

HOW TO APPLY FOR A CONDITIONAL USE PERMIT

When is a Conditional Use Permit required?

Approval of a conditional use permit is required before certain uses may be established in the City. The list of uses requiring a conditional use permit varies by zoning district. Check with the Community Development Department or refer to the zoning district regulations in the Zoning Ordinance to determine whether your project requires approval of a conditional use permit.

What is its purpose?

The purpose of conditional use permits is to provide a process for reviewing land uses which may be compatible with the zoning district, but whose effect on the site and surroundings cannot be determined before being proposed for a specific location. Such uses may be suitable in a zoning district only in specific locations or only if designed in a particular manner or subject to specific conditions.

What does it cost?

An initial deposit is required at the time of filing. Please view the Planning Application, found at www.fremont.gov/permit, for the current deposit schedule. The total cost will depend on the time required to process the application. Progress billings will be invoiced during the review of the project if charges exceed the minimum deposit. A refund will be issued at the completion of the project review if excess funds have been paid.

Who approves a Conditional Use Permit?

A conditional use permit is approved by the Planning Commission. Actions of the Planning Commission may be appealed within 10 days to the City Council.

What are the steps?

1. Talk with a Planner in the Development Services Center to determine which regulations apply to your proposed use.

**Community Development Department
Planning Division
39550 Liberty Street, Fremont, CA 94538
510 494-4440 ph | www.fremont.gov**

2. Schedule an appointment to submit a completed application form, filing fee and required materials for review to the Community Development Department's Development Services Center. Call 510-494-4440 to schedule.
3. When your application is submitted to the Development Services Center staff, an applicant's meeting will be scheduled to meet with your project planner and other necessary staff to go over any issues which may have been found during the review of the project. The project applicant and the engineer who prepared the map are asked to attend this meeting.
4. Copies of your proposal will be referred to affected departments and other agencies for comment.
5. Within 30 days of submittal of your application, the project planner assigned to your project will notify you whether your application is complete or if additional information or revised plans need to be submitted.
6. When your application is deemed complete, the Community Development Department will prepare a staff report. A public hearing will be scheduled before the Planning Commission. You will be notified of the date of the hearing.

What materials do I submit?

See Conditional Use Permit Submittal Checklist for a detailed list of materials and information which must be filed with your application.

How long does the process take?

Once the application is determined to be complete with all requested information submitted, the process takes approximately 6 weeks.

Proposals requiring special environmental studies may require additional time. (NOTE: Estimated processing time **does not** include time needed by the applicant to revise and resubmit plans and studies.)

If an Environmental Impact Report (EIR) is required, the process will take considerably longer. A full EIR may take up to one year for processing. (For details about EIR requirements or other environmental concerns, talk with your project planner.

What is involved in a public hearing?

Ten days prior to the hearing, the applicant and all owners of property within 300 to 1,000 feet of the boundaries of the project will be notified a hearing will be held before the Planning Commission to review the proposed use. The mailing list uses addresses shown on the latest assessor’s records. City staff may also request that you install or post a courtesy sign in advance of the public hearing. At the hearing the Planning Commission will consider the staff report and hear testimony from the applicant and members of the public. After the public hearing portion of the meeting is concluded, the Commission may conditionally approve the project, deny it, or continue the matter (with the applicant’s consent).

May a decision be appealed?

Appeals may be filed by any interested party. An appeal shall be submitted in writing, on any form prescribed for that purpose by the city and accompanied by the required fee, and shall state the decision appealed from, the facts and basis for the appeal, and the relief or action sought.

The appeal shall be filed within ten calendar days following the date of the decision that is being appealed. The time limit will extend to the next business day when the tenth day falls on a day that the city is not open for business.

Appeals addressed to the planning commission shall be filed with the planning division. Appeals addressed to the city council shall be filed with the city clerk.

When are hearings held?

The Planning Commission holds public hearings on the 2nd and 4th Thursdays of each month, except during November, December, and January the schedule may vary, at 7:00 p.m. in the City Council Chambers.

Are there any other steps I must go through before I open my business?

If approval is given by the Planning Commission, the applicant will generally submit for a building permit to implement the project. A Conditional Use Permit shall be considered “exercised” only after a valid building permit has been issued and construction is diligently pursued or a valid certificate of occupancy has been issued in reliance on the permit. If no building permit or certificate of occupancy is required for compliance with conditions of approval the applicant/operator may provide written documentation to the Zoning Administrator that all conditions of approval requiring implementation prior to commencement of use have been completed and that those conditions requiring ongoing implementation have been acknowledged. The Zoning Administrator will provide a written acknowledgement that implementation has occurred. Providing written documentation and acknowledgement is one means of assuring that the permit has been exercised and has not expired.

In addition, any new business or relocated business must apply to the City of Fremont Revenue and Taxation Division for business tax clearance. This is a separate process and the Revenue and Taxation Division must be contacted directly regarding an application.

Can I get more information?

If you need additional information or if you have questions, please call (510) 494-4455.



CONDITIONAL USE PERMITS (Application Submittal Checklist)

Purpose: The purpose of conditional use permits is to provide a process for reviewing land uses which may be compatible with the zoning district, but whose effect on the site and surroundings cannot be determined before being proposed for a specific location. Such uses may be suitable in a zoning district only in specific locations or only if designed in a particular manner or subject to specific conditions.

Application Meeting: Conditional Use Permit applications shall be submitted by appointment. Call a Principal Planner or Senior Planner directly or call the Planning Division at 510-494-4440 to schedule.

Code Reference: Fremont Municipal Code Title 18, Chapter 18.230.

I understand that my plan review may be delayed if required materials are missing from the submittal package.

Project Applicant

Date

Submittal Requirements:

NOTE:

- Indicates an item which is always required.
- Indicates an item which may be required, depending on the project. The staff person who provides you this sheet will check (✓) the box if the item is required for your application.

- 1. A completed application form including:

Part I: Project information and the current property owner(s) signature authorizing the project proposal.

Part II Reimbursement Agreement with signature of the billing party acknowledging responsibility for charges.

Part III: A list of all consultants proposed to be involved with the project, or a statement that none are proposed to be involved.

Part IV: A statement signed by the applicant indicating whether the project site is found on the Hazardous Waste and Substances Sites List pursuant to California Government Code Section 65962.5.

Part V: Affordable Housing Plan Proposal for all residential projects resulting in two or more net new units or lots.

Part VI: Development Statistics

■ 2. Plans including the following items:

■ a. Vicinity map showing a one-half mile radius of the site.

■ b. Accurately dimensioned site plan showing:

(1) Property lines.

(2) Location, configuration and setbacks of all existing and proposed buildings and intended uses for the buildings and site, including occupancy classification and type of construction as defined in the Building Code.

(3) Parking, vehicle circulation areas and driveways.

(4) Pedestrian ways and recreation areas, existing and proposed.

(5) Development Reserve Boundary, Toe-of-the-Hill and Ridgeline, where applicable.

(6) Fencing.

(7) Easements on the property.

(8) All fire hydrants within 300 feet of the project site.

(9) All land uses surrounding the project site (may be listed on a separate sheet).

c. Schematic landscape plan, new or modified.

■ d. Elevations showing:

- (1) Each side of all proposed buildings and/or existing buildings, and/or the sides proposed to be modified.
- (2) Materials and colors to be used on each elevation.
- e. Floor plans, indicating all intended uses of each area.
- f. Tree Survey Plan showing the following:
 - (1) Existing and proposed site features, including but not limited to buildings, walls, paving, grading, etc.
 - (2) Tree(s) trunk six-inch DBH (trunk diameter at 4.5-feet above ground level) and larger located on plan by a licensed surveyor, and with accurate canopy outline.
 - (3) Trees labeled by number and tagged on-site per ISA standards.
 - (4) Summary table identifying botanical designation, DBH, and elevation of tree at ground level.

NOTE: Additional analysis by a certified arborist may be required pending review of tree survey and other required project plans. If no trees exist on site, provide a statement by the civil engineer or surveyor indicating this, as an alternative to the required tree survey.

- g. Two copies of a current preliminary title report for projects that involve construction of a new building or expansion of an existing building footprint and/or new site improvements such as landscaping, special paving, utilities and accessory structures.
- 3. The number of plans to be submitted with the application are:
 - a. Ten (10) sets of full-sized plans, collated and folded to a size NO LARGER THAN 8" x 13".
 - b. One (1) set of the plans reduced to 11" x 17", collated and folded to 8 1/2" x 11".

Your project planner will request you submit the following materials 21 days before your public hearing or action date.

- c. One (1) set of full size plans.
- d. Two (2) sets of plans reduced to 11" x 17", collated and folded to 8 1/2" x 11".

- e. The required plans in PDF format.

Full-size plans submitted should be no larger than 30" x 42".

If the project requires multiple application types, only submit the quantity of plans required by the type requesting the greatest number of sets.

- 4. Statistics checked below may be indicated on the site plan or on a separate sheet:
 - a. Building floor area (measured from the exterior faces of the walls less any areas within the buildings devoted to parking/circulation, malls and similar areas).
 - b. An inventory of all tenant spaces on the property, listing the address (or suite number), type of business (or other use of the space) and floor area for each.
 - c. Floor Area Ratio (FAR) calculations, for commercial or industrial projects. When the FAR is proposed to exceed the threshold provided in the General Plan, the applicant shall include information to support the findings required. See Planning Form 36 for details.
 - d. Building coverage of site.
 - e. Number of parking spaces, specifying the number of full size, accessible, carpool, EV and compact spaces.
- 5. Ten (10) copies of a statement of proposed operations. The statement shall be prepared as a letter separate from the information required on the application forms. This statement shall include, if applicable, the hours and days of operation and a detailed description of the activities proposed under this project.
- 7. Two complete copies of the Impervious Surfaces Form (<http://fremont.gov/ISF>).

Incomplete Applications: An application is considered to be incomplete if any of the items checked on this information sheet have not been included. Processing of the application will be delayed until the submittal is determined to be complete.

Hearing Notification: The City will notify all property owners, as well as business and residential tenants within the appropriate radius from your project site. Most projects require a 300-foot radius, while some require a 1,000-foot radius based on the sensitivity of the project and the level of community input anticipated or required.

City staff may also request that you install or post a courtesy sign in advance of the public hearing.

As with all other costs, you will be billed for staff time to research, create and label the required postcards. If the public hearing is delayed for an extended period of time after notices for your project have been mailed, you will be charged the cost to re-mail postcards.

Schedule Time Line: When a complete application is submitted, a file will be prepared. The applicant will be notified by mail as to who the project Planner is within approximately one week of submittal. Staff from the Planning, Building, Police and Fire Departments at the will review the project. The staff review team will determine if the project meets general ordinance and policy requirements as well as to determine the project's completeness. The project Planner will schedule a meeting with the applicant to discuss the project approximately three weeks from the date of project submittal. The applicant will be notified of the date and time of the meeting by letter once the project has been assigned. Any issues identified by the City of outside agencies will be discussed during the applicant meeting. If additional information or revised materials are required, it must be submitted at least 21 days before the Planning Commission hearing date to allow time for staff review.

The Planning Commission Hearing: The Planning Commission is a seven-member board appointed by the City Council. The Planning Commission reviews projects such as Conditional Use Permits, Tentative Maps. The Commission is the first reviewing body for applications such as Planned Districts, General Plan Amendments and Zoning Text Amendments and makes recommendations prior to review by the City Council. The applicant and other project representatives should attend the Commission hearing, even if the project is a consent item, as the Planning Commission could determine your project requires discussion prior to taking action.

Appeals of Planning Commission Action: Appeals of Planning Commission action are considered by the City Council. Appeals to the City Council must be submitted in writing to the City Clerk within 10 calendar days of the Planning Commission action. Your appeal letter must be accompanied by a \$50 appeal fee and must set forth (a) the specific action appealed from, (b) the specific grounds of the appeal and (c) the relief or action sought from the City Council. For additional details regarding appeals to the City Council, contact the City Clerk's office, 3300 Capitol Avenue, Fremont, CA 94538, phone: (510) 284-4060.

Development Impact Fees:

Commercial and Industrial Buildings

Development impact fees may be assessed if your project involves new construction or additional floor area. If the project involves a change of use in a building, development impact fees may also be assessed. For example, a change from a warehouse to an industrial classification or a change from retail to an office would require Development Impact Fees be paid. A credit will be applied to the value of fees for the previous use category and a charge will be applied for the fees of the new use category. There are three categories of Development Impact fees assessed for commercial and industrial buildings: Traffic, Capital Facilities and Fire Protection Fees.

Residential Developments

New residential dwellings (single family and multi-family projects) always trigger payment of Development Impact Fees. In addition to the fee categories assessed for commercial and industrial buildings, new residential construction also requires the payment of Park Facilities and Park Dedication In-Lieu fees.

For further information on Development Impact Fees, please refer to the Development Impact Fee schedule available online or in the Development Services Center.

Fees

An initial deposit is required at the time of filing. Please view the Planning Application, found at www.fremont.gov/permit, for the current deposit schedule. The actual charge will be based on staff time required to process the application. Progress billings will be invoiced during the review of the project if charges exceed the minimum deposit. A refund will be invoiced at the completion of the project review if excess funds have been paid.

Requirements described on this submittal checklist are subject to change. If you need additional information or clarification to prepare your submittal please contact the staff person who furnished you this sheet for further assistance.

Information sheet furnished by: _____ Phone: (510) 494-_____

for proposal: _____

_____ Date: _____



Community Development Department

39550 Liberty Street, P.O. Box 5006, Fremont, CA 94537-5006

Affordable Housing Plan Proposal

Applicability: Residential projects containing two or more net new living units or residential lots, or a combination of living units and residential lots, are required to provide the affordable housing per Fremont Municipal Code Chapter 18.155, Affordable Housing. Compliance with the affordable housing ordinance can be achieved through the basic requirement or, if approved, use of an alternative to the basic requirement. Below, identify how the residential project proposes to comply with the affordable housing ordinance by placing a “✓” in the appropriate section.

Basic Requirement: The affordable housing obligation is achieved differently for for-sale and rental residential projects, as described below:

- _____ *For-sale projects:* At least 15 percent of all living units in any for-sale project shall be made available at affordable cost as prescribed in Section 18.155.070(a). Effective January 1, 2015, at least 20 percent of all living units in any for-sale project shall be made available at affordable cost as prescribed in Section 18.155.070(a); provided, that the city council finds that a nexus study quantifying the impacts of new market-rate units on the need for affordable housing supports a 20 percent affordability requirement. If the city council does not make this finding, then at least 15 percent of all living units shall continue to be offered at affordable cost as prescribed in Section 18.155.070(a). (FMC §18.155.030(a)(1))
- _____ *Rental projects:* Rental projects not receiving any City assistance comply with the affordable housing obligation through payment of the affordable housing impact fee. (FMC §18.155.030(b)(1))

Alternatives to Basic Requirement: If one of the allowed alternatives to the basic requirement is proposed, identify the alternative below and describe how the project would comply with the specific FMC requirements for alternatives (FMC §18.185.080(a) through §18.185.080(f)).

- _____ *Provision of rental units:* Where ownership affordable units are required to comply with the basic requirement, the applicant may construct rental units affordable to moderate, low, and very low income households at rents prescribed in FMC §18.185.080(a)(1). (FMC §18.185.080(a))
- _____ *Off-site construction:* The applicant may propose to construct affordable units on another site. (FMC §18.185.080(b))
- _____ *Property dedication:* The applicant may propose to dedicate, without cost to the City, property within or contiguous to the residential project sufficient to accommodate at least the required number of affordable units for the residential project. (FMC §18.185.080(c))
- _____ *Purchase of existing market-rate units:* The applicant may propose to purchase existing market-rate units not subject to any affordability covenants and convert them to affordable housing, or to purchase affordability covenants for existing market-rate units, to provide the required affordable housing. (FMC §18.185.080(d))
- _____ *Preservation of affordable units at risk of loss:* The applicant may propose to preserve existing affordable units at risk of loss to provide the required affordable housing. (FMC §18.185.080(e))
- _____ *In-lieu fee payment:* The applicant may pay a fee in-lieu of construction of affordable units on site. (FMC §18.185.080(f))

