



# Conditional Use Permit

February 2000

## I. Purpose

A zoning designation has been assigned to each property within the City which describes the type of land uses permitted and those uses which MAY be permitted under certain conditions. Within each zoning district, land uses listed as "Permitted Uses" do not require review and approval of the proposed land use, although environmental and/or site design review may be required. Land uses listed as "Conditional Uses" require approval of a Conditional Use Permit (CUP) by the City (such as lodging facilities in residential zones). The purpose of the use permit process is to ensure the compatibility of land uses within the City. Use permits can only be approved when they conform with the City's General Plan and Zoning Ordinance and where it can be demonstrated that the use will not create a nuisance or be detrimental to the public welfare. Use permits are site specific and are not transferable to another property or location.

There are two types of use permit applications which depend on the nature and extent of the proposed use:

- A. Major Use Permit.** An application for a conditional use permit in any zoning district that is reviewed and submitted to the Planning Commission for a public hearing and final determination.
- B. Minor Use Permit.** An application for a conditional use involving minor changes to an existing use, certain accessory uses, or new uses which are clearly compatible with the adjoining land uses. A minor use permit is reviewed and submitted to the Zoning Administrator (Community Development Director) for a final determination and the public hearing is generally waived. Section 26-512 of the Zoning Ordinance defines minor use permits as including: *"minor exterior modifications or enlargements to existing use permits, said modifications or enlargement being inconsequential in nature and not involving a significant change in operations; minor extension of operating hours to existing use permits where the business has no appreciable outside noise and/or does not abut a residential district; new use permits where the use is of the same or more restricted nature as the previous use occupying the site; new use permits to authorize accessory dwellings; new use permits to authorize dwelling*

*groups, in accordance with the provisions of Section 21-402; new use permits to authorize the establishment of conditional uses in commercial and industrial districts where the Zoning Administrator finds that the use will be compatible with adjacent uses and is in conformance with typical development standards, e.g.. parking, landscaping, fencing, etc., and applicable performance standards; temporary tract offices, model homes, and tract signs in accordance with the provisions of Section 21-406; new use permits to authorize existing single-family dwellings or to reestablish single-family dwellings in selected commercial districts; previously approved use permits which have expired within the past twenty-four months."*

## II. Standards and Criteria

- A. General Standards (Section 21-300).** In reviewing a Use Permit application, the Planning Division will consider the following general standards and considerations:
  1. The siting of the building or use, including: the adequacy of the site to accommodate the proposed use or building and all related activities; the location and possible screening of all outdoor activities; the relation of the proposed building or use to any adjoining building with particular attention to protection of outlook, light, air and peace and quiet; the location and character of any display of goods and services and the size, nature, and lighting of any signs.
  2. Traffic circulation and parking, including: the type of street serving the proposed use in relation to the amount of traffic expected to be generated; the adequacy, convenience, and safety of provisions for vehicular access and parking, including the location of driveway entrances and exits; the amount, timing and nature of any associated truck traffic. Standards for Parking and Loading facilities are provided in Article 20 of the Zoning Ordinance.

3. Compatibility of the proposed building or use with its environment, including: the number of customers or users and the suitability of the resulting activity level to the surrounding uses and especially to any neighboring uses of unusual public importance such as schools, libraries, playgrounds, churches, and hospitals; hours of operation; adequacy of provisions for the control of any off-site effects such as noise, dust, odors, light, or glare, etc.; and, adequacy of provisions for protection of the public against any special hazards arising from the intended use.
4. The expected duration of the proposed building, whether temporary or permanent, and the setting of time limits when appropriate.
5. The degree to which the location of the particular use in the particular location can be considered a matter of public convenience and necessity.
6. For uses that propose concurrent sale of alcohol and gasoline: the proximity of the site to freeway on/off ramps; the proximity and ease of bicycle or pedestrian access from a school; the proximity to residential areas; and testimony from the Police Department.

**B. Special Provisions (Section 21-400).** Additional sections of the Zoning Ordinance set forth special provisions and standards for the following uses:

- 21-401 Drive-in Theaters
- 21-402 Dwelling Groups
- 21-403 Gasoline Service Stations and Car Wash Operations
- 21-404 Grading, mines, quarries, and Gravel Pits
- 21-405 Telecommunications Facilities
- 21-406 Temporary Subdivision Sales Offices
- 21-407 Amusement Games
- 21-408 Accessory Dwellings
- 21-409 Bed and Breakfast Inns
- 21-410 Adult Entertainment Establishments
- 21-420 Cardrooms Establishments
- 21-430 Alcoholic Beverage Establishments
- 21-500 Large Day Care Home

**C. Performance Standards (Section 22-300).** All uses must conform with the performance standards regarding dangerous and objectionable elements including:

- 22-301 Noise
- 22-302 Vibration
- 22-303 Odors
- 22-304 Glare
- 22-305 Fire and Explosion Hazards
- 22-306 Heat
- 22-307 Radioactivity or Electrical Disturbance
- 22-308 Smoke, Fumes, Gases, Dust, Particulate Matter
- 22-309 Liquid or Solid Wastes

**D. Other Provisions.** Additional sections of the Zoning Ordinance set forth provisions and standards for Parking and Loading Facilities (Article 20) and Landscape and Screening (Article 23).

**III. Process**

**A. Preliminary Review (Optional).** Prior to submittal of a formal application, an applicant may apply for an initial Planning Division review of a preliminary proposal. The preliminary review process takes approximately four weeks, but can save considerable time and expense later by identifying and resolving issues early in the process. The Planning Division will respond in writing regarding the appropriateness of the application; conformance with the General Plan policies and applicable Zoning Ordinance provisions; environmental and neighborhood concerns which may be involved; comments from other City Departments; applicable site planning, building design, landscaping, and other criteria, and application fee requirements. Please refer to the Applicant’s Guide for **“Preliminary Review”**.

**B. Application.** A completed and signed application form along with supporting information, filing fees and deposit for public notice are required for each Use Permit application. All project applications require an environmental determination pursuant to the California Environmental Quality Act (CEQA). Certain classes of projects are exempt from environmental review; most use permit projects have potential for impacts that can be avoided or fully mitigated; and some major projects have potential for impacts that require further studies (i.e. expanded initial study or environmental impact report). Please refer to the Applicant’s Guide for **“Environmental Review”** for more detailed information on the environmental review process. Supporting information must include a written project description, environmental information questionnaire (unless determined by the Community Development Director to be an exempt project), plans and exhibits, and site photos. A checklist and detail of the

application submittal requirements is listed below. Incomplete applications are often the main cause of delays in processing.

- C. Completeness Review.** A Planning Division staff member will be assigned as the project planner. Within thirty (30) days of the application, the planner will review the application for completeness and refer the application to other departments and reviewing agencies to identify any issues, concerns or recommended conditions, as well as determine if additional information is required. The Environmental Information Questionnaire, if required, along with the other project application materials, will then be reviewed for completeness.
- D. Project Review.** Once an application is determined by staff to be complete, the project planner will conduct an analysis of the proposed project, incorporating any comments received by other departments or reviewing agencies. A preliminary environmental determination and staff report or recommendation will be prepared by staff for the decision-making body. For minor use permit applications, a draft letter outlining staff recommendations on the Conditional Use Permit is prepared for review and approval by the Zoning Administrator. For major use permit applications, copies of the staff report will be made available to the public and mailed to the applicant during the week before the scheduled hearing or action.
- E. Zoning Administrator or Planning Commission Action.** Once the preliminary environmental determination and staff analysis is completed, the project can be scheduled for action before either the Zoning Administrator (for minor use permits) or the Planning Commission (for major use permits).

**Public Notice.** A public notice will be published in the local newspaper and mailed to nearby property owners and residents at least 10 days in advance of the scheduled action (for projects determined to be exempt); 20 days in advance (for projects determined to have minimal environmental impacts); and 30 to 45 days in advance (for projects for which an EIR was prepared). All costs associated with public notice and processing the application are paid by the applicant.

**Public Hearing.** All use permit applications (minor or major) require an opportunity for public participation and comment. For minor use permits, requiring only administrative action, comments must be submitted in writing or provided to the project planner during the review period referenced in the public notice. Minor use permits may be referred to the Planning Commission for a public hearing, if

determined appropriate by the Zoning Administrator. For major use permit applications, a public hearing is scheduled before the Planning Commission.

**Action.** Prior to the scheduled action, the decision-making body (Zoning Administrator or Planning Commission) will review the application, staff analysis and any written comments received. For minor use permit applications, the Zoning Administrator may approve the minor use permit, approve with conditions or deny the application. At the public hearing (if required), the Planning Division will present the staff report and recommendations to the Planning Commission. Testimony from the applicant and other interested persons will then be permitted. The Planning Commission may approve the use permit, approve with conditions, deny the application, or continue the hearing for additional consideration.

#### **F. Outcome**

**Appeal Period.** The action of the decision-making body is final, unless an appeal is filed in writing with the City Clerk within fourteen (14) days of the action. An appeal must include a written statement of the reasons for the appeal and the remedy sought by the appellant. An appeal deposit must accompany the appeal statement to cover the costs associated with processing of the appeal. Actions by the Zoning Administrator may be appealed to the Planning Commission. Planning Commission actions may be appealed to the City Council. Consideration of the appeal will be scheduled before the appeal body. If a public hearing is deemed appropriate, a notice will be published in the newspaper and mailed to all those who commented on the application. Following consideration of the appeal, the appeal body may refer the matter back to the decision-making body for further consideration, or may reverse, affirm, or modify the decision. A decision of the City Council will be final.

#### **G. Site Design Review**

After approval of a use permit, most projects involving construction or exterior building modifications require site design review by the City's Site Plan and Architectural Review Committee (SPARC) or administrative review and approval by the Community Development Director. Refer to Applicant's Guide for "*Site Plan and Architectural Review*".

#### **H. Other Permits**

Prior to construction, a building permit must be obtained from the Building Division. Building permit applications will be reviewed by the project planner for conformance with the conditions of use permit and design review approval. Prior to opening a business, a business license must be obtained from the Finance Department. Applications for these permits may be submitted and reviewed after the action to approve a use permit, but permits cannot be issued until the appeal period has expired.

**IV. Timeframe**

The actual time for processing a Use Permit application will vary depending upon the type of environmental review required, the complexity and magnitude of the proposal, the workloads of Planning Division staff, and the availability of time on the Planning Commission’s agenda, but can generally be estimated as follows:

From the date a Use Permit application is determined to be complete to scheduled action:

	<u>weeks</u>
Projects exempt from environmental review	3-4
Projects with not potential impacts or fully mitigated (most minor permits)	4-6
Projects requiring expanded initial studies or public hearing at Commission	10-16
Projects requiring an EIR	20-4
From determination of complete SPARC application to scheduled action	4-8

**V. Submittal Requirements**

- A. Application Form.** including applicant’s signature and property owner’s signature or authorization to act as agent (if different from applicant).
- B. Application Fees, Public Notice Deposit and Deposit for Additional Studies (if required).**
- C. Project Description/Written Statement.** describing the type and purpose of the proposed use; type of business (e.g. retail, office, service, manufacturing etc.); type of products, processing or services provided; hours of operation; type of traffic anticipated (e.g. truck deliveries); number of full and part-time employees; maximum number of people anticipated at any one time, including

employees, clients, students or customers; number of seats proposed for restaurants, banquet or meeting halls; outdoor activities including storage, work areas, drive-up windows, dining areas etc.); identify sale of alcoholic beverages (on-sale or off-sale); describe any odors, noise, vibration, dust, heat, smoke, wastes or glare involved; hazardous or volatile materials or chemicals involved, including storage, disposal and special licenses for their handling; and all interior and/or exterior building modifications or improvements proposed.

- D.** The Project Description should also describe any lease controls, management programs, or operating procedures that will ensure that the use will not be detrimental to surrounding uses or persons in the area and any other information that may address the general standards (Section 21-300) and special provisions (Section 21-400) of the Zoning Ordinance. If the use is to be established in a location previously occupied by a different or similar use within the past six months, briefly describe the previous use and when it ceased to operate.
- E. Environmental Information Questionnaire.** Additional information such as traffic reports, noise studies or visual impact studies may be required to complete the environmental review process. This determination will be made by the Planning Division during the completeness check following submission of an application.
- F. Site Photos.** showing existing vegetation, structures, and views of and from the site.
- G. Plans and Exhibits.** All plans and exhibits should be submitted in sheet sets with typical dimensions of 24” x 36” folded to approximately 9” x 12” (unless otherwise approved by Planning staff). Submit twenty (20) copies for major use permits requiring Planning Commission review; ten (10) copies for minor use permits involving administrative actions. One reduced copy of the required plans and exhibits must be submitted along with the multiple copies of full-sized plans. Errors in dimensions or incomplete plans shall require submission of correctly revised drawings prior to City processing of the application.
  - 1. A Site Plan, accurately drawn to scale, shall include:

- a. General location/vicinity map of the proposed site in relation to major streets and adjacent properties.
- b. Scale, north arrow, date and name and phone number of person preparing plan. Stamp and "wet signature" of licensed architect, landscape architect and/or civil engineer on final plans, as appropriate.
- c. All property lines (with distances), and including existing and proposed easements.
- d. All existing features on the site including topography, any structures, streets frontage improvements (i.e. curbs, gutters, sidewalks, edge of paving), utilities, power poles, easements, parking areas, trees, creeks, etc. and name of adjoining streets, or right-of-way easements and nearest cross street. Identify any structures, utilities or trees to be removed.
- e. Location(s) and dimensions of proposed uses including all buildings, accessory structures,

driveways, parking spaces, service or loading areas, trash enclosures, outdoor storage, seating or use areas, fencing, landscape areas, mechanical equipment/control panels, include distance from all structures to property lines.

- f. Location and distance from property lines to structures on adjoining lots and any off-site features on adjacent lots including: residences, buildings, power lines, drainage improvements and patterns, and trees.

- 2. Floor plan, scaled and drawn to accurately show the proposed interior use of the building, including the total square footage of any areas proposed for different uses (i.e. retail, customer service, storage, office, manufacturing etc.)

For further information, please contact the City of Petaluma Planning Division at (707) 778-4301.



