
Section 4. Conditional use permit.

The conditional use permit is intended to be utilized as a special permit which temporarily allows uses not otherwise permitted by this ordinance for a specified period of time.

A. *Conditional use allowable in any zoning district with planning and zoning commission approval:*

- (1) Temporary real estate sales office exclusively for real estate sales of property in a developing subdivision.
- (2) Temporary second principal building on one lot of record in cases of extreme personal hardship.
- (3) Temporary structures, other than those permitted by the administrative official pursuant to paragraph C. below.
- (4) Temporary uses, other than those permitted by the administrative official pursuant to paragraph C. below, or as accessory uses and structures in all commercial districts.
- (5) Seasonal sales of plants or plant materials which are not accessory to churches, schools or fraternal organizations as principal uses of property.
- (6) Uses allowable by special exception use permit.

B. *Other conditional uses permitted in specific zoning districts with planning and zoning commission approval:*

- (1) Conditional uses other than those listed above may be permitted in specific zoning districts as provided for in this ordinance [division].

C. *Conditional use permits allowable with administrative official approval:*

- (1) Special events (fairs, festivals, arts and craft shows, concerts, and similar outdoor events) may be approved by the administrative official in any zoning category for a period not to exceed forty-five (45) days for the purpose of promotions, entertainment, educational, religious, or similar events. The sale of alcoholic beverages in association with these types of events must provide the administrative official with a copy of the necessary permits from the state. Such sales are exempt from the minimum separation distance for the sale of alcoholic beverages from a church or school. Such permit request is also subject to the following:
 - (a) Adequate off-street parking, restroom, and emergency access shall be provided as required.
 - (b) Provisions for any required traffic control must be demonstrated, and provided.
 - (c) The applicant shall submit a detailed site plan showing the location of all temporary structures, vendors, tents, the number and location of off-street parking spaces, a traffic circulation plan showing all ingress/egress locations, and the location of any structures existing on site. Such plan shall be examined by the administrative official and other applicable departments and agencies to determine compliance with all applicable codes, ordinances, or regulations. No clearance for a building permit shall be issued until such plan complies with these provisions and a conditional use permit has been issued.
- (2) A temporary retail vendor may be approved by the administrative official in any agricultural, commercial or industrial zoning category subject to the following:
 - (a) Seasonal sales (Christmas trees, flowers, pumpkin sales, or similar seasonal uses) for up to forty-five (45) calendar days.
 - (b) The sale of fireworks is governed by Chapter 18, Article IV of the Hernando County Code of Ordinances.

-
- (c) The regulation of mobile food dispensing vehicles involving licenses, registrations, permits, and fees is preempted to the state. Mobile food dispensing vehicles may operate within the entirety of the unincorporated area of Hernando County so long as such mobile food dispensing vehicle is properly licensed by the state.
- (d) The sale of agricultural produce may be approved for a period of up to one (1) year and a maximum of one (1) vendor per parcel subject to the following additional requirements:
1. Shall not be located in the public right of way;
 2. Shall not be located on public property without an approved special event permit or concession license agreement from the County;
 3. Shall provide the written permission of the property owner in a format prescribed by the County;
 4. Each site must be separately permitted;
 5. The vendor shall prominently display all required state licenses/permits.
- (e) Outdoor retail sales events may be approved three (3) times per calendar year, for up to fourteen (14) days each time, provided the temporary sales or display of retail items only occurs on the same site as a business in a permitted permanent structure, and the items sold on site are by the business in the permitted permanent structure.
- (f) All requests for a temporary retail vendor permit must demonstrate safe and adequate access and parking; and shall also comply with the pertinent permit requirements from applicable departments and agencies that have jurisdiction over or review of such requests.
- (3) Backyard chickens/ducks may be permitted in any residential district, excluding multifamily districts. All permits shall be subject to the following restrictions:
- (a) The number of chickens birds shall be limited to no more than four (4) eight (8) birds chickens and /or no ducks. No geese, turkeys, peafowl, male chickens/roosters, or any other poultry or fowl shall be are allowed.
 - (b) Chickens/ducks shall be kept in an enclosed area with a coop that provides for the free movement of chickens/ducks, and are not permitted to be free range. The coop must have a roof, and be completely secured from predators, including all openings, ventilation holes, doors and gates. No more than one (1) coop allowed per permitted parcel.
 - (c) If the coop structure exceeds one hundred and twenty (100) (120) square feet (ten (10) x ten (10) twelve (12) feet), a building permit shall be required pursuant to the Florida Building Code.
 - ~~(d) The minimum lot size shall be ten thousand (10,000) square feet.~~
 - (e) The chicken/duck coop shall be kept in the rear yard and must not be visible from adjoining properties or the street. Fence construction shall meet standards pursuant to the fence ordinance and shall be permitted separately. The chicken/duck coop shall be situated a minimum of twenty-five (25) feet from the nearest neighbor's residence and at least five (5) feet from all property lines.
 - (f) Persons wishing to have chickens in residential districts shall be subject to a compliance inspection after permit issuance. Accessibility and allowable entry shall be required for such inspection.
 - (g) The coop shall provide a minimum of three (3) square feet per chickens/ducks and be of sufficient size to permit free movement of the chickens/ducks. The coop may not be taller than

six (6) feet measured from the natural grade. The coop must be easily accessible for cleaning and maintenance.

- (h) The coop and surrounding area shall be kept clean, sanitary and odor free at all times.
 - (i) Chickens/Ducks shall not be permitted to create a nuisance consisting of odor, noise or pests, or contribute to any other nuisance condition.
 - (j) All stored feed must be kept in a rodent and predator-proof container.
 - (k) The chickens/ducks shall be for personal use only, and there shall be no sales of products from the residence, and the breeding of chickens for commercial purposes shall not be allowed.
 - (l) In a public health emergency declared by the county health department, including, but not limited to, an outbreak of Avian flu or West Nile virus, the county may require immediate corrective action in accordance with applicable public health regulations and procedures.
 - (m) Notwithstanding the issuance of a permit by the county, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include, but are not limited to, deed restrictions, condominium master deed restrictions, neighborhood association by-laws, and deed covenants. A permit issued to a person whose property is subject to private restrictions that prohibit the keeping of chickens and large animals is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.
 - ~~(n) The permit may be issued for a maximum time period of up to five (5) years by the approving authority.~~
 - (o) Failure to comply with these standards, or any other standards imposed by the conditional use permit shall result in the permit being revoked by the administrative official.
- (4) Community gardens may be approved by the administrative official for a maximum time period of up to five (5) years.
- (5) Temporary second dwelling unit may be approved on one lot of record in cases of extreme personal hardship.
- (a) A temporary dwelling unit may be permitted in any residential, agricultural or agricultural/residential zoned district.
 - (b) A temporary dwelling unit may include a mobile home or RV. Final determination shall be made by the Administrative Official or designee.
 - (c) The temporary second dwelling unit may be approved by the Administrative Official or designee for up to two (2) years and may be renewed with evidence that the hardship continues to exist. A temporary dwelling unit permit shall have a maximum time period of up to ten (10) years.
- (6) Temporary security dwelling unit may be approved on one lot of record when the primary dwelling unit building permit has been submitted to the County and/or the dwelling unit is actively under construction.
- (a) A temporary security dwelling unit may be permitted in any residential, agricultural or agricultural/residential zoning district.
 - (b) A temporary security dwelling unit may include a mobile home or RV. Final determination shall be made by the Administrative Official or designee.
 - (c) The temporary security dwelling unit may be approved by the Administrative Official or designee for up to one (1) year and may be renewed in six (6) month intervals or until such time the home

is completed. The temporary security dwelling shall be removed upon issuance of Certificate of Occupancy (c.o.).

(5)(7) The administrative official may approve the placement of temporary shelters on residential properties following a declared state of emergency in the manner provided therefore in Hernando County Code, Appendix A, Article III, Section 3(E)(6), as it may be amended.

D. *Application procedure for conditional uses that require planning and zoning commission approval:*

- (1) This provision shall govern applications for all conditional use permits:
 - (a) The application for a conditional use permit hereunder shall be in the form prescribed by the county and shall include a site plan which, at a minimum, depicts the proposed conditional use in relation to the parcel of property on which it is to be located and adjoining properties, parking, access, buffers.
 - (b) The application shall be signed by the property owner or accompanied by an affidavit of written permission by the property owner of record and shall include payment of any applicable application fees.
 - (c) A public contact person must be designated on the application. The public contact person would be required to answer questions and provide information to the public.
 - (d) Depending upon the size, location or complexity of the requested conditional use, planning department staff may request additional information. It is the ultimate responsibility of the property owner or designated agent to ensure that the application is complete and sufficient and all requested information and materials have been provided to county staff.
- (2) The applicant, upon being first advised by the planning department that the application is incomplete or insufficient, shall have a total of one hundred eighty (180) days to correct all completeness and sufficiency deficiencies. If the applicant fails or refuses to correct such deficiencies within this period, the said application shall be deemed abandoned and void. Any applicant whose application is declared abandoned or void under this provision may re-file such application at a subsequent date, without prejudice, upon payment of all required fees and submitting a complete and sufficient application.
- (3) Upon an applicant being advised by the planning department that the application is complete and sufficient, a public hearing shall be promptly scheduled at the next available planning and zoning commission meeting allowing sufficient time for public notice and advertising. At the request of the commission, the governing body or the applicant, any scheduled public hearing may be continued until a date certain (which date shall be set by the commission or the governing body, respectively, in their sole discretion). Notwithstanding the foregoing, the commission shall render a decision on the merits of the application within one hundred eighty (180) days of the applicant being advised that the application is complete and sufficient. It shall be the responsibility of the applicant to ensure that its application is scheduled and acted upon in a timely fashion. Any application not acted on by the commission within said one hundred eighty (180) day period shall be deemed abandoned and void, and such application shall be closed out by the planning department with no refunds of any fees paid by the applicant. Any applicant whose application is declared abandoned or void under this provision may re-file such application at a subsequent date, without prejudice, upon payment of all required fees and submitting a complete and sufficient application.
- (4) Public inquiry workshop. Upon determination of need by the county staff based upon the number of public inquiries or the size, location or complexity of the proposed project, the applicant shall be required to conduct a public inquiry workshop prior to the scheduling of a public hearing on the application at a location convenient to the site in question and appropriate for public assembly in Hernando County as follows:

-
- (a) The applicant shall provide sign notice by posting the property a minimum of ten (10) days prior to the scheduled workshop with a public inquiry workshop notice sign as supplied by the planning department. The sign notice hereunder shall be in addition to all other sign notice requirements under this article.
 - (b) The applicant shall provide mail notice a minimum of ten (10) days prior to the scheduled public inquiry workshop giving the time, place and purpose of the meeting to each property owner within one thousand (1,000) feet of the parcel covered by the application based on the mail list generated by the property appraiser's office. The applicant shall provide the planning department a copy of the mail list and a notarized affidavit indicating that said notice was mailed. The mail notice hereunder shall be in addition to all other mail notice provisions under this article.
 - (c) The applicant shall provide a citizen sign-in sheet and executive summary explaining what information was provided to the public at the meeting to the county accompanied by a notarized affidavit indicating that the list is an official record of attendance at the meeting. The citizen sign-in sheet and executive summary will become a part of the official application file.
- (5) Notice requirements for public hearing:
- (a) If a public hearing before the planning and zoning commission or Board of County Commissioners is required or requested by appeal hereunder, upon fixing a date for the public hearing the applicant shall provide sign notice by posting the property with a public notice sign as supplied by the planning department. The notice shall be posted in a conspicuous location at the front lot line at least ten (10) days prior to the scheduled hearing date. It is the responsibility of the applicant to ensure that the sign(s) are appropriately posted and remain on the property during the public hearing process in a legible condition. If the condition of the sign(s) deteriorates through the process, it shall be the responsibility of the applicant to repost the property at no cost to the county. Failure to maintain the signs in accordance with this section may result in a delay of the public hearing process. The applicant shall be responsible for removal of the sign(s) within ten (10) days of the date the decision on the applicant's application becomes final or the date of appeal of a commission or governing body decision for judicial determination, whichever comes first. Failure to timely remove any such sign(s) is prohibited.
 - (b) Additionally, the planning department shall provide mail notice giving the time, place, and purpose of the public hearing to each property owner within five hundred (500) feet of the parcel covered by the application based upon the mail list generated by the property appraiser's office and furnished by the applicant. The notice shall be mailed at least ten (10) days prior to the scheduled public hearing date.
 - (c) The applicant shall be responsible for all costs incurred in the notice procedure for the public inquiry workshop and the public hearing.

E. *Issuance of permit by the administrative official:*

- (1) After the application and accompanying information has been received and processed by the development department, those applications submitted for conditional use permits with administrative official approval pursuant to paragraph 4(c) above, shall be approved or denied by the administrative official within fourteen (14) days, unless referred to the planning and zoning commission for review and action. The administrative official's decision may be appealed to the board of county commissioners.
- (2) All other applications for conditional use permits must be reviewed and acted upon by the planning and zoning commission.

-
- (3) No conditional use permit shall be issued for a period to exceed two (2) years unless otherwise specified in this ordinance [article]. However, conditional use permits may be renewed or extended upon reapplication.
- (4) All conditional uses must meet the minimum requirements of the county's land development regulations unless specific deviations are requested and approved.
- (5) All requests for a conditional use permit shall meet the requirements of this code for temporary uses and structures and adequate utility, refuse management, access, fire and similar facilities shall be available for the proposed use.
- (6) As a condition of approval of a conditional use permit, the applicant shall submit a sworn statement attesting to compliance with all applicable federal, state and local permit(s) and approval(s); in the alternative, the county shall impose a condition which prohibits commencement of construction or operations upon receipt (copy to the county) of all applicable federal, state and local permit(s) and approval(s). The affidavit shall be submitted in a form approved by the administrative official.
- F. *Review by governing body.* The governing body, by a majority vote, may decide to review any conditional use permit decision rendered by the planning and zoning commission.
- The decision of the governing body to review such decision must be made within thirty (30) days of the rendering of the decision of the planning and zoning commission. If at least a majority (three (3) members) of the governing body do not vote to review the commission action within thirty (30) days, the commission decision shall be deemed final and subject only to review by circuit court.
- The initial review of the decision by the governing body shall be at a public hearing held within sixty (60) days of the commission decision. Public notice, for this subsection, shall mean publication of notice of the time, place and purpose of such hearing one time in a newspaper of general circulation in the county, such publication to be at least five (5) days prior to such hearing. Mail notice and sign notice shall be provided in the same manner as the public hearing before the planning and zoning commission. Affidavit proof of the required publication and posting of the notice shall be presented at the hearing.
- At the public hearing, the governing body may affirm, modify or reverse the decision of the planning and zoning commission.
- (Ord. of 12-18-72, § II(1)(b); Ord. No. 76-2, § 21, 2-17-76; Ord. No. 81-1, § 2, 4-28-81; Ord. No. 86-18, § 3, 8-5-86; Ord. No. 92-15, § 3, 11-10-92; Ord. No. 96-19, § 19, 9-10-96; Ord. No. 97-3, § 8, 3-4-97; Ord. No. 99-14, §§ 16, 17, 7-6-99; Ord. No. 2001-06, § 12, 5-8-01; Ord. No. 2002-12, § 4, 7-23-02; Ord. No. 2003-02, § 12, 2-11-03; Ord. No. 2004-03, § 21, 2-24-04; Ord. No. 2004-11, §§ 17, 18, 8-3-04; Ord. No. 2005-01, § 4, 2-8-05; Ord. No. 2008-05, § XVIII, 2-26-08; Ord. No. 2013-8, § I, 3-12-13; Ord. No. 2013-12, § I, 4-23-13; Ord. No. 2016-18, § III, 11-8-16; Ord. No. 2019-3, § I, 10-8-19; Ord. No. 2020-7, § II, 8-25-20; Ord. No. 2024-15, § 3, 10-22-24)