

## **SECTION 11 - CONDITIONAL USE PERMITS**

- 11.1 **JUSTIFICATION** - Every use which is listed herein as permitted only upon the granting of a Conditional Use Permit as declared, in pursuance of the general objectives of this Ordinance, to possess characteristics which may, under specific circumstances, be in conflict with the objectives of the General Plan and this Ordinance. To promote the objectives of the General Plan and this Ordinance, the following procedures shall be followed by any property owner requesting the issuance of a Use Permit for a Conditional Use.
- 11.2 **APPLICATION** - Application for a Use Permit shall be made to the Director of Community Development upon a form prescribed by the Director.

The application shall contain or be accompanied by the following data and no applications shall be accepted by the Commission unless it is complete and in compliance with the requirements set forth herein:

- (a) Name and address of the applicant.
- (b) Statement certifying under penalty of perjury that the applicant is the owner of the property or the authorized agent of the owner.
- (c) Address or description of property.
- (d) For Conditional Use Permit Applications, a map showing the boundaries of the subject parcel and each separate lot or parcel within 300 feet of the exterior boundaries thereof; together with a list of the names and addresses of the last known owners of each lot or parcel, insofar as they are of public record. For Administrative Use Permits, a map of the subject parcel and adjacent parcels which is defined as parcels that share a property line, together with a list of the last known owners of each lot or parcel insofar as they are of public record.
- (e) A 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 11.5.1 or Section 12, whichever is applicable, of this Ordinance.
- (f) An accurate scale drawing of the site showing the contours at intervals of not more than 5 feet and the locations of any existing and proposed streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.
- (g) Such other information, plans, maps and data which may be necessary to assure a full presentation of pertinent facts for the record, and to assist the Commission in making a determination in harmony with the objectives of this Ordinance.

- \* 11.3 FEE - The application shall be accompanied by a receipt showing that an application fee in accordance with the fee schedule established by the Commission has been paid to the Secretary of the Planning Commission.
- 11.4 HEARING BY COMMISSION - The Commission shall hold a public hearing within 40 days after acceptance of the application by the Commission.

- \*\* 11.4.1 NOTICE OF HEARING - Notice of the time and place and purpose of each public hearing to be held by the Commission shall be given as follows:

The Secretary of the Planning Commission shall at least ten (10) days and not more than fifteen (15) days prior to the date set for such hearing, cause a notice thereof to be given by the United States mail to each property owner within the distance of 300 feet from the exterior boundaries of the subject property, whose name and address appear on the list accompanying such application. Said notice shall give the date, time and place of hearing, the name of the applicant, the relief sought, the identification of the subject property and such other facts as may be prescribed from time to time by the Commission. The Secretary of the Planning Commission in addition to mailing such notice shall cause one publication thereof to be made in the newspaper designated in Section 2.5 of the Belmont City Code and shall also post notices of the hearing at City Hall at least ten (10) days before the date set for the hearing. The Owner of the property or Applicant for the entitlement shall post a copy of the notice, provided by the City, at the front property line of the property subject to the entitlement request, in a manner readable from the public right-of-way. When notice of hearing is given by publication, said publication shall be made at least ten (10) days and not more than fifteen (15) days before the date set for the hearing.

The public hearing on the application may be continued to the next regular meeting of the Commission or from time to time without giving further notice.

- 11.5 ACTION BY COMMISSION - The Commission shall receive, investigate, hear and take action upon every application for a Use Permit.

- 11.5.1 COMMISSION ACTION - FINDINGS - The Commission may grant the Use Permit, provided, however, that the Commission shall not approve any Use Permit unless it shall find that the evidence presented at the hearing establishes that the proposed use is in accordance with the provisions of the General Plan and this Ordinance and that the following conditions have been met:

---

\* Amended by Ord. #502, 2/22/73

\*\* Amended by Ord. #366, 6/21/67; Ord. #470, 7/14/71; Ord. #502, 2/22/73; Ord. #559, 5/28/75; and Ord. #919 12/12/97

- (a) The location of the proposed use is compatible to other land uses in the general neighborhood area and does not place an undue burden on existing transportation, utilities and service facilities in the vicinity.
- (b) The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this Ordinance.
- (c) The site will be served by streets of capacity sufficient to carry the traffic generated by the proposed use.
- (d) The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity or the general welfare of the City.

The Commission may deny the application for a Use Permit.

11.5.2 CONDITIONS OF APPROVAL - In approving any application for a Use Permit the Commission or Director of Community Development may require higher standards of site development than listed for such use in this Ordinance and may make approval contingent upon the acceptance and observance by the applicant of specified conditions relating to, but not limited to, the following considerations:

- (a) Conformity to plans and drawings submitted with the application;
- (b) The provision of open spaces, buffer strips, screen walls, fences, hedges and landscaping;
- (c) The volume of traffic generated, vehicular movements within the site, and points of vehicular ingress and egress;
- (d) Performance characteristics, related to the emission of noise, vibration and other potentially dangerous or objectionable elements;
- (e) Limits on time of day for the conduct of specified activities.
- (f) Guarantees as to compliance with the terms of the approval.

\* 11.6 Additional C- District Permit Findings:

- (a) The proposed ground floor non-retail use is the best use in consideration of the building location and design and parking availability, or the nature of the proposed ground floor non-retail use will enhance the neighboring retail base by bringing clients into the area who would be likely to patronize neighboring businesses.

---

\* Added by Ord. #781, 12/24/87

\* 11.7 ADMINISTRATIVE APPROVALS:

The Director of Community Development shall administratively approve a Use Permit in any commercial or manufacturing district provided the following criteria are met:

- (a) The proposed use is similar in nature to the prior use of the property.
- (b) The proposed use does not substantially increase impacts of traffic, noise, odor, vibration, parking or other objectional elements to a residential neighborhood.
- (c) The proposed use will not be detrimental to the public health, safety or welfare.
- (d) No other Planning Commission entitlements are required.

11.7.1 NOTICE OF ADMINISTRATIVE DECISION AND REQUEST FOR PUBLIC HEARING PROCEDURE - The following procedures shall apply when the Director of Community Development takes action on an administrative conditional use permit:

- \*\* (a) Notice of the intent to approve the conditional use permit and stating the opportunity to file a written appeal shall be sent to the City Council, Planning Commission, the applicant and adjacent property owners via U.S. mail at least 10 days prior to such action. Notice to the Council and Commission may be provided by e-mail.
- (b) The notice shall provide for an opportunity to file a written request for a public hearing. Upon receipt for a request for a public hearing the application shall be set for hearing by the Planning Commission.

\* 11.8 EFFECT - A Use Permit shall become effective 10 days following the date on which the request is granted unless subject to an appeal. Decisions of the Director of Community Development may be appealed to the Planning Commission. Decisions of the Planning Commission may be appealed to the City Council.

\* 11.9 REVOCATION - A Conditional Use Permit shall be deemed null and void upon a finding by the Planning Commission that the property for which such exception has been granted is in violation of any applicable provisions of this Ordinance, or that there has been failure to comply with any condition or conditions imposed in the granting of a Conditional Use Permit.

---

\* Added by Ord. #871, 7/15/93

\*\* Added by Ord. #1005, 02/24/05

\*\*\* 11.10 LAPSE OF CONDITIONAL USE PERMIT AND EXTENSION OF TIME – A Conditional Use Permit shall lapse and shall become null and void one year following the date on which it became effective unless, prior to the expiration of one year, a building permit is issued by the Building official and construction is commenced and diligently pursued toward completion on the site, or a certificate of occupancy is issued by the Building Official for the site which was the subject of the conditional use permit. Extensions of time shall be governed by Section 10.5.

\* 11.11 TRANSFER AND EXPIRATION OF CONDITIONAL USE PERMIT

(a) A valid use permit granted pursuant to this section shall be transferable to successive owners of the site for which the use permit is granted.

(b) A valid use permit granted pursuant to this section shall expire if violations of permit conditions are not corrected pursuant to time limits established in a notice of violation delivered to the address of the use, or if the use is discontinued for a continuous period of ninety days.

APPEALS - SEE SECTIONS 15.8, 15.9, 15.10 AND 15.11.

---

\*\*\* Added by Ord. # 906, 7/11/96

\* Added by Ord. #939, 2/25/99