

EXHIBIT B.10

CHAPTER 28, USE PERMIT

(Note: Red = New Language, Black = Existing language and Strikethrough = language to be deleted)

28.106 Use Permit

- A. **Purpose.** The purpose of the use permit is to provide for public review of certain land uses that may be compatible with other allowed and permitted land uses within a zoning district, but due to their type or intensity, require consideration of location, site design, adjacent land uses, availability of public infrastructure and services, and environmental impacts. A use permit may be approved either for a temporary, fixed period or for an indefinite period. ~~subject to periodic renewal.~~
- B. **Compliance with building codes or other ordinances.** Approval of a use permit does not exempt the applicant from complying with requirements of building codes adopted pursuant to other provisions of this code or other ordinances.
- C. **Application.** Applications for use permits shall be made in writing on a form prescribed by the **Director of Resource Management** ~~Zoning Administrator~~, and shall be accompanied by floor plans, site plans, operating plans and data necessary to show that requirements set forth in subsection (H) and Article III of this Chapter are fulfilled. Such application shall not be accepted as complete unless accompanied by a fee or fees as may be set by the Board of Supervisors pursuant to Section 11-111 of this code. No part of such fee shall be refundable.

Once a complete application is submitted, additional information and processing fees may be required in order to conduct environmental review of the proposal. When additional information or processing fees are required and not provided by the applicant within sixty days of such a request, the Director of Resource Management may determine that the application has been abandoned and shall promptly notify the applicant of such determination.

- D. **Public hearing.** A public hearing on any use permit application shall be held by the Zoning Administrator or Planning Commission, who shall maintain a public record of all hearings. Applications for minor use permits, extensions of time to exercise a previously approved use permits, amendments to use permits, and projects that are categorically exempt from the California Environmental Quality Act (CEQA) shall be heard by the Zoning Administrator, who may administratively refer any such application to the Planning Commission for hearing. All other applications shall be heard by the Planning Commission.
- E. **Public notice.** Notice of the hearing shall be given pursuant to Section 28-14 of this Chapter.
- F. **Minor use permits.** Uses which are eligible for a minor use permits are designated in the Table of Allowable Uses contained within each zoning district in Article II of this Chapter.

All references to use permits in this Article include minor use permits, unless different rules or procedures are described for minor use permits.

G. Action

1. The Zoning Administrator or Planning Commission may approve a use permit for an ownership if it finds that the requirements set forth in this Chapter and in subsections (H) of this Section and Article III of this Chapter are fulfilled.
2. When approving a use permit, the Zoning Administrator or Planning Commission may impose conditions in addition to the general conditions enumerated in subsections (H) of this Section, together with guarantees that such conditions will be complied with, when such additional conditions are in the public interest.
3. If a project is revised during the hearing, then the Zoning Administrator ~~of~~ **or** the Planning Commission may require that a revised development plan be submitted which reflects all of the changes approved at the hearing.
4. Unless the use permit application is withdrawn, action to approve, conditionally approve, or deny the use permit shall be taken by the Zoning Administrator or Planning Commission within the time limits specified in the Permit Streamlining Act; except that the applicant and Zoning Administrator or Planning Commission may mutually agree to extend such period.
5. Any action taken by the Zoning Administrator or the Planning Commission on a use permit application shall not become effective until the time for filing an appeal has expired or, if an appeal has been filed, the appeal has been decided or withdrawn.

H. Required Findings. A use permit shall not be approved unless the Zoning Administrator or Planning Commission first makes all of the following general findings:

1. That the establishment, maintenance or operation of a use or building applied for are in conformity to the general plan for the County with regard to traffic circulation, population densities, and distribution, and other aspects of the general plan considered by the zoning administrator or planning commission to be pertinent.
2. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
3. That applicant exhibits proof that such use will not, under the circumstances of the particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County; provided, that if any proposed building or use is necessary for the public health, safety or general welfare, that finding shall be to that effect.

I. Revision or Amendment. Once a use permit becomes effective, the land use subject to the permit may be developed and operated only in substantial conformance with the terms and conditions of the approved permit. **The Director shall have authority to determine whether any development or use on the ownership is in substantial conformance with the terms and conditions of an approved use permit.** Any development or operation on the ownership that would not be in substantial conformance with the terms and conditions of the use permit shall not be initiated or undertaken until a revision or amendment to the permit has been approved. When an owner proposes changes to a use permit, the Director shall determine whether the proposed change shall be process either as a minor revision or an amendment to the use permit. The Director's determination shall be final and not subject to appeal.

- a. **Interpretation of Conditions.** If an owner believes that a condition in an approved use permit is unclear, the Director shall determine the intent of the Zoning Administrator or Planning Commission in imposing the condition and provide a written clarification to the permittee.
- b. **Minor revision.** Minor revisions not constituting significant change in the use, not requiring a substantial alteration in the use permit or any element thereof, may be reviewed and approved by the Zoning Administrator. Each application for a minor revision shall be accompanied by a fee as may be set by the Board of Supervisors, pursuant to Section 11-111 of this Code. No part of said fee or fees shall be refundable.
- c. **Amendment.** Significant changes in the use or the size or intensity of the use, requiring a substantial alterations of the use permit, shall be in the same manner as a new use permit, in compliance with this Section. Amendments shall be heard by either the Zoning Administrator or Planning Commission, whichever first heard the original use permit. Each application for an amendment shall be accompanied by a fee as may be set by the Board of Supervisors, pursuant to Section 11-111 of this Code. No part of said fee or fees shall be refundable.
- d. The approval of a minor revision or amendment to a use permit shall supersede the previously approved permit.

J. Revocation.

1. In any case where the conditions of a use permit have not been or are not substantially complied with, or where the use has been abandoned, the Zoning Administrator may initiate permit revocation proceedings.
2. Notice of intention to revoke the use permit shall give to the owner at least fifteen days prior to the Planning Commission's revocation hearing. Formal rules of evidence shall not apply to revocation proceedings, and witnesses need not be sworn, but the owner shall be given an opportunity to respond to any evidence or testimony presented by the Zoning Administrator or the public. After conclusion of the review, the Planning Commission may revoke the permit **if it finds that the terms and conditions of the use permit have not been substantially complied with**, or may modify the permit by imposing

new or modified conditions to address the previous noncompliance. **Noncompliance with permit conditions shall be presumed to cause harm, and a specific finding of harm or damage to neighboring properties or land uses shall not be required to support revocation.**

K. Expiration.

1. In any case where a use permit has not been exercised within one year after the date of approval thereof, or any other period for exercise as stated in a condition of the permit, the use permit shall expire and thereafter be null and void without further action by the Zoning Administrator or Planning Commission; except that, upon written request by the owner, the Zoning Administrator may authorize an extension of time to exercise the permit, not to exceed one year. Only one such extension may be granted.
2. Once exercised, a use permits approved for a temporary, fixed period of time shall expire on the date specified in the permit and shall thereafter be null and void, but any such permit may be revised pursuant to subsection 28.106.2C to modify its expiration date if an application to do so is filed at least 30 days prior to the expiration date.
3. A use permits approved for an indefinite period does not expire once exercised, but shall be revoked by the Planning Commission if abandoned or not timely renewed.

L. Reapplication. Whenever a use permit application has been denied for a specific use, no new application covering all or a portion of the property involved in the original application, shall be accepted by the Department of Resource Management for a period of six months from the effective date of the final denial of the original application; provided that, upon a showing of a substantial change of circumstances, the Director may permit the filing of such new application prior to the expiration of such six-month period.

M. Appeal. Appeal from the action of the Zoning Administrator or Planning Commission may be made according to the provisions of Section 28-112.

N. Renewal. A use permit approved for an indefinite period **or for a fixed period greater than 10 years** shall be subject to periodic renewal every five years, or such other period of time as may be set by the Zoning Administrator or Planning Commission in approving a **the** use permit. The Zoning Administrator shall administratively approve a use permit renewal if **all of the following criteria are met:**

1. the owner has requested renewal,
2. the owner has paid a renewal fee as may be set by the Board of Supervisors pursuant to Section 11-111 of this Code, and
3. the use is being conducted in full compliance with all conditions of the use permit. Every use permit approved prior to October 28, 2010, and still in effect as of that date shall be subject to the renewal period and procedure described in this subsection unless a different renewal period or procedure is specifically described in the conditions of the permit.

If the Zoning Administrator is unable to approve a renewal, the use permit shall be set for revocation.