

ARTICLE 19. PERMITS FOR CONDITIONAL USES

Sec. 1901. Purposes.

In certain districts, conditional uses are permitted subject to the granting of a use permit. Because of their unusual characteristics and potential for causing significant adverse environmental effects, conditional uses require special consideration so that they may be located properly with respect to their effects on surrounding properties and the environment. In order to achieve these purposes and thus give the district use regulations of this Ordinance the flexibility necessary to achieve the objectives of this Ordinance, the Planning Commission is empowered to grant and to deny applications for use permits and to impose reasonable conditions upon the granting of use permits, subject to review of the Board of Supervisors.

(Ord. No. 269.33, § 41, 9-21-82)

Sec. 1902. Powers of planning commission.

The Planning Commission is the administrative agency authorized to grant use permits for such conditional uses in such districts as are prescribed in the district regulations of this Ordinance, subject to review by the Board of Supervisors, in accordance with the procedure prescribed in this article. If an application for a change of district boundaries has been filed with the Planning Commission, an application for a conditional use permit of property included in the application for change of district boundaries is granted by amendment of the *Zoning Ordinance*. The Planning Commission, when considering an application for a conditional use, shall impose such conditions upon the granting of the use permit which are necessary for the protection of the public health, safety and general welfare, the environment, and which are necessary to achieve the objectives of this Ordinance.

(Ord. No. 269.33, § 41, 9-21-82)

Sec. 1903. Application and fee.

- A. The application for a conditional use permit shall be made to the Planning Commission on the appropriate Zoning Permit Application Form which shall include the following data:
1. Name, address and signature of the applicant, and the property owner as shown on the latest equalized assessment roll if the applicant is not the property owner. Signatures shall be notarized when filing is done by mail or not witnessed by Planning Department representatives.
 2. A signed statement on the application or attached to it that the applicant is the owner of the property or is the authorized agent of the owner. If the applicant is not the property owner, the owner must also sign and date the application, and indicate that the applicant is authorized to make a zoning application on that property. The owner's signature shall be notarized when filing is done by mail or not witnessed by Planning Department representatives.
 3. A public utility company or other agency with powers of eminent domain may make an application without the owner's authorization.
 4. Address and /or the Assessor's Parcel Number of the property.
 5. 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.
 6. The application for a conditional use permit shall include five (5) prints of the site plan, submitted to the zoning administrator. The site plan shall be drawn to scale in a neat and legible manner on paper a minimum of 8½ by 11 inches to a maximum of 24 by 36 inches in size. The scale must be large enough to show all details clearly and with full dimensions. Site plans for commercial projects shall be professionally drawn or to the satisfaction of the zoning administrator. The following information must be included on the site plan:
 - (a) Lot dimensions of the property.
 - (b) All buildings and structures: Location, elevation, size, height, proposed use.
 - (c) Yards and space between buildings.
 - (d) Walls, fences and gates: Location, height and materials.

- (e) Off-street parking: Location, number of spaces and dimensions of parking areas, aisles and access drives.
 - (f) Access-pedestrian, vehicular, service: Points of ingress and egress, internal circulation.
 - (g) Signs: Location, size and height.
 - (h) Loading: Location, dimensions, number of spaces, internal circulation.
 - (i) Lighting: Location and general nature, hooding devices.
 - (j) Street dedications and improvements.
 - (k) Landscaping: Location and type.
 - (l) Such other data as may be required by the decision maker to make the required findings.
7. The site plan shall be so prepared by the applicant to enable the Planning Commission to find that:
 - (a) All applicable provisions of this Ordinance are complied with.
 - (b) The following are so arranged that traffic congestion is avoided and pedestrian and vehicular safety and welfare are protected and there will be no adverse effect on surrounding property:
 - (1) Facilities and improvements.
 - (2) Vehicular ingress, egress and internal circulation.
 - (3) Setbacks.
 - (4) Height of buildings.
 - (5) Location of service.
 - (6) Walls.
 - (7) Landscaping.
 - (c) Proposed lighting is so arranged as to reflect the light away from adjoining properties.
 - (d) Proposed signs will not, by size, location, color or lighting, interfere with traffic or limit visibility.
 - (e) In making the above findings, the Planning Commission shall consult with the Director of Public Works to assure that approvals will be consistent with established legislative policies relating to traffic safety, street dedications and street improvements.
 8. Applications for surface mining operations shall also include a reclamation plan on forms provided by the Planning Department and as required by Section 2772 of the California Surface Mining and Reclamation Act of 1975.
 9. All applications shall include a "Source Reduction, Recycling, and Reuse Plan" as described in section 1809.A.5.o. of this Ordinance.
 10. All applications for new or expanding bovine dairies and dairy calf and heifer raising facilities shall include a *Technical Report* as described in the *Dairy Element* of the *Kings County General Plan*. The applicant shall submit one (1) full paper application and Technical Report with the remaining twenty-one (21) copies submitted on CD's.
- B. The application shall be accompanied by a fee set by the Board of Supervisors sufficient to cover the cost of processing the application pursuant to this article. If the application is submitted as a result of an enforcement action, i.e., after a use that requires a permit has begun operation, the application fee shall be double the normal fee that is set by the Board of Supervisors.
- C. An application shall not be deemed complete until the public review requirements pursuant to the *California Environmental Quality Act (CEQA)*, Public Resources Code Section 21000, et seq, have been completed.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.38, § 9, 9-25-90; Ord. No. 269.40, § 1, 10-4-94; Ord. No. 269.43, §§ 31 and 32, 1-21-97; Ord. No. 269.45, § 6, 6-23-98; Ord. No. 269.46, § 4, 10-20-98; Ord. No. 269.54, §§ 10 and 11, 7-30-02; Ord. No. 269.64, § 62, 10-16-07; Ord. No. 269.65, §§ 136 and 137, 10-28-08)

Sec. 1904. Agricultural land division.

When an application is submitted for division of land to create a site less than the minimum area for the purposes other than residential use listed in sections 402.B.7., 402.B.11, 402.D., 403.B.10., 403.D., 404.B.6., 404.B.8., 404.D., 405.B.7., 405.B.11., and 405.D., pursuant to the provisions of sections 402.F., 403.F., 404.F., and 405.F., the Planning Commission may approve the application if, after consultation with the County Agricultural Commissioner, the County Farm and Home Advisor, and any others whom it may deem in possession of information which would aid it in its deliberations, all of the following findings are made, such findings to be in addition to those findings required by Section 1908:

- A. The proposed use or use on the remainder property will not be for residential development.
- B. The lot size is not less than one acre in area.
- C. One or more of the following conditions exist:

1. The soils do not meet the criteria for productive or potentially productive agricultural land.
2. The proximity of incompatible non-agricultural uses, existing as of the effective date of this Ordinance, severely restrict normal agricultural practices to the point that it is not economically feasible to continue farming.
3. The property is divided by, or bounded on at least two (2) sides, by a physical barrier such as a railroad, canal, or other similar permanent barrier which prevents the efficient, unified agricultural operation of the land under common ownership.
4. The division of land will create lots intended for agricultural use or agricultural service establishments, and there exists a recorded covenant approved by the County, running with the land which prohibits the use of the lots for any residential purposes.

D. The division of land shall not result in a remainder parcel less than five (5) acres in area.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.43, § 33, 1-21-97)

Sec. 1905. Investigation and report.

The Zoning Administrator shall make an investigation of the application and shall prepare a report thereon which shall be submitted to the Planning Commission. Such report shall include a recommendation as to the action to be taken by the Planning Commission together with a statement supporting such recommendation.

(Ord. No. 269.33, § 41, 9-21-82)

Sec. 1906. Public hearing; notice.

The Planning Commission shall hold a public hearing on each application for a use permit. Such hearing shall be held within forty-five (45) days from the date the application is deemed complete

Notice of the public hearing shall be given as set forth in Article 18, Section 1803 of this ordinance.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.40, § 1, 10-4-94; Ord. No. 269.44, § 37, 7-29-97; Ord. No. 269.65, § 138, 10-28-08)

Sec. 1907. Public hearing; procedure.

At the public hearing, the Planning Commission shall review the application and the statement and drawings submitted therewith and the report of the Zoning Administrator and 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 1908.

(Ord. No. 269.33, § 41, 9-21-82)

Sec. 1908. Action by the planning commission.

The Planning Commission may grant an application for the use permit as the use permit was applied for or in modified form, if, on the basis of the application and the evidence submitted, the Planning Commission makes the following findings:

- A. The proposed location of the conditional use is in accordance with the objectives of the *Zoning Ordinance* and the purposes of the district in which the site is located.
- B. The proposed location of the conditional 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.
- C. The proposed conditional use will comply with each of the applicable provisions of this Ordinance.
- D. When an application is being considered for a surface mining operation, the Planning Commission shall ensure that the application for the conditional use permit for the surface mine complies with all of the requirements found in Chapter 17 of the *Kings County Code of Ordinances*, and that all findings included in said Chapter 17 are made by the Planning Commission before granting the conditional use permit.
- E. When an application is being considered for a hazardous waste management facility, the following findings shall be made before granting a conditional use permit:

1. That all requirements of Article 8.7, "Procedures for the Approval of New Facilities" (commencing with Section 25199) of Chapter 6.5 of Division 20 of the *Health and Safety Code* as the requirements pertain to local land use decisions are carried out.
 2. That the Commission find that the proposed facility is consistent with the "Siting Criteria for Hazardous Waste Management Facilities" in the "Kings County Hazardous Waste Management Plan", as approved by the State Department of Health Services and adopted by the Kings County Board of Supervisors as parts of the Safety and Land Use Elements of the *Kings County General Plan*.
- F. When an application is submitted for an expansion of a bovine dairy in the AL-10 Zone District, or other application for a dairy project as required by the *Dairy Element* of the *Kings County General Plan*, or this Ordinance, the following findings shall be made before granting a conditional use permit:
1. That the Zoning Administrator has included in his or her report to the Planning Commission the results of consultation with representatives of the County Agricultural Commissioner, the county farm and home advisor, the County Health Officer, the Kings Mosquito Abatement District, the Central California Regional Water Quality Control Board and the Kings County Farm Bureau Dairy Committee before the Planning Commission may grant the application.
 2. The Planning Commission finds that the Technical Report accompanying the conditional use application, which will include its own additional environmental review, demonstrates that the alternative dairy project design or process will accomplish the same or higher level of performance as required by the *Dairy Element*.
- G. No process, equipment or materials shall be used which, are found by the Planning Commission, to be substantially injurious to persons, property, crops, or livestock in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water carried wastes, noise, vibration, illumination, glare or unsightliness or to involve any undue risk of fire or explosion.

A use permit may be granted for a limited time period, and may be granted subject to such conditions as the Planning Commission may prescribe.

The Planning Commission may deny an application for a use permit.

The Planning Commission's decision on the application shall become effective eight (8) days following their decision, unless the Board of Supervisors initiates proceedings to review the decision of the Planning Commission.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.38, § 10, 9-25-90; Ord. No. 269.40, § 1, 10-4-94; Ord. No. 269.43, § 34, 1-21-97; Ord. No. 269.47, § 6, 1-12-99; Ord. No. 269.49, § 9, 12-7-99; Ord. No. 269.51, § 17, 7-25-00; Ord. No. 269.54, §§ 12, 13 and 14, 7-30-02; Ord. No. 269.63, § 37, 4-25-06)

Sec. 1909. Conditions of approval.

In recommending approval of a conditional use permit, the Planning Commission shall, in its resolution, state that conditions of approval are necessary to protect the public health, safety, and general welfare, and the environment. Such conditions may include:

- (a) Special yards, spaces and buffers.
- (b) Fences and walls.
- (c) Surfacing of parking area subject to county specifications.
- (d) Requiring street dedications and improvements subject to the provisions of Section 2103, including service roads or alleys when practical.
- (e) Regulation of points of vehicular ingress and egress.
- (f) Regulation of signs.
- (g) Requiring landscaping and maintenance thereof.
- (h) Requiring maintenance of the grounds.
- (i) Regulation of noise, vibration, odors, and other similar characteristics.
- (j) Regulation of time for certain activities to be conducted on the site.
- (k) Time period within which the proposed use shall be developed.

- (l) A bond for the completion of street improvements and other facilities or removal of such use within a specified period of time or reclamation of mined lands or guarantee of compliance with conditions of approval, to assure faithful performance on the part of the applicant, successors, heirs or assigns.
- (m) And such other conditions as will make possible the development of the County in an orderly and efficient manner, in conformance with the intent and purposes set forth in this Ordinance.
- (n) The Planning Commission shall specify minimum yard requirements and district regulations necessary to protect the continued agricultural production of properties surrounding lots developed subject to Section 1904 of this article.
- (o) Mitigation measures, identified in the environmental documentation evaluating the application, determined to be necessary to avoid or lessen significant environmental effects that may result from the construction and operation of the approved use.
- (p) Reserved.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.40, § 1, 10-4-94; Ord. No. 269.59, § 17, 11-9-04; Ord. No. 269.63, § 38, 4-25-06)

Sec. 1910. Notification of, and review by the Board of Supervisors.

Within five (5) days following a decision by the Planning Commission on a conditional use permit application or an application for extension of time for a conditional use permit, or on the revocation of a conditional use permit, the Zoning Administrator shall transmit to the applicant and to the Clerk of the Board of Supervisors a written notice of the findings of the Planning Commission and its decision on the application. Within eight (8) days following the date of such a decision by the Planning Commission, the Board of Supervisors, on its own motion, may initiate proceedings to review the decisions of the Planning Commission.

The Clerk of the Board shall give notice of the time and place when the decision of the Planning Commission will be reviewed by the Board of Supervisors. Notice will be given in the same manner as provided in section 1906 of this Ordinance for notice of hearing on appeal, except that where the review is of a decision of the Planning Commission concerning the revocation of a use permit, and in that case, notice shall be required to be given only to the permit holder of the use permit.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.63, § 39, 4-25-06; Ord. No. 269.65, §139, 10-28-08)

Sec. 1911. Appeal to the Board of Supervisors.

Within eight (8) days following the date of a decision of the Planning Commission on a use application or an application for extension of a conditional use permit, the decision may be appealed to the Board of Supervisors by the applicant or any other directly affected person or party. An appeal shall be filed with the Clerk of the Board of Supervisors and shall state specifically in writing wherein it is claimed that there was an error or abuse of discretion by the Planning Commission or wherein its decision is not supported by the evidence in the record.

The appeal shall be accompanied by a fee set by the Board of Supervisors sufficient to cover the cost of processing the appeal as prescribed in this article. The Board of Supervisors may, but is not required to, refund the appeal filing fee if the Board of Supervisors determines that the appeal has merit due to their finding that an error was made in the record that was not the fault of the appellant.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.51, § 18, 7-25-00; Ord. No. 269.52, § 2, 10-17-00; Ord. No. 269.63, § 40, 4-25-06)

Sec. 1912. Action of the Board of Supervisors.

When a decision of the Planning Commission on a conditional use application or an application for extension of time for a conditional use permit, or on the revocation of a conditional use is brought before the Board of Supervisors, either on appeal or on its own motion, the board may affirm, reverse or modify the decision of the Planning Commission provided, however, that the Board may not reverse a decision of the Planning Commission denying an application for a conditional use or an application for a extension of a conditional use, nor may the Board modify a decision of the Planning Commission granting a conditional use or an application for a extension of a conditional use unless the Board of Supervisors shall, on the basis of the record transmitted by the Planning Department and on the basis of such additional evidence as may be submitted, be able

to make the findings prerequisite to the granting of a conditional use permit as prescribed and set forth in Section 1908 of this Ordinance.

A conditional use application or an application for extension of a conditional use which has been the subject of an appeal to the Board of Supervisors or which has been the subject of review by the Board of Supervisors shall become effective three (3) days after the date on which the application for the conditional use or the application for extension of the conditional use is granted and approved by the Board.

The revocation of a conditional use which has been the subject of an appeal to the Board of Supervisors or which has been the subject of review by the Board shall become effective three (3) days after the decision of the Board of Supervisors to revoke the conditional use.

The Clerk of the Board of Supervisors shall within three (3) days after the date of the decision of the board, give written notice of the decision, by mail, to the applicant and/or appellant (if the applicant is not the appellant) and to the Planning Department.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.63, 41, 4-25-06)

Sec. 1913. Time limit for development.

The Board of Supervisors may establish a time limit within which the subject property and use or any stage or phase thereof shall be commenced and completed. The time limits set by the Board of Supervisors shall be reasonable, based on the size, nature and complexity of the proposed development. Said time limit may be extended by the Board of Supervisors for good cause when the applicant presents proof of an unusual hardship not of his or her own making.

(Ord. No. 269.33, § 41, 9-21-82)

Sec. 1914. Building permit.

- A. Before a building permit shall be issued for any building or structure proposed as part of the approved conditional use application, the Zoning Administrator shall certify that the building location is in conformity with the site plan and conditions approved by the Zoning Administrator, Planning Commission or Board of Supervisors. Before a building may be occupied, the Building Official shall certify that the site has been developed in conformity with the site plan and conditions approved by the Zoning Administrator, Planning Commission or Board of Supervisors.
- B. Minor alterations to an approved site plan drawing may be allowed and shall constitute not more than a ten percent (10%) increase in area of a use/structure, or up to a 2,500 square foot increase in area of a use/structure, whichever is less.
 1. The Zoning Administrator may approve a minor alteration to an approved site plan, as defined above, when checking building plans for consistency to determine if they are substantially consistent with an approved zoning permit.
 2. For alterations of an approved site plan drawing that are not substantially consistent with an approved zoning permit, the applicant will be required to submit an application for a new zoning permit.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.65, § 141, 10-28-08)

Sec. 1915. Lapse of conditional use permit.

A conditional use permit shall lapse and shall become void one year following the date on which the use permit became effective unless by conditions of the use permit a greater or lesser time as prescribed in accordance with Section 1908 of this article, or unless prior to the expiration of the one year period or other specified greater or lesser period of time, a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site which was the subject of the conditional use application, or commencement of the activity if a building permit is not required. A conditional use permit may be extended for additional periods of time as prescribed in accordance with Section 1916 of this article, provided that prior to the expiration of the time period granted, an application for the extension of the

use permit is filed with the Planning Commission. The Planning Commission may grant or deny an application for extension of a use permit.
(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.47, § 2, 1-12-99; Ord. No. 269.49, § 10, 12-7-99; Ord. No. 269.63, § 42, 4-25-06)

Sec. 1916. Extension of use permit.

A conditional use permit which has been granted may be extended for additional periods of time provided that prior to expiration of the original time period granted or any extension thereof, an application for extension of the conditional use permit is filed with the Planning Commission. An application for extension of a conditional use permit shall be filed and processed in the manner set forth in Article 19 of this Ordinance which governs the filing and processing of applications for conditional uses.

The Planning Commission may grant an application for extension of a conditional use if it is able to make the findings prerequisite to the granting of a conditional use application as prescribed and set forth in Section 1908 of this Ordinance. The application for extension of conditional use shall be denied if such findings cannot be made.

Within eight (8) days following the date of a decision of the Planning Commission on an application for extension of a conditional use, the decision may be appealed to the Board of Supervisors. If no appeal is filed within said eight-day period and if the Board of Supervisors within said eight-day period does not initiate proceedings to review the decision of the Planning Commission as provided herein, the decision of the Planning Commission shall be final and conclusive.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.47, § 3, 1-12-99; Ord. No. 269.63, § 43, 4-25-06)

Sec. 1917. Preexisting conditional uses.

A special use permit, or a use that is listed as a conditional use in this Ordinance that was established prior to enactment of this Ordinance, shall be permitted to continue.

A special use permit granted under the provisions of *Ordinance Number 228*, prior to the enactment of this Ordinance, shall lapse and become void one year following the date on which the special use permit became effective, unless such use permit is extended in accordance with the procedures prescribed in Section 1916 of this Ordinance.

Alteration or expansion of a conditional use established prior to enactment of this Ordinance shall be permitted upon the granting of a use permit, provided that a use permit shall not be required for existing accessory structures and uses located on the same site as a preexisting use that is listed as a conditional use in this Ordinance.

A use permit shall be required for the reconstruction of a structure housing a conditional use established prior to enactment of this Ordinance if the structure is destroyed by fire or other calamity or by act of God or by the public enemy to a greater extent than fifty (50) per cent.

The extent of damage or partial destruction shall be determined by the Building Official.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.55, § 3, 10-29-02; Ord. No. 269.63, § 44, 4-25-06)

Sec. 1918. Revocation of a conditional use permit.

When any applicable provision of this Ordinance or when any condition or requirement of a conditional use permit has not been complied with, the Zoning Administrator shall notify the permit holder of the conditional use permit and shall give said person(s) a reasonable period of time within which to comply with said Ordinance or condition or requirement. If the permit holder fails to comply with the Ordinance or with said condition or requirement within such period of time, the Zoning Administrator shall give written notice to the permit holder that a hearing will be held by the Planning Commission on the matter of the revocation of the conditional use permit.

Notice of said hearing shall be given not less than ten (10) days prior to the date of the hearing by either personal service of a copy of said notice on permit holder or by sending a copy of the notice by certified or registered mail, return receipt requested, to said permit holder. The notice shall state the reason or reasons why action is being taken for revocation of the permit.

At said hearing, the Planning Commission shall hear all relevant testimony concerning the conditional use permit and the provisions of the Ordinance which allegedly have not been complied with and the conditions or requirements which were imposed. If the Planning Commission finds that any of the applicable provisions of the Ordinance have not been complied with or that any of the conditions or requirements imposed have not been complied with, then the conditional use permit shall be revoked.

If the conditional use permit is revoked by the Planning Commission, the permit holder may within eight (8) days following the date of the decision of the Planning Commission, appeal the decision to the Board of Supervisors.

Upon the making of the decision by the Planning Commission to revoke the conditional use permit, said use permit shall be automatically suspended. If an appeal is filed or if the Board of Supervisors initiates a review of the decision to revoke the use permit the suspension shall remain in effect during the course of the appeal or review. If, within said eight (8) day period, no appeal is filed, and if the Board of Supervisors within said eight (8) day period does not initiate proceedings to review the decision of the Planning Commission as provided in Section 1910 of this Ordinance, the decision of the Planning Commission shall be final and conclusive.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.65, § 142, 10-28-08)

Sec. 1919. Reserved.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.65, § 143, 10-28-08)

Sec. 1920. New application.

Following the denial of a conditional use permit application or the revocation of a conditional 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; provided, however, that such time period shall not apply to applications which have been denied without prejudice.

(Ord. No. 269.33, § 41, 9-21-82)

Sec. 1921. Conditional use permit to run with the land.

A conditional use permit granted pursuant to the provisions of this article shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application unless the use is abandoned or discontinued for a period of time exceeding six (6) months pursuant to Article 17, Section 1711.E.

(Ord. No. 269.33, § 41, 9-21-82; Ord. No. 269.65, § 144, 10-28-08)

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