

# Use-by-Permit

## Facts to Know



### RELATED FACTS TO KNOW:

Approved Plant List, Bulk Standards (for the relevant zone district), Condition Compliance/Renewal, Development Plan/PUD Permit, Fees, Helpful Contact Information, Landscape Plan, Neighborhood Meeting, Outdoor Storage, Park and School Fees, Pre-Application Meeting, Severed Mineral Rights, and Telecommunication Structures.

### INTRODUCTION:

An approved Use-by-Permit allows for certain uses that typically have a greater potential for impacts to the surrounding area than a Use-by-Right in the same zone district.

### GENERAL TIMEFRAME:

- ❑ In order to maximize the efficient processing of an application, **it is in the applicant's best interest to ensure that a complete and thorough application has been submitted** and that subsequent submittals adequately address all comments that were provided.
- ❑ No building permit may be submitted for review until all development review applications have been approved.
  - ➔ The length of time to process a Use-by-Permit can vary depending on the complexity of the request and whether or not the Use-by-Permit is accompanied by another development review application. A stand-alone Use-by-Permit application generally can be processed in **4- 6 Months**

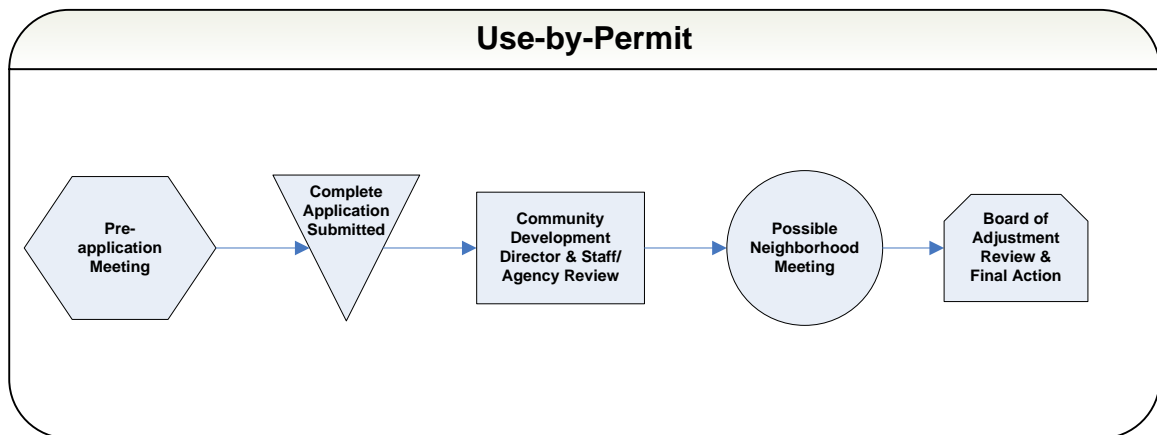
### GENERAL NOTES:

- ❑ **A Use-by-Permit is granted to a specific applicant for a specific use at a specific location and cannot be transferred to subsequent owners or operators, nor may it be *carried over* to a new property. They do not *run with the land*.**
- ❑ The final approval or denial of a Use-by-Permit is determined by the Board of Adjustment at a public hearing.
  - ➔ The Board of Adjustment hearings take place on the 2<sup>nd</sup> Tuesday of every month in the City Council Chambers located at 7887 East 60th Avenue and begin at 5:30 p.m. (staff determines whether or not an application is ready to be heard by the Board of Adjustment).
  - ➔ The Board of Adjustment consists of 5 sitting members, and it takes 4 affirmative votes to approve a request.
- ❑ The Board of Adjustment is authorized to impose on the approval of an application any condition(s) necessary to carry out the general purpose and intent of the Land Development Code (LDC) or the Comprehensive Plan.
  - ➔ Failure to comply with any conditions of approval may result in the Board of Adjustment revoking the Use-by-Permit

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- ❑ Prior to submitting a Use-by-Permit application for review, a pre-application meeting with staff should be scheduled to discuss the application and any additional requirements.
- ❑ Occasionally, the city may require a neighborhood meeting when it appears an application may impact the surrounding area.
- ❑ The applicant or a qualified representative of the applicant must be present at the public hearing. If the applicant or a qualified representative is not present, the request may be postponed to a future hearing date.
- ❑ An approval shall only authorize the development described in the approved application.
- ❑ The right to develop in accordance with an approved Use-by-Permit shall lapse if a building permit has not been issued and construction diligently pursued within two years of the approval (unless otherwise approved by the Board of Adjustment). If no new structure is required, the Use-by-Permit shall lapse if the approved use is not commenced within 180 days of approval. In addition, the Use-by-Permit shall lapse if the approved use is discontinued for 180 consecutive days.

## USE-BY-PERMIT FLOWCHART:



## REVIEW PROCESS:

- ❑ A request for a Use-by-Permit is usually initiated by the property owner or a qualified representative through the Pre-Application process.
- ❑ A complete application is submitted for review.
  - ➔ At the time of submittal, staff will determine if the application is complete (**incomplete applications will not be accepted and will be returned without review**).
  - ➔ The city will refer the application to various departments within the city and to outside organizations for review and comment.

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- ➔ After a review period of **six (6) weeks**, the case is discussed at the internal Development Review Team (DRT) meeting. After the DRT meeting, the applicant will receive a comment letter that identifies necessary revisions and questions to be answered.
- ➔ The applicant will address the comments and resubmit to the city for an additional review cycle of **five (5) weeks**. An additional **Four (4) week** cycle might be required if supplementary information is required by the city. This process will continue until all comments are resolved (which may involve multiple review cycles) and the application is ready to be scheduled for public hearing.
- ☐ Once an application is ready for public hearing, the property will be posted with a sign for a period of 7 to 10 days, a public hearing notice will be placed in the newspaper, and neighbors will be notified in writing of the request.
- ☐ Approximately one week before the Board of Adjustment hearing, the applicant will receive a copy of the staff report and a meeting agenda.

## USE-BY-PERMIT APPROVAL CRITERIA:

In order to approve a Use-by-Permit request, the Board of Adjustment must find:

That **all** of the following criteria have been met:

1. The use at the proposed location will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, either as they presently exist or as they may exist in the future as a result of the implementation of provisions and policies of the comprehensive plan, this land development code, or any other plan, program, or ordinance adopted by the city. Such compatibility may be expressed in appearance, architectural scale and features, site design, and the control of any adverse impacts, including noise, dust, odor, lighting, traffic, safety, and impact on property values of the surrounding area;
2. The characteristics of the site are suitable for the use considering size, shape, location, topography, existence of improvements and natural features; and
3. The use at the proposed location will be adequately served by and will not impose an undue burden on any of the improvements, facilities, and services of the city, special districts, or its residents. Where any such improvements, facilities, utilities or services are not available or adequate to service the use in the proposed location, the applicant shall, as a part of the application and as a condition of approval of the use-by-permit, be responsible for establishing an ability, a willingness, and a binding commitment to provide such improvements, facilities, utilities, and services in sufficient time to serve the proposed use; and

**One** of the following is met:

1. The use is in harmony with the general purpose, goals, objectives, and standards of the comprehensive plan or any other plan or program adopted by the city; or
2. There is a proven need for the use at the proposed location, given existing and proposed uses of a similar nature in the area and the need to provide or maintain a proper mix of uses within the city and the immediate area of the proposed use.

## SUBMITTAL REQUIREMENTS FOR A USE-BY-PERMIT:

Please note that incomplete submittals will not be accepted for review. Any inaccurate or incomplete information provided by the applicant may cause the application to be returned to the applicant and/or delay review cycles which may impact the case completion time frame. Please visit [c3gov.com/etrakit](https://c3gov.com/etrakit) for complete information for submitting for this application type. The following items will need to be included in your submittal package.

- Property Owner Authorization and the non-refundable review fee.
- General warranty deed, with a complete legal description for the subject property.
- Site plan that shows the following (example site plans are available):
  - ➔ The location of all proposed and existing buildings with their distance to all property lines.
  - ➔ The location of all existing and proposed landscaping.
  - ➔ The location of all proposed outdoor storage areas (if applicable).
  - ➔ The surface material of all portions of the site.
  - ➔ The location and type of all fencing.
  - ➔ The location and dimensions of all existing and proposed parking spaces.
  - ➔ Any other items that may be necessary in order to adequately review the proposed application.
- Truck circulation plan for uses that are truck dependent.
- If new buildings are proposed and a development plan is required, two (2) paper copies of a complete development plan application (staff will determine if this is required).
- Narrative for the project.
  - ➔ The required questions to be answered can be found at the end of this handout.
- Facts to Know for Severed Mineral Rights (if applicable).
- Color/material board for all proposed or existing buildings that are a part of the proposed development.
- The Board of Adjustment or staff may require additional information or technical studies on a case-by-case basis.

## NARRATIVE QUESTIONNAIRE

### USE-BY-PERMIT

<b>A. General Property Information:</b>	
1.	Property Address or Parcel Identification Number (PIN):
2.	Applicant's Name:
3.	Property Owner's Name:
4.	Current Zoning of the Subject Property:
5.	Future Land Use Plan Designation:

<b>B. Background Information:</b>		<b>Yes</b>	<b>No</b>	
1.	Is this request an amendment to an existing variance?	<input type="checkbox"/>	<input type="checkbox"/>	If yes, what was the previous case number? Case # _____
2.	Is this application an attempt to correct a violation of some kind?	<input type="checkbox"/>	<input type="checkbox"/>	If yes, please provide a copy of the violation.
3.	Do you anticipate having employees at this location?	<input type="checkbox"/>	<input type="checkbox"/>	If yes, how many employees do you anticipate? # of employees: _____
4.	Is this request to have an auditorium, chapel, or other place of public gathering?	<input type="checkbox"/>	<input type="checkbox"/>	If yes, what is the maximum seating capacity? # of seats: _____
5.	What are the anticipated days and hours of operation?	N/A	N/A	
6.	How many parking spaces are available at this site, and how many will you add?	N/A	N/A	Existing # of spaces: _____ Additional # of spaces: _____

The following pages ask specific questions about the nature of your request. Therefore, it is in your best interest to answer them in as much detail as possible to help limit the number of questions and review cycles.

**DO NOT ANSWER WITH A 'YES' OR 'NO' OR 'N/A'. BE SPECIFIC!**

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<b>NARRATIVE QUESTIONNAIRE</b>	
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<b>C.</b>	<b>Specific Requests for Information</b>
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1.	Describe in <b>detail</b> the proposed use of the property (state <b>exactly</b> what will be done on the property).
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<b>NARRATIVE QUESTIONNAIRE</b>	
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2a.	What uses are located adjacent to the subject property?
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North:	
South:	
East:	
West:	

**NARRATIVE QUESTIONNAIRE**

2b.	How do the off-site impacts of your proposed use compare with the uses listed above?
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2c.	What strategies are you proposing in order to avoid or mitigate any adverse impacts to adjacent property that may occur as a result of your proposed use?
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## **NARRATIVE QUESTIONNAIRE**

3.	What changes will need to be made to the property in order to accommodate your proposed use?
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4.	What levels of noise, smoke, odors, glare, or other impacts will be generated by your proposal?
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## NARRATIVE QUESTIONNAIRE

7.	If this proposal is for residential development, include the number of buildings and types of living units (e.g., single-family, duplex, tri-plex, etc.)
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8.	If this proposal is for an institutional use (e.g., hospital, daycare, etc.) indicate the major function, estimated occupancy, delivery facilities, and community benefits that the city will receive from the project.
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## NARRATIVE QUESTIONNAIRE

9.	If this request is for a use that involves animals, specify the kinds of animals, the maximum number of each, and the containment plan.
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10.	If there are any products being manufactured or processed on site, detail the method of manufacturing/processing and the method of storage.
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