

CONDITIONAL USE OR SPECIAL USE PERMIT

AN INFORMATIONAL GUIDE



PLANNING DEPARTMENT

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WHAT IS A CONDITIONAL USE PERMIT OR SPECIAL USE PERMIT?

ARTICLE 25. CONDITIONAL USE PERMIT

The California City Municipal Code (CCMC), **ARTICLE 25. Sections 9-2.2500 - 9-2.2503** **CONDITIONAL USE PERMIT (CUP)** outlines the conditional use permit process.

The term conditional use permit is sometimes referred to by its acronym, CUP and written as such, to save time when written repetitively. However, for the purpose of this guide, it is spelled out to eliminate confusion.

9-2-2500. Purpose.

Under the Code, some uses are permitted subject to the granting of a special permit. This article describes how the Planning Commission shall consider, grant, or deny applications for use permits.

9-2-2501. Procedure for Consideration of Permit.

The Planning Commission may grant permits for uses as prescribed in the regulations for each district in accordance with the following procedure.

9-2.2502. Term of Permit.

(a) A permit is effective when granted by resolution of the Commission or, if appealed to the Council, when the Council adopts a resolution resolving the appeal. The permit granted shall run with the land and shall continue to be valid upon a change of ownership.

(b) A permit shall expire on the date specified by the Commission, unless time is prescribed, unless the permit is extended or revoked as set forth below. The time limits set by the Commission shall be reasonable, based on the size, nature and complexity of the development. The time limit may be extended for good cause, such as proof of an unusual hardship not of the applicant's own making.

(c) A permit may be revoked for violation of this Chapter or failure to comply with the permit conditions. Notice of revocation shall be sent to the person responsible for compliance by the Planning Director. The Commission shall consider the revocation. The same notice and hearing procedure shall be used for revocation as for consideration of a conditional use permit. The Commission may revoke the permit or take such action as may be necessary to ensure compliance.

9-2.2503. New Application for Conditional Use Permit.

Following the denial of a use permit application or the revocation of a 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 six (6) months from the date of denial or revocation of the use permit.

FEASIBILITY AND TIME INVOLVED

The first step is to determine if such a proposal is feasible. Contact the City's Planning Department to discuss the zoning, general plan designation for the site, review the appropriate zoning district and the lists for permitted and conditional uses within the zone. It may be necessary to obtain other discretionary approvals prior to, or concurrent with, a conditional use permit or special use permit. The Development Review Committee (DRC) and Planning Commission will want to determine the nature and scope of the conditional use permit or special use permit. Specifically describe the reason for the conditional use permit or special use permit and if such a permit is necessary for construction of a commercial or industrial business. Discuss how soon you plan to develop?

HOW DO I APPLY FOR DRC?

To apply for a conditional use permit or special use permit you need to file an application with the Planning Department and pay a fee. The City has incorporated the **Development Review Process (DRC)** for **all** projects including: Large apartment complex, tract map, parcel map, commercial and industrial development. You may visit the Planning Department to pick up the application, have one mailed to you or email your request. Email requests will receive a pdf version that you may print out.

An application package will consist of the following and you must complete or be aware of your obligations to the process:

- Checklist for Conceptual Review, (DRC or Site Plan). Depending on the nature of the conditional use permit or special use permit additional checklists may apply.
- Application form. Discuss the purpose of the conditional or special use and if the conditional or special use permit is necessary to build a future business and how soon you plan to build?
- Applicant's Initial Study.
- Applicant's Environmental Information form.
- Biota Study. (Must be current.)
- Pictures of the site. North, East, South, West.
- Picture of the nearest fire hydrant.

- Will-serve letters from all utility companies are necessary if you plan to build.
- Two (2) copies of a preliminary title report (less than thirty [30] days old).
- Ten (10) copies, 11" x 17" in size of any proposed buildings or parcel development.
- One 8 ½" x 11" copy of any proposed building development, tract or parcel map. This will be used for publication purposes.
- Application fees due as follows:

APPLICATION FEES

- 1) DRC is required: \$750.00.
- 2) Conditional or special permit fee is \$750.00 plus \$20.00 per lot. Payment by cash, credit card (VISA, MASTER CARD or DISCOVER) or check made payable to the City of California City.
- 3) Additional costs depends on the extent of the conditional use permit or special use permit. Return completed application and fees to the Planning Department.

Once an application is submitted to the City's Planning Department, it will be reviewed to determine if it is complete. You must return your checklist with your application packet. Failure to return the required items will delay your project. No project will be placed on the DRC Agenda unless all items are received as required.

A DRC meeting is then scheduled with City staff in accordance with the DRC calendar. The DRC consists of staff from City departments such as, Engineering, Public Works, Building, Fire, Police and Planning. The Planning Director acts as Chairman of DRC or their Appointed Designee.

The purpose of the DRC is to formulate a recommended action for the Planning Commission regarding the project. This meeting is also held so the applicant can discuss the recommendations with the DRC. Applicants are strongly encouraged to attend the DRC meeting and resolve **all** concerns at this level.

Additional DRC meetings may be necessary to resolve conditions of approval and to make revisions.

Written comments regarding the conditional use permit or special use permit are received at DRC from the Department Heads. These written comments will be compiled into formal Conditions of Approval and signed by the owner/developer or appointed agent and the DRC Chairman or Appointed Designee.

Once Conditions of Approval are formally signed by all parties, the Planning Technician will prepare the notice of public hearing

according to the Planning Commission calendar. The Planning Technician will prepare the notice of public hearing and publish it in the local newspaper of general circulation. The Planning Technician will send letters noticing the public hearing to all property owners within 300 feet, 10 days prior to the public hearing. An application shall be accompanied by a fee set by resolution of the Council to cover the cost of handling.

The Commission shall hold a public hearing on the application after notice given in the same manner as notices for hearings on zoned amendments. The Commission shall review the application and the statement and drawings and shall receive pertinent evidence and testimony concerning the proposed use and the proposed conditions.

The Commission shall act on the application within thirty (30) days following the closing of the public hearing. By resolution, the Commission may grant or deny the permit for the use applied for or may modify the permit on the basis of the evidence submitted at the hearing. The Commission shall make the following findings if the permit is granted or conditionally granted:

- (1) There are circumstances or conditions applicable to the land, structure or use making the granting of a permit necessary for the preservation and enjoyment of a substantial property right.
- (2) The proposed location of the conditional use is in accordance with the objectives of the General Plan and the purposes of the zone district where the property is located.
- (3) The proposed use will comply with this Chapter.
- (4) The permit may be revocable, granted for a limited time period, or may be granted subject to such conditions as the Commission may prescribe. Conditions of approval necessary to protect the public health, safety and general welfare shall be stated in a resolution approving the permit.

The decision may be appealed to the Council by the applicant or any other interested party within ten (10) days following the date of a decision of the Commission on a conditional use permit.

The notice of appeal shall be filed with the City Clerk and the notice shall specify claimed errors or abuse of discretion by the Commission, including how the decision is not supported by the evidence in the record. The City Clerk shall give notice to the applicant and to the appellate (if the applicant is not the appellant) and may give notice to any other interested party of the time when the appeal will be considered by the City Council.

The Planning Secretary shall transmit the record to the City Clerk within five (5) days of the filing of the notice of appeal.

The City Council shall hear the appeal at a regular meeting at least ten (10) days and not more than thirty (30) days after the filing of the appeal. The City Council may affirm, reverse or modify a decision of the Commission if a decision denying a conditional use permit is reversed or a decision granting a conditional use permit is modified, the City Council shall, on the basis of the record transmitted and such additional evidence as may be submitted, make the findings prerequisite to the granting of a conditional use permit.

CEQA REQUIREMENTS/FEES

Each time a CEQA document is processed by the County Clerk, there is a fee of **\$50.00**.

A conditional use permit or special use permit will normally require the filing of Categorical Exemption. The County Clerk's Office will accept a **money order or cashier's check, made payable to the Kern County Clerk's Office**.

The City's Planning Department will advise you when these fees are needed and will attach your money order or cashier's check to the completed Categorical Exemption.

A CUP may require one of the following, due the size of the project and condition of the vacant land.

**CEQA FEES EFFECTIVE
JANUARY 1, 2010**

Negative Declaration (ND) or Mitigated Negative Declaration (MND) fee **\$2,010.25**
 Environmental Impact Report (EIR) fee **\$2,792.25**
 Environmental Document pursuant to a Certified Regulatory Program (CRP) fee **\$949.50**

KERN COUNTY FEES

A Kern County fee of **\$50.00** applies to the recording and processing of the document(s). All CEQA and Kern County fees are to be paid by money order or cashiers check, made **payable to the Kern County Clerk**. The County Clerk no longer accepts personal checks. Once the documents are signed by the appropriate City Official, the money order or cashiers check will be attached and forwarded to the County Clerk for processing