

## SECTION 24.19.300 CONDITIONAL USE PERMIT REGULATIONS

### 24.19.310 PURPOSE

In order to give the use regulations the flexibility necessary to achieve the objectives of this Ordinance, conditional uses are permitted, subject to the granting of a Conditional Use Permit. Because of their unusual characteristics, conditional uses require special consideration so that they may be located properly with respect to the objectives of the Zoning Regulations and with respect to their effects on surrounding properties. In order to achieve these purposes, the Planning Commission is empowered to grant and to deny applications for use permits for such conditional uses in such zones as are prescribed in the Zone Regulations and to impose reasonable conditions upon the granting of Conditional Use Permits.

### 24.19.315 APPLICATION DATA AND MAPS TO BE FURNISHED

Application for a Conditional Use Permit shall be filed with the Planning Director on a form prescribed by the Planning Director and shall include the following data and maps:

- A. Name and address of the applicant.
- B. Statement that the applicant is the owner or the authorized agent of the owner of the property on which the use is proposed to be located. This provision shall not apply to a proposed public utility right-of-way.
- C. Address and legal description of the property.
- D. Statement indicating the precise manner of compliance with each of the applicable provisions of this ordinance, together with any other data pertinent to the findings prerequisite to the granting of a use permit, prescribed in Section 24.19.340.
- E. Plot Plans and elevations, fully dimensioned, indicating the type and location of all buildings and structures, parking and landscape areas and signs. Elevation plans shall be of sufficient detail to indicate the type of materials to be employed and methods of illumination for signs. Screening, landscape and irrigation plans shall be included in the plans.
- F. The Planning Director may waive requirements of this section or require additional data as deemed necessary to the decision-making process.

#### 24.19.320 FEE

The application shall be accompanied by a fee established by Resolution of the City Council to cover the cost of handling and processing the application as prescribed in this Section.

#### 24.19.325 PUBLIC HEARING

The hearing shall be set and notice given as prescribed in Section 24.19.630 (Public Hearing by Planning Commission and City Council). At the public hearing, the Planning Commission shall receive pertinent evidence 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 24.19.340.

#### 24.19.330 INVESTIGATION AND REPORT

The Planning Director shall make an investigation of the application and shall prepare a report thereon which shall be submitted to the Planning Commission and made available to the applicant at least 7 days prior to the public hearing.

#### 24.19.335 ACTION OF THE PLANNING COMMISSION

- A. Within thirty (30) days following the closing of the public hearing on the Conditional Use Permit application, the Planning Commission shall act on the application. The Commission may grant by Resolution, a Conditional Use Permit as the permit was applied for or in modified form, or the application may be denied. A Conditional 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. Conditions may include, but shall not be limited to requiring:
1. Special yards;
  2. Open spaces;
  3. Buffers;
  4. Fences;
  5. Walls;
  6. Installation and maintenance of landscaping;
  7. Street dedications and improvements;
  8. Regulations of points of vehicular ingress and egress;
  9. Regulation of traffic circulation;
  10. Regulation of signs;
  11. Regulation of hours of operation and methods of operations;
  12. Control of potential nuisances;
  13. The prescription standards for maintenance of building and grounds;
  14. Prescription of development schedules and development standards; and
  15. Such other conditions as the Commission may deem necessary to ensure compatibility of the use with surrounding developments and uses and to preserve the public health, safety, and welfare.

**24.19.335 ACTION OF THE PLANNING COMMISSION (continued)**

- B. Variations from the regulations prescribed elsewhere in this Section for fences, walls, hedges, screening, and landscaping; site area, width and depth; front, rear and side yards; coverage; height of structures; distances between structures; usable open space; signs; off-street parking facilities or frontage on a public street, shall be separately administered in accordance with the procedures in Section 24.19.400, (Variances), of this Ordinance.
- C. The decision of the Planning Commission is final and effective within ten (10) calendar days unless an appeal is filed, in writing, in accordance with Section 24.19.345 (Appeal of Planning Commission Action).

**24.19.340 FINDINGS**

The Planning Commission shall make the following findings before granting a conditional use permit:

- A. That the proposed location size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City; and
- B. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources, with consideration given to:
  - 1. Harmony in scale, bulk, coverage, and density;
  - 2. The availability of public facilities, services and utilities;
  - 3. The harmful effect, if any, upon desirable neighborhood character;
  - 4. The generation of traffic and the capacity and physical character of surrounding streets;
  - 5. The suitability of the site for the type and intensity of use or development which is proposed;
  - 6. The harmful effect, if any, upon environmental quality and natural resources; and to
  - 7. Any other relevant impact of the proposed use.
- C. That the proposed location size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

#### 24.19.340 FINDINGS (continued)

- D. That the proposed Conditional Use will comply with each of the applicable provisions of the Ordinance, except for an approved Variance.

#### 24.19.345 APPEALS OF PLANNING COMMISSION ACTION

Appeals of the actions of the Planning Commission, may be made by any person, by filing a written notice of appeal with the City Clerk within ten (10) calendar days following the Planning Commission's decision. The City Council will consider the matter and may affirm or reverse wholly or partly, the action which is in question. While an appeal is pending, the establishment of any affected structure or use is to be held in abeyance.

#### 24.19.350 LAPSE OF CONDITIONAL USE PERMIT

- A. A Conditional Use Permit shall lapse and shall become void one year following the date on which the Use Permit was approved, unless prior to the expiration of one year:
1. A building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application; or
  2. A certificate of occupancy is issued for the structure which was the subject of the Use Permit application; or
  3. The site is occupied in accordance with conditional use, if no building permit or certificate of occupancy is required, or
  4. The use which was the subject of the Use Permit application is commenced, provided that a Use Permit for a public utility installation may be valid for a longer period if specified by the Planning Commission.
- B. Renewal:
1. A Conditional Use Permit subject to lapse may be renewed for an additional period of one year, provided that prior to the expiration date, an application for renewal of the Use Permit is filed with the Director of Planning and accompanied by the necessary data and fees.
  2. The Planning Commission may grant or deny an application for renewal of a Conditional Use Permit.

24.19.350 LAPSE OF CONDITIONAL USE PERMIT (cont.)

- c. If the use, business, or service for which the Conditional Use Permit was issued terminates or ceases operation for a continuous period of time in excess of one hundred eighty (180) calendar days, the Conditional Use Permit shall expire and the permit shall thereafter be of no further force or effect. (Subject to application for extension as provided in Section 24.19.350 B).

Except, if the use ceased operation due to:

1. Destruction or damage by acts of God; or
2. Destruction or damage by malicious acts; or
3. Remodeling or rehabilitation requiring prolonged closure;

The Conditional Use Permit shall expire in three hundred sixty five (365) days (one year).

24.19.355 PRE-EXISTING CONDITIONAL USES

- A. A Conditional Use legally established prior to the effective date of this Ordinance, or prior to the effective date of subsequent amendments to the regulations or zone boundaries, shall be permitted to continue, provided that it is operated and maintained in accordance with the conditions prescribed at the time of its establishment, if any; and provided that it meets the requirements of Section 24.19.350.
- B. Alteration or expansion of a pre-existing Conditional Use shall be permitted only upon the granting of a Conditional Use Permit as prescribed in this Section, provided that minor (not to exceed 10% of assessed value) alterations shall be permitted without the granting of a Conditional Use Permit.

24.19.360 MODIFICATION OF CONDITIONAL USE

Section 24.19.315 through 24.19.350 shall apply to an application for modification, expansion, or other change in a Conditional Use, provided that minor revisions or modifications may be approved by the Planning Director, if it is determined that the changes would not affect the findings prescribed in Section 24.19.340. (Findings).

## 24.19.365 SUSPENSION AND REVOCATION

### A. SUSPENSION BY DIRECTOR OF PLANNING

If in the opinion of the Director of Planning, a violation of any applicable provision of this Ordinance; or, if granted subject to conditions, upon failure to comply with conditions; or that, as a result of evidence now available and not available at the prior hearing when permit was granted and could not have been obtained with reasonable diligence at that hearing, the findings made, pursuant to Section 24.19.340, can no longer be made; or that the Permit was obtained by fraud, a Conditional Use Permit shall be suspended automatically and, if corrections are not made to the satisfaction of the Director of Planning it shall be referred to the Planning Commission for hearing to revoke.

### B. REVOCATION BY THE PLANNING COMMISSION

The Planning Commission shall hold a public hearing within 40 days from the date notified by the Planning Director, in accordance with public hearing procedures established in Section 24.19.325.

If Planning Commission is not satisfied that the regulation, general provision, or condition is being complied with, it may revoke the Conditional Use Permit or take such action as may be necessary to ensure compliance with the regulation, general provision, or condition. The decision shall become final 30 days following the date on which the Use Permit was revoked unless a request for an appeal has been filed within the ten (10) calendar days, in which case Section 24.19.345 (Appeals of Planning Commission Action) shall apply.

## 24.19.370 NEW APPLICATIONS

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 one year from the date of denial or revocation of the Use Permit.

## 24.19.375 USE PERMIT TO RUN WITH THE LAND

Except for lapse of C.U.P. pursuant to Section 24.19.350, a Use Permit granted pursuant to the provisions of this Section shall continue to be valid upon a change of ownership of the site, business, service, use or structure which was the subject of the Use Permit application.

## 24.19.380 USE PERMIT AND CHANGE OF ZONE FILED CONCURRENTLY

Application for a Conditional Use Permit may be made at the same time as application for a change in zone boundaries including the same property, in which case the Planning Commission shall hold the public hearing on the Zoning Change or Reclassification and the Use Permit at the same meeting and may combine the two hearings.