

TITLE 20 – ZONING ORDINANCE OF GENOLA

CHAPTER 20 CONDITIONAL USES

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20.20.01 **PURPOSE OF CONDITIONAL USE PROVISIONS**

Certain uses which may be harmonious under special conditions and in specific locations within a Zone, but be improper under general conditions or in other locations, are classed as conditional uses within the Zone and require Conditional Use Permits as authorized by the Planning Commission.

20.20.02 **PERMIT REQUIRED**

A Conditional Use Permit shall be required for all uses listed as conditional uses in Appendix A to the zoning regulations or elsewhere in this Ordinance. A Conditional Use Permit may be revoked on failure of the original applicant or any successor, owner, or occupant to comply with conditions of the original permit approval.

20.20.03 **APPLICATION**

A Conditional Use Permit application shall be made to the Planning Commission as provided in this Ordinance. The Planning Commission may grant or deny Conditional Use Permits, subject to such limitations or qualifications as are deemed reasonable and necessary.

Applications for a Conditional Use Permit may be accompanied by maps, drawings, statements, reports, studies or other documents, as requested by the Planning Commission. These documents will provide information relating to adequate utilities, traffic impacts, school impacts, slope, soil and water studies, engineering reports, financing availability, market considerations, neighborhood support and any other information which may be needed in order to render a proper decision.

Factors that the Planning Commission should, at a minimum consider relate to:

1. Fencing, screening, and any visual blight or glare
2. Landscape buffers and setbacks, especially between dissimilar uses and zones
3. Lighting and light shielding
4. Restrictions on hours of operation
5. Measures to reduce noise, pollution, debris, vibration, and smell or odor
6. Impacts on and improvements to roads and streetscape, trails, curb, gutter, sidewalk, and vehicular circulation. This may include turn lanes, pedestrian access, bike infrastructure, or any improvement necessary to maintain the desired level of service
7. Crowd management and circulation
8. Emergency vehicle access
9. Utility impacts and capacity to include culinary water and pressurized irrigation water
10. Compatibility with surrounding structures in terms of use, scale, mass and circulation
11. Impacts on adjacent properties and the neighborhood at large
12. Other impacts on the Town's systems

The applicant for a conditional use permit shall provide written notification to all adjacent property owners and property owners within 1000 feet and provide a copy of such notification to the Town.

20.20.04 FEE

The application for any Conditional Use Permit shall be accompanied by an appropriate fee, as established in the Genola Town Fee Schedule.

20.20.05 PUBLIC HEARING

The Planning Commission shall schedule and hold at least one public hearing after the submission of a properly completed and filed application form. Notice of the public hearing shall be provided prior to the hearing.

Any appeal of a Planning Commission decision shall be held as a public hearing before the Town Council.

20.20.06 DETERMINATION

The Planning Commission may permit a conditional use permit to be issued in any Zone in which the conditional use is allowed by the Town Zoning Ordinance, including Appendix A. The Planning Commission shall consider the information provided by the applicant, information provided by the Town Staff, and any statements made at the public hearing, whether for and against the application, in making its determination. The Planning Commission shall approve, approve with conditions, or deny the application.

The Planning Commission shall consider the following general factors in making a determination on a Conditional Use Permit application:

1. The proposed use is consistent with the general objectives of the general plan, development code, subdivision ordinance, any other Town ordinances, and the other requirements for the particular zone in which the request is located.
2. The proposed use is consistent with existing uses on the neighboring parcels and will not be detrimental to the economics and aesthetics of the neighboring parcels.
3. The proposed use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, cause undue harm to the environment, or injurious to property or improvements in the vicinity when consideration is given to the character and size of the use.
4. The proposed site is adequate in size and shape to accommodate the intended use, and that all requirements for the Zone, including but not limited to setbacks, walls, landscaping and buffer yards are met.
5. The proposed site has adequate access to public streets to carry the type and quantity of traffic which may be generated by the use, and that on-site circulation is adequate to permit driveways, parking, pedestrian ways, and loading requirements in a manner which is safe and efficient.

In approving any conditional use, the Planning Commission shall impose such requirements and conditions as are reasonable and necessary for the protection of adjacent properties and the public welfare.

The Planning Commission must make the following findings prior to approving a Conditional Use Permit:

1. The proposed use is consistent with the policies of the Genola Town General Plan and the purpose of the Zone in which the site is located.
2. The proposed use of the particular location is desirable to provide a service or facility which will contribute to the general well-being of the community and the neighborhood.
3. The proposed use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, cause undue harm to the environment, or injurious to property or improvements in the vicinity when consideration is given to the character and size of the use.
4. The proposed location is adequate in size and shape to accommodate the intended use and all requirements for the Zone (such as yard requirements, lot coverage, etc) are met.
5. Adequate conditions or stipulations have been incorporated into the approval of the Conditional Use Permit to ensure that any detrimental effects are minimized.

20.20.07 **APPEAL OF DECISIONS**

Any person who may be affected by an approved Conditional Use Permit or an applicant who disagrees with a denial or any conditions placed on a Conditional Use Permit shall have the right to appeal the Planning Commission decision to the Town Council. An appeal must be submitted in writing to the Town Clerk within fifteen (15) business days after the date of decision by the Planning Commission.

20.20.08 **INSPECTION OF BUILDING**

Following the issuance of a Conditional Use Permit, the Building Inspector shall approve an application for a building permit on compliance of construction plans meeting such conditions and requirements as established by the Planning Commission. The Building Inspector and/or Zoning Enforcement Officer shall inspect the project to ensure that all required improvements meet the conditions of the Conditional Use Permit and this Ordinance before a Certificate of Occupancy is issued.

20.20.09 **REVOCATION**

1. On receiving a written complaint alleging a violation or failure to comply with any condition prescribed in a Conditional Use Permit, the Zoning Enforcement Officer shall investigate the complaint. If the complaint has merit, and attempts to remedy the complaint fail, the complaint may be placed on the agenda of the regular meeting of the Planning Commission for consideration of revoking the Conditional Use Permit, provided that the permittee shall have notice of the meeting at least fourteen (14) calendar days prior to the meeting.
2. Hearing Procedure. The Town shall notify, by personal service or certified mail, the permittee of the intention to conduct a hearing to consider the revocation of the Conditional Use Permit. The written notice shall include the exact nature of the complaint and the date and time of the hearing before the Planning Commission. The hearing shall be held in accordance with customary administrative hearings procedures.
3. The Planning Commission, after hearing the evidence presented by all interested parties regarding the complaint, may continue the hearing, modify or rescind any condition or requirement of the Conditional Use Permit as it deems necessary, revoke the Conditional Use Permit, or take no action and dismiss the complaint.
4. Any permittee aggrieved by a decision or order entered by the Planning Commission pursuant to this section may maintain an action for relief therefrom in any court of competent jurisdiction. Action for relief must be filed with the court within fifteen (15) days after the decision or order was made by the Planning Commission.
5. Effective date and scope. This section shall apply to all Conditional Use Permits issued after the effective date of this Ordinance, regardless of change in ownership or occupancy.

20.20.10 **TIME LIMIT FOR IMPLEMENTATION**

A conditional use permit shall expire and become null and void if the permit has not been implemented by the permittee within one year of the date of approval. The permit shall be considered implemented if the permittee either engages or participates in the conditional use or completes substantial construction on the project for which the permit was granted.

20.20.11 **REAPPLICATION AFTER DENIAL**

Denial of an application for a Conditional Use Permit regarding any parcel of property shall prohibit the filing of another application for a Conditional Use Permit for the same parcel of property or any portion thereof, within one (1) year of the date of the final denial of the previous application, unless a majority of the Planning Commission members, through an informal poll conducted by the Chairman, finds that there has been a substantial change in the circumstances or sufficient new evidence as submitted by the applicant in writing since the denial of the previous application to merit consideration of a second application within the one (1) year time period.

20.20.12 **CONTINUING EFFECT**

A Conditional Use Permit, once approved, affects real property regardless of change in ownership and all subsequent owners are subject to those conditions so long as that conditional use is being conducted on the property. The conditional use may be conducted either intermittently or continuously, provided, however, that if the conditional use becomes a legal nonconforming use due to a later amendment to this Ordinance, the provisions of this Title 20 Zoning Ordinance of Genola relating to nonconforming buildings and uses shall apply. The Planning Commission may grant a conditional use permit for a limited period of time if it finds that a time limit on the permit is reasonable to protect the health, safety, or welfare of the community.

ⁱ Previous Versions and Ordinances