

## Chapter 24 Administrative Procedures

### 24.010 Purpose.

- A. The purpose of this chapter is to establish common procedures for the filing of all applications, notice of public hearings, required findings for approval of development permits, and appeal of decisions for development permits and other approvals governed by this Zoning Ordinance.
- B. The procedures in this chapter shall apply to development permits and approvals governed by this Zoning Ordinance, except as otherwise expressly provided by this Zoning Ordinance or other applicable law.

### 24.020 Zoning Administrator.

- A. **Zoning Administrator Established.** In order to achieve improved coordination in the administration of this Zoning Ordinance; to increase the efficiency of zoning proceedings; to reduce the time consumed in processing applications for the various permits and review prescribed in this Zoning Ordinance and to relieve the Planning Commission of certain routine functions in order that it may focus its attention on its primary responsibility of comprehensive planning, there is hereby established in the Community Development Department a Zoning Administrator. The Zoning Administrator shall be the Director, as described in chapter 1 of this Zoning Ordinance, who, in performing the role of Zoning Administrator, shall have the power and duty to:
  - 1. Oversee all administrative actions required by this Zoning Ordinance, including the giving of notice, preparing reports, reviewing Site Plan and Architectural approval applications, conditional use permit applications, and Planned Community and Planned Unit Development Plan submittals, receiving and processing appeals and receiving and accounting for fees.
  - 2. Supervise staff members assigned to zoning administration.
  - 3. Maintain the Zoning Ordinance, Zoning Map, and all records of zoning actions and proceedings.
  - 4. Interpret the Zoning Ordinance for members of the public, for City departments and other branches of City government, and provide preliminary advice to applicants for zoning approvals, subject to the requirements of this Zoning Ordinance, the City's General Plan, duly enacted policies and rules of the Planning Commission and the City Council, and other applicable laws and regulations.
  - 5. Issue variances and zoning permits subject to the performance standards, required findings, procedures, and other requirements specified in this Zoning Ordinance.
  - 6. Report regularly to the Planning Commission on the conduct of the Director's office including the number of applications processed and their disposition and recommendations for changes and improvements to this Zoning Ordinance and related regulations and procedures.
  - 7. Delegate authority and duties of the Zoning Administrator to other staff members as required or appropriate to ensure discharge of the Zoning Administrator's functions and effective administration of this Zoning Ordinance.

### 24.030 Application Forms and Fees.

- A. **Who May Apply.** Property owners or property owners' authorized agent acting on the owners' behalf may apply for approvals governed by this Zoning Ordinance. If the applicant is someone other than the property owner or the owner's agent, proof satisfactory to the Director of the applicant's right to use and possess the property that is subject to the approval sought shall accompany the application.

**B. Application Forms and Materials.**

1. **Application Forms.** The Director shall prepare and issue application forms and lists that specify the information that is required for applications subject to the provisions of this Zoning Ordinance.
2. **Supporting Materials.** The Director may require the submission of supporting materials as part of applications, including, but not limited to, maps, colors to be used, statements, photographs, site plans, elevation drawings, renderings, models, material samples, reports and other items necessary to accurately and completely describe existing conditions and the proposed project, and to determine the level of environmental review required pursuant to this Zoning Ordinance and the California Environmental Quality Act.
3. **Availability of Materials.** All application material once submitted to the City becomes the property of the City, may be distributed to the public, and shall be made available for public inspection. At any time upon reasonable request, and during normal business hours, any person may examine application materials submitted in support of or in opposition to an application in the Community Development Department offices in accordance with applicable law, including but not limited to, the California Public Records Act.
4. **Cost Recovery Agreement.** Applications must include a signed cost recovery agreement in a form approved by the Director and the City Attorney to reimburse the City for the cost of processing the application, preparation of environmental review documents, required technical studies and/or peer review, and the cost of planning, engineering, legal and other staff and consultants performing work on the application.

**C. Application Fees.**

1. No application shall be accepted as complete and processed without payment of the applicable fee established by resolution of the City Council.
2. The City's application processing fees are cumulative unless the City's Master Fee Schedule expressly provides otherwise. For example, if an application for development review also includes or requires a use permit application, both fees shall apply and be charged.
3. No fees apply when the applicant is the City.

**24.040 Applications Deemed Withdrawn.**

- A. The Director may deem any application submitted pursuant to this Zoning Ordinance withdrawn if:
  1. The applicant submits a written request to withdraw the application; or
  2. The Director determines that the proposed use is not an allowable use in the land use designation or zoning district category where the property that is the subject of the application is located, pursuant to Tables 4.1 – 4.5, the City's General Plan Land Use Map or the Planning Subareas in Chapter 2 of the General Plan Land Use Element, and the required application for General Plan or Zoning Ordinance/Map Amendment has not been submitted; or
  3. The application has been held, awaiting the applicant's submittal of additional required information, and the applicant has not submitted the required information within 90 days of:
    - a. The last City notification to the applicant requesting additional information in advance of either a decision to accept the application for processing, or review by the Planning Commission, City Council, or other discretionary body; or
    - b. The date of the last Planning Commission or City Council consideration of the application.
- B. Prior to an application being deemed withdrawn outside of a request for withdrawal from the applicant, the Director shall provide notice to the applicant of the required information that the applicant has not provided and that the

application will be deemed withdrawn on the close of business on the fifth business day following the date of the notice, or at a later time that the Director, in the Director's sole discretion may specify in the notice. The notice shall also include an explanation of the requirements for refiling the application.

- C. A withdrawn application may be re-filed at any time, subject to all applicable requirements for new applications in accordance with this Zoning Ordinance.

#### **24.050 Site Plan and Architectural Review.**

- A. **Purpose.** The purpose of Site Plan and Architectural Review (SPAR) approval is to secure compliance with this Zoning Ordinance and to promote the orderly and harmonious development of the City. It is the intent of this section to achieve a satisfactory quality of design in individual buildings and sites, appropriateness of buildings to their intended use, mitigate the environmental impacts of buildings and sites, and facilitate harmony between developments and their surroundings. No City permit or license shall be issued for any of the following uses until site plan and architectural approval has been granted:
- public buildings and grounds
  - public and private schools, colleges, libraries, art galleries and museums
  - public and private hospitals and other institutions
  - churches and other religious buildings and grounds
  - clubs, lodges, mortuaries, meeting halls, and other places of public assembly
  - motels and hotels
  - office buildings
  - all commercial and industrial uses
  - mobile home parks
  - parking lots
  - public utilities, structures and installations, except poles and towers carrying overhead lines
  - more than one dwelling unit per lot except for accessory dwellings
  - subdivisions with five or more single household dwellings
- B. **Administrative Site Plan and Architectural Review.** The Director may grant Administrative Site Plan and Architectural Review approval for nonproduction residential units in approved subdivisions of five or more lots, all residential developments of less than five units, and all minor additions or modifications to industrial, commercial or office buildings, or may refer such development proposals to the Planning Commission. For purposes of this section, the term "nonproduction residential units" means houses not substantially similar to other houses within view of one another as determined by the Director, or houses within a subdivision where the same floor plan or exterior design is used less than three times.
- C. **Investigation and Report.** The Director shall determine from data submitted whether the proposed use will meet the requirements of this chapter and shall either (1) administratively approve, disapprove, or approve with modifications the subject application where appropriate; or (2) when in the Director's sole discretion they deem it necessary, prepare a report with recommendations and submit the report to the appropriate reviewing authority, as described in Section 1.030 of this Zoning Ordinance.
- D.. **Procedure.** On matters to be reviewed by the Planning Commission, or when the Director refers an application to the Planning Commission with recommendations, the applicant shall be so notified and a hearing date shall be established. On the date of the hearing, the Planning Commission shall consider the Director's report and any additional staff comment and shall permit the applicant or any other affected person to present any evidence which the Planning Commission deems to be relevant. The Planning Commission shall approve, disapprove, or approve with modifications applications for which the Planning Commission is the entitling body, or recommend approval, disapproval, or approval with modifications or give other appropriate recommendation to the City Council, concerning applications for which the Planning Commission is an advisory body.
- E. **Standards for Review of Applications.** The appropriate reviewing authority shall review the exhibits, together with the reports of the Director, and based on these documents, evidence submitted, comments from the applicant and

public, and the criteria set forth below, may, in the reviewing authority's sound discretion based on substantial evidence in the record and according to the findings of the reviewing authority listed in this provision approve the application, approve the application with modifications, or disapprove the application. In taking action on a site plan and architectural review application, the reviewing authority shall consider each of the following criteria. An affirmative finding for each of the following criteria, supported by substantial evidence in the record, is required for approval of an application for Site Plan and Architectural Review.

1. The project uses quality materials and the overall design is harmonious and in proportion in itself and in relation to adjacent development, based on the following:
    - a. The architectural style is appropriate for the project, and compatible with the character of the neighborhood.
    - b. The siting of the structures on the property is appropriate for the site and as compared to the siting of other structures in the neighborhood.
    - c. The size, location, design, color, number, lighting, and materials of all signs and outdoor advertising structures is in accordance with all applicable requirements of this Zoning Ordinance and appropriate for the site and compatible with the character of the neighborhood.
    - d. The bulk, height, and color of any proposed structure is appropriate for the site and as compared to the bulk, height, and color of other structures in the neighborhood.
  2. Landscaping in accordance with applicable City standards and that is appropriate for the site and compatible with the character of the neighborhood will be provided on the site. Existing trees shall be preserved wherever possible, and shall not be removed unless approved by the Planning Commission.
  3. Ingress, egress, internal circulation for bicycles and automobiles, off-street automobile and bicycle parking facilities and pedestrian ways are designed so as to promote safety and convenience and conform to applicable City standards. Any plans pertaining to pedestrian, bicycle, or automobile circulation have been routed to the Pedestrian and Bicycle Advisory Committee for review and approval or recommendation.
  4. The design is of good character and has been prepared by a professional designer, such as an architect, landscape architect or other practicing urban designer or person with equivalent skill and qualifications.
  5. The application and the project for which it seeks approval are exempt from the California Environmental Quality Act (CEQA), or the environmental impacts of the project including impacts to or of biological resources, greenhouse gas emissions, vehicle miles travelled, land use, population and housing, agriculture and forestry resources, cultural resources, hazards and hazardous materials, mineral resources, public services, utilities and service systems, air quality, geology and soils, hydrology and water quality, noise, and recreation are avoided, or are mitigated by conditions imposed by the reviewing authority so as to be less than significant, or are approved based on overriding considerations in accordance with all applicable CEQA requirements.
  6. The proposed structure and use, subject to any conditions which may apply, conforms with the applicable requirements of this Zoning Ordinance and applicable policies and programs of the City's General Plan and any applicable specific plan, and the proposed use will not, under the circumstances of the conditional use application, constitute a nuisance or be detrimental to the public welfare of the community.
- F. **Conditions.** The Reviewing Authority may impose such requirements and conditions with respect to siting, landscaping, architectural design, and other aspects of the proposed project as may be necessary and appropriate for the protection of adjacent properties and the public interest to effect the purposes of this section such that the Reviewing Authority can make the findings specified in provision (E) of this Section.
- G. **Revocation.** Upon a permittee's violation of any applicable provision of this Zoning Ordinance, or, upon a permittee's failure to comply any terms or conditions of a SPAR approval, the Director may send the permittee a certified letter informing the permittee of the facts constituting noncompliance and stating that the applicant has twenty (20) calendar days, or more at the discretion of the Director based on the scope of the violation, from the

- date of the letter to comply with the requirements of this Zoning Ordinance and/or the terms and conditions of the SPAR approval. If after twenty (20) calendar days have elapsed from the date of the notice, the permittee has failed to cure the permittee's non-compliance as required, the Director may send a second certified letter to the permittee suspending the SPAR approval and advising the permittee of the applicant's right to be heard by filing an appeal pursuant to Section 24.100 of this Zoning Ordinance. The suspension will be in effect for twenty (20) calendar days from the date of the notice of suspension. If, after the twenty (20) day suspension the applicant still has not cured the permittee's noncompliance as required, or if the applicant has failed to file a timely appeal, the SPAR approval shall be revoked and terminated and shall be null and void without further action by the City.
- H. **Appeal.** Any determination made pursuant to this Section may be appealed in accordance with Section 24.090 of this Zoning Ordinance.
- I. **Expiration of Approvals.** Site Plan and Architectural Review approval shall automatically expire 12 months after approval unless the permit has been exercised, an extended expiration has been approved consistent with provision (I) of this Section, or unless an extension of time is approved in compliance with provision (J) of this Section. The approval shall not be deemed "exercised" until the permittee has commenced the approved use on the site in compliance with the conditions of approval or an application for building permit has been submitted in compliance with the conditions of approval. The approval shall remain valid after it has been exercised as long as a building permit remains active or a final building inspection or certificate of occupancy has been granted. Upon expiration of Site Plan and Architectural Review approval, no further work shall be done on the site until a new approval is first granted.
- J. **Extended Expiration for Housing.** An extended expiration of up to a maximum of four years may be approved by the Planning Commission upon recommendation by the Director for housing projects that require additional time to obtain regulatory permits, begin public improvements, or necessitate other significant coordination prior to commencement of vertical construction. Any extended expiration must be approved with the initial SPAR permit and shall not be in addition to the 12-month expiration provided for in provision (I) of this Section. Approval of an extended expiration with the original SPAR permit precludes issuance of an extension of time pursuant to provision (K) of this Section unless the extended expiration is approved for less than four years. At no time shall the SPAR expiration, inclusive of both the extended expiration and any applicable extensions, exceed a total of four years, except for City projects in accordance with provision (K) of this Section.
- K. **Extension of Time.** Upon submittal of an application to the Community Development Department (Department) on a form prescribed for this purpose by the Department, the Director may extend the time limit established in provision (I) of this Section for site plan and architectural review approval in accordance with the following requirements.
1. The application filed shall include a written request for an extension of time and shall be filed at least 30 days prior to the expiration of the site plan and architectural review approval, together with the filing fee required by the City's adopted fee schedule.
  2. The Director shall determine whether the applicant has made a good faith effort to exercise the approval. The applicant shall provide substantial evidence that circumstances beyond the control of the applicant have resulted in an inability to commence the use or apply for a building permit within the time period in provision (I) of this Section. For purposes of this provision only, such circumstances may include but are not limited to financial hardship, temporary delay or unavailability of funding, unanticipated delays in securing necessary property rights for the project and/or unanticipated or abnormal weather conditions sufficient to delay commencement or completion of construction or preconstruction activities.
  3. The Director may grant up to three 12-month extensions to the expiration date of the original approval only upon the Director's determination separately for each extension that conditions of the site and in the vicinity of the project are substantially the same as when the permit or approval was originally granted and/or that any changes which have occurred do not affect the validity of the findings for the original approval, that the project remains in general conformance with the City's general plan and the requirements of this Zoning Ordinance and that the applicant has made a good faith effort to exercise the approval. Only one 12-month extension may be granted at a time. More than three extensions may be granted for city public facilities projects.

- L. **Referral to Planning Commission.** The Director may refer to the Planning Commission for a public hearing any SPAR application.
- M. **Public Notice.** Notice of both Site plan and Architectural Review and Administrative Site Plan and Architectural Review will be in accordance with Section 24.100 of this Zoning Ordinance.

#### 24.060 Conditional Use Permits.

- A. **Purpose.** The purpose of Conditional Use Permit requirements and of issuance of conditional use permits is to ensure the proper integration of uses which may be suitable only in certain locations and only provided such uses are arranged or operated in a particular manner.
- B. **Minor Use Permit.** The Director is hereby authorized to approve Minor Use Permits subject to the same findings and other requirements that apply to the Planning Commission's approval of Conditional Use Permits pursuant to Section 24.060 of this Zoning Ordinance. For purposes of this section, "minor use permits" are defined as minor exterior modifications or enlargements to existing use permits, where such modifications or enlargements are inconsequential in nature and do not involve a significant change in operations; minor extension of permitted operating hours under existing use permits where the business has no appreciable outside noise and/or does not affect an abutting residential district; new use permits where the use is of the same or more restricted nature as the previous use occupying the site; new use permits to authorize dwelling groups, in accordance with the provisions of Section 7.040 of this Zoning Ordinance; new use permits for tasting rooms pursuant to Section 8.035 of this Zoning Ordinance; new use permits to authorize the establishment of conditional uses in commercial and industrial districts where the Director finds that the use will be compatible with adjacent uses and is in conformance with applicable development standards, e.g., parking, landscaping, fencing, etc., and applicable performance standards; new use permits to authorize existing single-household dwellings or to reestablish single-household dwellings in selected commercial districts; previously-approved use permits that have expired within the immediately-preceding twenty-four months; and minor telecommunications facilities in accordance with the provisions of Petaluma Municipal Code Section 14.44.20.
- C. **Investigation and Report.** The Director shall determine from data submitted whether the proposed use will meet the requirements of this chapter and shall either (1) administratively approve, disapprove, or approve with modifications the subject application where appropriate; or (2) when in the Director's sole discretion they deem it necessary, prepare a report with recommendations and submit the report to the appropriate reviewing authority, as described in Section 1.030 of this Zoning Ordinance.
- D. **Procedure.** On matters to be reviewed by the Planning Commission, or when the Director refers an application to the Planning Commission with recommendations, the applicant shall be so notified, and a hearing date shall be established. On the date of the hearing, the Planning Commission shall consider the Director's report and any additional staff comment and shall permit the applicant or any other affected person to present any evidence which the Planning Commission deems to be relevant. The Planning Commission shall approve, disapprove, or approve with modifications applications for which the Planning Commission is the entitling body, or recommend approval, disapproval, or approval with modifications or give other appropriate recommendation to the City Council, concerning applications for which the Planning Commission is an advisory body.
- E. **Standards for Review of Applications.** The appropriate reviewing authority shall review the exhibits, together with the reports of the Director, and based on these documents, evidence submitted, comments from the applicant and public, and the criteria set forth below, may, in the reviewing authority's sound discretion based on substantial evidence in the record and according to the findings of the reviewing authority listed in this provision approve the application, approve the application with modifications, or disapprove the application. In taking action on a Conditional Use Permit or Minor Use Permit application, the reviewing authority shall consider each of the following criteria. An affirmative finding for each of the following criteria, supported by substantial evidence in the record, is required for approval of a Use Permit application
  - 1. Regarding the siting of the building(s) and use:
    - a. The site is adequate to accommodate the proposed use and building(s) and all related activities.

- b. All outdoor activities will be adequately screened.
  - c. The proposed building(s) and use will protect the outlook, light, air, and peace and quiet of any adjoining buildings and uses.
  - d. The location and character of any display of goods and services and the size, nature, and lighting of any signs will satisfy all applicable requirements of this Zoning Ordinance and will be compatible with adjoining buildings and uses.
  - e. The intensity of proposed activity will be compatible with adjoining buildings and uses.
2. Regarding traffic circulation and parking:
- a. The type of street serving the proposed building(s) and use is adequate for the amount of traffic expected to be generated.
  - b. The adequacy, convenience, and safety of vehicular access and parking, including the location of driveway entrances and exits is adequate for the amount of traffic expected to be generated, and will be compatible with adjoining buildings and uses.
  - c. The amount, timing, and nature of any truck traffic associated with the proposed building(s) and use will be compatible with adjoining buildings and uses.
3. Regarding the compatibility of the proposed building(s) and use with its environment:
- a. The number of customers or users and resulting activity level is suitable for the surrounding uses and especially any neighboring uses of unusual public importance such as schools, libraries, playgrounds, churches, and hospitals.
  - b. The hours of operation are compatible with adjoining uses.
  - c. Provisions for the control of any off-site effects such as noise, dust, odors and other emissions, light, or glare, etc., are adequate to protect adjoining uses.
  - d. Provisions for protection of the public against any special hazards arising from the intended use are adequate.
4. The expected duration of the proposed building and use, whether temporary or permanent, is compatible with adjoining uses, and time limits on the proposed use, if appropriate, are adequate in view of adjoining uses.
5. The proposed use in the proposed location is or is not considered a matter of public convenience and necessity.
6. The proposed structure and use, subject to any conditions which may apply, conforms with the applicable requirements of this Zoning Ordinance and applicable policies and programs of the City's General Plan and any applicable Specific Plan, and the proposed use will not, under the circumstances of the conditional use application, constitute a nuisance or be detrimental to the public welfare of the community.
- F. **Conditions.** The Reviewing Authority may impose such requirements and conditions with respect to location, construction, maintenance, operation, duration and other aspects of the proposed use as may be necessary and appropriate for the protection of adjacent properties and the public interest to effect the purposes of this section such that the Reviewing Authority can make the findings specified in provision (E) of this Section.
- G. **Revocation.** Upon a permittee's violation of any applicable provision of this Zoning Ordinance, or, upon a permittee's failure to comply any terms or conditions of a use permit, the Director may send the permittee a certified letter informing the permittee of the facts constituting noncompliance and stating that the permittee has twenty (20) calendar days from the date of the letter to comply with the requirements of this Zoning Ordinance and/or the terms and conditions of the use permit. If after twenty (20) calendar days have elapsed from the date of the notice the

- permittee has failed to cure the permittee's non-compliance as required , the Director shall send a second certified letter to the permittee suspending the use permit and advising the permittee of the permittee's right to be heard by filing an appeal pursuant to Section 24.100 of this Zoning Ordinance. The suspension will be in effect for twenty (20) calendar days from the date of the notice of suspension. If, after the twenty (20) day suspension the permittee still has not cured the permittee's noncompliance as required, or if the permittee has failed to file a timely appeal, the use permit shall be revoked and terminated and shall be null and void without further action by the City.
- H. **Appeal.** Any determination made pursuant to this Section may be appealed in accordance with Section 24.090 of this Zoning Ordinance.
- I. **Expiration of Permit.** A Use Permit shall automatically expire twelve (12) months after approval unless the permit has been exercised or unless an extension of time is approved in accordance with Provision (J) of this Section. An approval shall not be deemed "exercised" until the permittee has commenced the approved use on the site in compliance with the conditions of approval or an application for building permit has been submitted in compliance with the conditions of approval.
- J. **Extension of Time.** Upon submittal of an application to the Community Development Department on a form prescribed for this purpose by the Director, the Director may extend the time limit established in provision 24.060(I) for the validity of an approved Use Permit that has not been exercised in accordance with the requirements of this provision.
1. The application filed shall include a written request for an extension of time and shall be filed at least 30 days prior to the expiration of the conditional use permit, together with the filing fee required by the City's adopted fee schedule.
  2. The Director shall determine whether the applicant has made a good faith effort to exercise the permit. The applicant shall provide substantial evidence that circumstances beyond the control of the applicant have resulted in an inability to commence the use or apply for a building permit within the time period specified in provision (I) hereof. For purposes of this provision (J) only, such circumstances may include, but are not limited to, financial hardship, temporary unavailability or delay in funding, unanticipated delays in securing necessary property rights for the project, and unanticipated or abnormal weather conditions sufficient to delay commencement or completion of construction or preconstruction activities. Such circumstances apply only to the extension of time for commencement of a use under a newly- issued use permit and not to cessation of activity for purposes of abandonment of a use permit, pursuant to Section 24.060(K) of this Zoning Ordinance.
  3. The Director may grant up to three 12-month extensions to the expiration date of the original use permit only upon the Director's determination separately for each extension that conditions of the site and in the vicinity of the project are substantially the same as when the permit or approval was originally granted and/or that any changes which have occurred do not affect the validity of the findings for the original approval, that the project remains in general conformance with the City's General Plan and the requirements of this Zoning Ordinance, and that the applicant has made a good faith effort to exercise the approval. Only one 12-month extension may be granted at a time. More than three extensions may be granted for City projects.
- K. **Abandonment.** Whenever the use permitted by a Use Permit has been abandoned, the permit shall be deemed revoked, and shall be terminated and null and void. For purposes of this provision, "abandoned" means:
1. Cessation of the use permitted by the permit for a continuous period of one year.
  2. Commencement of a different use that does not include or continue the use which is the subject of the permit, and continuance of the different use for a continuous period of one year.
  3. Commencement of use under a new use permit granted for a use or combination of uses not previously permitted, and continuance of the use under the new use permit for a continuous period of one year.
  4. Except in the case of an extension granted pursuant to provision 24.060(J), or reactivation pursuant to provision 24.060(O), cessation of diligent activity to construct the permitted use for a continuous period of one year or more, once begun, unless the cessation of activity is due to factors beyond the control of the permittee. For



purposes of this provision lack of adequate financing, bankruptcy or financial failure of the permittee or the permittee's agent(s), employee(s), contractor(s), or investor(s) will be deemed within the control of the permittee.

Following abandonment pursuant to this provision, any affected permittee may apply for a new conditional use permit, which shall be governed by terms and conditions of the new conditional use permit and the requirements of this Zoning Ordinance and other applicable laws and regulations in effect at the time the new conditional use permit application was complete.

- L. **New Application.** Following the denial of a use permit application or the revocation of a use permit, no application for a use permit for the same or substantially the same conditional use on the same site shall be filed within one (1) year from the date of denial or revocation of the use permit. The Director shall determine in the Director's sole discretion whether the proposed use is the same or substantially the same for the purposes of this provision.
- M. **Use Permit to Run with Land.** A Use Permit granted pursuant to the provisions of this chapter shall run with the land and shall be valid for the successors in interest of the original permittee subject to the terms and conditions of the permit and the requirements of this Zoning Ordinance and other applicable laws and regulations.
- N. **Referral to Planning Commission.** The Director may refer to the Planning Commission for a public hearing any Use Permit application.
- O. **Reactivation.** The Director may reactivate expired or abandoned Use Permits upon a determination that the requirements specified for granting extensions pursuant to provision (J) of this section are met. The application for reactivation, subject to any conditions which may apply, shall conform with the applicable requirements of this Zoning Ordinance and applicable policies and programs of the City's General Plan and building codes, pursuant to Title 17 of the Petaluma Municipal Code as in effect at the time the application for reactivation is complete. The proposed use may not, under the circumstances of the reactivation application, constitute a nuisance or be detrimental to the public welfare of the community.
- P. **Public Notice.** Notice of both Conditional Use Permits and Minor Use Permits will be in accordance with Section 24.100 of this Zoning Ordinance.

#### 24.070 Variances.

- A. **Purpose.** The purpose of variances is to allow variation from the strict application of the terms of this Zoning Ordinance where by reason of the exceptional narrowness, shallowness, or unusual shape of a parcel of property; or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such parcel; or by reason of the use or development of property immediately adjoining the parcel in question, the literal enforcement of the requirements of this Zoning Ordinance would involve practical difficulties or would cause undue hardship unnecessary to carry out the spirit and purpose of this Zoning Ordinance. In no case shall a variance be granted to permit a use other than a use permitted in the district in which the property in question is situated.
- B. **Approval by Director, Referral to Planning Commission.** The Director is authorized to approve applications for variances, upon finding the conditions specified in provision E of this Section are met or may in the Director's sole discretion refer any application for a variance to the Planning Commission for action.
- C. **Investigation and Report.** The Director shall determine from data submitted whether the proposed variance will meet the requirements of this chapter and shall either (1) administratively approve, disapprove, or approve with modifications the subject application where appropriate; or (2) when in the Director's sole discretion they deem it necessary, prepare a report with recommendations and submit the report to the appropriate reviewing authority, as described in Section 1.030 of this Zoning Ordinance.
- D. **Procedure.** On matters to be reviewed by the Planning Commission, or when the Director refers an application to the Planning Commission with recommendations, the applicant shall be so notified and a hearing date shall be established. On the date of the hearing, the Planning Commission shall consider the Director's report and any additional staff comment and shall permit the applicant or any other affected person to present any evidence which the Planning Commission deems to be relevant. The Planning Commission shall approve, disapprove, or approve

- with modifications applications for which the Planning Commission is the entitling body, or recommend approval, disapproval, or approval with modifications or give other appropriate recommendation to the City Council, concerning applications for which the Planning Commission is an advisory body.
- E. **Standards for Review of Applications.** The reviewing authority shall grant a variance only when *the reviewing authority* finds the following conditions exist:
1. There are peculiar and unusual conditions inherent to the property in question sufficient to cause a hardship, and such conditions are not common to all or most of the properties in the immediate area.
  2. The hardship created by the peculiar and unusual conditions inherent to the property were not created by any act of the owner. For purposes of this provision, personal, family or financial difficulties, loss of prospective profits, and neighboring violations are not hardships justifying a variance.
  3. A variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the vicinity, and a variance, if granted, would not constitute a special privilege of the recipient not enjoyed by neighbors.
  4. Granting the variance shall not create a substantial detriment to adjacent property and will be consistent with the purposes of this Zoning Ordinance and the public interest.
  5. A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.
- F. **Conditions.** The Reviewing Authority may impose such requirements and conditions with respect to the proposed variance as may be necessary and appropriate for the protection of adjacent properties and the public interest to effect the purposes of this section such that the Reviewing Authority can make the findings specified in provision (E) of this Section.
- G. **Referral to Planning Commission.** The Director may refer to the Planning Commission for a public hearing any Variance application.
- H. **Public Notice.** Notice of Variances will be in accordance with Section 24.100 of this Zoning Ordinance.
- I. **Appeal.** Any determination made pursuant to this Section may be appealed in accordance with Section 24.090 of this Zoning Ordinance.

#### **24.080 Floodway Variances.**

- A. **Purpose.** The purpose of Floodway Variances is to grant relief from the requirement of Chapter 6 of this Zoning Ordinance that permit construction manner otherwise prohibited by Chapter 6. Floodway Variances must only be issued in accordance with standards set forth in provisions A-F of this Section 24.090.
- B. **Investigation and Report.** The Director shall determine from data submitted whether the proposed variance meets the requirements of this chapter and prepare a report with recommendations and submit the report to the appropriate reviewing authority, as described in Section 1.030 of this Zoning Ordinance.
- C. **Procedure.** On matters to be reviewed by the Planning Commission the applicant shall be so notified and a hearing date shall be established. On the date of the hearing, the Planning Commission shall consider the Director's report and any additional staff comment and shall permit the applicant or any other affected person to present any evidence which the Planning Commission deems to be relevant. The Planning Commission shall approve, disapprove, or approve with modifications applications for which the Planning Commission is the entitling body, or recommend approval, disapproval, or approval with modifications or give other appropriate recommendation to the City Council, concerning applications for which the Planning Commission is an advisory body.

- D. **Standards for Review of Applications.** In considering applications for floodway variances, the reviewing authority shall consider all technical evaluations, all relevant factors, all applicable standards specified in other sections of this Zoning Ordinance, and the following:
1. The danger that materials may be swept onto other lands to the injury of others;
  2. The danger to life and property due to flooding or erosion damage;
  3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. The necessity to the facility of a waterfront location where applicable;
  5. The importance of the services provided by the proposed facility to the community;
  6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  7. The compatibility of the proposed use with existing and anticipated development;
  8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
  9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- E. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (D1-11) above have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
- F. **Conditions.** Upon consideration of the 11 factors in provision (D) above and the purpose of this Zoning Ordinance, the reviewing authority may attach such additional conditions to the granting of variances as deemed necessary to further the purposes of this Zoning Ordinance.
- G. **Reporting.** The reviewing authority shall maintain the records of all appeal actions and report any variances to the Federal Flood Insurance Administration.
- H. **Conditions for Variances in Floodways.**
1. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.
  2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
  3. Variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  4. Variance shall only be issued upon:
    - a. A showing of good and sufficient cause;

- b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, create nuisances, or fraud upon or victimization of the public pursuant to provision D of Section 6.080 of this Zoning Ordinance, or conflict with existing laws or ordinances.
5. Any applicant to whom a variance is granted shall be given written notice that if any structure is permitted to be replaced with a lowest floor elevation below the base flood elevation that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the Floodplain Administrator in the office of the Sonoma County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- H. **Reviewing Authority.** The Planning Commission shall be the reviewing authority for all Floodway Variances and may grant the variance, or may grant the variance subject to specified conditions, or may deny the variance. The reviewing authority shall notify the applicant forthwith of any action taken.
  - J. **Public Notice.** Notice of Floodway Variances shall be in accordance with Section 24.100 of this Zoning Ordinance. At no time shall the required notification be less than a five hundred (500) foot radius of the boundaries of the property at issue.
  - K. **Recurrent Conditions.** No variance shall be granted if the reviewing authority finds that the condition of the specific piece of property, or the intended use of said property, for which variance is sought, is so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation for such condition.
  - L. **Lapse of Variance.** A variance shall lapse and shall become void after (1) year following the date on which the variance became effective unless prior to the expiration of one (1) year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the variance application or a zoning permit is issued authorizing occupancy of the site or structure which was the subject of the variance application. A variance may be renewed for an additional period of one (1) year provided that prior to the expiration of one (1) year from the date when the variance originally became effective, an application for renewal of the variance is made to the Director. The Director may grant or deny any application for renewal of a variance.
  - M. **Enforcement.** Violation of a variance, or of any conditions attached thereto, shall constitute a violation of this Zoning Ordinance and shall be cause for enforcement action in accordance with chapter 26 of this Zoning Ordinance.
  - N. **Transferability.** Unless specified otherwise at the time the variance is granted pursuant to the provisions of this chapter, it shall run with the land and shall be valid for the successors in interest of the original grantee.
  - O. **New Application.** Following the denial or revocation of a variance, no application for the same or a substantially similar variance on the same site shall be filed within one (1) year unless it can be shown that there has been a substantial change in conditions or environs.
  - P. **Appeal.** Any determination made pursuant to this Section may be appealed in accordance with Section 24.090 of this Zoning Ordinance.

#### **24.090 Appeals.**

- A. **Purpose.** This section establishes procedures for the appeal and review of determinations and decisions of reviewing authorities pursuant to this Zoning Ordinance.
- B. **Appeal Subjects and Jurisdiction.**
  - 1. A decision on an administrative site plan and architectural review application may be appealed to the Planning Commission.
  - 2. A decision on an administrative historic site plan and architectural review application may be appealed to the Historic and Cultural Preservation Committee.

3. A decision on a Minor Use Permit, Exception, or Administrative Variance application may be appealed to the Planning Commission.
  4. A decision on a Floodway Variance application may be appealed to the City Council.
  5. A decision by the Director may be appealed to the Planning Commission.
  6. A decision by the Planning Commission may be appealed to City Council.
  7. A decision by the Historic and Cultural Preservation Committee may be appealed to the City Council.
  8. A decision by the Public Art Committee may be appealed to the City Council.
- C. **Eligibility.** The applicant or any other interested party may file an appeal.
- D. **Timing and Form of Appeal.** An appeal shall be submitted in writing and filed with the City Clerk on a City application form within 14 days of the date of the decision. The appeal shall state the pertinent facts, the basis for the appeal, and the relief sought by the appellant. The appeal shall be addressed to the review authority as identified in Section 24.090(B). If no appeal is made within the time limits, the decision shall be final.
- E. **Report and Scheduling of Hearing.** When an appeal has been filed, the Director shall prepare a report on the matter and schedule the matter for a public hearing by the appropriate review authority as identified in Section 24.090(B). The appeal shall be scheduled in a timely manner.
- F. **Public Notice.** Notice of Appeal hearings shall be in accordance with Section 24.100 of this Zoning Ordinance.
- G. **Decision.** At hearings on an appeal, the review authority may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal. The review authority may:
1. Affirm, affirm in part, or reverse the action, determination, or decision that is the subject of the appeal;
  2. Disapprove the land use permit approved by the previous review authority, even though the appellant only requested a modification or elimination of one or more conditions of approval; and
  3. Adopt additional conditions of approval that may address issues or concerns other than the subject of the appeal.
- H. **City Council Approval.** Approval of a land use permit by the City Council shall become effective immediately after it is granted by the Council.

**24.100 Public Notice.**

- A. **Neighborhood Outreach Meeting.** When an application for a Major Project (including SPAR, CUP, or other entitlement requiring public hearing) is within, immediately adjacent to, or in close proximity to a residential neighborhood, the applicant shall conduct neighborhood outreach to inform and solicit feedback from the neighborhood before the project application is scheduled for a public hearing. For purposes of this Chapter, a Major Project is defined as a project that requires a public hearing before the Planning Commission, City Council, or Historic and Cultural Preservation Committee for action on the proposed entitlement, including but not always limited to SPAR, CUP, Variance, Floodway Variance, General Plan and Zoning Amendments, and Appeals.
1. **Approach.** The applicant is encouraged to utilize various methods for soliciting neighborhood input and to offer multiple opportunities for input during the review process. The applicant shall hold at least one neighborhood meeting prior to public hearing for all Major Projects. The meeting shall be open to the public and the applicant's representatives shall be available to respond to comments and questions from the public.
  2. **Location.** The applicant shall arrange a suitable location to host the meeting, whether on site or in close proximity to the project site. If it is anticipated that there will be heavy community feedback regarding the project, the applicant

may not be able to accommodate the meeting in the immediate project vicinity due to the size of available space. In this case the applicant shall select a convenient location to the maximum extent possible.

3. **Written Notice.** Written notice of the neighborhood meeting shall be provided to all property owners and occupants within the applicable noticing radius in accordance with provision C of this Section at least ten days prior to the neighborhood meeting.
4. **Timing.** The applicant is encouraged to solicit neighborhood input early in the application process to ensure meaningful engagement and the opportunity to respond to input regarding the project design. The neighborhood meeting shall be held before the project is scheduled for public hearing. Additionally, for larger projects, the applicant is encouraged to conduct neighborhood outreach multiple times during the design process.
5. **Summary.** A copy of the public notice sent to neighbors shall also be sent to the Community Development Department to the attention of the assigned project planner. Prior to the public hearing on the project application, the applicant shall provide staff a written summary of all neighborhood outreach efforts, including date, time, place, attendance, and topics of primary interest to the attendees.

B. **On -Site Posting.** When an application requires a public meeting or hearing, the applicant shall install a sign on the project site in a place conspicuous to the public, at least 10 days before the scheduled public hearing or upon availability of the applicable environmental document for the project, in accordance with the following:

1. **Height.** The sign height shall not exceed six feet.
2. **Size.** The size of the sign shall comply with the following requirements:

Parcel Size	Minimum Size Area
Under 6,000 square feet or store front	6 square feet
6,000 to 20,000 square feet	12 square feet
20,001 square feet to 1 acre	24 square feet
Over 1 acre	32 square feet

3. **Number of Signs.** One sign shall be displayed on each public street frontage of the project site.
4. **Placement.** The signs shall be placed in a position most visible to the public. On a corner parcel the sign(s) shall not be located in the vision triangle as defined in Chapter 28 of this Ordinance.

Signs shall be set back at least five feet inside the project site property line for those project sites within residential zoning districts and at least one foot inside the property line for commercial, mixed use, business park, and industrial zoning districts. For properties located in other zones, including Planned Unit Development or Planned Community District, the sign placement shall comply with the minimum setback for a similar type zone. For properties subject to a zero front setback or full lot coverage (such as properties in MU2 zoning districts), the required sign may be posted in the front storefront window or be affixed to the front of the building.

5. **Content.** Content of the on-site posting shall be in accordance with provision (D) of this Section. The date, time, place of the hearing, and the name of the reviewing authority shall be presented in font that is at least three times the size of the font used for other information on the sign.
6. **Verification.** On or before the required date of on-site posting, the applicant shall submit a signed affidavit verifying installation of the required signage.
7. **Removal.** The sign(s) shall be removed within 15 days of final decision of the reviewing authority on the application(s) or withdrawal of the application.
8. The on-site sign posting requirements pursuant to this provision are in addition to and do not supplant other applicable noticing requirements specified in this Zoning Ordinance or state law.

- C. **Mailed Notices.** Mailed notices shall be sent to all property owners and occupants within a radius of the project site as specified by application type outlined below

Application Type	Required Radius
Site Plan and Architectural Review	1,000 feet
Administrative Site Plan and Architectural Review	500 feet
Historic Site Plan and Architectural Review	1,000 feet
Historic Site Plan and Architectural Review (homeowner)	500 feet
Administrative Historic Site Plan and Architectural Review	500 feet
Conditional Use Permit	1,000 feet
Minor Use Permit	500 feet
Floodway Variance	1,000 feet
Variance	1,000 feet
Administrative Variance	500 feet
Tentative Parcel Map	500 feet
Tentative Subdivision Map	1,000 feet
General Plan Amendment (citywide)	None required
General Plan Amendment (parcel specific)	1,000 required
Zoning Map/Text Amendment (citywide)	None required
Zoning Map/Text Amendment (parcel specific)	1,000 required

1. All projects requiring mailed notices shall also be sent to any person or group who has filed a written request with the Director for notice regarding project applications.
  2. If the number of owners/occupants otherwise entitled to mailed notice pursuant to these provisions is greater than 1,000, in lieu of mailed notice, the applicant may provide notice by placing a display advertisement of at least one-eighth page in the Argus Courier at least 10 days prior to the public meeting or hearing.
  3. Content of the mailed notices shall be in accordance with provision (D) of this Section.
- D. **Content of Notice.** On-site posting and mailed notice pursuant to provisions (B) and (C) of this Section above, shall contain the following:
1. The date, time, and place of the hearing and the name of the reviewing authority.
  2. The project name and address, name of the project applicant, the City's file number assigned to the application, the requested entitlements, and a general project description.
  3. A statement regarding compliance with the California Environmental Quality Act (CEQA) and the applicable level of environmental review, and whether the reviewing authority will also consider an environmental document (i.e., a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report).
  4. Project planner and contact information to permit interested persons to obtain additional information.
  5. A brief description of the City's procedure for submission of public comments.
- E. **Additional Noticing Methods.** The City may also require the applicant to provide public notice in any other manner the City reasonably deems necessary or desirable to effect the purposes of this section. The City encourages applicants to utilize other methods to provide notice and solicit community engagement in addition to the noticing requirements as outlined in this section.
- F. **Failure to Receive Notification.** The failure of any property owner, resident, neighborhood or community organization to receive a mailed notice or receive notice by any additional methods shall not affect the validity of any approval granted pursuant to this Zoning Ordinance.

**24.110 Issuance of Permit or License.**

- A. A permit or license (building permit, grading permit, business license, etc.) shall not be issued until the appeal period for the approved application has expired, in accordance with provision E of Section 24.090 of this Zoning Ordinance.