

ORDINANCE NO. 0004-2022

**AN ORDINANCE OF THE CITY OF MCFARLAND
AMENDING TITLE 17, CHAPTER 17.152 TO ADD
SECTIONS 17.152.040 MODIFICATION OF CONDITIONAL
USE PERMITS and 17.152.050 REVOCATION/SUSPENSION
OF CONDITIONAL USE PERMITS TO THE MCFARLAND
MUNICIPAL CODE.**

Section 1. Recitals

WHEREAS, The City of McFarland (“City”) desires to amend, clarify and codify its Municipal Code Chapter related to Conditional Use Permits;

WHEREAS, The Ordinance Amendment updates the Municipal Code to codify the procedure for modification or revocation of conditional use permits;

WHEREAS, Adoption of this Ordinance will provide uniform and comprehensive regulations and standards related to Title 17, Chapter 17.152 of the McFarland Municipal Code.

WHEREAS, Adoption of this Ordinance is in furtherance of the City’s goals and objectives while reducing the potentially negative impacts arising from potentially deficient and/or incomplete/incompatible Municipal Code Chapters.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MCFARLAND DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 17.152 is of the McFarland Municipal Code is hereby amended to add Section 17.152.040 to read as follows:

17.152.040 Modification of Conditional Use Permits.

An Amendment to an approved Conditional Use Permit may be initiated by the City or the Property owner as follows:

- A. An amendment which proposes one or more substantial amendments to a project, plans and/or conditions of approval approved in accordance with this title may be initiated by an applicant/property owner upon petition to the director and submittal of a fee, as established by resolution by the city council. The determination of what constitutes a substantial amendment shall be made by the director.
- B. A substantial amendment to a project shall be considered by the same body which took the final action in approving the original project, utilizing the hearing and noticing procedures, review criteria and appeal procedures as required by this title. A substantial amendment to a project may require a new and separate environmental review.
- C. The director is authorized to modify the approved plans and/or any of the conditions of approval if such modifications are determined by the director to be minor and if the director can make the following findings:
 - 1. That the proposed modifications achieve substantially the same results as would strict compliance with the approved plans and conditions;
 - 2. That the proposed modifications remain compatible with the character of the neighborhood;
 - 3. That the proposed modifications do not result in a new or increased privacy infringement;
 - 4. That the proposed modifications do not result in a new or increased adverse view impacts; and

5. That as modified, the project remain consistent with the General Plan, and Zoning Code.
- D. The director shall send a notice of decision approving a minor modification to all interested parties on file with the city when the original project was being processed and to the members of the final deciding body allowing 15 calendar days after the decision, or 10 days after the mailing of the required notices, whichever date is later, to appeal the director's decision, pursuant to Chapter 17.148.100 (Findings) of the McFarland Municipal Code.

Section 2. Chapter 17.152 is of the McFarland Municipal Code is hereby amended to add Section 17.152.050 to read as follows:

17.152.050 Revocation/Suspension of Conditional Use Permit

A Conditional Use Permit granted pursuant to the procedures outlined in the McFarland Municipal Code may be revoked or suspended as follows:

The officer or body taking final action granting any permit pursuant to the provision of this title may, after following the same procedures utilized for approving such a permit, revoke or suspend the permit if:

1. The permit was issued erroneously; or
2. The permit was issued on the basis of incorrect or fraudulent information supplied by the applicant; or
3. The permit was issued contrary to the provisions of the municipal code; or
4. The permit is being or recently has been, exercised contrary to the terms or conditions of such permit.

No permit shall be revoked prior to providing a ten calendar day written notice to the holder of the permit and an opportunity to be heard before the officer or body considering revocation or suspension of the permit. Any decision to revoke or not to revoke a permit, other than a decision by the city council, may be appealed by any interested party pursuant to Chapter 17.80 (Hearing Notice and Appeal Procedures) of this title.

Section 3. Notice. The City clerk shall certify to the passage and adoption of this ordinance and shall cause this Ordinance to be posted within 15 days after its passage, in accordance with Section 36933 of the Government Code.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of McFarland hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or word might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

Section 5. Effective Date. This Ordinance shall take effect thirty days after its adoption pursuant to California Government Code section 36937.

Section 6. Certification; Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

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I HEREBY CERTIFY that the foregoing Ordinance was introduced by the City Council after waiving reading, except by title, at a regular meeting thereof held on the 14th day of April 2022, and adopted the Ordinance after the second reading at a regular meeting held on the 28th day of April 2022, by the following roll call vote:

AYES: Cano, A. Ayon, S. Ayon

NOES: None

ABSTAIN: None

ABSENT: Tafoya (Mayor), Pérez

ATTEST

Francisca Alvarado

FRANCISCA ALVARADO, City Clerk

CITY OF MCFARLAND

By: *[Signature]*
SALLY TAFOYA, Mayor



APPROVED AS TO FORM:

By: *[Signature]*
NATHAN HODGES, City Attorney
Hodges Law Group

Francisca Alvarado

I, _____, City Clerk of the City of McFarland, California. DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Ordinance passed and adopted by the City Council of the City of McFarland on the date and by the vote indicated herein.

Posted: May 4, 2022