

## CHAPTER 51



## Conditional Use Permits)

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### **25-51.1 Purpose**

The purpose of this chapter is to establish procedures for processing Conditional Use Permits and temporary use permits. Certain uses listed in districts in this Ordinance are permitted subject to receiving a Conditional Use Permit. Because of their unusual characteristics, or unique area in which they are proposed, these uses require special consideration so that they may be located properly with respect to the purpose and objectives of this Ordinance and with respect to their effects on surrounding properties.

### **25-51.2 Application and Fee**

An application for a 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.

**25-51.3 Hearings and Notice**

Upon receipt of a Conditional Use Permit application, the Planning Department shall prepare a notice for a public hearing consistent with the requirements contained in Section 25-5 Public Hearings. The application shall include the following information:

- a. Name and address of applicant.
- b. Statement that the applicant is the owner of the property, or is the authorized agent of the owner.
- c. A site plan, drawn to scale, which shall show the following:
  1. Lot and building dimensions.
  2. All buildings and structures: location, size, height, and proposed use.
  3. Yards and space between buildings.
  4. Walls and fences; location, height and materials.
  5. Off-street parking and loading: Location, number of spaces, dimensions of spaces, and internal circulation pattern, consistent with standards contained in Section 25-45 Parking and Loading.
  6. Access: pedestrian, vehicular and service. Points of ingress and egress.
  7. Signs: location, size, height, and type of illumination, consistent with standards contained in Section 25-47 Signs.
  8. Lighting: location and general nature.
  9. Street dedication and improvements.
  10. Landscaping and irrigation: location and type, consistent with standards contained in Section 25-43 Landscaping.
- d. Where new construction or significant remodeling is proposed, preliminary floor plans and front, side and rear elevations of the proposed structures.

**25-51.4 Review and Public Hearing Notice**

Upon receipt the Planning Director shall review the application and determine whether it is complete, and shall notify the applicant of any discrepancies or additional information required to properly analyze the request. The Planning Director shall also make a determination regarding any review of potential environmental impacts associated with the project, as required by the California Environmental Quality Act.

The Planning Director shall then make an investigation of the application and shall prepare a report thereon which shall be submitted to the Planning Commission, including a recommendation as to the action to be taken by the Planning Commission and a statement supporting such recommendations.

**25-51.5 Report and Findings**

The Planning Department shall prepare a report on the Conditional Use Permit application that provides a recommendation based on the following findings.

- a. That the location of the proposed use is in accordance with the purpose and objectives of this Ordinance and the purpose of district in which the subject site is located.
- b. That the location of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public interest, health, safety, convenience or welfare, or materially injurious to properties or improvements in the vicinity.
- c. That the proposed use will not have a significant impact on the environment.
- d. That the proposed use will comply with applicable provisions contained in this Ordinance.
- e. That the proposed use is consistent with the Firebaugh General Plan.
- f. That the site for the proposed site is adequate in size, shape and location to accommodate the use the district for which it is proposed.

**25-51.6 Action of the Planning Commission**

The Planning Commission shall conduct a public hearing for the proposed Conditional Use Permit, consistent with the procedure established in Chapter 25-5 (Public Hearings). Following the public hearing, the Planning Commission shall take action on the Conditional Use Permit. The Commission can approve, approve with conditions or deny the Conditional Use Permit based on the finding listed above. The Commission's

decision is final unless appealed to the City Council, consistent with the procedure established in Chapter 25-6 (Appeals).

Within 10 days of adopting a resolution on the Conditional Use Permit, the Commission shall transmit a copy of its resolution to the applicant.

**25-51.7 Conditions**

The Planning Commission can approve a Conditional Use Permit subject to conditions. Conditions may involve the operation of the use, maintenance of the property or specific aspects associated with the development, including storage and display of goods, grading, surface and drainage improvements; vehicular ingress and egress; parking and loading; landscaping and irrigation and maintenance thereof; regulation of light, vibration, odors, and noise; appearance of buildings, grounds, signs, and other structures; street dedication and improvements; and hours of operation. In cases where certain improvements may be phased over time, Firebaugh may request a bond or monetary deposit to ensure faithful performance on the part of the applicant. The value of the bond or deposit shall be determined by the City Engineer.

Conditions set forth for a Conditional Use Permit can only be required in order to achieve the purpose and objectives of this Ordinance. Conditions which require dedication of land for a purpose not reasonably related to the use of the property shall be prohibited.

**25-51.8 Lapse of Conditional Use Permit**

A Conditional Use Permit shall lapse and become void one year from the date it became effective, unless by conditions of the use permit a greater time is allowed, or unless a building permit is issued by the Chief Building Official and construction on the use has commenced.

**25-51.9 Extension of Conditional Use Permit**

A Conditional Use Permit for which no building permit or business license has been issued may be renewed in increments of one year, not to exceed three one-year extensions; provided, that prior to the one year expiration, an application for renewal is filed with the Planning Department. The Planning Commission by resolution may approve, approve with conditions or deny the renewal application.

**25-51.10 Revocation**

Where the City finds that a use operating under a Conditional Use Permit is not complying with the conditions of that use permit, the operation of the use shall be suspended. Within 60 days of the suspension, the Planning Commission shall hold a public hearing on the Conditional Use Permit. Based on a report from the Planning Department, findings contained in Section 25-51.5 of this Chapter, and testimony from

the public, the Commission may revoke the Conditional Use Permit with conditions that may be necessary to assure compliance with the purpose and objectives of this Ordinance. The Commission's decision shall be final unless appealed to the City Council consistent with the requirements contained in Section 25-6 (Appeals).

**25-51.11 New Application**

Following the denial or revocation of a Conditional Use Permit, no application for the same or substantially the same Conditional Use Permit shall be filed within one year of the date of denial or revocation.

**25-51.12 Use Permit to Run with the Land**

A Conditional Use Permit shall run with the land and shall continue to be valid upon change of ownership of the property or structure that was the subject of the use permit application.

**25-51.13 Preexisting Conditional Use Permits**

A Conditional Use Permit granted under the provisions of the Fresno County Zoning Ordinance and supplementary provisions thereto prior to the enactment of this Ordinance shall, upon the annexation of the property into Firebaugh, become null and void at the end of one year after said annexation has been completed.

**25-51.14 Temporary Conditional Use Permits**

a. Purpose

The purpose of a temporary Conditional 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. 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.

c. 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 are established for the use, not to exceed 30 days.
6. That the applicants for a temporary Conditional Use Permit shall have all applicable licenses and permits.
7. That any signage for the use be approved by the Planning Department.

d. Processing

Temporary Conditional 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.

e. Temporary Uses and Activities

The following uses and activities (and those determined to be reasonably similar in nature by the Planning Director) 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 will 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.

f. 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

g. Appeal

A decision of Planning Director may be appealed to the Planning Commission consistent with the procedures contained in Section 25-6 Appeals.

**Exhibit 51-1: Conditional Use Permit Process**

