

SECTION 18: PETITIONS, NOTICES, INVESTIGATIONS AND HEARINGS

PETITIONS

The Planning Commission shall prescribe the form in which applications for changes of zone boundaries or classifications or for variances are made. It may prepare and provide blanks for such purpose and may prescribe the type of information to be provided in the application by the petitioner. No petition shall be received unless it complies with such requirements. If signatures of persons other than the owners of property making the application are required or offered in support of, or in opposition to, the application, they may be received as evidence of notice having been served upon them of the pending application or as evidence of their opinion on the pending issue, but they shall in no case infringe upon the free exercise of the powers vested in the County of Tulare.

Petitions or applications filed pursuant to this Ordinance shall be numbered consecutively in the order of their filing and shall become a part of the permanent official records of the Planning Commission, and there shall be attached thereto and permanently filed therewith copies of all notices and actions with affidavits of posting, mailing or publication pertaining thereto.

(Note: Third paragraph under "Petitions" repealed by Ord. No. 1217, effective 7-1-78.)

FEES

The Tulare County Board of Supervisors shall adopt, from time to time by resolution, fees to be paid by applicants to defray the expenses incidental to proceedings, including compliance reporting and monitoring, under this Ordinance, as amended from time to time. (Added by Ord. No. 1217, effective 7-1-68; amended by Ord. No. 1345, effective 9-30-69; amended by Ord. No. 1366, effective 4-2-70; amended by Ord. No. 1540, effective 1-11-73; amended by Ord. No. 2165, effective 10-12-78; amended by Ord. No. 2438, effective 10-1-81; amended by Ord. No. 2446, effective 11-5-81; amended by Ord. No. 2492, effective 8-26-82; amended by Ord. No. 2591, effective 3-15-84; amended by Ord. No. 2665, effective 9-12-85; amended by Ord. No. 2727, effective 10-16-86; amended by Ord. No. 2796, effective 10-24-87; amended by Ord. No. 2845, effective 9-17-88; amended by Ord. No. 2855, effective 11-5-88; amended by Ord. No. 2883, effective 9-30-89; amended by Ord. No. 2922, effective 9-8-90; amended by Ord. No. 2982, effective 1-2-92; amended by Ord. No. 3003, effective 8-29-92; amended by Ord. No. 3036, effective 8-22-93; amended by Ord. No. 3082, effective 8-13-94; amended by Ord. No. 3115, effective 6-24-95; amended by Ord. No. 3160, effective 06-15-96; amended by Ord. No. 3183, effective 7-1-97; amended by Ord. No. 3222, effective 4-22-99; amended by Ord. No. 3262, effective 12-1-02).

FEES: REFUNDS: PRIOR EIR OR NEGATIVE DECLARATION:

The Tulare County Board of Supervisors shall adopt, from time to time by resolution, fees to be paid by applicants to defray the expenses incidental to proceedings, including compliance reporting and monitoring, under this Ordinance, as amended from time to time. (Added by Ord. No. 3160, effective 06-15-96; amended by Ord. No. 3262, effective 12-1-02)

FEES FOR COMPLIANCE REPORTING AND MONITORING

The Tulare County Board of Supervisors shall adopt, from time to time by resolution, fees to be paid by applicants to defray the expenses incidental to proceedings, including compliance reporting and monitoring, under this Ordinance, as amended from time to time. (Added by Ord. No. 3030, effective 7-25-93; amended by Ord. No. 3082, effective 8-13-94; amended by Ord. No. 3262, effective 12-1-02)

FEES FOR SPECIFIED HAZARDOUS WASTE FACILITIES

The Tulare County Board of Supervisors shall adopt, from time to time by resolution, fees to be paid by applicants to defray the expenses incidental to proceedings, including compliance reporting and monitoring, under this Ordinance, as amended from time to time. (Subsection added by Ord. No. 2918, effective 8-25-90; amended by Ord. No. 3003, effective 8-29-92; amended by Ord. No. 3036, effective 8-22-93; amended by Ord. No. 3082, effective 8-13-94; amended by Ord. No. 3262, effective 12-1-02)

FEES: STATE RESPONSIBILITY AREAS

The Tulare County Board of Supervisors shall adopt, from time to time by resolution, fees to be paid by applicants to defray the expenses incidental to proceedings, including compliance reporting and monitoring, under this Ordinance, as amended from time to time. (Added by Ord. No. 3082, effective 8-13-94; amended by Ord. No. 3262, effective 12-1-02)

FEES: COMPUTER MAINTENANCE

The Tulare County Board of Supervisors shall adopt, from time to time by resolution, fees to be paid by applicants to defray the expenses incidental to proceedings, including compliance reporting and monitoring, under this Ordinance, as amended from time to time. (Added by Ord. No. 3082, effective 8-13-94; amended by Ord. No. 3262, effective 12-1-02)

NOTICES

All proposals for amending zone boundaries or classifications of property uses within such zones as are defined by this Ordinance shall be set for public hearing by the Secretary of the Planning Commission. Not less than ten (10) days prior to the public hearing, the Secretary of the Planning Commission shall cause notice of hearing to be given in accordance with section 65854 of the Government Code of the State of California.

All applications for variances and special use permits as provided in this Ordinance including proposed revocations or modifications of variances and special use permits shall be set for public hearing by the Secretary of the Planning Commission. Not less than ten (10) days prior to the public hearing, the Secretary of the Planning Commission shall cause notice of hearing to be given in accordance with section 65905 of the Government Code of the State of California. (Amended by Ord. No. 1169, effective 10-26-67; amended by Ord. No. 2647, effective 2-28-85.)

INVESTIGATIONS

The Planning Commission shall cause to be made by its own members, or members of its staff, such investigation of facts bearing upon such application set for hearing, including an analysis of precedent cases, as will serve to provide all necessary information to assure action on each case consistent with the purpose of this ordinance and with previous amendments or variances.

If a special use permit or variance will allow a use of real property which is subject to review by the Site Plan Review Committee under Section 16.2 of this Ordinance, the Planning Commission shall notify the Site Plan Review Committee of the fact that the permit or variance is under consideration. No decision of the Planning Commission on a special use permit or variance subject to review by the Site Plan Review Committee shall be made unless and until the Site Plan Review Committee submits a written report as required by this Ordinance. (Amended by Ord. No. 2417, effective 5-28-81.)

HEARINGS

Public hearings as provided in this Section shall be conducted before the Planning Commission. The Commission may establish its own rules for the conduct of public hearings and the member of the Commission presiding at any such hearing is hereby empowered to administer oaths to any person testifying before it. (Amended by Ord. No. 2918, effective 8-25-90.)

Summary of all pertinent testimony offered at a public hearing and the names of persons so testifying shall be recorded and made a part of the permanent files of the case as provided for in the first paragraph of this Section entitled, "Petitions".

If, for any reason, testimony on any case set for public hearing cannot be completed on the day set for such hearing, the Commissioner presiding at such public hearing may, before the adjournment or recess thereof, publicly announce the time and place to, and at which, said hearing will be continued and such announcement will serve as sufficient notice of such continuance and without recourse to the form of public notice as provided for in the first instance by this Section.

Upon completion of a public hearing, the Planning Commission shall, not later than thirty-five (35) days thereafter, render its decision on the matter so heard. Failure to so act within said thirty-five (35) days shall serve to automatically and immediately refer the whole matter to the Board of Supervisors for such action as it deems warranted under the circumstances. In the event of such failure on the part of the Planning Commission to act, the Secretary of the Planning Commission shall immediately deliver to the Board of Supervisors all the records of the matter involved.

The Planning Commission shall announce and record its action by formal resolution, and such resolution shall recite the findings of the Planning Commission upon which it bases its decision.

Not later than ten (10) days after final action by the Planning Commission on an application, notice of the decision in the matter shall be mailed to the applicant at the address shown upon the application. (Amended by Ord. No. 2918, effective 8-25-90.)

In the case of a variance or special use permit granted under the limitations of Part II of Section 16, the following procedures shall govern:

- a. Except as herein provided, all appeals regarding variances or special use permits shall be subject to the provisions of Section 115 of the Ordinance Code of Tulare County.
- b. Any person adversely affected by a decision of the Planning Commission on the special use permit or variance may appeal the decision to the Board of Supervisors. An appeal to the Board of Supervisors shall be in writing and filed with the Clerk of the Board of Supervisors within ten (10) calendar days after the date on which the decision of the Planning Commission was made. An appeal shall specifically set forth the grounds for the appeal. Notice of the appeal hearing shall be given by the Clerk of the Board of

Supervisors in the same manner as that required for hearing on variances before the Planning Commission. Action on the appeal shall be taken in accordance with section 65903 of the Government Code and the Board of Supervisors shall give the required notices under section 65863.5 of the Government Code.

- c. The decision of the Planning Commission shall become final ten (10) calendar days after the date the decision is made if no appeal has been filed pursuant to paragraph "a" above. When no appeal has been filed, the Planning Commission shall give the required notices under section 65863.5 of the Government Code on behalf of the Board of Supervisors. (Amended by Ord. No. 2179, effective 11-23-78; amended by Ord. No. 2545, effective 7-28-83.)

In the case of a special use permit for a specified hazardous waste facility subject to Sections 25199 et seq. of the Health and Safety Code of the State of California, the following procedures shall govern:

- a. The same procedures set forth in this section for amending zone boundaries or use classifications shall apply to a special use permit for a specified hazardous waste facility, except that the application for special use permit shall not be accepted as complete under Section 65943 of the California Government Code until (1) a financial feasibility statement and market analysis, which demonstrates that the applicant has sufficient fiscal resources to successfully complete and implement the project, has been submitted by the applicant and reviewed by the Board of Supervisors; and (2) a risk assessment which complies with Section 7.3 of the Tulare County Hazardous Waste Management Plan has been submitted by the applicant.
- b. The procedures herein established shall be exercised prior to the filing of any appeals under Section 25199.9 of the Health and Safety Code. (Added by Ord. No. 2918, effective 8-25-90.)

The decision of the Planning Commission in the legislative matter of amending zone boundaries or use classifications or other matters established by this Ordinance shall be advisory only. Once a decision is made on an application involving an amendment, then not later than ten (10) days after final action by the Planning Commission thereon, its recommendation shall be delivered to the Board of Supervisors. In addition, not more than ten (10) days after the action by the Planning Commission the applicant shall be notified by mail of the Commission's decision. The Board of Supervisors shall dispose of the matter in the manner prescribed by law. If the Planning Commission has recommended against adoption of the amendment, the Board of Supervisors shall not be required to take any further action thereon unless an interested party has requested a public hearing in accordance with section 65856 of the Government Code. Notice of such requested hearing shall be given by the Clerk of the Board of Supervisors in the same manner as notice was given for the public hearing before the Planning Commission. Except as otherwise provided by law, any such requested hearing shall be in accordance with section 115 of the Ordinance Code of Tulare County. Action by the Board of Super-visors shall be in accordance with section 65857 of the Government Code. (Amended by Ord. No. 2545, effective 7-28-83.)

EXPIRATION OF APPROVAL

All special use permits and planned unit development permits approved under this Ordinance shall automatically expire and become null and void two (2) years after the date upon which the permit was granted by the Planning Commission or Zoning Administrator, unless the applicant, or his or her successor, has actually commenced the use authorized by the permit within said two (2) year period. Upon application by the applicant, or his or her successor, the decision-making body which

originally approved the permit (Planning Commission or Zoning Administrator) may grant one or more extensions of said two (2) year period provided that no extension may exceed a period of two (2) years in duration. If the Commission or Zoning Administrator denies an application for extension, the applicant may appeal to the Board of Supervisors pursuant to the procedure and within the time limits set forth in this section for appeals of decisions on special use permits and variances. (Added by Ord. No. 2591, effective 3-15-84.)

REVOCATIONS AND MODIFICATIONS

A special use permit, planned unit development permit or variance may be revoked or modified for cause as provided by the provisions of this subsection. For purposes of this subsection, the modification of a permit or variance may include the modification of the terms of the permit itself or the waiver, alteration of imposition of new conditions pursuant to Section 16, Part II B and C. (Subsection added by Ord. No. 2719, effective 8-28-86.)

- a. Grounds for Revocation or Modification. A permit or variance may be revoked or modified pursuant to the provisions of this subsection upon a finding of any one or more of the following grounds:
 - 1. That such permit or variance was obtained or extended by fraud.
 - 2. That one or more of the conditions upon which such permit or variance was granted have been violated.
 - 3. That the use for which the permit or variance was granted is so conducted as to be detrimental to the public health, welfare, or safety, or as to be a nuisance.
- b. Initiation of Action. An action to revoke or modify a permit or variance may be initiated by order of the Board of Supervisors, Planning Commission, or the Zoning Administrator, whichever granted, extended or modified the permit, on its own motion or on the request of any County Officer; provided, however, that the Board of Supervisors may initiate an action to revoke or modify any permit or variance granted or modified by either the Zoning Administrator or Planning Commission. The order shall set forth grounds for revocation or modification.
- c. Other Provisions Applicable. The same procedures shall be followed in processing an action for the revocation or modification of a permit or variance as are applicable to a new permit or variance under this section including, but not limited to, the public notices, hearings and appeal rights set forth in this section, and the same body shall take final action on the revocation or modification as previously took final action on the original permit or variance.

MINOR MODIFICATIONS - DIRECTOR’S APPROVALS

The Planning Commission, Board of Supervisors or Zoning Administrator, as part of any action approving a special use permit, variance, Planned Unit Development (Section 18.5) or Planned Development (Section 18.6), may include in said approval a delegation to the Planning and Development Director of authority to approve, without notice or hearing, minor modifications to the site development plan approved by the Planning Commission, Board of Supervisors or Zoning Administrator for the special use permit, variance, Planned Unit Development (Section 18.5) or Planned Development (Section 18.6), provided that any minor modification shall not substantially change or alter the use approved or conditions imposed. If such authority is delegated by the Planning Commission, Board of Supervisors, or Zoning Administrator, the applicant may apply to the Planning and Development Director for a minor modification upon the form of application required by the Director and upon payment of the application fee set forth herein.

Such modifications shall be noted on the approved plans and shall be initialed by the Planning and Development Director. The Planning and Development Director shall not, however, approve minor modifications in approved site development plans that would modify any written condition of approval without first requesting the body which took final action on the use permit, variance, Planned Unit Development or Planned Development to determine if such change constitutes a minor modification. If said body determines by resolution that such a change constitutes a minor modification, the requested change may be approved by the Planning and Development Director as provided in this Section. If the requested minor modification is disapproved by the Planning and Development Director, the applicant may file for an amendment to the use permit, variance, Planned Unit Development or Planned Development. (Added by Ord. No. 3003, effective 8-29-92.)

DISCONTINUANCE

Each special use permit, planned unit development permit or variance granted pursuant to this Ordinance shall expire and become null and void at the expiration of two (2) years after the purpose for which it was granted shall have been discontinued or abandoned. However, upon application by the applicant, or his or her successor, the decision-making body which originally approved the permit or variance may extend the expiration date in accordance with the procedures set forth in the sixth paragraph of this Section entitled, "Expiration of Approval." (Subsection added by Ord. No. 2719, effective 8-28-86.)

ORDINANCE NO. 2719:

NOTE: Section 10 of Ordinance No. 2719, effective 8-28-86, provides as follows: It is the intent of the Board of Supervisors of the County of Tulare that the provisions of Section 9 of this Ordinance (refers to the paragraphs entitled REVOCATION AND MODIFICATION and DISCONTINUANCE) be applicable to all special use permits, planned unit development permits and variances which have been issued, granted or approved by the County of Tulare since the effective date of Ordinance No. 352, the Zoning Ordinance, except that the paragraph entitled "DISCONTINUANCE" shall not be applicable until two (2) years following the effective date of this ordinance. (Ordinance 2718 was effective on August 28, 1986; therefore, the DISCONTINUANCE paragraph is effective August 28, 1988.)