

**PART 20
GENERAL PROVISIONS**

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**CHAPTER 20
GENERAL PROVISIONS**

20.01 -General

Unless otherwise provided for, this Part shall govern all applications filed with the County pursuant to Parts 21, 23, 25, 32, 33, 35, 36 and 37 of this Code.

20.02 - Required Application Contents

Applications for approval of any permit or amendment pursuant to this Part shall include the following:

- (a) An Initial Project Application (IPA) and any other form(s) required by the Planning Department, and all information specified on the "Required Application Contents" list furnished by the Planning Department with all permit applications.
- (b) The signature(s) of the owner(s) of the real property that is the subject of the application, or an owner authorization allowing the person signing the application to act as agent for the property owner.
- (c) An environmental questionnaire, if required by Part 38 of this Subdivision Ordinance, or a written request for an exemption, if applicable.
- (d) The non-refundable filing fee(s) required by the most current Planning Department fee schedule.
- (e) For all applications for use permits, zoning amendments, subdivision and parcel maps, development agreements, and rezoning or general plan amendments, the applicant is required to execute an Indemnification Agreement to indemnify and hold harmless the County from any defense costs, including attorney's fees or other loss connected with any legal challenge brought as a result of approval of the project.

20.03 - Filing of Applications

Applications for the permits by this Part shall be filed with the Planning Department. No application for approval of a use of land, building or structure, land division, or other permit required by this Part shall be accepted for processing by the Planning Department or approved, unless:

- (a) the proposed use is allowed on its site; and
- (b) the proposed use of land, building or structure, or division of land satisfies all applicable standards and requirements of this zoning ordinance, or such standards are the subject of a simultaneously filed variance application that will, if approved, achieve 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, the grading ordinance or any condition of approval of an applicable land use entitlement, except where the application incorporates measures proposed by the applicant to correct 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) no application for the same use on the same site was denied by the Zoning Administrator or Planning Commission within one year prior to the date of filing, unless permission to

re-file has been granted pursuant, or unless the previous application was denied without prejudice by the hearing body; and

- (e) the fact that a permit has been accepted for processing pursuant to paragraphs (a)-(d) shall not be deemed to be a final determination with respect to compliance with those paragraphs, said final determination to be made by the decision-making body.

20.04 - Initial Review of Application

In addition to the review required by Section 20.02 above, the Planning Department shall review all applications for completeness and accuracy before the applications are accepted as being complete and officially filed.

- (a) Determination of completeness. Within 30 days of filing, the department shall determine whether an application includes the information required by this Part, as follows:
 - 1. Notification of applicant. The applicant shall be informed in writing that either:
 - A. the application is complete and has been accepted for processing; or
 - B. that the application is incomplete and additional information, specified in writing, must be provided. When an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness must occur. The time available to an applicant for submittal of additional information is limited by Subsection (a)3 of this Section.
 - 2. Appeal of determination. Where the Planning 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 Part, other provisions of this code or the policies of the general plan or any applicable community plan, the applicant may appeal the determination to the Planning Commission as set forth in Section 20.13. There shall be a final written determination within 60 days from the receipt of the appeal.
 - 3. Expiration of application. If a pending application is not completed by the applicant (i.e., not accepted as complete by the County) within one year after the first filing with the department, the application shall expire and be deemed withdrawn. A new application may then be filed as set forth by this Part.
- (b) Referral of application. At the discretion of the Planning Director or where otherwise required by this code, state or federal law, any land use permit application filed pursuant to this Section may be referred for review and comment to any public agency that may be affected by or have an interest in the proposed land use.

20.05 - [Reserved]

20.06 - Environmental Review

- (a) Environmental review procedure. After acceptance of a complete application as provided by Section 20.04, the application shall undergo environmental review as required by Part 38 of this code.

- (b) Additional information. After an application has been accepted as complete pursuant to Section 20.03, the Planning Department may require the applicant to submit additional information needed for the environmental review of the project subject to the provisions of Part 38 of this code.

20.07 - [Reserved]

20.08 - Staff Report and Recommendations

- (a) Staff evaluation. The Planning Director or designee shall review all discretionary applications filed pursuant to this Part to determine whether they comply and are consistent with the provisions of this Part, other applicable provisions of this code, and the general plan. Planning Department staff shall formulate a recommendation to the Zoning Administrator or Planning Commission (as applicable) on whether the application should be approved, approved subject to conditions, or denied.
- (b) Staff report preparation. A staff report shall be prepared by the Planning Department that describes the Department's conclusions and/or other appropriate staff about the proposed land use and any accompanying development as to its compliance and consistency with applicable provisions of this code, applicable area and community plans, and the General Plan. The staff report shall include recommendations on the approval, approval with conditions, or denial of the application, based on the evaluation and consideration of any environmental documents, any material which accompanied the application(s) and any other pertinent information available to Department staff.
- (c) Report distribution. Staff reports for matters reviewed by the Planning Commission shall be furnished to applicant and shall be available to the public no later than one week prior to the scheduled public hearing on the application.

20.09 - [Reserved]

20.10 - [Reserved]

20.11 - Notice of Hearings

Any public hearing shall be held only after notice of the time and place of such hearing, including a general explanation of the matter to be considered is given in the manner required by state law. (Ord. 979, eff. 10/19/06)

20.12 - Hearings

Hearings before an inferior body shall conform to general standards of due process, and such written procedures as may be adopted from time to time.

20.13 - General Procedures for Land Use Appeal Hearings

20.13.001 - Standing to Appeal

Any applicant for a land use permit or other approval, including a petition for rezoning, and any interested party in any such application or petition shall have the right to file an appeal to the Board of Supervisors on any decision of the Planning Commission. In the event that a decision of the Planning Director is appealed to the Planning Commission, the appeal shall follow the same procedures otherwise established for appeals of Planning Commission decision, except that the Planning Commission shall discharge those duties otherwise assigned to the County Clerk.

20.13.002 -Time Within to Appeal

Unless otherwise expressly provided for by any law, any appeal of any decision of the Planning Commission shall be filed with and actually received by the County Clerk, in the manner specified in this Part, within 10 calendar days from the date of the Planning Commission's action. Any such appeal shall be accompanied by such fees and deposit as established by the latest adopted resolution, which shall be paid to the County Clerk at the time of and as a condition to the filing of an appeal.

20.13.003 -Filing of Appeal and Stay of Commission's Action

The filing of such an appeal within the above stated time limits shall stay the effective date of the Planning Commission's action until the Board of Supervisors has acted upon the appeal or the appeal has been withdrawn. Any entitlements and approvals shall not be effective while an appeal is pending.

20.13.004 - Requirements for Statement on Appeal and Project Applicant's Response Thereto

An appeal shall be filed with the County Clerk on the form provided by the County Clerk and shall include a brief statement of the appeal, identifying the project and the decision of the Planning Commission which is the basis of the appeal. The appeal shall also include a brief statement of the reasons for the appeal and the specific action that the appellant desires to be taken by the County.

20.13.005 - Review of Notice of Appeal by County Clerk

Upon the filing of an appeal the County Clerk shall determine if the appeal was filed within the applicable time limits and shall summarily reject any appeal, which is filed beyond the time limits.

20.13.006 - Notice Requirement for Appeal Hearings

Any public hearing on an appeal before the Board of Supervisors shall be held only after notice of the time and place of such hearing, including a general explanation of the matter to be considered is given in the matter required by state law. (Ord. 979, eff. 10/19/06)

20.13.007 - Hearing Procedures

At the time and place set for any hearing, as provided for herein, the Board of Supervisors shall conduct any such appeal hearing as a full hearing de novo on the subject project, without limitation as to the issues that may be raised, or as to the evidence that may be received. (The administrative record and all exhibits shall be duly marked for identification as part of the record of the proceedings of the Board's hearing.) Appeal hearings shall be conducted as follows:

- (a) staff presentation;
- (b) presentation by appellant shall be limited to 15 minutes;
- (c) presentation by project proponent (if different party from the appellant) shall be limited to 15 minutes;
- (d) public hearing: Members of the public should be allowed 5 minutes each to give testimony;
- (e) summation by project proponent - 10 minutes (total);

- (f) summation by appellant - 10 minutes (total);
- (g) rebuttal by members of the public - 2 minutes each; and
- (h) staff summation.

In the event that anyone desiring to testify before the Board of Supervisors desires to present more information to the Board than may be accomplished within the time limits set forth above, such person shall be permitted to present such information to the Board in writing, within five (5) working days prior to the date set for the appeal hearing. Any such information shall be submitted to the County clerk no later than the end of the fifth working day prior to the date of the hearing.

The Board of Supervisors shall endeavor, in the interest of time and fairness, to adhere to the time limits set forth herein, although may deviate from these hearing procedures when determined to be in the public interest.

It will be policy of the Board of Supervisors to orally review the provisions of this Section with all parties in attendance prior to beginning any public hearing.

20.13.008 - Action by the Board

(a) At the conclusion of the appeal hearing by the Board of Supervisors, the Board shall base its decision on the information and evidence submitted during the hearing and as part of the record. The Board may sustain, overrule or modify any action of the Planning Commission, without referring the matter back to the Planning Commission (unless such referral is required under state law, for zoning and general plan amendments). The power of the Board to modify shall include the authority to change, delete or add to the conditions of approval of any land use application as set out by the Planning Commission, the Board shall be required to prepare and adopt legally adequate findings as required by law to support the Board's decision. Any action by the Board shall be by not less than three affirmative votes, provided however, that in the event that the Board's action culminates in a two-to-two or two-to-one vote, such vote shall constitute action by the Board which shall be deemed to be a denial of the appeal and which shall result in a reinstatement of the Planning Commission's action on the project, unless the Board expressly continues the item for further deliberation or hearing.

(b) Any appeal hearing set before the Board as required pursuant to Government Code §66452.5 must be held within thirty (30) days from the date of filing the appeal. The Board may continue the appeal hearing as it deems necessary or appropriate. Within ten (10) days following the conclusion of the hearing, the Board of Supervisors shall render its decision on the appeal. All other appeals shall be set for hearing within sixty (60) days of the date of the filing of the appeal and the hearing may be continued at the Board's discretion. The time limits set forth herein may be extended with the consent of the project applicant.

20.13.009 - Statute of Limitations

- (a) The decision of the Board of Supervisors shall be final on all matters, unless an appeal there from is filed with the Superior Court of the County of Sierra within thirty (30) days after the decision of the Board of Supervisors.
- (b) In the event litigation is filed contesting any action or decision of the Board of Supervisors for which an appeal has been heard, under the provisions of this Section, the Board shall be deemed to have reserved jurisdiction over the matter that was the subject of the appeal and shall have the right to readdress its decision in order to consider the issues raised in the litigation. It is the intent of this provision to allow the Board the discretion to control and to settle any such litigation when it is necessary to do so in the

public interest. In the event that the Board believes that there is a need to readdress its decision, the Board shall provide written notice of same to the appellant and to any other interested party that appears at the hearing (where such person was identified at the hearing by a name and address), giving the time, date and location where the matter will be placed back on the Board's agenda for further consideration or action. At the time that the matter is re-agendized, the Board may: 1) without taking further evidence, announce its decision to reverse or modify its prior action; or 2) elect to reopen the public hearing in order to receive additional evidence or argument on the subject matter of the appeal that is being contested by the litigation.

20.14 - Conditional Use Permits

- (a) Planning Commission hearing. After completion of a staff report, the Planning Director shall schedule and the Planning Commission shall conduct a public hearing on the requested conditional use permit. The hearing shall be scheduled, provided public notice and conducted in accordance with Part 20.
- (b) Final action:
 - 1. The Planning Commission shall consider information presented about the project proposed in the conditional use permit application in the staff report, in any accompanying environmental documents and comments received on such documents, in public testimony at the hearing, in any correspondence received at or before the hearing, and in any other information made a part of the record.
 - 2. After the public hearing, and within any applicable time limits, the Planning Commission shall take action upon the required CEQA documentation and approve, approve subject to conditions or disapprove the conditional use permit.
 - 3. Approval or conditional approval shall be granted only where the Planning Commission can make the findings required by law. The permit shall be denied where the findings cannot be made. The Planning Commission may approve a conditional use permit subject to conditions, as set forth in Section 20.15(b).
 - 4. The decision of the Planning Commission shall be in writing, including all findings that were made as the basis for the decision.
- (c) Appeal. Decisions of the Planning Commission on conditional use permits may be appealed to the Board of Supervisors, in accordance with Section 20.13.

20.15 - Permit Issuance

The approval and issuance of a conditional use permit by the Planning Commission shall occur as set forth in this Section.

- (a) Findings required for approval. No conditional use permit shall be approved, unless the Planning Commission first finds that:
 - 1. The proposed use is consistent with all applicable provisions of this Part and any applicable provisions of other Parts of this code.
 - 2. The proposed use is consistent with applicable policies and requirements of the Sierra County General Plan, and any applicable community plan or specific plan, and that any specific findings required by any of these plans are made.

3. The establishment, maintenance or operation of the proposed use or building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of people residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the county; except that a proposed use may be approved contrary to this finding where the granting authority determines that extenuating circumstances justify approval and enable the making of specific overriding findings.
 4. The proposed project or use will be consistent with the character of the immediate neighborhood and will not be contrary to its orderly development.
 5. In a TPZ zone district, the establishment, maintenance and operation of the proposed use or building will not significantly detract from the use of the property for, or inhibit the growing and harvesting of timber.
 6. Any specific findings as required by the Zoning Ordinance.
 7. Such findings as required by California Environmental Quality Act (CEQA).
 8. The proposed use is consistent with, replaces or appropriately modifies any prior established relevant conditions of a previous entitlement, if applicable.
- (b) Conditions of approval. In conditionally approving an administrative review permit, minor or conditional use permit, the granting authority shall adopt conditions of approval as necessary to accomplish the following objectives, consistent with the requirements of state law:
1. Specify the period of validity of the permit and/or the allowed duration of the proposed use. 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 Section 20.17.
 2. Ensure that the proposed project will be consistent with all applicable requirements of this Part, the Sierra County General Plan, and any applicable community plan or specific plan.
 3. Enable all the findings required by Subsection (a) of this Section to be made by the granting authority.
 4. Mitigate environmental impacts identified in environmental documents prepared pursuant to Part 38, or adopt overriding findings pursuant to Section 15091 *et seq.* of the CEQA Guidelines.
 5. Require the dedication of rights-of-way determined by the granting authority to be necessary as a result of the proposed use.
 6. Require the installation, or participation in the cost of installation, of specified on-site or off-site improvements determined by the granting authority to be necessary as a result of the proposed use.
 7. Supersede, replace, or modify conditions of approval applicable to the site as a result of a previous permit approval, where determined by the granting authority to be appropriate.

8. Limit the size of the project or intensity of the use to a level approved by the granting authority.

The granting authority may also adopt any other conditions of approval as the authority determines are necessary to protect the public health, safety, and general welfare.

- (c) 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 Section, prior to compliance with or contrary to the conditions of approval adopted as set forth in this Section.
- (d) Effective date of permit. An approved administrative review permit, variance, minor or conditional use permit shall become effective for the purposes of commencing the actions necessary to comply with conditions of approval and filing building permit applications, on the 11th day after approval of the permit by the granting authority, provided that approval shall be set aside and of no effect if an appeal is filed within 10 days, or such other time specified by law, after approval pursuant to Section 20.13. If no written or oral testimony is provided as a part of the official record, except for such testimony as may have been provided by the applicant and/or staff, the hearing body may waive the 10-day waiting period and may establish an effective date for the permit at any time following the conclusion of the public hearing, not to exceed the original 10-day waiting period.
- (e) Implementation of permit. After the effective date of an administrative review permit, minor use permit or conditional use permit, the applicant shall diligently proceed to carry out the conditions of approval and implement the permit by establishing the approved use within the time limits set forth in Section 20.17.

20.16 - Effect of Denial

If a conditional use permit application is denied by the Planning Commission and the decision is not reversed through appeal (Section 20.13), no further application for a permit for the same use on the same property shall be filed for a period of one year from the date of denial, except where the granting authority gives permission for such filing or the permit application was denied without prejudice. Permission to re-file shall be granted only if the applicant can show a substantial change of circumstances or conditions from those existing at the time of such previous denial. A re-filed application shall be processed in the same way as a new application.

20.17 - Processing Time Limits, Exercising of Permits, and Extensions

- (a) Time limits for action by county. As provided by California Government Code 65950, a conditional use permit shall be approved or disapproved by the granting authority within the following time limits:
 1. If a negative declaration is adopted or if the project is exempt from regulation under CEQA pursuant to Part 38 of this code, the project shall be approved or disapproved within sixty (60) days from the date of adoption of a negative declaration or, for those projects which are exempt from regulation under CEQA, within sixty (60) days from the date that the application is determined to be complete pursuant to Section 20.04, unless the project proponent requests an extension of the time limit.
 2. If an environmental impact report is prepared for the project pursuant to the provisions of Part 38 of this code, the project shall be approved or disapproved within six months from the date of certification by the hearing body of the environmental impact report, unless the project proponent requests an extension of the time limit.

3. If a project proponent requests, in writing, an extension of the time limits, the Planning Director may grant or deny such a request for good cause. A request for a decision by the Planning Director to grant an extension of the time limits specified above shall be made prior to the expiration of such time limits. The Planning Director may grant an extension for such a reasonable additional time period as is deemed appropriate.

If the County fails to approve or disapprove a development project within the time limits specified by this Section, the failure to act shall be deemed approval of the permit application for the development project. However, the permit shall be deemed approved only if the public notice required by law has occurred. [See California Government Code Section 65956(b).]

Except that where the land use permit application is accompanied by an application for a general plan amendment, rezoning or zoning text amendment that is needed to allow the processing of the land use permit, the above time limits shall not apply.

- (b) Permit expiration. An approved conditional use permit or variance is subject to the following time limits. It shall be the responsibility of the applicant alone to monitor the time limits and make diligent progress on the approved project, so as to avoid permit expiration.

1. Time limit for permit implementation. An approved permit is valid for 24 months from its effective date (Section 20.14(D)), or for any other period specified by the granting authority in conditions of approval, or other provision of this Part. At the end of 24 months, the permit shall expire and become void, unless by that time:

- A. The permit has been implemented because conditions of approval prerequisite to construction have been satisfied, any required building or grading permits have been issued, and a foundation inspection has been conducted and approved by the Building Official or a designee; or
- B. The permit has been implemented because a 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. The permit has been implemented for a multiple building or multiple structure project because conditions of approval prerequisite to construction have been satisfied, any required building or grading permits have been issued, and foundation inspections for each and every building or structure have been conducted and approved by the Building Official or a designee [NOTE: 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 conditional use permit granted for a planned residential development has been implemented through the recordation of the final subdivision map, pursuant to the approved PD; or
- E. An extension of time has been granted according to Subsection (C) of this Section.

2. Lapse of permit after implementation. Once a project has been implemented as set forth above, the permit that authorized the use shall remain valid and in force and shall run with the land, including any conditions of approval adopted with the permit, unless one of the following occurs:

- A. Work under an approved construction permit toward completing the project and complying with the permit conditions of approval ceases, such that the

construction permit expires, and one additional year elapses after the expiration of the construction permit.

- B. After a use has been established and/or operated as approved, the use (if no appurtenant structure is required for its operation) is discontinued for more than 12 consecutive months, or (if an appurtenant structure is required for the conditionally-permitted use) the structure is removed from the site for more than 12 consecutive months. If a structure associated with the operation of a conditionally permitted use is issued a certificate of occupancy and all other conditions of approval of the conditional use permit are satisfactorily completed, the entitlement remains in effect even if the structure is vacant for more than 12 consecutive months; however, no use may be reestablished in the structure and/or on the site unless the use is determined by the Planning Director to be substantially the same as the original conditionally permitted use.
- C. The time limit set for the duration of the use by a condition of approval expires.

If one of the foregoing events occurs, the permit shall be deemed to have lapsed. No use of land, 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 Section. The site of a lapsed permit shall be used only for uses allowed in the applicable zone district without a permit pursuant to this Part.

- (c) Extensions of time. The time limit established by Subsection (b)1 of this Section for the implementation of an approved conditional use permit or variance may be extended by the granting authority for a total of no more than three years as provided by this Section:
 - 1. Time for filing an extension request. The applicant for an approved permit shall request an extension of time not later than the date of expiration of the permit established by Subsection (B) of this Section. The request shall be in writing, shall explain the reasons for the request, and shall be accompanied by the non-refundable filing fee established by the most current Planning Department fee schedule. Upon the filing of an extension request as required by this Subsection, the time limit for expiration of the permit established by Subsection (B) of this Section shall be suspended until a decision is made by the appropriate hearing body regarding the extension request.
 - 2. Notice of requested extension. The Planning Department shall send notice of the requested extension by mail to all individuals and entities (or their legal successors in interest) which were provided notice of the hearing that preceded the approval of the permit requested for extension, and to all members of the Development Review Committee. The notice shall state that any person who objects to the requested extension of time shall notify the Planning Director, in writing, of the objection within 15 days from the date of mailing of the notice.
 - 3. Hearing on objections to extension. If any objection to the time extension is received, the granting authority that approved the original permit shall follow the entire procedure set forth in Section 20.17, to consider and approve or disapprove the requested extension, as well as the following Subsection.
 - 4. Approval of extension. After a public hearing, or if no objection to an extension is received, without a public hearing, the granting authority may extend the expiration date of the approved conditional use permit or variance by no more than a total of three years, provided that the granting authority first finds that:
 - A. no change of conditions or circumstances has occurred that would have been grounds for denying the original application;

- B. the applicant has been diligent in pursuing implementation of the permit; and
- C. modified conditions have been imposed which update the permit to reflect current adopted standards and ordinance requirements.

20.18 - Applications Deemed Approved

Any permit application deemed approved pursuant to California Government Code Section 65956 shall be subject to all applicable provisions of this Part, which shall be satisfied by the applicant before any construction permit is issued or a use not requiring a construction permit is established.

20.19 - Security for Performance

- (a) Security required. When required by this code or by the granting authority through conditions of approval, guarantees of performance shall be provided by the applicant in the form of letters of credit, certificates of deposit, cash deposits and/or other forms specified by the granting authority and approved by County Counsel. The purpose of such guarantees shall be to secure compliance with conditions of approval or the provisions of this Part.
- (b) Amount of security. Required security shall be furnished in the amount of 110 percent of the estimated costs of improvements or other actions being guaranteed, based on an estimate of cost prepared by a qualified professional approved by the Planning Director.
- (c) Authorization for completion. Required security shall include authorization for the county 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) Update of security. An annual review of the amount of the security may be required by the granting authority. If found to be outdated or insufficient, such security may be required to be increased in order 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.
- (e) This Section shall not apply to Part 23 (Subdivisions).

(Ordinance 902, eff. 7/6/2000)