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	<b>Publication:</b> June 11, 2020	<b>Effective:</b> July 21, 2020
<b>Subject:</b>  Requirement for a Master Use Permit when there is an establishment, expansion or change of use	<b>Code and Section Reference:</b> SMC 23.76.006	
	<b>Type of Rule:</b> Code Interpretation	
	<b>Ordinance Authority:</b> SMC 3.06.040	
<b>Index:</b>  Title 23 Land Use Code	<b>Approved</b>  <u>Isignature on file) 7/21/2020</u>	<b>Date</b>  Nathan Torgelson, Director, SDCI

## BACKGROUND

### Change of Use

A use permit is required whenever a use is established; for example, a house or store is built, or a vacant lot is converted to a parking lot. Chapter 23.76 of the Land Use Code requires a Master Use Permit (including building permits as a type I Master Use Permit) whenever an existing use is changed, except where the code specifies that a permit is not required.

A change of use is not the same as a change of occupancy. The same "occupancy" in the Building Code may contain many different "uses" in the Land Use Code. For example, a "B" occupancy in the Building Code includes animal hospitals, car washes, laboratories, and motor vehicle showrooms. In the Land Use Code, each of these uses are regulated differently, and a change from one to the other is a change of use requiring a Master Use Permit.

Master Use Permits are essential in order to make sure that code provisions are properly followed whenever a use is established or changed, to keep SDCI records up to date, to analyze changes in non-conforming uses, and to assure that necessary review is done of

possible environmental impacts of new uses (if required by City rules for State Environmental Policy Act impact review).

The only guide for determining whether one use is different from another is its treatment in the Land Use Code. If the Code treats them differently, they must be considered distinct uses. Thus, if "Use A" is first permitted in a different zone than "Use B," it is clear that they are different uses. The same is true if the Code distinguishes between them in parking requirements or other standards such as screening requirements.

## RULE

Whenever the use of a building or lot changes in a way that would be regulated differently than the current use, a change of use occurs.

### Land Use Code (Title 23) Zones

The following analysis must be done for all zones. This analysis applies to all changes of use, including changes of one nonconforming use to another. Refer to the chart attached as Appendix 1. This chart includes most uses found in the code, but is not exhaustive.

1. A change in use from a category designated by one letter to a category designated by another letter (e.g., A. Agricultural Use to C. Commercial Use) is always a change of use requiring a Master Use Permit.
2. A change in use from a sub-category designated by a number to another sub-category designated by a number (e.g. C.2. Eating and drinking establishments to C.6. Lodging) is always a change of use requiring a Master Use Permit.
3. A change of use from a use listed under a single numbered sub-category to another listed under the same sub-category (e.g. indoor sports and recreation to lecture and meeting hall) is a change of use only if any one of the following applies:
  - a. the two uses are regulated differently from each other somewhere in Title 23. For example, if a motion picture theater in a Downtown Office Core I zone is changed to an adult motion picture theater, the change is a change of use because motion picture theaters are permitted in many zones in which adult motion picture theaters are prohibited;
  - b. the use to which it is being changed is a major odor generator or a major noise generator.
  - c. the parking requirements for the two uses are not the same;
  - d. either use is a conditional use.

This rule also applies to unlisted uses falling under numbered categories.

4. A change from one defined residential use to another (such as a change from an apartment building to a townhouse structure) is a change of use requiring a Master Use Permit.
5. A change of use is not required when an automotive tow/impound lot is created on a property where outdoor storage use is currently established.

## APPENDIX 1

- A. Agricultural Use
  1. Animal husbandry
  2. Aquaculture
  3. Community garden
  4. Horticulture
  5. Urban Farm
- B. Cemeteries
- C. Commercial Use
  1. Animal shelters and kennels
    - Animal health services
    - Kennels
    - Animal shelters
  2. Eating and drinking establishments
    - Drinking establishments
    - Restaurants
  3. Entertainment uses
    - Adult cabarets
    - Adult motion picture theater
    - Adult panoramas
    - Indoor sports and recreation
    - Outdoor sports and recreation
    - Theaters
    - Spectator sports facilities
    - Lecture and meeting halls
    - Motion picture theater
    - Performing arts theater
  4. Food processing and craft work
  5. Research and development laboratories
  6. Lodging Uses
  7. Medical services
  8. Offices
  9. Automotive sales and services

- Automotive retail sales and services
- Sales and service of motorized vehicles
- Major automotive vehicle repair
- 10. General sales and service
  - General retail sales and service
  - Multipurpose retail sales
- 11. Heavy sales and service
  - Heavy commercial sales
  - Heavy commercial services
  - Major Durables retail sales
  - Non-household retail sales and services
  - Wholesale showroom
- 12. Marine sales and service
  - Marine service station
  - Sales and rental of large boats
  - Sales and rental of small boats, boat parts and accessories
  - Major Vessel repair
  - Minor Vessel repair

D. High impact uses

E. Institutions

1. Adult care centers
2. Child-care centers
3. Colleges
4. Community centers and family support centers
5. Community clubs
6. Hospitals
7. Institutes for advanced study
8. Libraries
9. Major institutions
10. Museums
11. Private clubs
12. Religious facilities
13. Schools, elementary, or secondary
14. Vocational or fine arts schools

F. Live-Work units

G. Manufacturing uses

1. Light Manufacturing
2. General Manufacturing
3. Heavy Manufacturing

H. Parks and open space

I. Public facilities

1. Jails
  - Youth service centers
  - All other jails
2. Work-release centers
3. Other public facilities

- J. Residential use
1. Residential uses not listed below
  2. Accessory dwelling unit
  3. Adult family home
  4. Apartment
  5. Artist's studio/dwelling
  6. Assisted living facility
  7. Carriage house
  8. Caretaker's quarters
  9. Congregate residence
  10. Domestic violence shelter
  11. Floating home
  12. Mobile home
  13. Nursing home
  14. Rowhouse
  15. Single-family dwelling unit
  16. Townhouse

- K. Storage use
1. Mini-warehouses
  2. Outdoor storage
  3. Warehouses
- L. Transportation facilities
1. Cargo terminals
  2. Parking and moorage
    - Boat moorage
    - Dry boat storage
    - Parking, flexible use (except park and ride facilities listed below)
    - Park and ride facilities on surface parking lots
    - Park and ride facilities in parking garages
    - Towing services
  3. Passenger terminals
  4. Rail transit facilities
  5. Air transportation facilities
    - Airports (land-based)
    - Airports (water-based)
    - Heliports
    - Helistops
  6. Vehicle storage and maintenance
    - Bus bases

- Railroad switchyards
- Railroad switchyards with a mechanized hump
- Personal transportation services

M. Utility uses

1. Major communication utilities
2. Minor communication utilities
3. Power plants
4. Recycling
5. Sewage treatment plants
6. Solid waste management
  - Salvage yards
  - Solid waste transfer stations
  - Solid waste incineration facilities
  - Solid waste landfills
7. Utility services uses