

Division 18. Provisional Use Permit**Section IV-1801. Purpose and Applicability**

There are uses, similar to those regulated by conditional use permit, that, by their nature, may, but do not necessarily have significant adverse effects on the environment, overburden public land and services, change the desired character of an area, create major nuisances, or most importantly present the possibility of a change in circumstances during their life. The Provisional Use Permit review process provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, to deny the use if the concerns cannot be resolved, and to discontinue the use when circumstances change.

Section IV-1802. Application Requirements

Uses that require a Provisional Use Permit review and are subject to the regulations of this Section are listed in either the land use matrix for the base zone districts, in the regulations of overlay zone districts, or in the accessory use or temporary use sections. In addition to the general application requirements set forth in the General Review section of this Article, an application for a specific Provisional Use Permit shall be accompanied by such additional documents and information as may be outlined in the Section dealing with the specific land use type. Similarly, the applicable approval criteria for a specific use will also be found in the Section dealing with the specific land use type.

Section IV-1803. Review Procedures

The Provisional Use Permit review procedure is an administrative process of review by the City Manager, or their designee, with the opportunity to appeal the City Manager's decision to the City Commission.

A. Pre-application conference. The applicant may request a pre-application conference for all requests processed through a Provisional Use Permit procedure.

1. Purpose. The pre-application conference informs the applicant of the substantive and procedural requirements of this Section, identifies application requirements for the specific use being discussed on a site, provides for an exchange of information regarding specific applicable requirements of other City Codes, and identifies policies and regulations that create opportunities or pose significant problems for a proposal. Technical and design assistance is available at the conference that will aid in the development of an application.
2. Requirements. Forms for pre-application conferences, as approved by the City Manager, are available from the City Auditor and Clerk's Office. No fee is required at the time the request for a pre-application conference is submitted. The applicant must submit a written proposal and sketched site plan of the proposal. A pre-application conference shall be held only after the above requested information and a completed request form has been submitted.

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3. **Participants.** The applicant meets with the City Manager and/or their designee at the pre-application conference. Additional City staff may be invited and representatives of all neighborhood associations whose neighborhood boundary lie within 500 feet of the applicant's zoning lot are also invited to attend.
 4. **Pre-application conference recommendations.** The City Manager will provide the applicant with a written summary of the pre-application conference following conclusion of the conference. The written summary will include suggestions and information that were raised at the conference for inclusion in an application. If the approval criteria for the land use review involve a determination of adequacy, or if an exception is being requested by the applicant which requires submission of additional information such as a Traffic Impact Study those needs will also be detailed in the summary report.
 5. **Other pre-application advice.** An applicant may request advice from other City Departments or the Development Review Committee prior to submitting a Provisional Use Permit application. These requests are known as "design advice requests." These requests do not substitute for a required pre-application conference with the City Manager.
 6. **Time Limit.** A pre-application conference is valid for up to six (6) months. If more than six (6) months has elapsed between the date of the pre-application conference and the date the application is submitted, the results of the conference are no longer valid. In such instances the applicant may request a new conference.
- B. Application.** The applicant must submit a Provisional Use Permit application to the City Auditor and Clerk's Office on forms specified by the City Manager, or their designee, and accompanied by the correct fee in accordance with Section IV-102. The application package must contain all the information required for the specific land use type being requested and any additional information identified in the pre-application summary report.
- C. Notice of a request.** Upon receipt of a complete Provisional Use Permit application the City Auditor and Clerk shall mail a notice of the request to all property owners within 500 feet of the zoning lot, and to all neighborhood associations whose neighborhood boundaries lie within 500 feet of the applicant's zoning lot.
- D. Application processing time.** Upon determining that the Provisional Use Permit application is complete the City Manager, or their designee, shall make a decision to approve, approve with conditions, or deny the request within forty-five (45) calendar days of the date. The City Manager may allow for an extension of this time limit, not to exceed one additional forty-five (45) day period, if he determines additional study and information is necessary.
- E. Administrative decision.**

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1. In making the decision the City Manager, or their designee, may consult with the owner, applicant, other citizens, City departments, other public, or private organizations, to solicit information relevant to the request. The decision is based on the City Manager's findings with regard to the considerations identified for the specific land use type requested. The City Manager's findings shall be based on an evaluation of the facts, the submitted application material, the applicable code regulations, and the applicable design guidelines.
2. The written decision of the City Manager, or their designee, shall include any conditions, time limits, or other restrictions that may apply to the Provisional Use Permit action.

F. Notice of decision (pending appeal). The City Manager will file the notice of decision (pending appeal) by the next working day after the decision is made. The City Auditor and Clerk will mail a notice of the decision to all property owners within 500 feet of the zoning lot, neighborhood association(s) whose neighborhood boundaries lie within 500 feet of the applicant's zoning lot to any person who submitted written comments, and to the City Auditor and Clerk.

G. Ability to appeal. The City Manager's decision is final unless appealed. The decision may be appealed by the applicant, the owner, and those entitled to notice. The appeal must be submitted to the City Auditor and Clerk's Office within fourteen (14) calendar days of the day the notice of decision is mailed. The review body for the appeal shall be the City Commission.

H. When no appeal is filed. If no one appeals the decision, the decision takes effect on the day after the last day to appeal.

I. When an appeal is filed. Appeals must comply with the following:

1. Content of the appeal. The appeal must be submitted to the City Auditor and Clerk's Office on forms provided by the City Manager. All information requested on the form must be submitted in order for the appeal to be accepted.
2. Notification of appeal hearing. The City Auditor and Clerk will file a copy of the appeal, within 3 business days of its receipt, with the applicant, unless the applicant is also the appellant. Within seven (7) calendar days of the receipt of the appeal, the City Auditor and Clerk will send a notice of the appeal hearing to the applicant and all persons and recognized organizations that received the notice of the decision.
3. Scheduling of hearing. The City Manager will schedule a public hearing with the City Commission to take place no less than twenty-one (21) calendar days from the mailing of the notice of appeal.
4. Submit report to City Commission. The City Manager will forward the decision report and a copy of the appeal to the City Commission and make the report and copy of the

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- appeal available to the public at least seven (7) calendar days prior to the date of the hearing.
5. Appeal decision. The City Commission may adopt the decision report of the City Manager, modify it, or reject it based on information presented at the hearing and in the record.
6. Notice of final decision. The City Commission will cause to have mailed notice of their decision. The City Commission's final decision will be mailed to the applicant, owner, and to any recognized organizations or persons who responded in writing to the appeal notice, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the final decision notice.
- J. Effective date of final decision. The City Commission's decision takes effect on the day the final decision notice is mailed.
- K. Appeal decision final. The City Commission's appeal decision is final and may not be appealed to another review body within the City.
- L. Revocation of the Provisional Use Permit. The City Manager may revoke any Provisional Use Permit issued pursuant to this Section for the failure of the permittee to adhere to any standard or requirement of the permit, this Section, or for the violation of any standards or requirements of the Sarasota City Code, including the Zoning Code. If the revocation is due to either the City's, or other governmental entity's, need for the public property, the revocation shall be immediate upon notice to the permittee. If the revocation is due to a reason other than the City's, or other governmental entity's need for the public property, the City Manager shall adhere to the following revocation process:
1. The permittee shall be given written notice of a violation and the action necessary to correct the violation. Notice shall be hand delivered or mailed to the permittee by U.S. registered mail, return receipt requested.
 2. The notice shall specify a time within which the permittee shall correct the violation. In the event the permittee shall fail to correct the violation, within the time specified, the Provisional Use Permit shall be deemed revoked and of no further force and effect. Upon revocation, the permittee shall immediately cease the operation of the use. If applicable, within five (5) calendar days the permittee shall remove all furniture and other objects placed within the permit area. Should permittee fail to do so, the City shall collect on the performance guarantee and use the funds to remove all furniture and objects from the permit area.
 3. Within five (5) days of the date of the revocation of a permit, the permittee may appeal the revocation. An appeal shall be deemed perfected when the permittee has submitted, in writing, a statement that an appeal is being taken and the grounds or

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reasons therefore, with the City Auditor and Clerk. The City Commission at its next available regular meeting shall schedule the appeal for consideration.

4. At a revocation appeal hearing before the City Commission, the permittee shall be given a reasonable opportunity to be heard in order to show cause why the revocation of the Provisional Use Permit should not be allowed to stand. After hearing from the permittee and such other persons or sources as the City Commission shall deem appropriate, the City Commission shall render its decision on the appeal. The action of the City Commission shall be final.