

Sec. 35-172. Conditional Use Permits.***Sec. 35-172.1. Purpose and Intent.***

The purpose of this section is to provide for uses that are essential or desirable but cannot be readily classified as principal permitted uses in individual districts by reason of their special character, uniqueness of size or scope, or possible effect on public facilities or surrounding uses. The intent of this section is to provide the mechanism for requiring specific consideration of these uses.

Sec. 35-172.2. Applicability.

The provisions of this section shall apply to those uses listed below under Sec. 35-172.4 & .5., and those uses listed in the "Uses Permitted with a Conditional Use Permit" section of the various zone districts, Division 8, Services, Utilities and Other Related Facilities and Division 9, Oil and Gas Facilities. *(Amended by Ord. 4084, 12/15/92)*

Sec. 35-172.3 Jurisdiction.

(Amended by Ord. 4227, 6/18/96)

1. The Zoning Administrator shall have jurisdiction for all Minor Conditional Use Permits and the Planning Commission shall have jurisdiction for all Major Conditional Use Permits.

Sec. 35-172.4. Minor Conditional Use Permits.

The following uses may be permitted in any zone district in which they are not otherwise permitted, with a Minor Conditional Use Permit, provided the Zoning Administrator can make the findings set forth in Section 35-172.9 (Findings). *(Amended by Ord. 4263, 6/24/97)*

1. Fences and walls of more than six (6) feet and gate posts of more than eight (8) feet in height when located within the front yard setback or when located within the side yard setback and closer than twenty (20) feet to the right-of-way of any street. Within areas of the side yard setback that are more than twenty (20) feet from the right-of-way of any street or within the rear yard setback, fences and walls of more than eight (8) feet and gateposts of more than ten (10) feet in height. *(Amended by Ord. 3975, 2/21/92).*
2. Special Care Homes.
3. Sale of agricultural products grown on the premises, subject to the provisions of Section 35-172.12.9. *(Amended by Ord. 3448, 6/18/84)*
4. Animals, use of property for animals different in kind or greater in number than otherwise permitted in this Article. *(Amended by Ord. 3975, 2/21/92)*
5. Communication facilities, as specified in and governed by Sec. 35-144F. *(Added by Ord. 4263, 6/24/97)*
6. Child care facilities, as defined in Section 35-58, Definitions. *(Added by Ord. 4318, 6/23/98)*
7. Uses, buildings, and structures accessory and customarily incidental to the above uses. *(Added by Ord. 4086, 12/15/92)*

Sec. 35-172.5. Major Conditional Use Permits.

The following uses may be permitted provided the Planning Commission can make the findings set forth in Section 35-172.9 (Findings). *(Added by Ord. 4263, 6/24/97)*

1. Except for the AG-I, AG-II, Residential Ranchette and Resource Management Districts, the following uses may be permitted in any district that they are not otherwise permitted, with a Major Conditional Use Permit.
 - a. Clinics
 - b. Club
 - c. Conference center
 - d. Country clubs
 - e. Hospitals, sanitariums nursing homes, and rest homes.
 - f. Library
 - g. Mausoleum
 - h. Mortuary, crematory or funeral home
 - i. Museum
2. The following uses may be permitted in any district that they are not otherwise permitted, with a Major Conditional Use Permit *(Amended by Ord. 4084, 12/15/92)*.
 - a. Airstrip - temporary
 - b. Cemetery
 - c. Church
 - d. Drive-through facilities for a use otherwise permitted in the zone district subject to the provisions of Sec. 35-172.11.
 - e. Educational facilities, not including child care facilities. *(Amended by Ord. 4318, 6/23/98)*
 - f. Eleemosynary and philanthropic institutions (except when human beings are housed under restraint).
 - g. Extraction and processing of natural, carbonated or mineral waters for sale including but not limited to, storage, bottling and shipping operations.
(Amended by Ord. 4084, 12/15/92)
 - h. Fairgrounds

- i. Golf courses and driving ranges
- j. Helistops
- k. Communication facilities, as specified in and governed by Sec. 35-144F.
(Amended by Ord. 4263, 6/24/97)
- l. Mining, extraction and quarrying of natural resources, except gas, oil and other hydrocarbons subject to the provisions of Sec. 35-177. (Reclamation Plans).
- m. Polo fields and playing field for outdoor sports.
- n. Rodeo
- o. Sea walls, revetments, groins and other shoreline structures subject to the provisions of Sec. 35-172.11.
- p. Stable, commercial (including riding and boarding).
- q. Certified Farmer's Market incidental to a conference center, club facility, fairground, church, school, or governmental or philanthropic institution.
(Added by Ord. 4086, 12/15/92)

Sec. 35-172.6. Contents of Application. (Amended by Ord. 4318, 6/23/98)

1. As many copies of a Conditional Use Permit application as may be required shall be submitted to the Planning and Development Department. Said application shall contain all or as much of the submittal requirements for a Development Plan (Sec. 35-174.) as are applicable to the request.
2. In the case of a Conditional Use Permit application where the project is subject to Development Plan requirements, a Development Plan shall be required in addition to a Conditional Use Permit. *(Amended by Ord. 4318, 6/23/98)*

Sec. 35-172.7. Processing.

1. After receipt of the Conditional Use Permit application, the Planning and Development Department shall process the application through environmental review.
2. The Planning and Development Department shall refer the Conditional Use Permit application to the Subdivision/Development Review Committee for review and recommendation to the Planning Commission or Zoning Administrator. *(Amended by Ord. 4227, 6/18/96)*
3. The Planning Commission or Zoning Administrator will then consider the requested Conditional Use Permit at a noticed public hearing and either approve, conditionally approve, or deny the request. Notice of the time and place of said hearing shall be given in the manner prescribed in Sec. 35-181. (Noticing).
4. The action of the Planning Commission or Zoning Administrator shall be final subject to appeal to the Board of Supervisors as provided under Sec. 35-182.3. (Appeals). Under PRC § 30603, the issuance of a Coastal Development Permit on a conditionally permitted use is appealable to the Coastal Commission as provided in Sec. 35-182.4. (Appeals).
5. Conditional Use Permits may be granted for such period of time and upon such conditions and limitations as may be required to protect the health, safety, and general welfare of the community. Such conditions shall take precedence over those required in the specific zone districts.
6. If a Revised Conditional Use Permit is required as provided in Sec. 35-172.11., it shall be processed in the same manner as the original permit. When approved by

the decision-maker, such revised permit shall automatically supersede any previously approved permit. *(Added by Ord. 4298, 3/24/98)*

Sec. 35-172.8. Findings Required for Approval.

A Conditional Use Permit application shall only be approved or conditionally approved if all of the following findings are made:

1. That the site for the project is adequate in size, shape, location and physical characteristics to accommodate the type of use and level of development proposed.
2. That adverse environmental impacts are mitigated to the maximum extent feasible.
3. That streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.
4. That there are adequate public services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.
5. That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.
6. That the project is in conformance with the applicable provisions and policies of this Article and the Coastal Land Use Plan.
7. That in designated rural areas the use is compatible with and subordinate to the scenic and rural character of the area.
8. That the project will not conflict with any easements required for public access through, or public use of the property.
9. That the proposed use is not inconsistent with the intent of the zone district.

Sec. 35-172.9. Time Limit.

1. Prior to the commencement of the development and/or authorized use permitted by the Conditional Use Permit, a Coastal Development Permit authorizing such development and/or use shall be obtained. At the time of approval of a Conditional

Use Permit, a time limit shall be established within which a Coastal Development Permit must be obtained. The time limit shall be a reasonable time based on the size and nature of the proposed development or use. If no date is specified, the time limit shall be eighteen (18) months from the effective date of the Conditional Use Permit. The effective date shall be the date of expiration of the appeal period on the approval of the Conditional Use Permit, or if appealed, the date of action by the Board of Supervisors. The time limit may be extended by the decision-maker with jurisdiction over the project pursuant to the provisions of Section 35-172.11., one time for good cause shown, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration date. If the time limit expires and no extension has been granted, then the Conditional Use Permit shall be considered null and void. *(Amended by Ord. 3871, 7/17/90; Ord. 4086, 12/15/92)*

2. A Conditional Use Permit shall become null and void and be automatically revoked if the use permitted under the Conditional Use Permit is discontinued for a period of more than one year. Said time may be extended by the decision-maker with jurisdiction over the project one time for good cause shown, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development prior to expiration date. *(Amended by Ord. 4086, 12/15/92)*

Sec. 35-172.10. Revocation.

If the decision-maker with jurisdiction over the project determines at a noticed public hearing pursuant to Section 35-181 (Noticing) that the permittee is not in compliance with one or more of the conditions of the Conditional Use Permit, the decision-maker with jurisdiction over the project may revoke the Conditional Use Permit or direct that the permittee apply for an Amendment or Revision pursuant to Sec. 35-172.11. *(Amended by Ord. 3887, 9/18/90; Ord. 4086, 12/15/92)*

Sec. 35-172.11. Substantial Conformity, Amendments and Revisions.

(Added by Ord. 4086, 12/15/92; Amended by Ord. 4227, 6/18/96)

Changes to a Conditional Use Permit shall be processed as follows:

1. Substantial Conformity:

The Director may approve a minor change to a Conditional Use Permit, if the Director determines that the change is in substantial conformity with the approved permit, pursuant to the County's Substantial Conformity Guidelines. No public noticing or public hearing shall be required for Substantial Conformity Determinations. The action of the Director shall be final and not appealable. A Coastal Development Permit shall be required, pursuant to the Substantial Conformity Determination. Prior to the approval of such Coastal Development Permit, an additional finding must be made that the Coastal Development Permit substantially conforms to the previous Conditional Use Permit.

2. Amendments:

Where a change to an approved Conditional Use Permit is not in substantial conformity with the approved permit, the Director, or in the case of a Revocation hearing the decision-maker with jurisdiction over the project, may approve, or conditionally approve an application to alter, add, replace, relocate or otherwise amend a Conditional Use Permit, providing:

- a. The area of the parcel(s) that is under review was analyzed for potential environmental impacts and policy consistency as a part of the approved permit.
- b. All of the following additional findings can be made:
 - (1) In addition to the findings required for approval of a Conditional Use Permit set forth in this Sec. 35-172.8., the Amendment is consistent with the specific findings of approval, including CEQA findings, that were adopted when the Conditional Use Permit was previously approved.
 - (2) The environmental impacts related to the proposed change are determined to be substantially the same or less than those identified for the previously approved project.
- c. A public hearing shall not be required for amendments to an approved Conditional Use Permit. However, notice shall be given at least ten (10) days prior to the date of the decision as provided in Sec. 35-181. (Noticing). The decision-maker may approve, conditionally approve, or deny the Amendment. *(Amended by Ord. 4298, 3/24/98)*

3. Revisions:
 - a. A Revised Conditional Use Permit shall be required for changes to an approved Conditional Use Permit where the findings set forth in Sec. 35-172.11.2. for Amendments cannot be made and substantial conformity cannot be determined.
 - b. A Revised Conditional Use Permit shall be processed in the same manner as a new Conditional Use Permit.

Sec. 35-172.12. Conditions, Restrictions, and Modifications.

(Added by Ord. 4227, 6/18/96)

1. At the time the Conditional Use Permit is approved, or subsequent Amendments or Revisions are approved, the Director, Zoning Administrator, Planning Commission or Board of Supervisors may modify the building height limit, distance between buildings, setback, yard, parking, building coverage, landscaping or screening requirements specified in the applicable zone district when the Director, Zoning Administrator, Planning Commission or Board of Supervisors finds the project justifies such modifications and is consistent with the Comprehensive Plan and the intent of other applicable regulations and guidelines.
2. As a condition of approval of any Conditional Use Permit, or of any subsequent Amendments or Revisions, the Director, Zoning Administrator, Planning Commission or Board of Supervisors may impose any appropriate and reasonable conditions or require any redesign of the project as they may deem necessary to protect the persons or property in the neighborhood, to preserve the neighborhood character, natural resources or scenic quality of the area, to preserve or enhance the public peace, health, safety, and welfare, or to implement the purposes of this Article.
3. The Director, Zoning Administrator, Planning Commission or Board of Supervisors may require as a condition of approval of any Conditional Use Permit, or of any subsequent Amendments or Revisions, the preservation of trees existing on the property.

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Sec. 35-172.13. Additional Requirements.

(Amended by Ord. 4227, 6/18/96)

In addition to the provisions set forth above, the following uses shall be subject to additional requirements as set forth below: *(Amended by Ord. 4084, 12/15/92; Ord. 4263, 6/24/97)*

1. Mortuaries, Crematories, and Funeral Homes.

Subject to the issuance of a Conditional Use Permit, mortuaries, crematories, and funeral homes may be permitted in the following locations:

- a. Within cemeteries operating under a valid use permit;
- b. On any parcel of land abutting such a cemetery; or
- c. On property zoned to permit multiple family dwellings where such property abuts upon or is directly across the street from property zoned for industrial purposes.

In all such locations, the Planning Commission shall impose conditions requiring that the architectural design of all buildings and structures be compatible with neighboring residential buildings, that signs are unobtrusive, that adequate off-street parking space is provided for funeral procession assembly areas.

2. Handicraft Industries.

A Conditional Use permit may be issued under the provisions of this section for the manufacture in C-2 and C-3 Districts of handicraft items, jewelry, notions, and other items on a small scale, and involving no effects on surrounding property which would constitute a greater nuisance than those created by other uses permitted in the district in which such manufacture is allowed.

A Conditional Use Permit for such use may only be issued subject to the provisions of this section and to the following conditions and to any further conditions which are necessary to protect the public peace, health, safety, and general welfare, to maintain property values in the neighborhood, and to safeguard essential community services and values such as traffic circulation, sewage disposal, water supply, fire protection, and neighborhood character:

- a. All manufacturing activities shall be conducted within a completely enclosed building having a total floor area which is not to exceed 2,500 square feet.
 - b. All storage of materials and equipment shall be screened from view from surrounding properties by a solid fence or wall approved by the Zoning Administrator. *(Amended by Ord. 3975, 2/21/92; Ord. 4067, 8/18/92)*
 - c. No fumes, noxious gases, objectionable odors, heat, glare, or radiation generated by or resulting from such use shall be detectable at any point along the boundary of the property upon which the use is located.
 - d. The use shall create no objectionable noise or vibration.
 - e. No smoke or dust shall be created except from the heating of buildings. *(Amended by Ord. 4086, 12/15/92)*
 - f. Not more than five persons shall be employed on the premises in connection with such use.
3. Seawalls and Shoreline Structures.
- a. Seawalls shall not be permitted unless the County has determined that there are no other less environmentally damaging alternatives reasonably available for protection of existing principal structures. The County prefers and encourages non-structural solutions to shoreline erosion problems, including beach replenishment, removal of endangered structures and prevention of land divisions on shorefront property subject to erosion; and, will seek solutions to shoreline hazards on a larger geographic basis than a single lot circumstance. Where permitted, seawall design and construction shall respect to the degree possible, natural landforms. Adequate provision for lateral beach access shall be made and the project shall be designed to minimize visual impacts by the use of appropriate colors and materials.
 - b. Revetments, groins, cliff retaining walls, pipelines and outfalls, and other such construction that may alter natural shoreline processes shall be permitted when designed to eliminate or mitigate adverse impacts on local shoreline sand supply and so as not to block lateral beach access.

4. Electrical Transmission Lines.

- a. Transmission line rights-of-way shall be routed to minimize impacts on the viewshed in the coastal zone, especially in scenic rural areas, and to avoid locations which are on or near habitat, recreational, or archaeological resources, whenever feasible. Scarring, grading, or other vegetative removal shall be repaired, and the affected areas revegetated with plants similar to those in the area to the extent safety and economic considerations allow.
- b. In important scenic areas, where above-ground transmission line placement would unavoidably affect views, undergrounding shall be required where it is technically and economically feasible unless it can be shown that other alternatives are less environmentally damaging. When above-ground facilities are necessary, design and color of the support towers shall be compatible with the surroundings to the extent safety and economic considerations allow. *(Added by Ord. 4171, 10/25/94)*

5. Drive-Through Facilities.

In considering an application for such a Conditional Use Permit, the findings in Sec. 35-172.8., shall not be used and the permit shall be granted only if the drive-through facility is found to have no greater adverse impact upon air quality than the same use without the drive-through facility.

6. Sale of agricultural products grown on the premises.

- a. This use shall not be permitted in the EX-1 Zoning District.
- b. The premises shall consist of two (2) or more contiguous acres.
- c. If a building or structure is required for the sale of such products, the sale shall be conducted either within an existing accessory building or from a separate stand not to exceed two hundred (200) square feet of sales and storage Added 1/86 area except that if the premises consist of five (5) or more contiguous acres, such building shall not exceed six hundred (600) square feet. The building or structure shall be located no closer than 20 feet to the right-of-way line of any street; this requirement shall apply in lieu of

- any other setback requirements of the zone district or the sign regulations.
Only one (1) stand shall be allowed on the premises.
- d. New structures shall be approved by the County Board of Architectural Review.
 - e. A building permit shall be obtained, if required by the Division of Building and Safety.
 - f. Signs advertising the sale of agricultural products shall conform to Section 35-16.2 of article I of Chapter 35 of the Santa Barbara County Code.
 - g. A minimum of two (2) permanently maintained onsite parking spaces shall be provided, which shall not be located closer than 20 feet to the right-of-way line of any street.
 - h. Prior to the issuance of a Coastal Development Permit, a permit for the sale of agricultural products shall be obtained from the Department of Health Care Services pursuant to Title 17, California Administrative Code Section 13653.