Article 6: Development Permits

Division 2: Neighborhood Use Permit Procedures

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0201 Purpose of the Neighborhood Use Permit Procedures

The purpose of these procedures is to establish a review process for *developments* that propose new uses, changes to existing uses, or expansions of existing uses that could have limited impacts on the surrounding properties. The intent of these procedures is to determine if the *development* complies with all applicable regulations of the zone and any supplemental regulations pertaining to the use, and to apply conditions that may be necessary to help ensure compliance.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0202 General Rules for a Neighborhood Use Permit

(a) All existing and proposed uses on the site shall be identified in the permit, including existing or new uses permitted by right in the applicable zone, any uses subject to a use permit, and those proposed uses that require the Neighborhood Use Permit.

(b) In granting a Neighborhood Use Permit, the decision maker may impose reasonable conditions as deemed necessary and desirable to protect the public health, safety, and welfare.

(c) The privileges and conditions of a Neighborhood Use Permit are a covenant that runs with the land and, in addition to binding the permittee, bind each successor in interest.

(d) The decision maker may assign an expiration date to the permit.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0203 When a Neighborhood Use Permit Is Required

(a) An application for the following uses in certain zones may require a Neighborhood Use Permit. To determine whether a Neighborhood Use Permit is required in a particular zone, refer to the applicable Use Regulation Table in Chapter 13.

Artisan Food and Beverage Producer
Automobile service stations
Bed and breakfast establishments (under circumstances described in Section 141.0603)

Boarding kennels/pet day care facilities
Community gardens
Comprehensive *sign* plans
Eating and drinking establishments abutting residential zones (under circumstances described in Section 141.0607)
Employee housing
Home occupations (under circumstances described in Section 141.0308)
Neighborhood identification *signs*
Parking facilities as a primary use
Pushcarts
Recycling facilities (under circumstances described in Section 141.0620)
Revolving projecting signs
Sidewalk cafes that deviate from the requirements of Section 141.0621(a)
Signs with automatic changing copy
Temporary construction storage yards located off-site
Theater *marquees*
Urgent care facilities
Veterinary clinics and animal hospitals
Wireless communication facilities (under certain circumstances described in Section 141.0420)

(b) The following activities require a Neighborhood Use Permit in any zone:

(1) Resumption of a *previously conforming* use that has been discontinued for more than 2 years, as described in Section 127.0108; or

(2) Expansion of a *previously conforming* use of up to 20 percent of the existing *gross floor area* of the *structure*, as described in Section 127.0109.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 8-10-2004 by O-19308 N.S.; effective 4-11-2007.)
(Amended 11-13-08 by O-19803 N.S; effective 12-13-2008.)
(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)
(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)
(Amended 12-1-2016 by O-20752 N.S.; effective 12-31-2016.)

[Editors Note: Amendments as adopted by O-20752 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.
Click the link to view the Strikeout Ordinance highlighting changes to prior language http://docs.sandiego.gov/municode_strikeout_ord/O-20752-SO.pdf]

§126.0204 Decision Process for a Neighborhood Use Permit

A decision on an application for a Neighborhood Use Permit shall be made in accordance with Process Two.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0205 Findings for Neighborhood Use Permit Approval

A Neighborhood Use Permit may be approved or conditionally approved only if the decision maker makes the following *findings*:

(a) The proposed *development* will not adversely affect the applicable *land use plan*;

(b) The proposed *development* will not be detrimental to the public health, safety, and welfare; and

(c) The proposed *development* will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

[Editors Note: Amendments as adopted by O-20261 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as Local Coastal Program Amendment.
Click the link to view the Strikeout Ordinance highlighting changes to prior language http://docs.sandiego.gov/municode_strikeout_ord/O-20261-SO.pdf]

§126.0206 Violations of a Neighborhood Use Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Neighborhood Use Permit if such a permit is required for that use or *development* or to maintain, use, or develop any *premises* contrary to the requirements or conditions of the Neighborhood Use Permit. Violation of any provision of this division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this division shall be treated as strict liability offenses regardless of intent.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.

§126.0207 Judicial Review

For a Neighborhood Use Permit required by Chapter 14, Article 1, Division 11, an *applicant* may seek judicial review of a final decision on the permit application, pursuant to California Code of Civil Procedure section 1094.8. This provision does not limit an *applicant's* ability to seek judicial review by other means.

("Judical Review" added 1-13-2004 by O-19253 N.S.)