

## 17.61.040 - Temporary Use Permits

- A. Purpose.** This Section establishes procedures for the granting of Temporary Use Permits that:
1. Allow for short-term activities requiring individual consideration but not intensive review; and
  2. May not meet the normal development or use standards of the applicable zoning district, but may be acceptable because of their temporary, short-term nature.
- B. Applicability.** Temporary land use activities shall not be conducted, established, or operated in any manner without the approval and maintenance of a valid permit, if required in compliance with this Section. The following categories of temporary uses identify the level of permit required, if any, based on the proposed duration, size, and type of use:
1. **Exemptions.** Exempt temporary uses are identified in Subsection C. (Exempt temporary uses), below;
  2. **Allowed by right.** Temporary uses identified by Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) as allowed by right, subject to compliance with applicable standards (e.g., tents); or
  3. **Temporary Use Permit required.** Temporary Use Permits are required for all activities identified in Subsection D. (Allowed temporary uses), below.
- C. Exempt temporary uses.** The following minor and limited duration temporary uses are exempt from the requirement for a Temporary Use Permit. Uses that do not fall within the categories defined below shall comply with Subsection D. (Allowed temporary uses), below.
1. **City Hall.** Any temporary activities conducted at City Hall.
  2. **Construction yards – On-site.** On-site contractors' construction yards in conjunction with an approved construction project on the same site. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the companion Building Permit authorizing the construction project, whichever first occurs.
  3. **Emergency facilities.** Emergency public health and safety needs/land use activities.
  4. **Filming Permit.** Activities associated with an approved Filming Permit.
  5. **Rose Bowl site, City parks, and streets.** An activity in which the City has granted a Special Event Permit or which has authorization for an activity from the Director of Public Works.
  6. **Car washes.** Car washes conducted by a qualifying sponsoring organization on nonresidential properties. Sponsorship shall be limited to educational, fraternal, religious, or service organizations directly engaged in civic or charitable efforts, or to tax exempt organizations in compliance with 501(c) of the Federal Internal Revenue Code.

Temporary Car washes shall not occur on a site more than four times per calendar year and may not operate for a continuous period of more than 72 hours

**D. Allowed temporary uses.** The following temporary uses may be allowed, subject to the issuance of a Temporary Use Permit by the Zoning Administrator. Uses that do not fall within the categories defined below shall comply with the use and development regulations and land use permit review provisions that otherwise apply to the property.

1. **Construction yards – Off-site.** Off-site contractors' construction yards, in conjunction with an approved construction project. The permit shall expire and the construction yard shall be removed immediately upon completion of the construction project, or the expiration of the companion Building Permit authorizing the construction project, whichever first occurs. (See also Subsection D.9., below, regarding temporary work trailers.)
2. **Events.** The following events are allowed in non-residential districts.
  - a. Amusement rides, animal shows, arts and crafts exhibits, auctions, carnivals, circuses, concerts, fairs, festivals, flea markets, food events, outdoor entertainment/sporting events, rodeos, rummage sales, second-hand sales, and swap meets for 12 consecutive days or less, or six two-day weekends, within a 12-month period.
  - b. Farmers' markets conducted on a weekly basis for a maximum period of 12 months.
  - c. Outdoor meetings or religious assembly, for 12 consecutive days or less, within a 90-day/12-month period.
  - d. Outdoor meetings, group activities, or sales within parking areas, for seven consecutive days or less, within a 90-day period.
3. **Outdoor displays/sales.** The temporary outdoor display/sales of merchandise (e.g., parking lot or sidewalk sales), in compliance with Section 17.50.170 (Outdoor Display, Storage, and Seasonal Sales) shall be allowed only in compliance with the following:
  - a. These activities shall be:
    - (1) Allowed only on weekends or on legal holidays and in nonresidential districts; and
    - (2) Limited to two events in a 12-month period. (Sales on consecutive days are considered one event.)
  - b. Before conducting the event, all businesses sharing the parking lot shall consent to the event in writing with copies presented to the Zoning Administrator.
  - c. Only businesses immediately adjacent to a particular parking lot may utilize that lot for the sale.

- d. The hours of the event shall be the same as those normally followed by the participating businesses.
  - e. A maximum of 25 percent of the existing parking spaces in a particular parking lot may be utilized for the sale.
  - f. The merchandise displayed shall:
    - (1) Be regularly sold on the same site;
    - (2) Be removed from the parking lot at the close of each business day; and
    - (3) Not impede the flow of pedestrian and vehicular traffic through the parking lot.
  - g. All parking lot entrances and exits shall be kept clear.
  - h. Any activity proposed within a public right-of-way shall require an Encroachment Permit from the Public Works Department.
  - i. For outdoor display/sale activities related to the Rose Bowl and Rose Parade, the Zoning Administrator may modify the standards identified in this Subparagraph, above.
4. **Temporary model homes.** Temporary model homes and related facilities may be established within the area of an approved residential subdivision project, solely for the first sale of homes. The application may be approved for a maximum time period of 18 months.
5. **Temporary real estate sales offices.** A temporary real estate sales office may be established within the area of an approved development project solely for the first sale of homes. The application for a temporary real estate office may be approved for a maximum time period of 18 months.
6. **Temporary structures.** A temporary classroom, office, or similar portable structure, including a manufactured or mobile unit, may be approved, for a maximum time period of 12 months, as an accessory use or as the first phase of a development project, in the commercial and industrial zoning districts.
7. **Temporary work trailers.**
- a. A trailer or mobile home may be used as a temporary work site for employees of a business:
    - (1) During construction of a subdivision or other development project when a valid Building Permit is in force; or
    - (2) Upon demonstration by the applicant that the temporary work site is a short-term necessity, while a permanent work site is being obtained.

- b. A permit for temporary work trailers may be granted for up to 12 months.
8. **Similar temporary uses.** Similar temporary uses which, in the opinion of the Zoning Administrator, are compatible with the zoning district and surrounding land uses, and are necessary because of unusual or unique circumstances beyond the control of the applicant.
- E. Application filing, processing procedures, and action.** An application for a Temporary Use Permit shall be filed with the Department and processed in the following manner.
1. **Application requirements.** An application for a Temporary Use Permit shall be filed in compliance with Chapter 17.60 (Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Temporary Use Permit applications. The applicant shall be responsible for providing the evidence in support of the findings required by Subsection G. (Findings and decision), below.
  2. **Time for filing.** An application for a Temporary Use Permit shall be submitted for approval, in compliance with this Section, at least 10 days before the date that the proposed use is scheduled to take place.
  3. **Applicable review authority.** The Zoning Administrator shall be the applicable review authority for Temporary Use Permits.
  4. **Public hearing requirements.** Notice of a public hearing shall not be required for the Zoning Administrator's decision on a Temporary Use Permit.
  5. **Action.** The Zoning Administrator shall make a decision on the application within three days of deeming the application complete, in compliance with Section 17.60.060 (Initial Application Review).
  6. **Effective dates.** A Temporary Use Permit shall be effective one day after its approval.
- F. Standards.** Standards for floor areas, heights, landscaping, parking, setbacks, and other structure and property development standards that apply to the category of use or the zoning district of the subject site shall be used as a guide for determining the appropriate development standards for temporary uses.
1. **Adjustment of standards.** The Zoning Administrator may authorize an adjustment from the specific standards deemed appropriate or necessary consistent with the temporary nature of the use.
  2. **Removal of materials and structures associated with the temporary use.** All materials and structures associated with the temporary use shall be removed from the site within 10 days from the actual termination of operations, or after the expiration of the Temporary Use Permit, whichever first occurs.
  3. **Other permits required.** Temporary uses may be subject to additional licenses, inspections, or permits required by applicable local, State, or Federal requirements.

**4. Duration of permit.**

- a. A Temporary Use Permit shall be effective until the date specified by the Zoning Administrator, and not exceed 45 days, unless otherwise specified in this Section.
- b. A Temporary Use Permit for a farmers' market shall be effective until the date specified by the Zoning Administrator, and not exceed 12 months.
- c. The permit shall become void if not used within the approved time period.

**G. Findings and decision.** The Zoning Administrator may approve, conditionally approve, or disapprove an application for a Temporary Use Permit. The Zoning Administrator may defer action and refer the application to the Commission for review and decision at a scheduled public hearing. The Zoning Administrator may approve a Temporary Use Permit only after first finding that:

1. The proposed temporary use would be located, operated, and maintained in a manner in conformance with the goals, policies, and objectives of the General Plan and the provisions of this Zoning Code.
2. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;
3. The use, as described and conditionally approved, would not be detrimental or injurious to property or improvements in the surrounding area or to the public health, safety, or general welfare of the City; and
4. Approved measures for the removal of the use and site restoration have been required to ensure that no changes to the site would limit the range of possible future land uses otherwise allowed by this Zoning Code.

**H. Conditions of approval.** In approving a Temporary Use Permit, the Zoning Administrator may impose conditions (e.g., buffers, hours of operation, landscaping and maintenance, lighting, parking, performance guarantees, property maintenance, signs, surfacing, time limits, traffic circulation, etc.) deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Subsection G. (Findings and decision), above, and to preserve the public health, safety, and general welfare.

**I. Condition of site following temporary use.** Each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used in compliance with the provisions of this Zoning Code. The Zoning Administrator may require appropriate security before initiation of the use to ensure proper cleanup after the use is finished.

**J. Post- approval procedures.**

- 1. General procedures.** The general procedures relating to changes, expiration, and performance guarantees that are identified in Article 7 (Zoning Code Administration), and those identified in Chapter 17.64 (Permit Implementation, Time Limits, and Extensions), shall apply following the decision on a Temporary Use Permit application.
- 2. Specific Temporary Use Permit procedures.**
  - a. Appeal.** Only the applicant may appeal a decision on a Temporary Use Permit.
  - b. Revocation.** A Temporary Use Permit may be revoked by the Zoning Administrator effective immediately upon verbal or written notice for violation of the terms of the permit.
  - c. Modification.** The Zoning Administrator may require changes in the terms or conditions of an approved Temporary Use Permit at any time while it is in effect, if needed to ensure that the use may continue to operate consistent with the required findings identified in Subsection H, above.

## 17.61.050 - Conditional Use Permits and Master Plans

- A. Purpose.** Conditional Use Permits are intended to allow for activities and uses which may be desirable in the applicable zoning district and compatible with adjoining land uses, but whose effect on a site and its surroundings cannot be determined before being proposed for a particular location. The procedures of this Section provide for the review of the configuration, design, location, and potential impacts of the proposed use in order to evaluate the compatibility of the proposed use with surrounding uses, and the suitability of the use to the site.
- B. Applicability.** A Conditional Use Permit is required to authorize proposed land uses and activities identified by Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) as being allowable in the applicable zoning district subject to the approval of a Conditional Use Permit, as well as by other specified sections of this Zoning Code (e.g., shared parking provisions [17.46.050]).
- C. Application requirements.** An application for a Conditional Use Permit shall be filed in compliance with Chapter 17.60 (Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Conditional Use Permit applications. The applicant shall be responsible for providing the evidence in support of the findings required by Subsection G. (Findings and decision) below.
- D. Review authority.** Conditional Use Permits may be granted in compliance with the following:
1. **The Hearing Officer may:**
    - a. Grant a (Major) Conditional Use Permit for any use listed in Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) as requiring a Conditional Use Permit, as well as by other specified sections of this Zoning Code; or
    - b. Defer action and refer the application directly to the Board of Zoning Appeals (BZA).
  2. **The Zoning Administrator may:**
    - a. Grant a Minor Conditional Use Permit for any use listed in Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) as requiring a Minor Conditional Use Permit, in addition to those matters identified in Subsection E., below; or
    - b. Defer action and refer the application directly to the Hearing Officer or the Board of Zoning Appeals (BZA).
- E. Minor Conditional Use Permits.** Minor Conditional Use Permits may be granted for only the following land use activities, in addition to those listed in Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards):
1. Auctions, for more than two days each month for the sale of items (e.g., antiques, collectibles, household components, motor vehicles, etc.) authorized to be sold by the auctioneer;

2. Alteration or expansion of a nonconforming use in compliance with Section 17.71.090 E. (Alteration or enlargement of a nonconforming use or structure shall require a permit);
3. Temporary classrooms, offices, or similar structures, including a manufactured or mobile unit, which may be approved for a time period exceeding 12 months from the date of original approval, as an accessory use or as the first phase of a development project; and
4. Temporary enclosed storage, unrelated to a construction project, that may be approved for a time period exceeding 12 months from the date of original approval.

**F. Procedures.**

The procedure for a Minor Conditional Use Permit shall be the same as for a Minor Variance, including those for notice and hearing upon request.

**G. Project review, notice, and hearing.**

1. Each application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation to the Hearing Officer for consideration on a (Major) Conditional Use Permit.
2. The applicable review authority shall conduct a public hearing on an application for a Conditional Use Permit (Major and Minor) before the approval or disapproval of the permit.
3. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 17.76 (Public Hearings).
4. The applicable review authority shall render a decision on the application within 10 days following the final public hearing on the application.

**H. Findings and decision.** Following a public hearing, the applicable review authority may approve, conditionally approve, or disapprove an application for a Conditional Use Permit. The review authority may approve a Conditional Use Permit (Major and Minor) only after first finding that:

1. The proposed use is allowed with a Conditional Use Permit (Major and Minor) within the applicable zoning district and complies with all applicable provisions of this Zoning Code;
2. The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district;
3. The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan;
4. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;



5. The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and
6. The design, location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection.

**I. Master Plans.** Master Plans, also known as Master Conditional Use Permits, shall be processed in compliance with the following provisions:

**1. Purpose.** The purposes of this Subsection are to:

- a. Establish a procedure which reduces processing time and uncertainty by consolidating several Conditional Use Permit hearings over an extended period of time; and
- b. Ensure orderly and thorough City review of expansion plans for certain public or semi-public and open space uses, resulting in more compatible and desirable development.

**2. Applicability.**

- a. **Requirement.** The Director may require any use in the PS or OS district to submit a Master Plan application, appropriate environmental documents, and plans as required by Subparagraph H.5., below. Outside of the PS and OS districts, the Director may require any public, semi-public use to submit a Master Plan application as required by Subparagraph H.5., below. A Master Plan may be required and submitted even if construction is not imminent.

- b. **Projects that are consistent.** After a Master Plan is approved by the Council, proposed projects consistent with the plan, as determined by the Director, shall not require a Conditional Use Permit or a Minor Conditional Use Permit, but shall comply with all other applicable requirements of this Zoning Code.

**c. Projects that are inconsistent.**

- (1) If a project that is inconsistent with an approved Master Plan is proposed for a site located within an area covered by a Plan, an application shall be filed for an amendment to the plan, in compliance with Subparagraph 6.c. (Amendments), below.
- (2) In the alternative, the Director may allow an applicant to apply for a Conditional Use Permit (Major or Minor), if the permit would be required in the absence of the Master Plan, for only the following projects:
  - (a) Changes in parking involving 25 or fewer cars or 300 square feet or less of parking area;
  - (b) Fences and walls;

- (c) Landscaping changes;
- (d) Minor changes in internal parking lot circulation;
- (e) Structures of 5,000 square feet or less of gross floor area; and
- (f) Other changes determined to be minor by the Director.

**3. Procedures, requirements, review, and findings.**

- a. Standard procedure.** Master Plans shall be processed in compliance with this Section, except as provided in this Subsection.
- b. Review authority.** The Council shall be the applicable review authority for Master Plans.
- c. Application requirements.** An application for a Master Plan shall be filed in compliance with Chapter 17.60 (Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Master Plan applications. The applicant shall be responsible for providing the evidence in support of the findings required by Subsection G. (Findings and decision) above.
- d. Commission's review.** Before consideration by the Council, each Master Plan application shall be reviewed by the Commission in compliance with Chapter 17.76 (Public Hearings). The Commission's review shall be advisory to the Council and shall include a written recommendation on the required findings.
- e. Historic Preservation Commission's (HPC) review.** The Historic Preservation Commission (HPC) shall review and make a recommendation directly to the Council on a proposed Master Plan only if the plan:
  - (1) Includes any area within a Landmark Overlay District or Historic District;
  - (2) Proposes alteration, demolition, or removal of a landmark, a historic resource, or a work of Greene and Greene; or
  - (3) Includes other historic resources determined to be significant by the Director.
- f. Design Commission's review.** The Design Commission (DC) shall review and make a recommendation to the Commission on each proposed Master Plan application.
- g. Community Development Committee's review.** The Community Development Committee shall review Master Plan applications submitted for projects located within redevelopment areas for consistency with an adopted Redevelopment Plan.
- h. Findings.** The findings required for a Conditional Use Permit, in compliance with Subsection G. (Findings and decision), above, shall be required for a Master Plan.

4. **Variance authority.** If the Master Plan includes an application for a Variance, the applicable review authority shall have the authority to approve, conditionally approve, or disapprove the Variance, in compliance with the required Variance findings identified in Subsection 17.61.080G. (Findings and decision).
5. **Expiration, amendments, and subsequent review.**
  - a. **Expiration.** A Master Plan shall expire on the date designated by the applicable review authority.
  - b. **Renewal.** An approved Master Plan may be renewed for a period approved by the Commission, without notice or public hearing, if the Commission determines that findings made and conditions imposed on the original approval still apply. The renewal period, if approved, shall specify the new expiration date of the plan. Application for renewal shall be made in writing before expiration of the original approval.
  - c. **Amendments.** The Council may approve, conditionally approve, or disapprove an application for an amendment to an approved Master Plan. The application shall be processed with the same procedures and fees as required for Master Plan applications. The City's review of the proposed amendment shall be limited to the scope of the application, and shall not address reconsideration of aspects of the existing Master Plan, including conditions of approval, that are not the subject of the application, except as these aspects may be affected by the proposed amendment.
  - d. **Five-year review required.**
    - (1) All Master Plans shall be reviewed by the Commission, or other review authority designated by the Council when it approves the plan, every five years, commencing the fifth year after the approval date of the Master Plan, for compliance with the features of the plan and conditions of approval.
    - (2) The review shall take place at a noticed public hearing as provided in this Section for the initial hearing on adoption of the plan.
    - (3) The owner shall be notified in writing of the review authority's determination.
    - (4) If the review authority finds noncompliance with the plan or the conditions of approval, it may direct:
      - (a) The Director to withhold building and other permits for any development within the area covered by the plan until compliance is achieved; and/or
      - (b) The Director to schedule a public hearing before the Council for revocation of the Master Plan. The revocation hearing shall be noticed as required for a hearing for adoption of a Master Plan.

**6. Controlling provisions.** The requirements of this Subsection shall apply to Master Plans, in lieu of the renewal, modification, and reapplication provisions of Chapter 17.64 (Permit Implementation, Time Limits, and Extensions).

**J. Specialized Conditional Use Permits and Minor Conditional Use Permits.** If an application for a Conditional Use Permit or a Minor Conditional Use Permit involves one of the situations specified below, special notice and finding requirements shall be in compliance with the following:

**1. Alcohol sales.** Hearing notices and findings for Conditional Use Permit applications for the sale of alcohol shall be as follows:

**a. Off-site alcohol consumption.** The hearing notices shall be posted within 1,000 feet of the subject site, if the site abuts a residential zoning district.

**b. Findings.** In lieu of the regular Conditional Use Permit findings identified in Subsection G. (Findings and decision), above, the following findings shall be made before approval of a Conditional Use Permit to sell alcohol:

(1) The proposed location of the site for the Conditional Use Permit would not:

(a) Adversely affect the general welfare of the surrounding property owners;

(b) Result in an undesirable concentration of premises for the sale of alcoholic beverages, including beer and wine, in the area;

(c) Detrimentally affect the nearby surrounding area after giving special consideration to the proximity and nature of the proposed use with respect to the following:

i Residential uses and residential zoning districts;

ii Hospitals, park and recreation facilities, places of public assembly, public or private schools, and religious assembly uses that attract minors and other similar uses; and

iii Other establishments offering alcoholic beverages (including beer and wine) for sale for consumption both on- and off-site.

(d) Aggravate existing problems created by the sale of alcohol (e.g., littering, loitering, noise, public drunkenness, and sales to minors); and

(e) The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.

(2) The public convenience or necessity is served. This additional finding shall apply only to applications for Conditional Use Permits that the State Department of Alcohol Beverage Control (ABC) determines are located in an

area of undue concentration as defined by State law (California Business and Professions Code Section 23958.4.)

- K. Conditions of approval.** In approving a Conditional Use Permit (Major, Minor, or Master Plan), the applicable review authority may impose conditions (e.g., buffers, hours of operation, landscaping and maintenance, lighting, off-site improvements, parking, performance guarantees, property maintenance, signs, surfacing, time limits, traffic circulation, etc.) deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Subsection G. (Findings and decision), above, and to preserve the public health, safety, and general welfare.
- L. Post approval procedures.** The procedures relating to appeals, changes, expiration, performance guarantees, and revocation that are identified in Article 7 (Zoning Code Administration), and those identified in Chapter 17.64 (Permit Implementation, Time Limits, and Extensions), except for Master Plans, shall apply following the decision on a Conditional Use Permit application.



## 17.61.060 - Expressive Use Permits

- A. Purpose.** Expressive Use Permits are intended to:
1. **Eliminate unfettered discretion.** Establish a procedure which places limits on processing time and eliminates any possibility for the exercise of unfettered discretion in reviewing applications for developing and operating expressive uses.
  2. **Ensure thorough review.** Ensure orderly and thorough City review of applications for certain expressive uses, including adult business uses.
  3. **Establish uniform regulations.** Establish reasonable and uniform regulations that would reduce possible adverse secondary effects that expressive uses may have upon the residents of the City, and preserve the integrity of existing commercial areas of the City and of the residential areas which are in close proximity to the commercial areas.
  4. **Protect Constitutional rights.** Protect the rights conferred by the United States Constitution to expressive uses, including adult business uses, in a manner that ensures the continued and orderly development of property within the City and diminishes those undesirable negative secondary effects that recognized studies have shown to be associated with the development and operation of expressive uses.
  5. **Ensure compatibility.** Allow a process whereby the unusual site development feature or operating characteristics of uses which shall comply with this Section may be conditioned through an individual review, in order to ensure compatibility with the surrounding uses of property.
- B. Applicability.** An Expressive Use Permit is required to authorize proposed land uses and activities identified by Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) as being allowable in the applicable zoning district subject to the approval of an Expressive Use Permit.
- C. Permit requirements.**
1. **Expressive use defined.** An “expressive use” is a land use activity that is allowed subject to a public hearing process in which the use is evaluated against the findings identified in Subsection G. (Findings and decision) below.
  2. **Permit required.** Expressive uses shall not be developed or operated within the City by right. All persons wishing to develop or operate an expressive use within the City shall apply for and obtain an Expressive Use Permit in compliance with this Section.
  3. **No permit needed for existing uses.**
    - a. The Council declares that all expressive uses legally established before October 13, 1997, shall not be deemed to be nonconforming in compliance with Chapter 17.71 (Nonconforming Uses, Structures, and Lots), for failure to seek and obtain an Expressive Use Permit.

- b. The Council further declares that all legally established expressive uses, as that term is defined in Article 8 (Glossary of Specialized Terms and Land Use Types), shall be deemed to be conforming for the use(s) specified in a Conditional Use Permit or Live Entertainment Permit issued for the use.
- D. Application requirements.** An application for an Expressive Use Permit shall be filed in compliance with Chapter 17.60 (Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Expressive Use Permit applications. The applicant shall be responsible for providing the evidence in support of the findings required by Subsection G. (Findings and decision) below.
- E. Review authority.** The Zoning Administrator shall act as the applicable review authority on all Expressive Use Permits.
- F. Project investigation, notice, and determination.**
1. **Investigation.** The Zoning Administrator shall investigate the proposed expressive use, including consultation with other City departments and inspection of the premises as needed. Consultation is not considered a grounds for the City to unilaterally delay the review of an application deemed complete in compliance with Section 17.61.060 (Initial Application Review).
  2. **Notice.** Notice of the public hearing shall be provided:
    - a. In compliance with Chapter 17.76 (Public Hearings); and
    - b. At least 14 days before the public hearing in the following manner:
      - (1) By mail, to the property owner(s) and the project applicant, if different;
      - (2) By mail, to all owners of property within 500 feet of the subject site's boundaries, as shown on the latest equalized tax assessment roll; and
      - (3) By posting, along all public streets within 500 feet of the subject site's boundaries.
  3. **Determination.** The Zoning Administrator shall render a determination in the following manner:
    - a. The Zoning Administrator shall render a determination on the application within 60 days of the Director deeming the application complete in compliance with Section 17.61.060 (Initial Application Review).
    - b. The determination shall be made no later than the same day as the final hearing on the application, and if not in writing, a written determination shall be prepared within three days following the date of the determination.
    - c. In reaching a determination, the Zoning Administrator shall not be bound by the formal rules of evidence.



- d. Failure of the Zoning Administrator to render a determination within the above stated time frame shall be deemed to constitute a disapproval.

**G. Findings and decision.** Following a public hearing, the Zoning Administrator may approve, conditionally approve, or disapprove an application for an Expressive Use Permit. The Zoning Administrator may approve an Expressive Use Permit only after first finding that:

1. The proposed use is allowed with an Expressive Use Permit within the subject zoning district and complies with the applicable development and design requirements of the subject zoning district and with all applicable provisions of this Zoning Code;
2. The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan;
3. The development, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;
4. The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City;
5. The subject site is adequate in terms of size, shape, topography, and circumstances and has sufficient access to streets and highways which are adequate in width and pavement type to carry the quantity of traffic expected to be generated by the proposed use;
6. The design, location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity, in terms of aesthetic values, character, scale, and view protection;
7. The proposed use would provide and maintain:
  - a. Wastewater to establish and maintain an unrestricted flow in sanitary sewers during average and peak conditions as established by the City's approved Sewer Master Plan, as it may be amended from time to time;
  - b. Solid waste services to establish and maintain a level of service consistent with the City's approved Source Reduction and Recycling Element;
  - c. Fire prevention and suppression services in compliance with the Uniform Fire Code to establish and maintain minimum response time for fire and emergency medical calls as established by the General Plan; and
  - d. Police services and crime prevention services to establish and maintain minimum response time for police calls for service as established by the General Plan.
8. If the proposed use constitutes an adult business, as defined in Article 8 (Glossary of Specialized Terms and Land Use Types), it:
  - a. Will comply with the location criteria of Section 17.50.030; and

- b. Does not involve an applicant, if an individual, or any of the officers or general partners of an applicant, if a corporation or partnership, that has been found guilty or pleaded *nolo contendere* within the past four years of a misdemeanor or felony classified by the State as a sex or sex-related offense.

**H. Period of validity.** An Expressive Use Permit approved in compliance with this Section shall become void unless the proposed use is exercised in compliance with Section 17.64.040 (Time Limits and Extensions).

**I. Special appeal and Call for Review provisions.**

1. **Time of appeal.** Any interested person may appeal the decision of the Zoning Administrator directly to the Council or the decision may be called for review in compliance with Chapter 17.72 (Appeals).
2. **Time for hearing on appeal or Call for Review.** Consideration of an appeal of the Zoning Administrator's decision or Call for Review shall be at a public hearing which shall be noticed in compliance with Chapter 17.76 (Public Hearings) and shall occur within 30 days of the filing or initiation of the appeal.
3. **Hearing.** The Council shall conduct the public hearing and hear testimony regarding the appeal from any interested party. In reaching its decision, the Council shall not be bound by the formal rules of evidence.
4. **Decision on appeal.**
  - a. The Council's action on the appeal of the Zoning Administrator's decision shall be by a majority vote of the quorum and upon the conclusion of the *de novo* public hearing, the Council shall grant, conditionally grant, or disapprove the application.
  - b. The decision shall be made no later than the same day as the final hearing on the application.
  - c. The Council's decision shall be final.

**J. Special revocation or modification provisions.**

1. **Findings.** Any permit issued in compliance with this Section may be revoked or modified on the basis of any of the following, in compliance with Section 17.78.090 (Permit Revocation or Modification):
  - a. The business or use has been conducted in a manner that violates one or more of the conditions imposed upon the issuance of the permit or that fails to conform to the plans and procedures described in the application, or that violates the occupant load limits established by the Fire Marshal.
  - b. The permittee has failed to obtain or maintain all required City, County, and State licenses and permits.

- c. The permit is being used to conduct a use different from the use for which it was issued.
  - d. The permittee has misrepresented a material fact in the application for the permit or has not answered each question therein truthfully.
  - e. Due to changes in on-site conditions, the expressive use business lacks sufficient on-site parking area for employees and the public under the standards identified in the City's parking regulations (Chapter 17.46 [Parking]), except for an existing use that is determined to be legally nonconforming with respect to parking.
  - f. The allowed business creates sound levels which violate the City's Noise Ordinance.
  - g. The permittee, if an individual, or any of the officers or general partners, if a corporation or partnership, is found guilty or pleaded *nolo contendere* to a misdemeanor or felony classified by the State as a sex or sex-related offense during the period of the adult establishment's operation.
  - h. The use for which the approval was granted has been discontinued, ceased to exist, or has been suspended for a continuous period of at least 12 months.
2. **Notice of hearing.** The Zoning Administrator, or the review authority for the original permit if other than the Zoning Administrator, shall notice and conduct a public hearing, in compliance with Chapter 17.76 (Public Hearings), on the proposed permit revocation or modification.
  3. **Hearing.** The review authority shall conduct the revocation hearing and hear testimony regarding the proposed revocation or modification from any interested party. The review authority shall not be bound by the formal rules of evidence at the hearing.
  4. **Notice.** Written notice of the hearing on the proposed permit revocation or modification, together with written notification of the specific grounds of the complaint against the permittee, shall be personally delivered or sent by certified mail to the permittee at least 10 days before the hearing.
  5. **Decision.** The review authority shall revoke, not revoke, or modify (not revoke but add additional conditions to) the permittee's Expressive Use Permit. Any additional conditions imposed upon the permit shall be deemed reasonable and necessary and in keeping with the development standards of this Zoning Code and the subject zoning district (including any applicable overlay district regulations).
  6. **Decision and notice.** Within 10 days of the conclusion of the hearing, the review authority shall render a decision, supported by written findings. A copy of the decision and written findings shall be mailed to the owner of the use or structure for which the permit was revoked or modified and to any other person who has filed a written request for the notice.

7. **Appeal of decision.** If the decision on revocation or modification is made by the Zoning Administrator, any interested party may appeal the decision directly to the Council in compliance with Chapter 17.72 (Appeals).
  8. **Effective date.** The effective date of a decision to revoke or modify an Expressive Use Permit shall be in compliance with Section 17.64.020 (Effective Dates).
  9. **Renewal.** In the event a permit is revoked or modified in compliance with this Subsection, another Expressive Use Permit shall not be granted to the permittee or on the site of the permit within 12 months after the date of the revocation or modification.
- K. Development and operating standards.** The development and operation of an expressive use business that meets the definition of an adult business, in compliance with Article 8 (Glossary of Specialized Terms and Land Use Types), shall comply with the requirements of Section 17.50.030 (Adult Businesses).
- L. Conditions of approval.** In approving an Expressive Use Permit, the Zoning Administrator may impose conditions (e.g., buffers, hours of operation, landscaping and maintenance, lighting, off-site improvements, parking, performance guarantees, property maintenance, signs, surfacing, time limits, traffic circulation, etc.) deemed reasonable and necessary, and in keeping with the development standards of this Zoning Code and the subject zoning district (including any applicable overlay district regulations), to ensure that the approval would be in compliance with the findings required by Subsection G. (Findings and decision), above, and to preserve the public health, safety, and general welfare.
- M. Post approval procedures.** The procedures relating to changes, expiration, and performance guarantees that are identified in Article 7 (Zoning Code Administration), and those identified in Chapter 17.64 (Permit Implementation, Time Limits, and Extensions), shall apply following the decision on an Expressive Use Permit application.

## 17.61.070 - Adjustment Permits

- A. Purpose.** Adjustment Permits are intended to promote and encourage quality development within the City's residential, commercial, industrial, and other zoning districts established by City-adopted specific plans relating to property development, design, and open space areas, while protecting the public health, safety, general welfare, integrity, and character of the City, and ensuring conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.
1. **Comprehensive development.** Adjustment Permits are encouraged and expected to produce a comprehensive development incorporating a more enhanced environment and architectural excellence than would normally be possible under more standard district development requirements.
  2. **Preserve a significant historic resource.** Where applicable, the Adjustment Permit provides the flexibility in development standards necessary to preserve a significant historic landmark, resource, site, or structure.
  3. **Project review.** Project review shall determine whether the Adjustment Permit should be approved by weighing the public need for, and the positive benefits to be derived from, the proposed project against any of the potential unavoidable negative effects it may cause.
- B. Applicability.** An application for an Adjustment Permit shall be reviewed first by the Commission and then by the Council, and shall be required before the issuance of any nondiscretionary building, grading, or other required permits. For major projects also requiring a Conditional Use Permit, in compliance with Section 17.61.050, the two permits shall be processed concurrently in compliance with Section 17.60.030 (Concurrent Permit Processing).
1. **Land use activity.** An Adjustment Permit may only authorize a land use activity that is allowed in the base zoning district.
  2. **General Plan conformance required.** Conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan shall be required.
  3. **Modify standards.**
    - a. An Adjustment Permit may adjust or modify, where necessary and justifiable, all applicable development standards (e.g., building envelope [coverage, height, and setbacks], fence and wall heights, landscaping, off-street parking [design and ratios], open space, street layout, etc.) identified in this Zoning Code, with the exception of an increase in the applicable density/FAR provisions.
    - b. An Adjustment Permit may allow for the density to be averaged on lots divided by two or more zoning districts.
    - c. Residential development projects with increased density standards may only be approved in compliance with State law (Government Code Section 65915).

- C. Application requirements.** An application for an Adjustment Permit shall be filed in compliance with Chapter 17.60 (Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Adjustment Permit applications. The applicant shall be responsible for providing the evidence in support of the findings required by Subsections D. (Review authority criteria) and F. (Findings and decision), below.
- D. Review authority criteria.** The Commission shall first review and recommend and the Council may approve an Adjustment Permit only when the following criteria are met:
1. The land involved shall be a minimum of ½ acre in area and shall be either in one or multiple ownership(s) filed jointly by the owner(s) of all of the property included.
  2. The proposed development shall be in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan, and shall result in a comprehensive development incorporating a more enhanced environment and architectural excellence than would normally be possible under more standard district development requirements.
  3. The various elements of the proposed plan, including structures, grounds, and open space, shall relate to one another in a manner that forms a comprehensive plan of sufficient unity to justify exceptions, if any, to the standard district development requirements identified in this Zoning Code.
  4. The proposed development shall not adversely affect adjacent properties.
  5. Where applicable, the Adjustment Permit provides the flexibility in development standards necessary to preserve a significant historic landmark, resource, site, or structure.
- E. Project review, notice, and hearing.**
1. Each Adjustment Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation first to the Commission and then to the Council for their consideration.
  2. The Director may refer the application to a City commission(s) or committee(s) for review and comment.
  3. Public hearings shall be required for all Adjustment Permits considered first by the Commission and then by the Council.
  4. Notice of the public hearings shall be provided, and the hearings shall be conducted in compliance with Chapter 17.76 (Public Hearings).

**F. Findings and decision.** Following public hearings, the Commission shall recommend and the Council may approve, conditionally approve, or disapprove an application for an Adjustment Permit. The Commission may recommend and the Council may approve an Adjustment Permit only after first finding that:

1. The proposed development is:
  - a. Allowed within the subject base zoning district;
  - b. In conformance with the:
    - (1) Criteria identified in Subsection D. (Review authority criteria) above;
    - (2) Goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan; and
    - (3) Applicable provisions of this Zoning Code relating to both on- and off-site improvements that are necessary to accommodate flexibility in site planning and property development and to carry out the purpose and intent of the subject base zoning district.
2. The proposed project would produce a comprehensive development incorporating a more enhanced environment and architectural excellence (e.g., appropriate variety of structure placement and orientation opportunities, appropriate mix of structure sizes, high quality architectural design, increased amounts of landscaping and open space, improved solutions to the design and placement of parking facilities, etc.) than would normally be possible under more standard district development requirements;
3. The design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access and public services and utilities (e.g., drainage, fire protection, sewers, water, etc.), would ensure that the proposed development would not endanger, jeopardize, or otherwise constitute a hazard to the public health, safety, or general welfare, or injurious to the property or improvements in the vicinity and base zoning district in which the property is located;
4. The subject site is:
  - a. Physically suitable for the type and density/intensity of development being proposed; and
  - b. Adequate in shape and size to accommodate the proposed development.
5. The public need for, and the positive benefits to be derived from, the proposed project clearly outweigh any of the potential unavoidable negative effects it may cause; and
6. Where applicable, the Adjustment Permit provides the flexibility in development standards necessary to preserve a significant historic landmark, resource, site, or structure.

- G. Conditions of approval.** In approving an Adjustment Permit, the Council may impose conditions (e.g., buffers, landscaping and maintenance, lighting, off-site improvements, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, etc.) deemed reasonable and necessary to:
1. **Compliance with findings.** Ensure that the approval would be in compliance with the findings required by Subsection F. (Findings and decision) above. Special consideration shall be given to Subsection D. (Review authority criteria) above, that ensures that the proposed project would produce a comprehensive development incorporating a more enhanced environment and architectural excellence;
  2. **Conformance with Zoning Code.** Ensure conformance with specified standards and provisions of this Zoning Code (e.g., allowable land uses and density/FAR) in order to ensure harmony with the surrounding neighborhood);
  3. **Accommodate flexibility.** Accommodate flexibility in site planning and property development;
  4. **Mitigate impacts.** Mitigate all project-related adverse effects, unless a statement of overriding considerations is adopted by the Council in compliance with State law (Public Resources Code Section 15093); and
  5. **Preserve.** Preserve the public health, safety, and general welfare.
- H. Post approval procedures.** The procedures relating to appeals, changes, expiration, performance guarantees, and revocation that are identified in Article 7 (Zoning Code Administration), and those identified in Chapter 17.64 (Permit Implementation, Time Limits, and Extensions), shall apply following the Commission's recommendation and the Council's final action on an Adjustment Permit application.