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UNZONED AREA DEVELOPMENT PERMIT

9.700 Purpose. Many major land use activities proposed for unzoned areas within Lane County may have (1) a potential critical impact upon natural resources, community facilities, orderly development, or livability within Lane County, or (2) significant nuisance potential for surrounding persons and properties. The Development Permit is intended to allow the County to review, and control when necessary such major land use and potential nuisance activities proposed for unzoned lands and to allow landowners and residents of any particular area of the County an opportunity to participate in a permit hearing process for these activities. Nothing herein shall be construed to require the granting of a Development Permit.

9.705 Definitions. For the purpose of this Sub-chapter unless otherwise provided herein, the definitions provided in LC 10.020 supersede definitions otherwise provided in this Code.

9.710 Uses and Activities Subject to a Development Permit. Development Permits shall be required for the following uses and activities on any property not subject to zoning in accordance with the provisions of Chapters 10 and/or 12 of this Code, provided such use or activity is new or is an expansion (a) at least equivalent to the quantitative standards provided in this section, and (b) which would result in an accumulated area expansion of fifty per cent or greater after August 15, 1973.

(1) Airports and heliports for use by persons other than the owner or operator of the subject property.

(2) Amusement parks.

(3) Animal feed lots which are not incidental to an existing agricultural use.

(4) Auto courts, motels, and tourist lodges in excess of five units; organizational camps providing overnight facilities for in excess of ten persons.

(5) Automotive service stations and repair garages.

(6) Campgrounds in excess of ten spaces per site.

(7) Community sewage treatment facility plants and lagoons.

(8) Correctional institutions.

(9) Radio and television transmission towers.

(10) Electric transmission facilities transmitting electrical current in excess of 75,000 volts; public utility substations and structures not essential for the provision of service to the immediately adjacent area.

(11) Electric power generating plants which are not otherwise prohibited from review by State or Federal law.

(12) Golf courses.

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- (13) Horse show arenas and commercial riding stables or academies.
- (14) Junk yards, as defined by LC 3.405.
- (15) Marinas used for commercial purposes.
- (16) Mobile home parks in excess of five (5) spaces.
- (17) More than five (5) dwelling units per lot or parcel or contiguous lots or parcels under the same ownership.
- (18) Drilling, removal, or refining of oil, gas or other hydrocarbon substance.
- (19) Outdoor drive-in movie theaters.
- (20) Race tracks and similar facilities and any areas used for all terrain vehicles or motorcycles for commercial or organized purposes.
- (21) Rendering plants.
- (22) Rock, sand, gravel, and loam excavation in excess of 1,000 yards per year.
- (23) Shake and shingle mills.
- (24) Schools, elementary, junior high and high schools and colleges.
- (25) Slaughter house.
- (26) Solid waste disposal sites and facilities.
- (27) Stadiums.
- (28) Stockyards.
- (29) Preliminary major subdivision applications as defined by LC Chapter 13. The application for a preliminary subdivision and a development permit may be filed and processed concurrently.
- (30) Taverns, nightclubs, bars.
- (31) Travel trailer parks in excess of five (5) spaces.
- (32) Industrial uses with a combined gross floor area and outdoor storage area in excess of 25,000 square feet.
- (33) Commercial uses, or combinations of commercial uses in a single unit development, in excess of 3,000 square feet of gross floor area.
- (34) Removal, by artificial means, of inorganic materials or fill of inorganic or organic materials which:
 - (a) constitute fifty (50) cubic yards or more at any one location; and
 - (b) are in natural waterways which are constantly flowing or on adjacent wetlands.
- (35) Any other temporary or permanent structure or building on a lot or parcel or contiguous lots or parcels intended or used for living purposes by twenty-five (25) or more individuals.

9:715 Criteria. A Development Permit shall not be granted unless the proposed use or activity will:

- (i) Be in conformity with the Comprehensive Plan for Lane County where applicable.

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(2) Be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding vicinity, taking into consideration, among other things, the anticipated density, bulk and noise level of the use or activity.

(3) Not be adversely affected by existing or reasonably anticipated uses and the surrounding vicinity.

(4) Not be unduly potentially affected by natural hazards, such as floods, slides, or faults.

(5) Not result in a substantial adverse effect on existing uses and on the natural resources or scenic character in the general vicinity.

(6) Not result in significant undue water or air pollution. In making this determination, at least the following shall be considered:

(a) the relation to flood plains,

(b) the nature of soil and subsoil and their ability to adequately support waste disposal,

(c) the slope of the land and its effect on effluents,

(d) the availability of streams approved or capable of being approved for the disposal of treated effluents,

(e) applicable climatical conditions, and

(f) the applicable water and air regulations.

(7) Have water of sufficient quantity and quality available for the reasonably foreseeable needs of the subdivision or development.

(8) Not cause an unreasonable burden on existing or future community facility systems.

(9) Not cause unreasonable soil erosion or reduction in the capacity of the land to hold water which would result in a dangerous, unhealthy, or otherwise undesirable condition.

(10) Not cause unreasonable road congestion or unsafe conditions with respect to use of existing or proposed roadways.

(11) Not place an unreasonable burden on the ability of local governmental agencies to provide public services.

In the evaluation of the criteria provided in this section, consideration shall be given to uses and activities for which substantial project planning and/or site preparation costs have been incurred by the applicant prior to August 15, 1973.

9.720 Conditions. Reasonable conditions, safeguards, and restrictions may be imposed in connection with the Development Permit as may be necessary to comply with the criteria of LC 9.715 and to carry out the general purpose and intent of this section. Guarantees and evidence may be required that such conditions will be or are being complied with.

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9.725 Application. Application for a Development Permit shall be filed with the Planning Department on the form prescribed by the Department by any person with a legal interest in the property, at least thirty (30) days prior to the Planning Commission's public hearing, and shall include the following:

- (1) Name and address of applicant.
- (2) Statement of the applicant's legal interest in the property (owner, contract purchaser, lessee, renter, etc.), a description of that interest, and in case the applicant is not the owner, that the owner knows of the application.
- (3) Address and legal description of property.
- (4) Six (6) copies of drawings clearly showing the following, when appropriate:
 - (a) parcel location, boundaries, dimensions and total area,
 - (b) approximate location, arrangement and dimensions of buildings and structures, and their use,
 - (c) approximate locations, heights, materials and finishes of existing and proposed enclosures, walls and fences,
 - (d) approximate location, dimensions, uses and screening provisions for storage, refuse and service areas,
 - (e) approximate location, arrangement and dimensions of streets, driveways, access points, trails, bikeways, off-street parking and loading areas,
 - (f) proposed drainage, water and sanitary systems and facilities,
 - (g) approximate location, character and type of signs and lighting facilities,
 - (h) general landscaping plan depicting existing and proposed tree plantings, ground cover, screen plantings, etc.,
 - (i) architectural sketches or drawings, if required, to clearly establish the scale, character and relationship of buildings, streets, ways, parking spaces, garages, and open spaces,
 - (j) other data such as information on soils, geology, and hydrology, as may be required by individual circumstances to satisfy the purpose and provisions of this sub-chapter.
- (5) A statement explaining the intended use and nature of the operation.
- (6) The fee required by this sub-chapter to defray the cost of processing the application.
- (7) Any other materials or information as may be deemed necessary by the applicant to assist in evaluation of the request.

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9.730 Investigation and Reports. The Planning Director shall make or cause to be made an investigation to provide necessary information to insure that the proposed use is consistent with the Development Permit criteria (LC 9.715). Any report of such investigation shall be submitted to the Planning Commission for its consideration prior to or at the public hearing.

9.735 Planning Commission Public Hearing and Notice.

(1) The Commission shall hold not less than one public hearing on each Development Permit application.

(2) Notice of the time and place of hearing shall be given, at least ten (10) days in advance, by mail to the applicant, property owner (if not the applicant), and the owners of all property within three hundred (300) feet of the exterior boundaries of the contiguous property ownership involved.

(3) The requirements of this Section for public hearing notice shall not restrict additional notification considered necessary or desirable by the Board of Commissioners, Planning Commission, or Planning Director for any reason.

(4) The Planning Commission shall review the application and shall receive pertinent evidence as to the consistency of the proposed use with the criteria for Development Permits (LC 9.715). The Planning Commission shall determine whether the evidence presented at the hearing is sufficient to show that the required criteria have been met, and shall approve or deny the application accordingly. Development Permit decisions by the Commission shall become final after an elapsed period of ten (10) days from the date of the decision of the Commission unless appealed to the Board of Commissioners within that ten (10) day period.

(5) An application for a Development Permit which is not acted upon by the Planning Commission within sixty (60) days from the receipt of application by the Planning Department may be deemed denied by the applicant and may be appealed to the Board of Commissioners in the manner as provided for appeals of Planning Commission decisions.

9.740 Appeal to the Board of Commissioners.

(1) An appeal may be made to the Board of Commissioners by any interested person or County official. Such appeal shall be filed in written form with the Planning Department within ten (10) days of the date of the Planning Commission action, stating how the Planning Commission erred in its application of the requirements of this Section.

(2) Within thirty (30) days of the filing of the notice of appeal, the Board of Commissioners shall hold a public hearing. Such hearing and action by the Board shall be in accord with the provisions of this Section for Planning Commission hearings. Prior to the hearing, the Planning Director shall forward to the Board of Commissioners a copy of the application, all pertinent data filed with it, and the minutes of the Planning Commission's public hearing if applicable.

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(3) In reversing a decision of the Planning Commission, the Board of Commissioners shall indicate by order the basis of its decision.

9.745 Compliance With Conditions of Approval. Compliance with conditions imposed in the Development Permit, and adherence to the plot plan submitted as approved is required. Any departure from these conditions of approval and approval plans constitutes a violation of this Chapter.

9.750 Vested Interest in Approved Development Permits. A valid Development Permit does not supersede provisions of subsequent zoning in accordance with Chapter 10 and Chapter 12 of this Code, or amendments to this Chapter unless specifically provided otherwise by the provisions of this Section or the conditions of approval of the Development Permit.

9.755 Revocation.

(1) Development Permits are automatically revoked without special action if:

(a) the permit has not been exercised within two years of the date of approval; or

(b) the use approved by the Development Permit is discontinued for any reason for two continuous years or more; or

(c) the use or activity becomes a nonconforming use or structure upon zoning. However, any conditions imposed in the Development Permit would still apply to the nonconforming aspects of any use or activity.

(2) Notwithstanding (c) above, any use or activity with a valid development permit shall be allowed a period of two years from date of approval for completion or development as specified in or allowed by the permit regardless of whether the use or activity becomes or would become if completed, a nonconforming use or structure upon zoning.

(3) The Planning Commission may revoke any Development Permit for failure to comply with any prescribed condition of the Permit approval.

(4) A hearing for revocation of a Development Permit may be requested of the Planning Commission by any administrative officer of the County who is of the opinion any or all of the bases for revocation as stated in this Section exist. Request for a revocation hearing shall be accomplished by submitting a letter to the Planning Commission stating the basis for requesting the hearing for the revocation. The Commission shall then set a hearing for the revocation if it determines a hearing is warranted.

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(5) The public hearing notification and appeal procedures for revocation hearings by the Planning Commission and Board of Commissioners shall be the same as those for original Development Permit application hearings and appeals provided in this Section.

9.760 Limitations on Refiling of Application. Applications for which a substantially similar application has been denied or revoked for cause within the previous year shall be heard by the Planning Commission only after the Commission's separate determination that for good cause shown the application may be refiled.

9.765 Fees.

(1) For the purpose of partially defraying expenses involved in processing Development Permit applications, the Planning Department shall require fees as established by Order of the Board of Commissioners.

(2) All fees are non-refundable except in cases when the processing of an application was terminated prior to the incurring of any substantial administrative expenses. Refunds shall be made at the direction of the Planning Director.

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Violations and Penalties9.990 Violation.

(1) Violations of Sections 9.035, 9.710, 9.745, and 9.755 constitute a county infraction and shall be handled in accordance with Sections 5.005 to 5.065. Any person shall have the authority to sign county infraction complaints for violation of Section 9.035.

(2) At the expiration of the period set by the County for correction of any violation of Sections 9.310 to 9.370, the County shall again inspect the dwelling. If the violation has not been corrected, the violation shall constitute a County Infraction.

(3) The Director of the County Health and Sanitation Department, or his duly authorized agent, has the authority to sign the County Infractions complaint and summons for violation of Sections 9.035, 9.710, 9.745 and 9.755. Each violation of any provision of these minimum standards shall constitute a separate County Infraction as defined in Chapter 5 of Lane Code. Continued violation of these minimum standards after the expiration of the period required by this section for correction constitutes a separate infraction for each day the violation continues.

9.995 Penalty

Violation of Sections 9.020 to 9.030 and Sections 9.040 to 9.115 and any of the rules and regulations promulgated under the authority of Lane Code 9.110 shall be deemed to be a misdemeanor and shall be punishable upon conviction by a fine of not more than \$500.00 or by imprisonment in the county jail for not more than six months, or both. [Corrected by 20-72; 10.13.72]