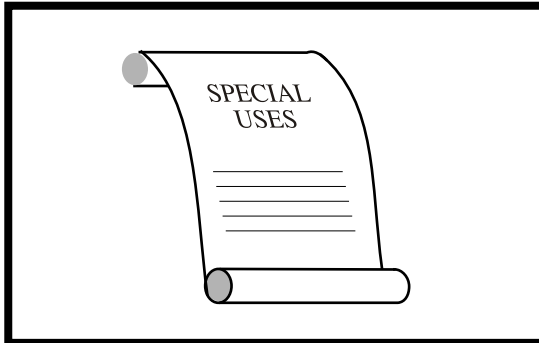


CHAPTER 41



Special Uses

Sections

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25-41.1 Purpose

The purpose of this chapter is to establish procedures, development standards, and location criteria for special uses within the City of Firebaugh. Special uses are those uses that are listed in specific zones which have unusual characteristics and may have the potential for pronounced impacts on their surroundings, and where the City has established standards for the design and operation of such uses. These standards are intended to ensure that these uses do not have an adverse impact on the public health, safety, or welfare. Special uses and specific development standards for each are listed as follows.

25-41.2 Home Occupations

Persons wishing to conduct a home occupation (which is clearly incidental and secondary to the use of a building as a residential dwelling) shall apply for a business license/home occupation permit through the Finance Department. Home occupations shall comply with the following regulations.

- a. Home occupations may include:
 1. Consultive professional occupations, whose function is one of rendering a service and does not involve the dispensing of goods or products.
 2. Secondary business offices associated with the resident, where said business has its principal office, staff and equipment located elsewhere.
 3. The giving of music lessons and similar occupations.
 4. The home office of a sales person, where all sales are done by written order with no commodities or displays on the premises.
 5. Drafting, designing and the like, using only normal equipment associated with the activity.
 6. Homemade Foods Businesses subject to standards of the California Homemade Foods Act (as codified in Government Code section 51035), and the following City standards:
 - (a) There shall be no employment of help outside the residents of the dwelling, except for one full time employee.
 - (b) All food preparation in conjunction with a homemade food business must take place in the residence's existing kitchen.
 - (c) Prior to granting of a city business license the applicant shall obtain a permit from the Fresno County Environmental Health Department. The City business license shall not be effective until that permit or approval is obtained, and shall automatically expire if the other required permit or approval expires, is disapproved or is revoked.
 - (d) A copy of the Fresno County Environmental Health Department permit to operate shall be provided to the city planning department within ten working days of the issuance of that permit or approval.

- b. Notwithstanding standards for Homemade Food Businesses, the following criteria shall apply for the evaluation of a home occupation:
1. There shall be no employment of help other than members of the resident family.
 2. There shall be no use of material or mechanical equipment not recognized as being part of normal household or hobby uses.
 3. There shall be no sales of products or services not produced on the premises.
 4. The use shall not generate vehicular or pedestrian traffic beyond that normal to the district in which it is located.
 5. The activity shall not involve the use of commercial vehicles for delivery or materials to or from the premises, other than one vehicle not to exceed one ton, owned by the operator of such home occupations.
 6. There shall be no excessive or unsightly storage of materials or supplies, indoor or outdoor, for purposes other than those permitted in the district.
 7. Any signage shall be consistent with the Sign Ordinance (Chapter 25-47)
 8. Not more than one room in the dwelling shall be employed for the home occupation.
 9. In no way shall the appearance of the structure be so altered or the conduct of the occupation within the structure be such that the structure may be reasonably recognized as serving a non-residential use (either by color, materials or construction, lighting, signs, sounds or noises, vibrations, etc.).
 10. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes as defined in the district.
- c. An applicant for a home occupation permits may appeal the decision of the Planning Director consistent with Chapter 25-6 Appeals.

25-41.3 Mixed Use Developments

Mixed Use Developments are permitted in Firebaugh's commercial zones subject to the following standards:

a. Development Standards

Mixed use developments are subject to Site Plan Review (consistent with the requirements of Chapter 25-53) and shall comply with the development standards of the underlying zone (concerning lot size and dimensions, setbacks, building height and coverage, etc.) except that residential development shall comply with density standards of the R-3 zone (which allow a density up to one dwelling per 1,500 square feet of lot area) and also that projects may request a reduction of up to 50% in the number of parking spaces that are required for each distinct use on the site, as shown in Chapter 25-45 (Parking). Said request for a parking reduction shall be incorporated into the Site Plan Review application and is not subject to a Variance.

25-41.4 Service Stations

- a. Locational criteria. All new service stations must have frontage on a road classified in the Firebaugh Circulation Element as a collector or arterial road.
- b. Site Design Criteria:
1. Pump islands shall be at least 18 feet from any street right-of-way. In addition, a landscape planter at least five feet wide shall be located between a pump island and the street right-of-way.
 2. Access driveways shall be a minimum width of 30 feet, and shall be no closer than 20 feet from the nearest curb line of any intersecting street.
 3. All vehicle repair activities shall be entirely within a building or enclosed area.
 4. A site plan for a service station shall include information to demonstrate proper maneuverability of fuel delivery vehicles onto and off of the site.

25-41.5 Temporary Uses

a. Purpose

The purpose of a temporary use permit is to provide for the short-term use of property and structures that are consistent with the purpose and objectives of this Ordinance.

b. Temporary Uses and Activities

The following uses and activities are eligible for a temporary use permit. The Planning Commission, by resolution, may add other uses to the list. The Planning Director shall determine the appropriate districts for the uses and activities listed below.

1. Christmas tree sales.
2. Promotional displays and activities, including amusement rides, street dances, concerts, live entertainment and promotional outdoor displays and sales. These activities may be conducted in any non-residential district. Temporary signs are permitted with the approval of Planning Director. All display material, signs and related improvements shall be removed no later than 24 hours from the end of the activity. Sales areas shall be located where adequate parking is available and sight distances at intersections and driveways must not be obstructed.
3. Temporary Uses.

The temporary use of property by nonprofit or charitable organizations, including activities such as expositions, concerts, carnivals, amusement rides, and church revivals.
4. Temporary Outdoor Sales

Temporary outdoor sales, sidewalk sales and parking lot sales in association with a permitted business for which there is an enclosed building. No off-site signs shall be permitted and no more than six of these events shall occur on the subject property per calendar year.
5. City-sponsored uses and activities, not occupying a structure and occurring at regular periodic intervals.

c. Exemptions

The following uses shall be exempt from securing a temporary use permit from the City of Firebaugh.

1. Fireworks stands
2. Garage and yard sales

d. Applicant and Fee

An application and fee for a temporary conditional use permit shall be made to the Planning Department on a form prescribed by the Department. The application shall be accompanied by a fee set by resolution of the City Council.

e. Report and Findings

The Planning Director is authorized to review and approve temporary conditional use permits subject to reviewing the following findings. The Director may add conditions to ensure consistency with the purpose and objectives of the Ordinance including the following:

1. That egress and ingress and off-street parking facilities are properly designed and adequate to serve the use.
2. That the site is adequate in size and location and has the proper accessibility to accommodate the use.
3. That there are adequate public services, including fire protection, water supply, waste water disposal, and police protection to serve the use.
4. That upon termination of the use the site shall be restored to its original condition. All materials and equipment associated with the temporary use shall be removed.
5. That reasonable time limits be established for the use, not to exceed 30 days.
6. That the applicants for a temporary use permit shall have all applicable licenses and permits.
7. That signage for the use be approved by the Planning Department.

f. Processing

Temporary use permits may be processed as an administrative matter by the Planning Director. Following a decision by the Director, an administrative agreement shall be prepared that outlines the findings and conditions on the temporary use permit.

25-41.6 Caretaker facilities

Where listed as a permitted use in a particular zone, one permanent accessory dwelling is allowed for purposes of housing a caretaker, subject to the following standards

- a. Supplementary Statement. The application shall include a statement with explanation of the need for caretaker quarters and the responsibilities of the caretaker/resident.
- b. Status of Caretaker. The resident of the dwelling shall be the owner or lessor, or an employee of the owner or lessor of the site.
- c. Type of Use Requiring a Caretaker. The principal use of the site must require a caretaker for security purposes, or for care of people, plants, animals, equipment, or other conditions on the site, or for needed housing for the owner or operator of a business.
- d. Permitted Zones and Allowable Location for a Caretaker Dwelling. In the C-1, C-2, C-3, and G Zones, such dwelling shall be located on the second floor, or to the rear of a principal building. In the M-1 and M-2 Zones, such dwelling may be located in accordance with the needs of the applicant. In all zoning districts, a caretaker residence is to be located on the same lot of record or contiguous ownership as the use requiring a caretaker.
- e. Type of Dwelling Unit Allowed. Caretaker residences shall be a standard site-built home, a modular home, or an apartment-type unit if the caretaker residence is to be integral with a principal structure.
- f. Parking Requirement. None, provided sufficient usable area is available to accommodate all resident vehicles on-site.

25-41.7 Modular Structures

The purpose of this section is to control the approval and location of all modular structures within the City of Firebaugh and to ensure that the uses of said structures, which shall meet the use requirements, zoning standards and design guidelines of the district in which the property is located, will not have a detrimental effect on the appearance of Firebaugh nor on surrounding properties. Regulation of modular structures is therefore deemed necessary to promote the public health, safety, and welfare of residents of the City of Firebaugh.

A modular structure shall mean any designed, manufactured, remanufactured, used, or converted to a transportable building for use for commercial, office, or industrial purposes.

- a. A permanent modular structure shall be subject to Site Plan Review, consistent with Chapter 25-53 and the applicable zoning standards and design guidelines for that particular zone, and shall comply with the following special development standards:
 1. A permanent modular structure shall be placed on a permanent foundation.
 2. In addition to design guidelines that apply to the particular zone, a permanent modular structure shall be of an architectural style that is consistent with buildings in the surrounding neighborhood. The modular structure shall require skirting around the base of the structure.
 3. Permanent parking spaces and unloading zones shall be required consistent with Chapter 25-45 Parking and Loading.
 4. Landscaping and irrigation shall be required consistent with Chapter 25-43 Landscaping.
 5. The business or use conducted within the structure shall secure a business license from the City of Firebaugh prior to being open to the public.
- b. A temporary modular structure shall be approved by the Planning Director and shall comply with the development standards below. Construction management offices and model home offices shall be exempt from the time limitation standard.
 1. A temporary modular structure shall be removed from the subject property within 30 days unless a longer period of time is requested.
 2. A temporary modular structure shall require skirting around the base of the structure.

3. The business or use conducted within the structure shall secure a business license from the City of Firebaugh prior to being open to the public.

25-41.8 Recycling/Buyback Centers

Recycling and buyback centers are permitted uses in the C-3, M-1 and M-2 zones, subject to a Conditional Use Permit. The conditions and development standards for recycling/buyback centers shall be as follows:

- a. The location of these centers shall be conducted in a parking lot that is associated with a commercial use. The centers should not be permitted to locate in the front of any commercial storefront but should be established on the side or rear of the commercial development.
- b. The recycling/buyback centers shall provide trash containers.
- c. At the conclusion of daily business, the area around the center shall be cleaned of all trash and debris, and the trash containers shall be emptied.
- d. The recycling or buyback of batteries or hazardous waste materials shall not be permitted.

25-41.9 Second Residential Units

One second dwelling unit may be established as an addition to an existing residential dwelling unit, or as a separate free-standing dwelling unit, consistent with development standards of the zone in which the unit is located, and with the requirements of this subsection. A second dwelling unit may be a site-built structure, or a manufactured home as defined by Section 18007 of the Health and Safety Code, provided that mobile homes, trailers and recreational vehicles are not permitted to be used as a second dwelling unit.

- a. Development standards

All second dwelling units shall be established and maintained in conformity with the following standards:

1. Zoning

A second dwelling unit shall be permitted only on lots zoned R-1 (Single Family Residential), as shown on the official zoning map of the City of Firebaugh. Second dwelling units are not permitted on lots zoned R-1-4.5 or R-1-5 or any other zone district.

2. Minimum lot size

A second dwelling unit shall be permitted only on a properly-zoned lot that contains at least six thousand five hundred (6,500) square feet.

3. Yards

A second dwelling unit shall comply with yard requirements of the R-1 zone, as listed in Section 25-15 (R-1: Single Family Residential).

4. Space Between Buildings

A second detached dwelling unit shall be located no closer than ten feet to any other residential building on the same parcel, and not less than six (6) feet from any accessory building.

5. Building Height

No second dwelling unit shall have a height greater than two (2) stories, not to exceed twenty-five (25) feet.

6. Lot Coverage

The total lot coverage by a second dwelling unit and all other buildings and structures shall not exceed thirty percent (30%) of the total lot area.

7. Unit Size

The increased living area of a second dwelling unit that is attached to the primary dwelling shall not exceed thirty (30) percent of the existing living area of the primary dwelling. A second unit that is detached from the primary dwelling shall not exceed 1,300 square feet of floor area.

8. Parking

There shall be one paved on-site parking space for a second dwelling unit. The space shall be a minimum of nine (9) feet wide and twenty (20) feet deep and constructed to City standards. The space shall be in addition to on-site parking spaces required for the primary dwelling on the lot. The parking space for the second dwelling unit may be situated as a tandem parking space within an existing driveway, provided that parking space requirements are maintained for the primary dwelling unit. If additional paved parking is required to accommodate a second unit, it shall not be located within a required front yard, except within a legal driveway that is

not wider than necessary to accommodate two parking spaces side by side, however said parking space may be located within required side or rear yards. There shall be no conversion of a garage of a primary dwelling unit into a second dwelling unit, unless all parking requirements are otherwise met for the primary dwelling unit.

9. Architectural Appearance

The second dwelling unit's scale, appearance and character shall be similar to and compatible in design with the primary dwelling unit in terms of siding materials and color, window types, roofing pitch and materials. Further, the second dwelling unit shall be clearly subordinate to the primary dwelling unit by size, location and appearance. If attached to the primary dwelling unit, a second dwelling unit shall be attached in a manner that the addition will create the appearance of an enlargement of the primary dwelling unit, and a logical extension of roof and walls of the primary dwelling unit, rather than give the appearance of an add-on unit.

10. Building Code

A second dwelling unit shall be subject to all applicable building, fire, health and safety codes.

11. Occupancy

The owner of the subject property at the time of the application and all future owners of the property shall reside in one of the dwelling units. A covenant, in a form approved by the city attorney, running with the land between the city and the applicant shall be recorded with the Fresno County recorder's office prior to the issuance of any building permits, requiring that the primary or proposed second dwelling unit shall be occupied by the owner of the property.

12. Access

In order to preclude the appearance of a duplex unit, access to the second dwelling unit shall be by an exterior doorway located on the side or rear of the second dwelling unit. In no case shall the entrance be visible from a public street right of way.

13. Utilities

A second dwelling unit shall be provided with water, sewer, and other utilities as determined by the building official.

14. Existing dwellings

Any second dwelling unit existing on the effective date of the ordinance adding this subsection shall constitute a violation of this subsection unless the second dwelling unit meets the standards of this subsection or the second dwelling unit qualifies as a permitted nonconforming use under Section 25-61 (Nonconforming Uses and Structures) of this title.

b. Permit Process

The applicant shall submit a building permit application for the construction of a second dwelling unit. The Planning Director or his designee shall review the application to determine whether it complies with the requirements of this section.

25-41.10 Wireless Telecommunication Equipment

The purpose of this section is to provide uniform standards for the desired design, placement, permitting, and monitoring of telecommunication facilities consistent with applicable federal requirements. The standards are intended to address adverse visual impacts and operational effects of these facilities through appropriate design, siting, screening techniques and locational standards while providing for the communication needs of residents, local businesses, and government agencies.

Wireless telecommunication facilities include residential and commercial TV antennae and satellite antennae; public safety facilities; telecommunication facilities accessory to public equipment for data acquisition such as irrigation controls; well monitoring and traffic signal controls, telecommunication facilities erected for emergency situations and/or public information coverage with a duration of less than seven days; satellite Earth Station facilities not exceeding two meters in diameter or in diagonal measurement and television and AM/FM radio antennae for commercial purposes, and monopoles and lattice towers for cellular phones and similar devices.

The following location criteria and development standards shall apply to all wireless telecommunications equipment.

- a. With the exception of monopole and lattice tower facilities, all wireless telecommunication equipment listed above shall be permitted uses in all of Firebaugh's zone districts.
- b. Monopoles and lattice tower facilities are classified as a permitted use in Firebaugh's industrial districts and as a conditional use in all commercial districts

as well as the “G” (Government) zone. These facilities shall be prohibited in residential, urban reserve and open space districts.

- c. Monopoles and lattice towers shall be located on the rear half of the parcel, unless aesthetic benefits are achieved through an alternative location or stealth design techniques can be employed.
- d. Monopoles and lattice towers shall not be permitted within 1,000 feet of an existing tower.
- e. Consideration shall be given to the use of “stealth” facilities in place of utilitarian monopoles and lattice towers. Examples of stealth facilities include towers disguised as trees, flag poles, or mounted on existing facilities, such as water towers, steeples, etc.

25-41.11 Sexually Oriented Businesses

- a. Purpose and Intent
 - 1. It is the purpose and intent of this Ordinance to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of Firebaugh and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually oriented businesses within the City, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of the ordinance to condone or legitimize the distribution of obscene material.
 - 2. One of the important purposes of the regulations set forth in this Chapter is to discourage and to minimize the opportunity for criminal conduct. As such, nothing in this Chapter shall permit or be interpreted to permit any use, conduct, and/or activity which is specifically prohibited under the following California Penal Code sections:
 - (a). Receipt of money for placement of persons for purposes of cohabitation (Penal Code 266d);

- (b). Purchase of persons for purposes of prostitution or placement of persons for immoral purposes (Penal Code 266e);
 - (c). Sale of persons for immoral purposes (Penal Code 266f);
 - (d). Pimping (Penal Code 266h);
 - (e). Pandering (Penal Code 266i);
 - (f). Lewd or obscene conduct (Penal Code 314);
 - (g). Houses of ill-fame (Penal Code 315);
 - (h). Disorderly houses which disturb the immediate neighborhood (Penal Code 316);
 - (i). Places of prostitution (Penal Code 317);
 - (j). Place of prostitution; place of lewdness; place used as bathhouse permitting conduct capable of transmitting AIDS (Penal Code 11225).
3. "Nothing in this Chapter shall be interpreted to permit or permit any use, conduct, and/or activity which violates any federal, state or local law of regulation."

b. Establishment and Classification of Businesses Regulated

The establishment of any sexually oriented business shall be permitted only in the zone district permitted, and shall be subject to the following restrictions: No person shall cause or permit the establishment of any sexually oriented businesses, as defined above, within 1000 feet of any sensitive land use, as defined above. These limitations apply to sexually oriented businesses classified as follows:

- 1. Adult arcade
- 2. Adult bookstore, adult novelty store, or adult video store
- 3. Adult cabaret
- 4. Adult motel
- 5. Adult motion picture theater
- 6. Adult theater

7. Nude model studio.

c. Measurement of Distance

The distance between any sexually oriented business and any sensitive land use shall be measured in a straight line, without regard to intervening structures or objects from property line to property line.

d. Location of Sexually Oriented Business

The City of Firebaugh's Zoning Ordinance requires that sexually oriented businesses shall be allowed only in a zone where such uses are specifically permitted -- the M-2 (Heavy Industrial) zone, at the time of adoption of this ordinance. Permits for sexually oriented businesses shall be required and governed by the procedures and policies specified in the City of Firebaugh Municipal Code. In addition, any sexually oriented business shall be subject to the following restrictions:

1. A person commits a misdemeanor, if he operates or causes to be operated, a sexually oriented business outside of the permitted zone.
2. A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business within 1000 feet of any sensitive land use, as defined above.

e. Non-Conforming Uses

1. Any sexually oriented businesses operating on (effective date of this Ordinance) that is in violation of Section 25-41.11 e. shall be deemed a non-conforming use. A non-conforming use will be permitted to continue for a two (2) year period with possible extensions for extenuating circumstances to be granted by the City Council only upon a convincing showing of extreme financial hardship. Such extensions shall not exceed a total of three (3) years in addition to the initial amortization period. Any such non-conforming business loses its right to operate as a non-conforming use, if, for any reason, it voluntarily discontinues its business operation for a period of thirty (30) days or more or if its license to operate is revoked, and such revocation is not overturned by a court of competent jurisdiction. Such non-conforming uses, while non-conforming, shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.
2. A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit and/or license, within

1000 feet, of a sensitive land use. This provision applies only to the renewal of a valid permit and/or license, but this provision does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.

3. Abandonment. Notwithstanding the above, any discontinuance or abandonment of the use of any lot or structure as an Adult-Oriented Business shall result in a loss of legal nonconforming status of such use.
4. Amortization -- annexed property. Any Adult-Oriented Business which was a legal use at the time of annexation of the property and which is located in the City, but which does not conform to the provisions of Section 25-41.11 e. shall be terminated within two (2) years of the date of annexation unless an extension of time has been approved by the City Council in accordance with the provisions of Section 25-41.11 f. 1.

f. Injunction

A person who operates or causes to be operated a sexually oriented business without having a valid permit due to location restrictions is subject to a suit for injunction as well as prosecution for the misdemeanor punishable by a fine of \$1,000.00 and/or one hundred eighty (180) days imprisonment, or by both such fine and imprisonment. If an injunction is sought and granted, the sexually oriented business shall be obligated to pay the City, attorneys' fees and costs of the City, at the discretion of the Court.

g. Exception for Certain Nude Modeling

It is a defense to prosecution under this ordinance if a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school, licensed by the State of California; a college, junior college, or university supported entirely or partly by taxation;
2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
3. In a structure:
 - (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - (b) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

- (c) Where no more than one nude model is on the premises at any one time.

25-41.12 Outdoor Storage Yards

Outdoor storage yards, excluding the storage of vehicles in a day use parking lot or garage, are subject to the provisions of this section. The storage of vehicles in a public or commercial parking lot or garage is subject to Section 25-45 (Parking and Loading).

- a. Site Design Standards.
 - 1. Access. There shall be only one (1) access point to a storage yard for each three hundred (300) feet of street frontage. Such access point is to be a maximum width of twenty (20) feet and shall be provided with a solid gate or door.
 - 2. Screening. A storage yard, except a temporary offsite construction yard, is to be screened from public view on all sides by solid wood, painted metal or masonry fencing, or chain link fencing with vinyl slats or other screening mechanism, with a minimum height of six (6) feet. All required screening shall be continuously maintained in good condition to assure that its intended purpose is accomplished.
 - 3. Parking Requirement. None, provided that sufficient usable area is available to accommodate all employee and user parking needs entirely on-site.
 - 4. Site Surfacing. A storage yard shall be surfaced with concrete, asphalt paving, crushed rock, or oiled earth, and be maintained in a dust-free condition.
 - 5. Office Facilities. When no buildings exist or are proposed on a storage yard site, one (1) commercial coach may be utilized for an office, provided that such vehicle is equipped with skirting, and installed pursuant to the permit requirements of the Uniform Building Code.
- b. Operation. Except for vehicles or freestanding equipment, materials within a storage yard are not to be stacked or stored higher than six (6) feet, unless a higher wall or fence is constructed at the required setback line under an approved building permit.