

Chapter 17.22

LAND USE PERMIT PROCEDURES

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I. GENERAL PROVISIONS

17.22.010 Purpose. The purpose of this chapter is to provide for the processing of permits and development applications submitted to the Planning Department for specific land uses authorized by this title. This chapter also provides for the modification, extension and revocation of permit approvals. (Ord. 4589 §§2, 5, 2001)

17.22.020 Administrative Relief/Waiver.

- A. The Planning Director may grant administrative relief or waiver from the standards set forth in this Title of up to ten percent (10%) of the area or dimension subject to the following procedure:
 - 1. A site plan review application shall be filed with the Planning Department pursuant to Section 17.22.300 and other provisions of this chapter;
 - 2. The department shall notify all adjacent property owners by mail of the proposed request;
 - 3. A period of ten (10) working days shall be provided to the adjacent property owners to comment on or protest the proposed waiver;
 - 4. If an objection is received during the protest period, the Planning Director shall not approve the proposed administrative relief request.
- B. Prior to approval of administrative relief, the Planning Director must make the following findings:
 - 1. The proposed reduction is the minimum amount necessary to accommodate the needs of the property owner;
 - 2. There are no objections from any adjacent property owner;
 - 3. The proposed waiver will not be detrimental to the public health, safety or welfare, or injurious to the neighborhood.
- C. A variance application, pursuant to Section 17.22.600 et seq. shall be required for consideration of a waiver or reduction of a development standard if all of the findings set forth in (B), above, cannot be made. (Ord. 4589 §§2, 5, 2001)

II. APPLICATION FILING AND PROCESSING

17.22.110 Required Application Contents.

- A. An application for a permit required by this Title shall be submitted to the Planning Department on an application form provided by the department and shall include the written consent of the lawful owner or owners of record, fees as established by resolution of the Board of Supervisors, plans, maps and any other information required by the Planning Department.
- B. A permit application may be filed by:
 - 1. The lawful owner or owners of record of the parcel on which the proposed project will be located, or their duly authorized agent.
 - 2. A person with lawful power of attorney or other acceptable authority from the lawful owner of record. Evidence of authorization shall be submitted with the application.
- C. Approvals granted for an application which was submitted containing false or inaccurate information, which the applicant knew or should have known was false or inaccurate, shall be declared null and void and subject to immediate revocation. (Ord. 4589 §§2, 5, 2001)

17.22.120 Filing of Application.

- A. Applications for permits required by this Title shall be filed with the Planning Department. All applications shall meet the following requirements:
1. The proposed use is permitted within the zone district in which it is located;
 2. The proposed use satisfies all applicable standards and requirements of this Title, or such standards that are the subject of a simultaneously filed variance application which will, if approved, achieve such compliance;
 3. No violation of this Title, any other provisions of the El Dorado County Code, the Subdivision Map Act, or any condition of approval of an applicable land use entitlement exists on the subject site, unless the purpose of the application is to bring the violation into compliance with this Title;
 4. The property taxes due on the proposed site as determined by the County tax Collector are not delinquent, unless a written agreement exists between the County and the property owner for the payment of delinquent taxes. (Ord. 4589 §§2, 5, 2001)

17.22.130 Review of Applications.

- A. Within thirty (30) days of the filing of an application, the Planning Department shall review it for completeness and accuracy before the application is accepted as being complete and officially filed.
- B. The applicant shall be notified in writing by the department that either:
1. The application has been determined to be complete and accepted for processing; or,
 2. The application is incomplete and additional information, specified in writing, must be provided. If an application is determined to be incomplete, the time in which the application must be processed shall be stayed until such time as the applicant has provided the required information.
- C. If an application has been determined to be incomplete and the required information is not submitted within one year, or an applicant has requested that processing be delayed or stayed for a period of one year, the application shall expire and be deemed withdrawn. No further processing will occur and a new application must be filed for the project to be considered. (Ord. 4589 §§2, 5, 2001)

17.22.140 Environmental Review.

- A. After acceptance of an application pursuant to Section 17.22.120, the application shall undergo environmental review as required by California Public Resources Code Section 21000 et seq. and the County's CEQA implementation resolution, as may be amended from time to time, in order to determine if the proposed project is exempt from the requirements of CEQA, or to determine the appropriate environmental document to be filed for the proposed project.
- B. After an application has been accepted as complete pursuant to Section 17.22.130, the Planning Department may require the applicant to submit additional information needed for the environmental review of the project. (Ord. 4589 §§2, 5, 2001)

17.22.150 Staff Report and Recommendations.

- A. At the conclusion of the Technical Advisory Committee meeting, or after review by staff where no Technical Advisory Committee meeting was required, the Planning Department shall review all discretionary development applications filed pursuant to this chapter and prepare a report to the Zoning Administrator or Planning Commission, as applicable, on whether the project should be approved, conditionally approved, or denied.
- B. The staff report shall include the recommendations of state and local agencies, and other County departments, and shall include an analysis of the proposed project and its compliance with this Title, the general plan, adopted design standards and any other applicable provisions of the El Dorado County Code or state law.
- C. The staff report shall be distributed to the applicant and made available to the public within the time frames established by applicable state laws, as may be amended from time to time. (Ord. 4589 §§2, 5, 2001)

III. PERMIT APPROVAL OR DISAPPROVAL

17.22.200 Notice of Hearings. Notice for all hearings held pursuant to this chapter shall be given in accordance with the provisions of Government Code Section 65091. (Ord. 4589 §§2, 5, 2001)

17.22.210 Permit Issuance.

- A. The approving authority may approve a permit as provided in this chapter upon making the required findings set forth in Section 17.22.300 through 620 as applicable.
- B. The approving authority may impose such conditions as determined necessary for a proposed project to be consistent with this Title and other applicable laws, ordinance, standards or regulations, or to mitigate impacts created by the proposed project, or as otherwise necessary to protect the public health, safety and welfare. (Ord. 4589 §§2, 5, 2001)

17.22.220 Appeals.

- A. Any decision by the approving authority of original jurisdiction may be appealed by the applicant or any other affected party to the next level of jurisdiction by following the procedures set forth in subsection B, below. The hearing body for an appeal shall be as follows:
 - 1. Appeals of action taken by the Planning Director or his designee shall be heard by the Planning Commission.
 - 2. Appeals of action taken by the Zoning Administrator or Planning Commission shall be heard by the Board of Supervisors.
 - 3. All action by the Board of Supervisors shall be final.
- B. An appeal must be filed within ten (10) working days from the decision by the approving authority by completing the appeal form and submitting said form together with the applicable fee as established by resolution of the Board of Supervisors to the Planning Department. The appellant shall clearly identify on the appeal form the specific reasons for the appeal. The hearing body for the appeal shall consider on appeal all issues raised by the appellant. The hearing body may consider other relevant issues related to the project being appealed.

- C. The hearing on an appeal shall be set no more than thirty (30) days from receipt of a completed appeal form and fee. If the Board of Supervisors meeting is canceled for any reason on the date on which the appeal would normally be heard, the appeal shall be heard on the first available regularly-scheduled meeting following the canceled meeting date. The thirty-day time limitation may be extended by mutual consent of the appellant(s) and the appeals body and, once the date and time for the hearing is established the hearing may be continued only by such mutual consent.
- D. In any appeal action brought pursuant to this section the appellant(s) may withdraw the appeal, with prejudice, at any time prior to the commencement of the public hearing. For the purposes of this section, the public hearing shall be deemed commenced upon the taking of any evidence including reports from planning staff. (Ord. 4589 §§2, 5, 2001)

17.22.230 Stay of Issuance. No permit shall be issued for any development relying on the approval of an application covered under this chapter until the conclusion of the appeal period set forth in Section 17.22.020. A properly filed appeal shall stay the issuance of any such permit until the appeal is decided. (Ord. 4589 §§2, 5, 2001)

17.22.240 Effect of Denial. Where application for a permit provided for in this chapter has been denied by the issuing authority and the decision is not reversed through appeal, no further application for the same use on the same property may be considered within a period of one year from the date of such denial unless the Planning Director finds that there has been a substantial change in circumstances from those existing under the previous application, or the application was denied without prejudice. (Ord. 4589 §§2, 5, 2001)

17.22.250 Permit Time Limits, Extensions.

- A. An approved permit is valid for a period of twenty-four (24) months, except as other provided for in conditions of approval or other provisions of this Title, unless one of the following has occurred:
 - 1. The permit has been implemented by satisfaction of conditions prerequisite to construction and a building permit has been issued and at least one inspection has been conducted and approved by the Building Official; or
 - 2. The permit has been implemented by satisfaction of conditions prerequisite to establishment of a use not requiring a building permit and the use has been established on the site and is in operation; or
 - 3. An extension of time has been granted pursuant to subsection C of this section.
- B. It shall be the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with any conditions of approval.
- C. The time limit for the expiration of a permit as set forth in subsection A, above, may be extended by one of the following methods:
 - 1. The Planning Director finds that substantial progress has been made in implementing the permit, and not more than twelve (12) months will be necessary to comply with the requirements of subsection A(1) or A(2), above; or
 - 2. A written request for an extension of time has been approved by the issuing authority, subject to the following requirements:
 - a. No change in conditions or circumstances has occurred that would have been grounds for denying the original application;
 - b. The applicant has been diligently pursuing implementation of the permit; and

- c. Modified conditions have been imposed as necessary which update the permit to reflect current adopted standards and ordinance requirements. Such a request for extension shall be accompanied by a fee as set by resolution of the Board of Supervisors, and shall be heard by the approving authority in compliance with the procedures set forth in this chapter for issuance of the original permit.
- D. Where multiple units of work or phases of work or activities are authorized in a single permit, the permit shall be deemed exercised upon the initiation of one or more of the units of work or activities as provided in subsection A, above, except where specific conditions of approval relating to phasing provide a different time frame. (Ord. 4589 §§2, 5, 2001)

17.22.260 Revocation.

- A. All permits authorized by this chapter shall automatically expire by operation of law when:
 - 1. The time frame established pursuant to Section 17.22.250 has elapsed; or
 - 2. The use authorized by the permit has ceased for a period of one year for any reason; When it is discovered that a permit has expired, the Planning Department shall send notice of such termination to the property owner and/or applicant. Failure to send such notice shall not affect the expiration of the permit.
- B. Any permit authorized under this chapter may be revoked when it is found by the issuing authority, following a public hearing, that conditions established for the issuance of the permit have been violated or lack substantial compliance or when the use is considered to be a public nuisance.
- C. Any permit revoked by the issuing authority, or which is determined by the Planning Director, Zoning Administrator, or Planning Commission to have expired by operation of law, may be appealed in accordance with the provisions set forth in Section 17.22.220. (Ord. 4589 §§2, 5, 2001)

17.22.270 Changes to an Approved Project.

- A. A new land use authorized by approval of a permit pursuant to this chapter shall be constructed or otherwise established only as approved by the issuing authority, and in conformance with all conditions of approval, except where changes to the project are approved as set forth in this section.
- B. Changes to a project authorized through a permit provided for in this chapter shall be submitted in writing, along with appropriate supporting documentation, plans, or other information as deemed necessary by the Planning Director to evaluate the proposed change. Changes may be made either before or after the commencement of construction or establishment of an approved use. Proposed changes may be made as follows:
 - 1. The Planning Director may approve minor modifications to an approved project where he finds the change:
 - a. Is consistent with all applicable provisions of this Title;
 - b. Does not involve a feature of the project that was specifically addressed in the conditions of approval, mitigation measures, or findings for approval of the project;
 - c. Does not result in an expansion of the project; and
 - d. Does not substantially alter the original approval action.

2. Changes to a project which result in an expansion or substantial alteration of the project, or which may affect a condition of approval, mitigation measure, or finding that was specifically addressed by the approving authority may only be approved by the approving authority pursuant to the requirements for submittal of a new permit. (Ord. 4589 §§2, 5, 2001)

17.22.280 Combined Applications. Where a project requires multiple applications as provided in this chapter, the applications may be combined and processed concurrently. Where the applications have differing processing requirements, the combined application will be processed by the procedures established for the highest level of review for any one of the combined applications. As used in this section, the term highest level of review utilizes the following hierarchy: Planning Director, Zoning Administrator, Planning Commission, Board of Supervisors, with the Board of Supervisors being the highest level of review. The approving authority shall act on the different parts of a combined application on their own merits, and may approve one application without approving the other or others. (Ord. 4589 §§2, 5, 2001)

IV. SITE PLAN REVIEW

17.22.300 Purpose. The purpose of this subchapter is to provide for the review and approval of development projects consistent with the provisions of this Title, where review is required or necessary to ensure compliance with adopted County standards, to provide appropriate on-site design of parking, circulation, building location, landscaping and lighting, and to protect the public health, safety and welfare. (Ord. 4589 §§2, 5, 2001) The purpose is also to demonstrate consistency with the General Plan pursuant to General Plan Policy 2.2.5.20.

17.22.310 Approval Authority. The Development Services Director or his designee shall have approval authority of original jurisdiction for site plan review. The approval of a site plan review application shall be considered a ministerial permit pursuant to CEQA. (Ord. 4589 §§2, 5, 2001)

17.22.320 Standards and Requirements. Standards for site plan review shall be those established pursuant to Chapters 17.06, 17.14, 17.16, 17.18, the applicable zone district provisions, and any other standards or requirements adopted by El Dorado County by ordinance or resolution. (Ord. 4589 §§2, 5, 2001)

17.22.325 General Plan Consistency Requirements. Standards for demonstrating consistency with the General Plan pursuant to General Plan Policy 2.2.5.20 will be on a form established by the Development Services Department.

17.22.330 Applicability of General Plan Consistency Requirements. Requirements for General Plan consistency shall apply to:

- A. All building permits for new structures, as defined in the General Plan, greater than 4,000 square feet of living area, including additions to existing structures.
- B. Building Permits or other permits that require a grading permit for which land disturbance of an area of 20,000 square feet or more occurs.
- C. All development, as defined in the General Plan, located on lands identified as Important Biological Corridor (-IBC) on the Land Use Diagram, Figure LU-1.
- D. Non-residential development.

17.22.335 Inapplicability. The General Plan Consistency requirements are not applicable to any of the following:

- A. Any permits that require a finding of consistency with the 2004 General Plan pursuant to other provisions of state law or local ordinances.
- B. Any permits issued in accordance with an approved development agreement to the extent the development agreement prevents the application of policies of the 2004 General Plan.

17.22.340 General Plan Consistency Options. If proposed development does not conform to General Plan policies pursuant to the site plan review as set forth above, no permit shall be issued for the development unless:

- A. The applicant modifies the application to eliminate any inconsistencies identified.
- B. The applicant applies for and is granted a planned development application after discretionary review and CEQA analysis. The planned development application is hereby authorized whether or not a planned development is otherwise required by ordinance and would not require a rezone to add the planned development combining zone, but in all other respects, the planned development application will be processed in accordance with Section 17.04, and any appeals will be processed in accordance with Section 17.22.220.
- C. Reasonable use of the property would otherwise be denied, as determined by the Development Services Director.

V. ADMINISTRATIVE PERMIT

17.22.350 Purpose. The purpose of this subchapter is to provide for the review and approval of development projects consistent with the provisions of this Title, where limited review is necessary to ensure compatibility with adjacent land uses and availability of public services and infrastructure, and to protect the public health, safety and welfare. (Ord. 4589 §§2, 5, 2001)

17.22.360 Approval Authority. The Planning Director or his designee shall have approval authority of original jurisdiction for administrative permits. The issuance of an administrative permit shall be considered a ministerial permit pursuant to CEQA. (Ord. 4589 §§2, 5, 2001)

17.22.370 Standards and Requirements. Standards for an administrative permit shall be those established pursuant to Chapters 17.06, 17.14, 17.16, 17.18, the applicable zone district provisions, and any other standards or requirements adopted by El Dorado County by ordinance or resolution. (Ord. 4589 §§2, 5, 2001)

VI. MINOR USE PERMIT

17.22.400 Purpose. The purpose of this subchapter is to provide for a review process to consider uses which are typically compatible with other permitted uses within a zone district, but due to their nature, require consideration of site design and adjacent land uses, based on the specific location of any proposed use requiring such a permit. (Ord. 4589 §§2, 5, 2001)

17.22.410 Approval Authority. The Zoning Administrator shall have approval authority of original jurisdiction for minor use permit. The approval of a minor use permit is considered a ministerial permit pursuant to CEQA, however, due to the potential for neighborhood sensitivity, public notice, pursuant to Section 17.22.200, and hearing is required. (Ord. 4589 §§2, 5, 2001)

17.22.420 Standards and Requirements. Standards for special use permits shall be those established pursuant to Chapters 17.06, 17.14, 17.16, 17.18, the applicable zone district provisions, and any other standards or requirements adopted by El Dorado County by ordinance or resolution. (Ord. 4589 §§2, 5, 2001)

17.22.430 Public Hearing. The approving authority shall hold a public hearing on the application after notice has been given pursuant to Section 17.22.200. (Ord. 4589 §§2, 5, 2001)

VII. TEMPORARY USE PERMIT

17.22.450 Purpose. The purpose of this subchapter is to provide for the temporary use of property or structures consistent with the provisions of Chapters 17.04 through 17.10, in a manner which protects the public health, safety and welfare, the enjoyment of one's property, and which provides review of a proposed use to ensure conformity with adopted County standards. (Ord. 4589 §§2, 5, 2001)

17.22.460 Approval Authority. The Planning Director or his designee shall have approval authority of original jurisdiction for temporary use permits. The approval of a temporary use permit application shall be considered a ministerial permit pursuant to CEQA except as provided in Chapter 17.23. (Ord. 4589 §§2, 5, 2001)

17.22.470 Standards and Requirements. Standards for temporary use permit shall be those established pursuant to Chapters 17.06, 17.14, 17.16, 17.18 and 17.23, and any other standards or requirements adopted by El Dorado County by ordinance or resolution. The Planning Director may also impose such conditions as necessary to ensure compatibility with adjacent land uses and to protect the public health, safety and welfare. (Ord. 4589 §§2, 5, 2001)

VIII. SPECIAL USE PERMIT

17.22.500 Purpose. The purpose of this subchapter is to provide for a review process to consider uses which may be compatible with other permitted uses within a zone district, but due to their nature, require consideration of site design, adjacent land uses, availability of public infrastructure and services, and environmental impacts, based on the specific location of any proposed use requiring such a permit. (Ord. 4589 §§2, 5, 2001)

17.22.510 Approval Authority. The Zoning Administrator or the Planning Commission shall have approval authority of original jurisdiction for special use permit applications. The determination of the approving authority shall be made by the Planning Director based on the nature of the application, including but not limited to the extent of controversy and the policy issues raised by the application. (Ord. 4589 §§2, 5, 2001)

17.22.520 Standards and Requirements. Standards for special use permits shall be those established pursuant to Chapters 17.06, 17.14, 17.16, 17.18, the applicable zone district provisions, and any other standards or requirements adopted by El Dorado County by ordinance or resolution. Where specific issues are identified during the review of the special use permit that are not addressed in adopted standards, or as mitigation measures identified during the initial study, the Zoning Administrator may impose such conditions as necessary to ensure compatibility with adjacent land uses, mitigate environmental impacts, and protect the public health, safety and welfare. (Ord. 4589 §§2, 5, 2001)

17.22.530 Public Hearing. The approving authority shall hold a public hearing on the application after notice has been given pursuant to Section 17.22.200. (Ord. 4589 §§2, 5, 2001)

17.22.540 Findings Required.

- A. The approving authority may approve or conditionally approve a special use permit only after making the following findings:
 - 1. The issuance of the permit is consistent with the general plan;
 - 2. The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood; and
 - 3. The proposed use is specifically permitted by special use permit pursuant to this Title.
- B. In the event a special use permit is denied, the approving authority shall specify the grounds for the denial.
- C. An applicant shall be notified, in writing, of the approving authority's decision, the findings made, and any conditions imposed on the project. (Ord. 4589 §§2, 5, 2001)

X. VARIANCE

17.22.600 Purpose. The purpose of this subchapter is to provide a procedure in which the provisions of this Title may be varied or modified in cases where practical difficulties and unnecessary hardships make strict application infeasible. (Ord. 4589 §§2, 5, 2001)

17.22.610 Approving Authority. The Zoning Administrator shall have approval authority of original jurisdiction for variance. (Ord. 4589 §§2, 5, 2001)

17.22.620 Public Hearing. The approving authority shall hold a public hearing on the application after notice has been given pursuant to Section 17.22.200. (Ord. 4589 §§2, 5, 2001)

17.22.630 Findings Required. A variance shall not be granted by the approving authority unless all of the following circumstances are found to apply:

- A. There are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings or uses in the vicinity and the same zone, and have not resulted from any act of the owner or applicant;
- B. The strict application of the provisions of the ordinance requested to be varied would deprive the applicant of the reasonable use of the land or building, allowed for other land in the vicinity and the same zone;
- C. The variance is the minimum necessary for the reasonable use of the land or building;

- D. The variance is in conformity with the intent of this article and not detrimental to the public health, safety and welfare, or injurious to the neighborhood. (Ord. 4589 §§2, 5, 2001)

XI. SPECIFIC PLAN

17.22.650 Purpose. The purpose of this subchapter is to provide for a method to systematically implement the El Dorado County general plan for a part of the area covered by the plan, as set forth in California Government Code Section 65450 et seq. (Ord. 4589 §§2, 5, 2001)

17.22.655 Approval Authority. The Board of Supervisors shall have approval authority of original jurisdiction for specific plan applications, after review and recommendation by the Planning Commission. (Ord. 4589 §§2, 5, 2001)

17.22.660 Public Hearing. The approving authority and advisory agency shall hold public hearings on the application after notice has been given pursuant to Section 17.22.200. (Ord. 4589 §§2, 5, 2001)

17.22.665 Findings Required. The Board of Supervisors may adopt a proposed specific plan only after a determination that the plan:

- A. Is consistent with and implements the El Dorado County general plan;
- B. Is consistent with any applicable airport land use plan, pursuant to California Government Code Section 65302.3; and
- C. Will not have a significant effect on the environment, or a statement of overriding consideration have been made for the proposed specific plan pursuant to the provisions of California Code of Regulations Section 15093 (CEQA Guidelines.) (Ord. 4589 §§2, 5, 2001)

17.22.670 Content of Specific Plan.

- A. An applicant for a specific plan shall prepare a draft plan for review by the County that includes the following detailed information in the form of text, diagrams, and maps organized in a format acceptable to the County:
 - 1. Proposed land uses. The plan shall show the distribution, location and extent of land uses proposed within the area covered by the plan.
 - 2. Infrastructure. The plan shall identify the proposed distribution, location, extent and intensity of major components of public and private transportation, sewage, water drainage, solid waste disposal, energy, education, fire protection, and any other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.
 - 3. Standards and development criteria. The plan shall contain standards and criteria by which development will proceed within the area covered by the plan, and standards for the conservation, development and utilization of natural resources, where applicable.
 - 4. Implementation measures. The plan shall provide a program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out the provisions of subsections 1 through 3, above.
- B. The specific plan shall include a statement of the relationship of the specific plan to the general plan. (Ord. 4589 §§2, 5, 2001)

17.22.675 Conformance to Specific Plan Required. After adoption of a specific plan, no local public works project, development plan, tentative map or parcel map may be approved, and no zoning ordinance may be adopted or amended within the area covered by the plan unless it is consistent with the adopted specific plan. (Ord. 4589 §§2, 5, 2001)

17.22.680 Amendments. An adopted specific plan may be amended through the same procedure set forth in this subchapter for the adoption of a specific plan. (Ord. 4589 §§2, 5, 2001)

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