

Chapter 9.75

PERMIT PROCEDURES

Sections:

- 9.75.01 PURPOSE & APPLICATION
- 9.75.02 MINISTERIAL PERMITS ISSUED BY THE COMMUNITY DEVELOPMENT DIRECTOR
- 9.75.03 DISCRETIONARY PERMIT DECISIONS BY THE PLANNING COMMISSION
- 9.75.04 DISCRETIONARY PERMIT DECISIONS BY THE CITY COUNCIL
- 9.75.05 PERMIT REVOCATION AND MODIFICATION
- 9.75.06 TIME LIMITATIONS ON CHALLENGES
- 9.75.07 BUILDING PERMITS
 - 9.75.07.01 ISSUANCE-CERTIFICATE REQUIRED
 - 9.75.07.02 FILING FEES
 - 9.75.07.03 FORM OF APPLICATIONS
 - 9.75.07.04 PUBLIC HEARINGS
 - 9.75.07.05 LEGAL PROCEDURE
 - 9.75.07.06 VIOLATION-PENALTY
- 9.75.08 MEDICAL MARIJUANA DISPENSARIES PROHIBITED

9.75.01 PURPOSE & APPLICATION. The purpose of this Chapter is to establish review and approval procedures for ministerial and discretionary permits provided for by this Ordinance. Application contents and development standards and conditions for the approval of permits are contained in the appropriate Chapter of this Ordinance.

9.75.02 MINISTERIAL PERMITS ISSUED BY THE COMMUNITY DEVELOPMENT DIRECTOR. The ministerial permits specified in this Ordinance for review pursuant to this Section shall be issued by the Community Development Director upon submission of an application containing the information specified in applicable Sections of this Ordinance and a determination by the Community Development Director that the proposed use or development meets the development standards and conditions specified in the applicable Section or Sections of this Ordinance. These permits include all uses listed in Tables 9-1 and 9-3 as permitted uses or temporary uses requiring a site plan review, not requiring a discretionary action or a change in use of existing structures.

A. Application and Approval shall include the following:

1. An applicant for a ministerial permit pursuant to this Section shall submit an application to the Community Development Director in the format described in this ordinance, unless the Community Development Director waives any of the information requirements. The application shall be accompanied with any fee established by the City Council pursuant to Section 9.77.03.

2. The Community Development Director shall inform the applicant in writing within thirty (30) calendar days of receipt that the application is complete or that additional information is needed to complete the application.
3. Within thirty (30) calendar days of determining the application is complete, and that the project or approach meets the development standards and conditions specified in the applicable Section or Sections of this Ordinance, or other applicable ordinances, the Community Development Director shall issue the permit; or deny the permit if he/she determines that the proposed use or development does not meet the standards and conditions specified in the applicable Section or Sections of this Ordinance.

B. Appeal:

If the Community Development Director denies a permit pursuant to this Section, the applicant may appeal such action to the Planning Commission.

1. The applicant may file with the Community Development Director a notice of appeal to the action of the Community Development Director indicating the basis of appeal within seven (7) calendar days of such action. The appeal shall be accompanied with the fee established by the City Council pursuant to Section 9.77.03.
2. The Planning Commission shall consider the appeal within forty five (45) days of the filing of such appeal. No public hearing or notice shall be required.
3. The Planning Commission may reverse or affirm the action of the Community Development Director. The action of the Commission shall constitute a ministerial action and shall be based solely on whether or not the proposed use or development meets the development standards and conditions specified in or established pursuant to the applicable Section or Sections of this Ordinance.
4. The decision of the Planning Commission pursuant to Section 9.75.02.B.3 may be appealed to the City Council pursuant to Section 9.75.05.

9.75.03 DISCRETIONARY PERMIT DECISIONS BY THE PLANNING COMMISSION.

The permits specified in this Section may be issued by the Planning Commission following submission of an application containing the information specified in the applicable Section of this Ordinance and a properly noticed public hearing. The decision of the Planning Commission shall be final unless appealed to the City Council:

A. Variances (Chapter 9.71)

- B. Zone Modifications when filed in conjunction with an application for a permit to be heard by the Planning Commission (Chapter 9.72).
- C. Extensions of Time
- D. Tentative Tract Maps
- E. Appeals of Ministerial Decisions by the Community Development Director
- F. Conditional Use Permit (Chapter 9.70)
- G. Precise Development Plan (9.54)
 - 1. Application and Approval
 - a) An applicant for a discretionary permit pursuant to this Section shall submit an application in the format described in 9.55.13 to the Community Development Director. The application shall contain all the information specified for the application by the applicable Section of this Ordinance, unless the Community Development Director waives any of the information requirements. The application shall be accompanied with the fee established by the City Council pursuant to Section 9.77.03.
 - b) The Community Development Director shall inform the applicant in writing within thirty (30) calendar days of receipt that the application is complete or that additional information is needed to complete the application.
 - c) Upon acceptance of the application as complete and completion of an environmental document, if required, a public hearing shall be set in accordance with this Chapter.
 - 2. Notice of Hearing:
 - a) When an application has been submitted in accordance with this Chapter, the Community Development Director shall set the application for a public hearing.
 - b) At least ten (10) days before the date of any public hearing, the date, time, place of the hearing, identity of the hearing body, and the nature and location of the application shall be given by the following methods:
 - i) Publishing such notice once in a newspaper of general circulation.
 - ii) Mailing or delivering notice, postage prepaid, to the property owner, the applicant, to each member of the City Council, to each member

of the Planning Commission, to the owners of all property within three hundred (300) feet of the exterior boundaries of the property which is subject of the application, and to any person who has filed a written request for such notice. For the purposes of this notice, property owners shall be the last known name and address of the property owner names, on the last assessment roll of the County. If the number of owners to whom notice would be mailed or delivered pursuant to this paragraph is greater than one thousand (1,000), a display advertisement of at least one-eighth (1/8) page in at least one (1) newspaper of general circulation may be published at least ten (10) days prior to the hearing in lieu of mailed or delivered notice.

iii) In lieu of the requirements set forth in Section 9.75.03.2b).ii, notice may also be given by posting notices not more than three hundred (300) feet apart along each street upon which the subject property abuts for a distance of not less than three hundred (300) feet in each direction from the exterior limits of the subject property.

c) Public Hearing

A public hearing shall be held before the Planning Commission at a time and place in accordance with the public notice. The Planning Commission may establish its own rules for the conduct of such hearings. Evidence shall be offered or presented, and the name and address of each witness shall be recorded and made a part of the permanent files. Any hearing may be continued provided that prior to adjournment or recess the presiding officer shall announce the time and place to which the hearing will be continued.

3. Decision:

a) The Planning Commission may approve, conditionally approve, or deny any application following the close of the public hearing on the matter or within thirty-five (35) days thereafter by resolution, or later as may be practicable. Such resolution shall include findings in accordance with the provisions of this Ordinance. The decision shall be final, subject to appeal in accordance with this Chapter.

b) Written notice of such decision shall be given by mail within seven (7) calendar days after the date of the decision to the applicant and any person filing a written request for notice of the decision.

c) The decision of the Planning Commission shall be final on expiration of fourteen (14) calendar days from and including the date of the decision, unless a notice of appeal is filed with the Community Development Director within such time.

- d) All conditions of approval shall be final, and a request to delete or to modify a condition to make it less restrictive shall only be considered at a properly noticed public hearing, unless said conditions are appealed pursuant to Section 9.75.04.D.

4. Appeal:

- a) Any decision of the Planning Commission pursuant to this Section shall be subject to appeal to the City Council.
- b) The applicant or any other person aggrieved may appeal from such decision by filing a written notice of appeal with the Community Development Director prior to the time the decision becomes final. The Community Development Director shall furnish forms of notice of appeal. The appeal shall be accompanied with the fee established by the City Council pursuant to Section 9.77.03.
- c) Notice of the hearing on appeal shall be given in the manner and time provided in Section 9.75.06. Notice of the hearing on appeal shall also be given not less than ten (10) days before such hearing to each person entitled to notice of the preceding decision.
- d) The City Council may reserve, affirm wholly or partly, modify, or attach other or additional conditions to the decision appealed form.
- e) A decision of the City Council on any such appeal shall be final on adoption of an order or resolution containing its determination, and no notice thereof need be given.

5. Permit Issued:

No permit shall be issued prior to the expiration of any appeal period.

9.75.04 DISCRETIONARY PERMIT DECISIONS BY THE CITY COUNCIL. The discretionary permits specified in this Ordinance for review pursuant to this Section may be issued by the City Council following submission of an application containing the information specified in the applicable Section of this Ordinance, review and recommendation by the Planning Commission and a properly noticed public hearing. These permits include:

- A. Amendments to this Ordinance (Chapter 9.76)
- B. Application for Change of Zone Classification (Chapter 9.76)
- C. Specific Plans

- D. CL Site Development Plan Review (Section 17.52) when filed in conjunction with an application for change of zone classification or with a tentative subdivision map.
- E. CUP's, variances, and zone modifications when filed in conjunction with an application for a change in zone classification or for a tentative subdivision map (Chapter 9.70, 9.71, and 9.72).
- F. Appeal of Planning Commission Decisions (Section 9.75.03(G(4))).

9.75.05 PERMIT REVOCATION AND MODIFICATION. Any permit, CUP, variance, or zone modification issued pursuant to this Chapter may be modified or revoked by the official or decision making body that originally approved the permit by the same procedure under which the permit was issued for any of the following causes:

- A. That any term or condition of the permit, CUP, variance, or zone modification has not been complied with.
- B. That the property or portion thereof subject to the permit, CUP, variance, or zone modification is used or maintained in violation of any statute, ordinance, law, or regulation.
- C. That the use for which the permit, CUP, variance, or zone modification was granted has been so exercised as to be detrimental to the public health or safety or as to constitute a nuisance.
- D. That changes in technology or in the type or amount of development in the vicinity of the use or other good cause warrants modification of the conditions of operation or imposition of additional conditions of operation to assure that the use remains compatible with existing and potential uses of other property within the general area in which the use is located.
- E. That the applicant and/or its successor has violated a law, rule and/or regulation that results in the applicant and/or its successor being unfit to pursue the use which has been granted.

9.75.06 TIME LIMITATIONS ON CHALLENGES. Any action or proceeding to attack, review, set aside, void, or annul any decision made pursuant to this Chapter, or concerning any of the proceedings, acts, or determinations taken, done, or made prior to such decision, or to determine the reasonableness, legality, or validity of any condition attached thereto, shall not be maintained by any person unless the action or proceeding is commenced within thirty (30) days after the date of the decision and the legislative body is served within sixty (60) days after the date of the decision. Thereafter, all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of that decision or of these

proceedings, acts, or determinations.

9.75.07 BUILDING PERMITS.

9.75.07.01 ISSUANCE-CERTIFICATE REQUIRED. Before a building permit shall be issued for any such building or structure, the City Manager shall secure a certificate that:

A. The proposed building is in conformity with the site plan and conditions approved by the City Manager.

B. All required on-site (outside the City right-of-way) improvements shall have been completed. If the off-site improvements have not been completed, the permittee shall have entered into an agreement with the City to complete such work within six (6) months from the date of the issuance of the permit. The City Manager may extend the completion date for such off-site improvements one additional six (6) month period upon the written request of the permittee upon a showing of good cause therefore. Such an agreement shall be secured either by cash deposited with the City, a cash deposit in an irrevocable escrow approved by the City Manager, or other financial security approved by the City Manager as the equivalent thereof. Such security shall be in the amount of one hundred (100) percent of the estimated costs of completion, such costs to be determined by the City Manager. In the event such work is not completed within the period provided, or any extension thereof, the City shall be authorized to take all necessary action to enforce the agreement, including the use of security, to cause the completion of all required improvements. Moneys deposited with the City or in escrow may be partially released to the depositor by the City Manager during the progress of the work so long as the same ratio of security is maintained on deposit to secure all uncompleted work; and

C. All of the required dedications have been given.

9.75.07.02 FILING FEES. Filing fees shall be paid by the applicant to the City to defray the expenses of postage, posting, advertising and processing applications according to the several procedures provided in this chapter in such amounts as the council may fix by resolution.

9.75.07.03 FORM OF APPLICATIONS. The commission shall prescribe the form of all applications provided for in this chapter, which forms shall, among other things, indicate the accompanying data to be furnished by the applicant so as to assure the fullest practicable presentation of the facts for the proper consideration of the matter involved in each case and for a permanent record thereof. Each application provided for in this chapter shall be signed by one (1) or more owners or lessees of the property in respect to which the application is filed. In all cases, such applications shall be provided at the City Hall.

9.75.07.04 PUBLIC HEARINGS. The commission may establish its own rules for the conduct of public hearings, and the member of the commission presiding at such hearings

shall have the power to administer oaths to any person testifying. The commission may for any reason, when it deems such action necessary or desirable, continue any hearing to a certain date, time and place, and the public announcement of such date, time and place of the hearing to be continued shall, for all purposes, be sufficient notice thereof to all persons.

- 9.75.07.05 LEGAL PROCEDURE. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this chapter, and any use of land, buildings or premises established, conducted, operated or maintained contrary to the provision of this chapter shall be hereby declared to be unlawful; and the City Attorney, at the request of the Planning Commission, shall immediately commence action or proceedings for the abatement and removal and the enjoining thereof in the manner prescribed by law. The remedies provided herein shall be cumulative.
- 9.75.07.06 VIOLATION PENALTY. Any person, firm or corporation, whether principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for a term not to exceed six (6) months, or by both such fine and imprisonment, unless otherwise provided. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this chapter is committed or continued by such person, firm or corporation and shall be punishable as herein provided.
- 9.75.08 MEDICAL MARIJUANA DISPENSARIES PROHIBITED. No Person shall cause or permit the establishment, development, construction, maintenance, operation or enlargement of a medical marijuana dispensary, within the City of Avenal, nor shall any development application be accepted, filed, processed, issued or approved for such a medical marijuana dispensary.