

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 a Process Two

Battery energy storage facilities (under circumstances described in Section 141.0422)

Cannabis outlet (under circumstances described in Section 141.0504)

Cannabis production facilities (under circumstances described in Section 141.1004)

(b) 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

Battery energy storage facilities (under circumstances described in Section 141.0422)

Cannabis outlets

Cannabis production facilities

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

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)

(c) Conditional Use Permits Decided by Process Four

Battery energy storage facilities (under circumstances described in Section 141.0422)
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

(d) 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.)

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

(Amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)

(Amended 7-30-2020 by O-21221 N.S.; effective 8-29-2020.)

(Amended 4-14-2021 by O-21305 N.S.; effective 5-29-2021.)

(Amended 3-7-2023 by O-21618 N.S.; effective 5-6-2023.)

[Editors Note: Amendments as adopted by O-21618 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-21618-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, except as provided in Sections 126.0112 or 126.0113. 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.)

(Amended 1-8-2020 by O-21161 N.S.; effective 2-9-2020.)