

SECTION 32. USE PERMITS

- A. **GENERAL DESCRIPTION:** A use permit is a zoning instrument utilized to review uses which are of such a nature as to warrant special consideration. These uses generally have a distinct impact on the area in which they are located, or are capable of creating special problems for bordering properties unless given special attention. A use permit is granted at the discretion of the Planning Commission or the Planning Director and is not the automatic right of any applicant. In considering an application for a use permit, the following guidelines shall be observed.
1. **Sound Principles of Land Use.** A use permit shall be granted upon sound principles of land use.
 2. **Not Injurious.** A use permit shall not be granted if it will be detrimental to the public health, safety or welfare, or if it results in the creation of a public nuisance.
 3. **Plan Consistency.** A use permit must comply with the objectives of the general or specific plan for the area in which it is located.
- B. **AUTHORITY - PLANNING COMMISSION:** A use permit may be granted at the discretion of the Planning Commission unless specifically indicated in this Ordinance as being subject to Planning Director approval. Should a use permit be granted by the Commission, the Commission may attach any such conditions as may be necessary to carry out the intent and purpose of this Ordinance.
- C. **APPLICATION - FEES - NOTICE - HEARING:** An application for a use permit to be considered by the Planning Commission shall be subject to the following requirements:
1. **Application.** The applicant shall submit his or her application on a form provided by the Planning Director. The Planning Director shall accept the application as complete pursuant to procedures indicated in Section 30.5 of this Ordinance.
 2. **Fees.** Fees are required for any entitlement required by this Ordinance unless the Board of Supervisors waives the fee prior to submittal of an application. The required fees for any such applications not waived shall be governed by the provisions of Section 30.5 of this Ordinance.
 3. **Notice and Hearings.** The procedural requirements for any hearing and the contents of the notice required by the provisions of this section shall be governed by the provisions of Section 34 of this Ordinance. At least one public hearing for a use permit shall be conducted before the Planning Commission.
- D. **RESUBMITTAL OF APPLICATION:** If an application for a use permit has been denied by the Planning Commission, no new application for substantially the same project or use at the

same location shall be resubmitted for a period of one year from the effective date of the final denial of such application, unless approval to file, prior to expiration of the one year period, has been granted by the Planning Commission by Resolution.

E. TIME LIMITS IMPOSED ON USE PERMITS:

1. No Time Limit Unless Stated in Permit. Use permits, once utilized, are of indefinite duration unless an expiration date has been specified by the Planning Commission or Planning Director as a condition of approval. Once established, such permits may only be modified or revoked as provided in Subsection G.
2. Temporary Permits. Where application is made for a use which is temporary in nature, the Planning Commission or Planning Director may condition the use permit to expire automatically a stated period of time after issuance of the permit.
3. Expiration for Failure to Establish a Use:
 - a. A use for which a use permit is granted must be established within two years after such a permit is issued. If such use is not so established, the use permit shall be deemed to have expired and shall be null and void.
 - b. A use permit use which requires a building permit shall be deemed established when such building permit is secured and construction physically commenced. If no building permit is required, the use shall be deemed established when the activity permitted has been commenced.
4. Extension of Time. Upon show of good cause by the applicant, the Planning Commission or Planning Director, whomever issued the use permit, may grant an extension of time not to exceed one year. A public hearing shall not be required unless specified by the Planning Commission. A request for extension of time shall be subject to a filing fee as specified by the Board of Supervisors.
5. Abandonment. Any use permit, the use of which is voluntarily interrupted for a period in excess of one year, shall be deemed automatically revoked.

F. DEVIATION - PRIOR APPROVAL REQUIREMENTS. No deviation from a project for which a use permit is granted may be made where such deviation is from an aspect of the project submitted to the Planning Commission and considered by it in granting the use permit unless: (1) prior approval for deviation is granted by the Planning Director as provided in this subsection; or (2) a modification of the use permit is approved by the Planning Commission as provided in subsection G of this section.

1. Approval by Planning Director. The Planning Director may approve changes to the proposed project if such do not amount to the substantial deviations from the plans submitted to the Planning Commission. A "substantial deviation" is one that shall result in material change in the nature of the project when all the circumstances surrounding the issuance of this special permit are considered.
 2. Determination of Substantiality by Planning Commission. The Planning Director may, at his or her discretion, request a determination by the Planning Commission as to whether a proposed change is a substantial deviation. If the Planning Commission determines that the change is substantial, a public hearing shall be set as provided in subsection G(2) for the purpose of considering a modification to the permit.
 3. Mandatory Finding of Substantial Deviation. The Planning Director shall find the following changes to be substantial deviations. This list is not intended to be inclusive and the fact that a particular deviation is not included on this list shall in no way limit the authority of the Planning Director to, in his or her discretion, determine that a change is a substantial deviation.
 - a. Any major change in the pattern or volume of traffic flow either on or off any property covered by the use permit.
 - b. Any change in the nature of the use.
 - c. Any increase in height of a structure which exceeds ten percent of the height of such structure as approved by the Planning Commission or which exceeds one story, whichever is less.
 - d. Any increase in gross floor area of a building which exceeds ten percent of the gross floor area approved by the Planning Commission.
 - e. Any increase in the density of dwelling units per acre.
 - f. Any material change in the orientation or location of structures on the parcel.
 - g. The Planning Director shall provide a monthly report to the Planning Commission on Planning Director approved modifications.
- G. MODIFICATION OR REVOCATION OF A USE PERMIT: A use permit may be modified or revoked only under the following circumstances.

1. **Modification at Request of Property Owner.** The owner of property which is the subject of a use permit may apply for a modification to said permit in the manner prescribed by subsection C of this section for the application for a use permit.

In considering a modification to an existing use permit the Planning Commission shall apply the standards set forth in subsection A of this section for the issuance of a use permit. When granting a modification to a use permit, the Planning Commission may impose such additional conditions as may be required to mitigate any deleterious affect of the modification.

2. **Planning Director may set Hearing on Revocation or Modification of Permit.** When in the discretion of the Planning Director a use permitted by a use permit is being conducted in a manner detrimental to the public health, safety or general welfare, or in such a manner as to constitute a public nuisance, or in violation of any condition imposed by the Planning Commission on the use, or if conditions specified in the permit as limiting the duration of the permit have occurred, the Planning Director shall set a hearing before the Planning Commission to consider revocation or modification of the use permit. Notice of any hearing so set shall be given in the manner prescribed in Section 34, and in addition thereto notice shall be given to the owner of the property upon which the use is conducted, and to the person in possession of said property if other than the owner, which shall include a specific statement of the conditions which are deemed to constitute a detriment to the public health, safety or welfare or which constitutes a public nuisance, or which are in violation of conditions imposed by the Planning Commission on the use.
3. **Planning Commission may Revoke or Modify Use Permit.** Upon a determination by the Planning Commission that the use is being conducted in a manner detrimental to the public health, safety or welfare, or in a manner so as to constitute a public nuisance, or in violation of any condition imposed by the Planning Commission, the Planning Commission may revoke the use permit. If the Planning Commission determines that the detrimental aspects of the use which exist may be alleviated through a modification to the use permit, it may make such modifications in lieu of revocation.

H. **AUTHORITY - PLANNING DIRECTOR:** In addition to the authority as specified in subsections F and G of this section, the Planning Director shall also have the authority to grant a Planning Director use permit. The Planning Director, should a Planning Director Use Permit be granted, may attach any such conditions as may be necessary to carry out the intent and purpose of this Ordinance. The Planning Director may, at his or her discretion, schedule for hearing by the Commission any application for a Planning Director's Use Permit.

I. **APPLICATION - FEES - NOTICE - HEARING:** An application for a Planning Director's Use Permit shall be subject to the following requirements:

1. **Application.** The applicant shall submit his or her application on a form provided by the Planning Director. The Planning Director shall accept the application as complete pursuant to procedures indicated in Section 30.5 of this Ordinance.
 2. **Fees.** Fees are required for any entitlement required by this Ordinance unless the Board of Supervisors, by Resolution, waives the fee prior to submittal of an application. The required fees for such applications not waived shall be governed by the provisions of Section 30.5 of this Ordinance.
 3. **Notice and Hearings.** The procedural requirements for any hearing and the contents of the notice required by the provisions of this section shall be governed by the provisions of Section 34 of this Ordinance.
- J. **MODIFICATION - DEVIATION:** Upon application by the holder of a Planning Director's Use Permit, the Director may approve modifications or deviations or schedule the item for hearing by the Commission should the Director approve the application.
- K. **TERM:** The time limit provisions set forth under subsection E shall also apply to the Planning Director's Use Permit.
- L. **REVOCAION:** Upon a determination by the Planning Director that the use is being conducted in a manner detrimental to the public health, safety or general welfare, or in a manner as to constitute a public nuisance, or in violation of any condition imposed upon such use as stated in the approved permit, the Director may revoke such permit. If the Director determines that the detrimental aspects of the use which exist may be alleviated through a modification of the permit approval terms, he or she may make such modification in lieu of permit revocation.
- M. **PERMITS MAY NOT BE ISSUED:** No building permit involving a use permit may be issued until the ten day appeal period has expired. No building permit or other County permit shall be issued while a use permit hearing or appeal therefrom is pending.