

## Article 6: Development Permits

### Division 3: Conditional Use Permit Procedures

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

#### §126.0301 Purpose of the Conditional Use Permit Procedures

The purpose of these procedures is to establish a review process for the *development* of uses that may be desirable under appropriate circumstances, but are not permitted by right in the applicable zone. The intent of these procedures is to review these uses on a case-by-case basis to determine whether and under what conditions the use may be approved at a given site. Further, the intent is that each use be developed so as to fully protect the public health, safety, and welfare of the community. To provide this protection, conditions may be applied to address potential adverse effects associated with the proposed use.

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

#### §126.0302 General Rules for a Conditional Use Permit Regarding Conditions, Adjustments to Regulations, and Combination of Uses

- (a) In granting a Conditional Use Permit, the decision maker may impose reasonable conditions as deemed necessary and desirable to protect the public health, safety, and welfare including making any applicable use regulations or regulations of the zone more restrictive, unless otherwise provided.
- (b) 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 Conditional Use Permit.
- (c) The privileges and conditions of a Conditional 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.)*

**§126.0303 When a Conditional Use Permit Is Required**

An application for the following types of uses in certain zones may require a Conditional Use Permit. To determine whether a Conditional Use Permit is required in a particular zone, refer to the applicable Use Regulations Table in Chapter 13. The decision process is described in Section 126.0304.

(a) Conditional Use Permits Decided by Process Three

- Agricultural equipment repair shops
- Agriculture-related supplies and equipment sales
- Alcoholic beverage outlets (under circumstances described in Section 141.0502)
- Assembly and entertainment uses, including places of religious assembly (under circumstances described in Section 141.0602)
- Automobile service stations
- Bed and breakfast establishments (under circumstances described in Section 141.0603)
- Child Care Centers
- Commercial stables
- Continuing care retirement communities
- Educational facilities
- Employee housing
- Energy generation and distribution stations
- Equestrian show and exhibition facilities
- Fraternities, sororities, and student dormitories
- Historical buildings* used for purposes not otherwise allowed in the zone
- Impound storage yards
- Major transmission, relay, or communication switching station
- Marijuana outlets*
- Marijuana production facilities
- Museums
- Newspaper publishing plants
- Outdoor storage and display of new, unregistered motor vehicles as a *primary use*
- Parking facilities as a *primary use*
- Plant nurseries
- Private clubs, lodges, and fraternal organizations
- Processing and packaging of plant products and animal by-products grown off-premises
- Recycling facilities (under circumstances described in Section 141.0620)
- Residential care facilities for 7 to 12 persons
- Swap meets and other large outdoor retail facilities
- Wireless communication facilities* (under circumstances described in Section 141.0420)

- (b) Conditional Use Permits Decided by Process Four
  - Botanical gardens and arboretums
  - Camping parks
  - Cemeteries, mausoleums, and crematories
  - Correctional placement centers
  - Exhibit halls and convention centers
  - Golf courses, driving ranges, and pitch and putt courses
  - Hazardous waste* research facilities
  - Homeless facilities
  - Hospitals, intermediate care facilities, and nursing facilities
  - Interpretive centers
  - Junk yards
  - Marine-related uses in the Coastal Overlay Zone
  - Mining and extractive industries
  - Nightclubs and bars over 5,000 square feet in size
  - Privately operated recreational facilities over 40,000 square feet in size
  - Residential care facilities for 13 or more persons
  - Social service institutions*
  - Theaters that are outdoor or over 5,000 square feet in size
  - Wireless communication facilities* (under circumstances described in Section 141.0420)
  - Wrecking and dismantling of motor vehicles
- (c) Conditional Use Permits Decided by Process Five
  - Airports
  - Amusements parks
  - Fairgrounds
  - Hazardous waste* treatment facilities
  - Helicopter landing facilities
  - Sports arenas and stadiums
  - Transitional Housing for 7 or more persons
  - Very heavy industrial uses
  - Zoological parks

*(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 3-25-2014 by O-20356 N.S.; effective 4-24-2014.)*

*(Amended 4-5-2016 by O-20634 N.S.; effective 5-5-2016.)*

*(Amended 8-4-2016 by O-20704 N.S.; effective 8-27-2016.)*  
*(Amended 2-22-2017 by O-20793 N.S.; effective 4-12-2017.)*  
*(Amended 9-15-2017 by O-20857 N.S.; effective 10-15-2017.)*

**[Editors Note:** Amendments as adopted by O-20857 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-20857-SO.pdf](http://docs.sandiego.gov/municode_strikeout_ord/O-20857-SO.pdf) ]

*(Amended 10-17-2017 by O-20859 N.S.; effective 11-16-2017.)*

**[Editors Note:** Amendments as adopted by O-20859 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-20859-SO.pdf](http://docs.sandiego.gov/municode_strikeout_ord/O-20859-SO.pdf) ]

#### §126.0304 Decision Processes for a Conditional Use Permit

(a) Process Three

A decision on an application for a Conditional Use Permit for the uses listed in Section 126.0303(a) shall be made in accordance with Process Three. The decision may be appealed to the Planning Commission in accordance with Section 112.0506.

(b) Process Four

A decision on an application for a Conditional Use Permit for the uses listed in Section 126.0303(b) shall be made in accordance with Process Four.

(c) Process Five

A decision on an application for a Conditional use Permit for the uses listed in Section 126.0303(c) shall be made in accordance with Process Five.

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

**§126.0305 Findings for Conditional Use Permit Approval**

An application for a Conditional 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;
- (c) The proposed *development* will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code; and
- (d) The proposed use is appropriate at the proposed location.

*(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.)*

**§126.0306 Violations of a Conditional Use Permit**

It is unlawful for any person to maintain, use, or develop any *premises* without a Conditional 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 an existing Conditional 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.)*