

Article 9:

CONDITIONAL USE PERMITS

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Sec. 9-1.0900:

Purposes and Authorization

This article provides the flexibility in the application of land use and development regulations necessary to achieve the purposes of this code by establishing procedures for approval, conditional approval, or disapproval of Conditional Use Permits.

Conditional Use Permits are required for land use classifications typically having unusual site development features or operating characteristics requiring special consideration so that they may be designed, located, and operated compatibly with uses on adjoining properties and in the surrounding area.

Sec. 9-1.0905:

Applications and Fees

An application for a Conditional Use Permit shall be filed with the Planning Department on a standard application form and accompanied by the following information:

- A. A completed Environmental Information Form describing existing environmental conditions, the proposed project and identifying potential environmental impacts of the project;
- B. Maps, drawings, plans, tabulations and other documents required on the standard City application form to describe the project adequately;
- C. Required fee(s);

Sec. 9-1.0910:

Applications and Fees: Adult Businesses

In addition to the submittal requirements established in Sec. 9-1.0905, applications for Conditional Use Permits for adult businesses must be accompanied by the following:

- A. A statement that the site of the proposed adult business is not located:
 - 1. Within one thousand, five hundred (1,500) feet of any sensitive land uses as defined in Sec. 9-1.1305A – Adult Businesses, subsection D;

2. On any lot frontage on, or adjacent to, Ontario (I-15) Freeway, the San Bernardino (I-10) Freeway, or other major roads as defined as arterials on the City's Master Plan of Arterial Highways;
 3. Within three hundred (300) feet of any other adult businesses, whether within or outside of Ontario City limits.
- B.** A scale map or drawing accurately depicting land uses within a radius of one thousand, five hundred (1,500) feet of the exterior boundaries of the property on which the adult business is proposed to be located.
- C.** An on-site security program, as defined in Sec. 9-1.1305A – Adult Businesses, subsection C.
- D.** A statement and supporting evidence that the proposed adult business will be owned, operated and managed by an individual or individuals of eighteen (18) years of age or older.
- E.** A Site Development Plan for review by the Development Advisory Board in accord with Article 8.

Sec. 9-1.0915:**Time Limits for Action**

An application for a Conditional Use Permit shall be reviewed and acted upon within the following time limits:

- A.** Within thirty (30) calendar days after the submittal of an application for a Conditional Use Permit, the Planning Department shall notify the applicant, in writing, if the application is not complete. If not complete, the Planning Department shall specify those parts of the application which are incomplete and shall identify the manner by which it can be made complete. If a written determination is not provided to the applicant within thirty (30) calendar days, the application shall be deemed complete;
- B.** The Zoning Administrator or Planning Commission shall take action to approve, modify, or deny a Conditional Use Permit application, with the exception of a Conditional Use Permit application for an adult business, within six (6) months after a determination has been made that an application is complete. For an adult business the Planning Commission shall take action to approve or deny a Conditional Use Permit application within three (3) months after a determination has been made that the application is complete.

Sec. 9-1.0920:**Planning Department Action**

The Planning Department shall make an investigation of the application and, where Development Plan Review is required by the Development Code, shall refer the application and supporting material to all affected City departments and shall schedule the application for review by the Development Advisory Board. The Planning Department shall prepare a written report on the application which shall be referred to the Planning Commission (if required) and made available to the applicant prior to the meeting

Sec. 9-1.0925:**Public Hearings**

At least one public hearing shall be held on an application for a Conditional Use Permit, or for the revocation or modification thereof, in accord with the provisions of this Article.

Hearings may be held by either the Zoning Administrator or the Planning Commission. At the hearing, the hearing body shall review the application, all supporting material, reports from the Planning Department, the Development Advisory Board and public testimony.

Sec. 9-1.0930:**Hearing Body Action**

Except for Conditional Use Permit applications for adult businesses which shall be governed by Sec. 9-1.1305, the hearing body, the Planning Commission, or Zoning Administrator, may grant an application for a Conditional Use Permit as it was applied for, or in modified form, if, on the basis of the application and the evidence, the hearing body finds that:

- A. The proposed location of the conditional use is in accord with the objectives and requirements of the Development Code;
- B. The proposed location of the conditional use and the conditions under which it will be operated is consistent with the General Plan and will not be detrimental to the public health, safety, or welfare or materially injurious to uses, properties or improvements in the vicinity;
- C. For a proposed conditional use in the EA Euclid Avenue Corridor Combined District, the use will be appropriate and consistent with the purposes of the district and will enhance the visual character and quality of Euclid Avenue;
- D. For a proposed office use in the R2 or R3 Districts, also classified in the EA District, the proposed conditional use will be compatible with any existing residential use in the vicinity, in terms of scale and character, as prescribed in Article 23;
- E. The traffic generated by the proposed conditional use will not overload the capacity of the surrounding street system and will not create a hazard to public safety;
- F. The proposed conditional use will comply with each of the applicable provisions of this chapter.

A Conditional Use Permit is revocable, may be granted subject to conditions, or may be denied.

Each decision by the Planning Commission granting a Conditional Use Permit shall be by a resolution adopted by a majority of its membership setting forth in writing the findings prescribed in this section. The applicant and the City may agree to a time extension of up to ninety (90) days if the Commission finds that such additional time is necessary for the proper disposition of the application. If the Planning Commission fails to act within the prescribed time period, the application will be deemed approved.

Decisions by the Zoning Administrator shall be made in writing within twenty (20) days of the public hearing and a copy of the written decision shall be transmitted to the applicant. Appeals from Zoning Administrator decisions may be made to the Planning Commission in accord with Article 5.

Sec. 9-1.0940:**Conditions of Approval**

The Planning Commission or Zoning Administrator may impose reasonable and appropriate conditions on the approval of Conditional Use Permits in order to assist in achieving the purposes of the Development Code and to justify making necessary findings. Such conditions may:

- A. cover any aspect of the Conditional Use Permit;
- B. may impose limitations on the conduct of operations of the proposed use, including hours of operation;
- C. may require that no cost related to an on-site or an off-site improvement be borne by the taxpayers at large;

- D. may, in the case of a Conditional Use Permit for a limited term operation, require the removal of temporary improvements and structures and the restoration of the site to its original condition within a prescribed time period.

Sec. 9-1.0945:**Effective Date of Appeals for Conditional Use Permits**

A Conditional Use Permit shall become effective upon the expiration of ten (10) days following the date on which the application was granted, unless an appeal has been filed, or unless either the Planning Commission elects to review a decision of the Zoning Administrator, or the City Council elects to review a decision of the Planning Commission.

Sec. 9-1.0950:**Lapse of Conditional Use Permits**

A conditional use permit shall become null and void one (1) year following the date on which it was approved unless all required conditions have been met and a business license is issued. A conditional use permit which involves new construction shall become null and void one (1) year following the date on which it was approved unless a building permit is issued and construction is commenced and diligently pursued toward completion.

A Conditional Use Permit may be renewed for an additional period of time provided, prior to expiration, a written request for a time extension is filed with the Planning Department. As a condition of granting a time extension, the Zoning Administrator or Planning Commission, at a public hearing, may review and amend existing conditions or impose new conditions of approval to ensure that the Conditional Use Permit will be in compliance with City standards in effect at the time such extension is granted.

If there is not substantial change in the Conditional Use Permit application, the renewal may be granted by the Zoning Administrator or Planning Commission without a public hearing. An application for renewal involving any substantial change from the original Conditional Use Permit or the conditions of approval as determined by the Zoning Administrator shall be subject to the all of the provisions of this article and shall require a new public hearing.

Sec. 9-1.0955:**Revocation: Termination of Use**

Upon a violation of any provision of this chapter, or, if granted subject to a condition or conditions, upon failure to comply with the conditions or if the use has become a nuisance, the Zoning Administrator shall serve the property owner with a "Notice of Commencement of Revocation Proceedings". The Zoning Administrator shall then serve the property owner and occupant (if different from the property owner), a notice entitled "Notice of Suspension of Conditional Use Permit and Notice of Commencement of Revocation Proceedings" and containing the following:

- A. A description of the subject property, including street address, Assessors Parcel Number(s) or legal description;
- B. The name(s) of the owner and name(s) of occupants, if other than the owner;
- C. The Conditional Use Permit File Number and date of issuance;
- D. A description of the use which the Conditional Use Permit authorizes;
- E. A statement as to the conditions of approval which are not being complied with and the manner of noncompliance;

- F. A statement that the Planning Commission will hold a public hearing within sixty (60) days to determine if there is a failure to comply with one or more conditions of approval and that the Planning Commission, at the conclusion of the hearing, may either revoke the Conditional Use Permit or take such other action as deemed appropriate to ensure compliance with the conditions of approval. The owner and/or applicant shall also receive notice of the time and place of the hearing at least ten (10) days in advance of the hearing;
- G. A statement that the owner and/or occupant may appear in person and/or be represented by legal counsel, may present oral and documentary evidence and may call witnesses and may ask questions of witnesses called on behalf of the City

The Planning Commission shall call a public hearing within sixty (60) days from the date of notice in accordance with the provisions of Sec. 9-1.0415. If the Planning Commission determines that conditions of the Conditional Use Permit have been violated, the Commission shall make the following findings:

- A. That the Conditional Use Permit contains certain conditions that are not being complied with on a certain date or within a period of time;
- B. That the failure to comply with the conditions was done knowingly and intentionally or with reckless disregard of the requirements for compliance or, if not knowingly or intentionally or with reckless disregard, the failure to comply was not cured by the date of the hearing.

Written notice of Planning Commission action, including findings, shall be delivered to the property owner and/or occupant and filed with the City Clerk at least thirty (30) days following the public hearing.

Sec. 9-1.0960:

New Application

Following denial of an application for a Conditional Use Permit or the revocation of a Conditional Use Permit, no application for a Conditional Use Permit for the same or substantially the same conditional use on the same site shall be filed within one (1) year after the date of denial or revocation of the Conditional Use Permit.

Sec. 9-1.0965:

Expiration

A Conditional Use Permit shall apply only to the use and location which was the subject of the application. The Conditional Use Permit shall expire upon change of use or change of location. A public hearing shall be held upon expiration of a Conditional Use Permit.