

## CHAPTER 10.50

## LAND USE PERMIT PROCEDURES

### 10.50.010 Purpose

This Chapter provides general guidelines for filing, reviewing and processing Land Use Permits for the following purposes:

- A. To establish uniform procedures to prepare and file applications;
- B. To provide a framework for processing applications by the Community Development Department;
- C. To establish factors to be considered by the hearing body, including findings and conditions of approval: and
- D. To coordinate application processing with environmental review of projects.

### 10.50.020 Zoning Applications

- A. **Zoning Permit Required.** A Zoning Permit shall be required prior to the commencement of a new, changed or expanded use and/or prior to the issuance of a building permit, consistent with Chapter 10.52 (Zoning Permits.) The issuance of a Zoning Permit shall be a ministerial act, provided the proposal meets all zoning requirements contained in this Title 10 and any other applicable requirements. Zoning Permits shall be required for all uses and building permits whether or not discretionary permits are also required.
- B. **Discretionary Permits.** Projects involving new, changed or expanded land uses and/or the issuance of a building permit may require review and approval of one or more discretionary permit(s) (see Chapter 88, Definitions), as follows:
  - 1. **Design Review.** Proposed new structures and exterior alterations to existing structures specified in Chapter 10.54 (Design Review) and outlined in Table 10.50-1 (Design Review Procedures) require Design Review.

DESIGN REVIEW CLEARANCE	AUTHORITY
Administrative Design Review Permit	Community Development Department
Design Review Permit	Planning Commission/Historic Landmarks Board

2. **Other zoning applications.** Proposals involving new or expanded land uses and/or requiring the issuance of a building permit may require additional permits, as provided by Chapters 10.56 (Encroachment Permits) through and including 10.68 (Variances) and shown in Table 10.50-2 (Zoning Applications):

<b>Table 10.50-2 ZONING APPLICATIONS</b>			
<b>CHAPTER #</b>	<b>PERMIT REQUIRED</b>	<b>TRIGGERS</b>	<b>AUTHORITY</b>
10.56	<b>Encroachment Permit</b>	Construction of any improvement within the City of Sausalito's public right-of-way	City Council, with Community Development Director or Planning Commission recommendation
10.58	<b>Minor Use Permit</b>	Uses specified in Chapters 10.20 through 10.28 (Zoning District Regulations)	Zoning Administrator or Planning Commission
10.60	<b>Conditional Use Permit</b>	Uses specified in Chapters 10.20 through 10.28 (Zoning District Regulations)	Planning Commission
10.62	<b>Non- Conforming Permit</b>	Structural alterations or use changes specified in Chapter 10.62 (Non-conforming Uses and Structures)	Planning Commission
10.64	<b>Lot Line Adjustment</b>	Move lot line(s) between two or more legal lots of record	Zoning Administrator or Planning Commission
10.66	<b>Condominium Conversion Permit</b>	Converting existing or approved development project to a condominium, condominium apartment project or stock cooperative project	Planning Commission
10.68	<b>Variance</b>	Reduction of, or waiver to, the strict application of zoning regulations	Zoning Administrator or Planning Commission

- D. **Environmental Review.** Notwithstanding any other provision of this Title, no ministerial action (as defined in Title 11 (Environmental Protection) and the California Environmental Quality Act (CEQA)) shall be taken for a portion of a project unless all discretionary City entitlements required for the entire project have been issued. For the purposes of this section, "project" shall mean the specific development proposal for which one or more applications have been made.
- E. **Review Authority.** The Community Development Department shall review all applications and accompanying data to determine compliance with all provisions of this

Title. If the application is for any use for which non-administrative design review is required (Chapter 10.54, Design Review Procedures), the application shall be referred to the Planning Commission in accordance with Section 10.54.080.I (Referral to Planning Commission). If more than one application is submitted, the entire proposal shall be reviewed and approved by the highest applicable authority. (For example, if a proposal involves a Minor Use Permit and a Variance requiring Planning Commission approval, the Planning Commission shall hear the entire proposal.)

- F. Multiple Applications.** The Community Development Director may schedule combined public hearings when multiple permit applications are filed for a given development or site (for example, a development which requires a Conditional Use Permit and a Variance).

### **10.50.030 Application Procedure**

Applications for permits required by this Title shall be filed with the Community Development Department. Any application for approval of a land use, building or structure, land division, or other permit required by this Title shall be processed by the Community Development Department, subject to the following:

- A. The proposed use is allowed on its site, as provided by Chapters 10.20 through 10.28 (Zoning District Regulations), or Section 10.44.300 (Temporary Uses and Events); and
- B. The proposed land use, building or structure, or division of land complies with all applicable standards and requirements of this zoning ordinance, or such standards are addressed by a concurrently-filed variance application that will, if approved, provide such compliance; and
- C. Neither the proposed site nor any building or land use thereon is being maintained in violation of the Subdivision Map Act, this zoning ordinance, or any condition of approval of an applicable land use permit, except where the application proposes correction of the violation, and correction will occur before establishment of the new proposed use, or recordation of a final or parcel map in the case of a subdivision; and
- D. The City has not denied an application for substantially the same use on the same site within one year prior to the date of filing, unless permission to re-file has been granted pursuant to Section 10.50.120 (Effect of Denial).

An applicant may request a study session with the Planning Commission (and Historic Landmarks Board, if applicable) prior to submitting a formal application, or prior to a public hearing. Grant of a study session for Planning Commission is subject to the discretion of the Community Development Director, and grant of a study session for the Historic Landmarks Board is subject to the discretion of the Chair of the Historic Landmarks Board.

### **10.50.040 Application Filing and Processing**

The Community Development Department shall provide and accept applications for Zoning Permits (Chapter 10.52), Design Review Permits (Chapter 10.54), Encroachment Permits (Chapter 10.56), Hotel-Condominium Conversion Permits (Chapter 10.57), Minor Use Permits

(Chapter 10.58), Conditional Use Permits (Chapter 10.60), Nonconforming Uses and Structures (Chapter 10.62), Lot Line Adjustments (Chapter 10.64), Condominium Conversion Permits (Chapter 10.66), Variances (Chapter 10.68), and Ordinance Amendments and Rezonings (Chapter 10.80, Administration). Applications shall be processed by the Community Development Department as provided by this Chapter. Subdivision application and processing requirements are contained in Title 9 (Subdivisions) of the Sausalito Municipal Code.

#### **10.50.050 Required Application Contents**

Applications for permits required by this Title shall be initiated by submitting the following information to the Community Development Department:

- A. Completed consolidated application form and any other applicable forms required by the Department;
- B. Permission from the owner of the subject property, or owner authorization;
- C. Any other information, plans or maps required by a particular application type, specified or requested by the City Engineer or other departments, or prescribed by resolution of the Planning Commission;
- D. Floodplain information applicable to the site; and
- E. Appropriate filing fees.

#### **10.50.060 Initial Review of Applications**

The Community Development Department shall determine the completeness and accuracy of applications prior to accepting applications as complete and officially filed. Said determination shall be subject to State law and the following:

- A. **Determination of completeness.** Within thirty (30) days of filing, the Community Development Department shall determine whether an application includes the information required by this Title, as follows:
  - 1. **Notification of applicant.** The applicant shall be informed by letter that either (1) the application is complete and has been accepted for processing; or (2) the application is incomplete and specified information must be provided. When an application is incomplete, submittal time for required additional information shall not be included in the 30-day period for determination of completeness. The time available to an applicant for submittal of additional information is limited by Section 10.50.170 (Applications Deemed Withdrawn).
  - 2. **Appeal of determination.** Where the Community Development Department has determined that an application is incomplete, and the applicant believes that the application is complete and/or that the information requested by the Department is not required by this Title, other provisions of the Municipal Code, or of the policies of the General Plan or any applicable specific plan, the applicant may

appeal the determination to the Planning Commission as set forth in Chapter 10.84 (Appeals).

- B. Referral of application.** At the discretion of the Community Development Director, or where otherwise required by the Municipal Code, state, or federal law, any land use permit application filed pursuant to this chapter may be referred to any public agency that may be affected by, or have an interest in, the proposed land use.
- C. Staff Review and Referral.** The Community Development Department may refer projects to the Fire Department, Health Department, Police Department, Planning Commission, and any other Department of the City if it is deemed necessary by the Community Development Director. For any uses for which Performance Standards Review is required, the application shall be referred to the Planning Commission. All referring departments shall provide written comments, as follows:
1. Approval of the issuance of the Permit shall be indicated on a copy of the referred material or an attachment thereto; or
  2. Approval with conditions shall be noted on a copy of the Permit, with the requirements that must be met prior to occupancy clearly stated; or
  3. When approval is withheld, a written report shall be submitted to the Building Official or Community Development Director and shall indicate reasons for disapproval.

#### **10.50.070 Processing Time Limits**

- A. Time limits for action by City.** Administrative Design Review, Design Review, Sign and Awning Permits, Minor or Conditional Use Permits, Nonconforming Permits, Lot Line Adjustments, Condominium Conversion Permits and Variances shall be approved or denied by the granting authority as provided by California Government Code §65950.
- B. Failure to Approve or Deny Project.** Any development project which is not approved or denied within the time limits specified by this section, and for which public notice is required and has been given, and for which appropriate environmental documentation has been completed and approved, shall be deemed approved pursuant to Section 10.50.160 (Applications Deemed Approved). [See California Government Code §65956 (b).]
- C. Extension of Time Limits.** A project proponent may request, in writing, an extension of the time limits specified in subsection A (Time limits for action by City.) The Community Development Director may grant or deny such a request for good cause. A request for a decision by the Community Development Director to grant an extension of the time limits specified above shall be made prior to the expiration of such time limits.
- D. Exceptions.** Time limits shall commence as of the effective date of any general plan amendment, rezoning or zoning text amendment requested and necessary for permit processing of any land use permit application.

## 10.50.080 Environmental Review

- A. **Additional information.** After an application has been accepted as complete pursuant to Section 10.50.060 (Initial Review of Applications), the Community Development Department may require the applicant to submit additional information needed for the environmental review of the project pursuant to the provisions of CEQA.
- B. **Environmental review procedure.** After an application has been accepted as complete pursuant to Section 10.50.060 (Initial Review of Applications), the application shall undergo environmental review, as required by the California Environmental Quality Act (CEQA) and Title 11 (Environmental Protection). Said review shall determine whether or not the proposed project is subject to the California Environmental Quality Act and if so whether a negative declaration or environmental impact report must be prepared.

This determination and the preparation of appropriate documents (including Negative Declarations and EIRs), shall be subject to the provisions of CEQA and Title 11 (Environmental Protection).

- C. **Historic overlay district and local register.** Projects involving the demolition or alterations of sites or structures that are in the Historic overlay district or that are listed on the local register shall be subject to environmental review, consistent with Section 10.46.060.E (Additional Demolition Procedures). The Historic Landmarks Board shall review such projects.
- D. **Potential historic resources.** When an application results in the alteration of, addition to, or demolition of an existing structure that is a potential historic resource, or when an application involves new construction on a previously undeveloped site, Staff shall review the structure's or site's potential as a historic resource, consistent with Public Resources Code § 15064.5. If the site or structure is a potential historic resource and is not listed on the local register nor located within the Historic overlay district, the Historic Landmarks Board (HLB) shall evaluate the historic significance of the structure or site and shall forward that evaluation to Community Development Staff.

The Planning Commission shall make an environmental determination , consistent with subsection B (Environmental review procedures) above.

## 10.50.090 Staff Report and Recommendations

- A. **Staff evaluation.** Community Development Department staff shall review all applications filed pursuant to this Title. Review shall determine compliance and consistency with the provisions of this Title, other applicable provisions of the Municipal Code, the General Plan, and applicable specific plans.
- B. **Staff report preparation.** A staff report shall be prepared by the Community Development Department for all applications that require Zoning Administrator, Planning Commission or City Council review and approval. Said report shall describe the conclusions of the department staff about the proposed land use and any accompanying development, based on staff's evaluation. The staff report shall include recommendations of the staff on the approval, approval with conditions, or denial of the

application, based on the evaluation of the project proposal and consideration of information provided by an Initial Study or Environmental Impact Report.

**C. Report distribution:**

1. **Zoning Administrator items.** Staff reports for matters reviewed by the Zoning Administrator shall be available for public review in the Community Development Department no less than 48 hours before the meeting at which the report will be considered.
2. **Planning Commission and City Council items.** Staff reports for matters reviewed by the Planning Commission, and, as applicable, City Council, shall be furnished to applicants at the same time they are provided to the members of the appropriate hearing body prior to a hearing on the application.

**10.50.100 Recommended Conditions of Approval**

**A. Recommended Conditions.** The granting authority may conditionally approve permits and variances. Such conditions of approval shall address the following objectives, consistent with State law, to the extent that these objectives are relevant to the requested permit:

1. The period of validity of the permit and/or the allowed duration of the proposed use shall be specified. The permit may be issued and/or the use allowed for a revocable, permanent, temporary or otherwise limited term, as deemed appropriate by the granting authority. If no period of validity is specified, the permit shall be subject to the time limits specified by the applicable permit procedures.
2. Proposed project shall be consistent with all applicable requirements of this Title, the Sausalito General Plan, and any applicable specific plan.
3. The granting authority shall make findings for each permit.
4. Environmental impacts identified in environmental documents prepared pursuant to Title 11 of this Code (Environmental Protection) shall be adequately mitigated, or overriding findings pursuant to §15091 et seq. of the CEQA Guidelines shall be adopted.
5. Rights-of-way shall be dedicated, as required by the granting authority to accommodate the proposed use.
6. On-site or off-site improvements shall be installed or financed, in whole or in part, by the project proponent to meet the needs of the proposed use, as determined by the granting authority.
7. Applicable conditions of a previously-approved permit shall be superseded, replaced, or modified, as determined appropriate by the granting authority.

8. The size of the project or intensity of the use shall be limited to a level approved by the granting authority.
9. The granting authority may also adopt any other conditions of approval determined to be necessary to protect the public health, safety, and general welfare.

**B. Effect of conditions.** It shall be unlawful, and a violation of this code, for any person to construct or otherwise establish a land use authorized by a permit pursuant to this Chapter prior to compliance with, or contrary to, the conditions of approval adopted as set forth in this section. Violations of this Title shall be enforced pursuant to the applicable City of Sausalito Code Enforcement regulations.

### **10.50.110 Effect of Denial**

No further application for a permit for the same or substantially the same use or project on the same property shall be filed for a period of one year from the date of denial of any Design Review Permit, Minor Use Permit, Conditional Use Permit, Nonconforming Permit, Lot Line Adjustment, Condominium Conversion Permit or Variance application unless the decision is reversed through appeal, pursuant to Chapter 10.84 (Appeals), or the denying authority specifically states the denial is without prejudice. The Community Development Director may give permission for such filing if the applicant can demonstrate a substantial change of circumstances or conditions from those existing at the time of such previous denial.

### **10.50.120 Implementation of Permits**

It shall be the applicant's responsibility to diligently proceed to carry out the conditions of approval and implement any approved Administrative Design Review Permit, Design Review Permit, Nonconforming Permit, Minor Use Permit, Conditional Use Permit, Lot Line Adjustment, Condominium Conversion Permit or Variance. This shall include establishing the approved use within the time limits set forth by the applicable chapter. For purposes of this section, the following shall be construed to be implementation of permits:

- A. Conditions of approval prerequisite to construction have been satisfied and any required construction permits have been issued; or
- B. Use not requiring construction permits has been established on the site and is in operation as approved, and all conditions of approval prerequisite to establishment of the use have been satisfied; or
- C. Conditions of approval prerequisite to construction of multiple building or multiple structure project have been satisfied, any required building or grading permits have been issued, and foundation inspection for each and every building or structure have been conducted and approved by the Building Official or a designee. [For multiple phase projects which require a discretionary permit, the conditions of approval for that permit can provide for extended dates of expiration.]; or

- D. A land use permit granted for a planned residential development has been implemented through the filing for recordation of the final subdivision map pursuant to the approved PD.

#### **10.50.130 Validity of Permits**

Any permit, certificate, or license issued in conflict with the provisions of this Title shall become null and void.

#### **10.50.140 Extension of Approved Permits**

- A. **Timing for Request.** Applicant for an approved permit shall request a permit extension not later than the permit expiration date established for each permit in Chapters 10.52 (Zoning Permits) through 10.68 (Variances). Request shall be in writing, shall include reasons for the request, and shall be accompanied by the non-refundable filing fee established by the most current Community Development Department fee schedule. Filing an extension request required by this section shall suspend the permit's expiration date until a decision is made by the appropriate hearing body regarding the extension request.
- B. **Public Notice.** The Community Development Department shall send notice within the same noticing area which were provided notice of the hearing for the original permit. The notice shall state that any person who objects to the requested time extension shall notify the Zoning Administrator, in writing, of the objection within ten (10) days of the mailing date of the notice.
- C. **Public Hearing.** A public hearing shall be noticed and held by the Zoning Administrator for any initial request for a time extension, pursuant to Chapter 10.82 (Public Hearings) of this Title. The Planning Commission shall consider any additional requests for time extensions for projects originally-approved by the Planning Commission. The time extension request shall follow the entire procedure set forth in this Chapter to consider and approve or deny the requested extension.
- D. **Findings.** Subject to subsection C (Public Hearing) above, the Zoning Administrator or Planning Commission may extend the expiration date of the approved Administrative Design Review Permit, Design Review Permit, Minor Use Permit, Conditional Use Permit, Nonconforming Permit, Variance, Lot Line Adjustment or Condominium Conversion Permit by one year if the following findings can be made:
1. No change of conditions or circumstances has occurred that would have been grounds for denying the original application;
  2. The applicant has been diligent in pursuing implementation of the permit; and
  3. Modified conditions have been imposed which update the permit to reflect current adopted standards and ordinance requirements.

### **10.50.150 Permit Lapse**

Any permit that has been activated and implemented consistent with Section 10.50.100 (Implementation of Permits) shall remain valid and in force and shall run with the land, including any conditions of approval adopted with the permit. If one of the following events occurs, the permit shall be deemed to have lapsed:

- A. One year elapses after expiration of applicable construction permit.
- B. Use has discontinued for more than six (6) consecutive months after it was established and/or operated.
- C. Appurtenant structure necessary for conditional use has been removed from site for a period greater than six (6) consecutive months.
- D. The time limit set for the duration of the use by a condition of approval expires.

No land use, building or structure for which a permit has lapsed shall be reactivated, re-established or used unless a new permit is first obtained as provided by this Chapter. The site of a lapsed permit shall be used only for permitted uses in the applicable zoning district, pursuant to Chapters 10.20 through 10.28 (Zoning District Regulations).

### **10.50.160 Applications Deemed Approved**

Any permit application deemed approved pursuant to California Government Code §65956 and Section 10.50.070 (Processing Time Limits) shall be subject to all applicable provisions of this Title. The applicant shall satisfy said provisions before any construction permit is issued or a use not requiring a construction permit is established.

### **10.50.170 Applications Deemed Withdrawn**

Any application which has been incomplete in excess of 120 days pursuant to Section 10.50.060 (Initial Review of Applications) shall be deemed withdrawn by the Community Development Department staff and returned to the project applicant. Thirty (30) day extensions may be granted at the discretion of the Community Development Director or his/her designee in order to complete an application.

### **10.50.180 Changes to an Approved Project**

Changes to any approved Administrative Design Review Permit, Design Review Permit, Minor Use Permit, Conditional Use Permit, Nonconforming Permit, Lot Line Adjustment, Condominium Conversion Permit, or Variance shall be subject to this section. An applicant shall request any desired changes in writing, and shall also furnish appropriate supporting materials and an explanation of the reasons for the request.

- A. Changes must be requested:
  - 1. Prior to a final inspection for a construction permit associated with any Administrative Design Review Permit, Design Review Permit, or Nonconformity Permit issued for a structure;
  - 2. Prior to recordation for any Conditional Use Permit or Condominium Conversion Permit;
  - 3. Prior to recordation of the associated map for a Lot Line Adjustment; or
  - 4. Within 90 days of commencement of use for a Minor Use Permit, Variance, or Nonconformity Permit issued for a use.

- B. The Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use provided the changes meet the following requirements:
1. Changes are consistent with all applicable provisions of this Title;
  2. Changes do not involve a feature of the project that was specifically addressed, or was a basis for findings, in a Negative Declaration or Environmental Impact Report for the project;
  3. Changes do not involve a feature of the project that was specifically addressed or was a basis for the project's conditions of approval or that was a specific consideration by the granting authority in the approval of the permit;
  4. Changes do not result in a significant expansion of the use; and
  5. Changes do not adversely impact a view.
- Changes to the project involving features described in subsections 2, 3 and 5 of this section shall only be approved by the granting authority pursuant to a new permit application processed as set forth in this Title.
- C. Notice. Notice shall be given as set forth in Section 10.82.020.
- D. Appeal. Changes to approved project decisions may be appealed to the Planning Commission within ten (10) days of the decision date. Appeals must be submitted in writing and shall be processed in accordance with Chapter 10.84 (Appeals).

#### **10.50.190 Security for Performance**

- A. **Security Required.** Guarantees of performance may be required as a condition of approval or when specified by this Title in order to secure compliance. Applicant shall provide guarantees in the form of letters of credit, certificates of deposit, cash deposits and/or other forms specified by the granting authority.
- B. **Amount of Security.** Security shall be provided in the amount of 110 percent of the estimated costs of improvements or other actions being guaranteed, based on a cost estimate prepared by a qualified professional approved by the Community Development Director.
- C. **Authorization for Completion.** Security shall include authorization for the City or its contractors to enter upon the property in question and undertake and complete the work being guaranteed in the event of default by the applicant.
- D. **Review and Update.** The granting authority may require an annual review of the amount of the security. If found to be outdated or insufficient, such security may be required to be increased to guarantee the original condition for which such security was required. If the security is not provided within 60 days of its due date, such action shall be grounds for setting aside the approval and for a hearing to revoke the permit.

#### **10.50.200 Revocation of Approved Permits**

- A. **Cause for Revocation.** The granting authority may revoke or modify any previously approved permit or variance, unless otherwise specified by this Title. Revocation shall require a public hearing held in the manner prescribed by Chapter 10.82 (Public Hearings) of this Title. The following shall be grounds for modification or revocation:
1. The approval was based on false information submitted by the applicant.

2. The use for which such approval is granted is not being exercised.
3. The use for which such approval was granted has ceased to exist or has been suspended for one year or more.
4. The approved permit or variance is being, or recently has been, exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law, or regulation.
5. There has been a substantial change in the circumstances including, but not limited to, changes in the applicable law since approval.

**B. Revocation.** Permit or variance shall be suspended automatically upon violation of any applicable provision of this Title as set forth in subsection (A) (Cause for Revocation). The Community Development Director shall notify the property owner of said suspension. The Community Development Director may order all operations or any portion thereof, authorized by the permit or variance, to cease during the time it is suspended when necessary and in order to protect health, safety or general welfare. The granting authority shall notice and hold a public hearing within sixty (60) days, in accordance with the procedure prescribed by Chapter 10.82 (Public Hearings) of this Title. Following public hearing, if the granting authority is not satisfied that the applicant or project is complying with the applicable regulations governing, or the conditions attached to, the permit, the granting authority shall revoke the permit or variance or take such action necessary to ensure compliance unless specified otherwise elsewhere under this Title.