within the allowable time limit and County permits are to be issued to a particular applicant and premises, only one permit need be granted per annual time period. When an individual special event is scheduled for no more than eight hours, then three such events are allowed within the 72-hour limit for the month.
- (e) **Temporary Uses: 60 Day Limit.** The following uses may be authorized in a nonresidential zone for a period not to exceed 60 days:
  - (1) Agricultural experiences for 50 or more participants;
  - (2) Exhibition, celebration, festival, circus, or neighborhood carnival;
  - (3) Booth for charitable, patriotic or welfare purposes;
  - (4) Open air sale of agriculturally-produced seasonal decorations including, but not necessarily limited to, holiday or evergreen trees and Halloween pumpkins;
  - (5) New and used auto sales;
  - (6) Outdoor sales in a parking lot; and

- (7) Parking that is accessory to any temporary use listed above.
- (f) **Temporary Uses: Up to Five Yearss.** Temporary uses authorized pursuant to this subsection may not exceed an initial approval period of up to five years. Extensions of this approval period may be authorized by the Zoning Administrator in increments of up to five-year periods if the authorized use is consistent with the General Plan and applicable Master Plan, Special Purpose Plan, Specific Plan, or Planned Development zone. More specifically, the following uses may be authorized in a nonresidential zone as temporary uses, subject to securing a Building Permit, if required:
  - (1) Temporary structures and uses incidental to the construction of a building or a group of buildings, including but not limited to construction staging of materials and equipment;
  - (2) Rental or sales office incidental to a new development, provided that it is located in the development project or in an adjacent temporary structure;
  - (3) Structures and uses incidental to environmental cleanup and staging; and
  - (4) Parking that is accessory to any temporary use listed above.
- (g) **Required Findings.** The Zoning Administrator may approve an application for a Temporary Use only upon making both of the following findings:
  - (1) The proposed use will not unreasonably affect adjacent properties, their owners and occupants, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the area of such use or to the general welfare of the County; and
  - (2) The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed temporary use and will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing or proposed parking areas on the site of the temporary use.
- (h) **Conditions of Approval.** The Zoning Administrator may impose reasonable conditions deemed necessary to ensure compliance with the required findings for a Temporary Use Permit listed above, including, but not limited to: regulation of ingress and egress and traffic circulation; fire protection and access for fire vehicles; regulation of lighting; regulation of hours and/or other characteristics of operation; and removal of all trash, debris, signs, sign supports and temporary structures and electrical service. The Zoning Administrator may require reasonable guarantees, such as a performance bond or financial security equal to the estimated cost of cleanup and removal of temporary structures, and evidence that such conditions are being, or will be, complied with.

- (i) **Effective Date.**
  - (1) **Permit Period 10 Days or Less.** A Temporary Use Permit issued for 10 days or less becomes effective on the date the permit is approved by the Zoning Administrator but cannot expire before the event/use that is subject to the Temporary Use Permit occurring.
  - (2) **Permit Period More than 10 Days.** A Temporary Use Permit for more than 10 days becomes effective 11 days from the date the permit is approved by the Zoning Administrator but cannot expire before the event/use that is subject to the Temporary Use Permit occurring.
- (j) **Appeals.** Any party aggrieved by the decision of the Zoning Administrator to approve, approve with conditions, or deny a permit for a temporary use or structure may appeal the decision to the Planning Commission, in accordance with Section 9-802.150 (Appeals).
- (k) **Expiration and Extensions.** Temporary Use Permits are effective only for the initial time limit approved; however, the Zoning Administrator may grant extension of the permit period only if the required findings of subsection (g) above can be affirmed.