

**ARTICLE 9  
SPECIAL USE PROCEDURES AND STANDARDS**

**SECTION 9.1 INTENT AND PURPOSE**

Special uses are those types of uses which tend to be problematic because they; (1) have a tendency to generate significant traffic volumes and/or turning movements, (2) have operational characteristics that may have a detrimental impact on adjacent or nearby properties, or (3) have other characteristics which may impact public health, safety, or welfare; but can be approved if such uses meet the criteria established herein. Special uses also include public and quasi-public uses affected with the public interest. In order to ensure that detrimental impacts are avoided or mitigated to a satisfactory level, special uses must be reviewed and may be approved in accordance with the provisions of this Article. Special uses are listed for each zoning district (see **Article 4** of this ordinance).

**SECTION 9.2 PROCEDURES**

**9.2-1 Initiation of the Special Use Review Process**

The special use review process may be initiated by submitting a completed application and supporting documentation from one (1) or more of the owners of record or owners under contract of a lot of record (or zoning lot), or their authorized representative, or by the Plan Commission or City Council.

**9.2-2 Application and Plan Requirements**

1. An application form for a special use shall be filed with the Enforcement Officer. The application form is available at the Inspection Department. In addition to submitting the completed application, the applicant shall be required to submit the following information:
  - a. Legal owners of the property proposed for the special use.
  - b. Legal description of the property proposed for the special use, when the proposed use involves a substantial addition or new construction.
  - c. Common street address of the property proposed for the special use.
  - d. Site plan in conformance with the requirements of **Article 8, Section 8.2** of this ordinance, unless waived by the enforcement officer.
  - e. Description of the proposed special use, shown on the site plan and in narrative form, if such narrative would help in understanding the nature of the use.
  - f. Estimated impact of the special use on the surrounding properties and adjacent streets, including, but not limited to, average daily and peak hour traffic generation, existing traffic volumes of adjacent streets, if available, use of outdoor intercoms, and any other operational characteristics of the proposed use that may have impacts on other adjacent or nearby properties.

**9.2-3 Review Procedure**

## 1. Submission by Applicant:

The applicant shall submit one copy of the completed application and 5 copies of the other information required by **Section 9.2-2** to the Enforcement Officer, at least 21 days prior to the Plan Commission Meeting date upon which the applicant desires to have the application considered by the commission.

## 2. Staff Review:

- a. *Completeness of Submittal:* Upon receipt of the special use application and associated information, the Enforcement Officer shall review the documents to determine acceptability for submission. If the Enforcement Officer determines the submittal is complete, then the submittal shall be date stamped.
- b. *Distribution:* After formal acceptance of the application, the Enforcement Officer shall obtain comments from the Street Superintendent, Utility Superintendent, Fire Chief, and other City staff as appropriate.
- c. *Staff Review:* Staff shall review the proposed special use with respect to meeting the requirements of this ordinance, other applicable City regulations, and with respect to good site planning, and measures taken to avoid or mitigate impacts of the proposed use on the surrounding area. The results of this review shall be reported to the Plan Commission.

## 3. Plan Commission:

- a. *Public Hearing:* The Plan Commission shall hold a public hearing and review the application and staff report at the next regularly scheduled commission meeting which complies with the public notice requirements contained in **Article 14** of this ordinance.
- b. *Plan Commission Recommendation:* The Plan Commission shall consider the extent to which the evidence provided demonstrates compliance with the standards contained in **Section 9.3-1**. In the event that the Commission concludes that insufficient information has been provided to make a determination of compliance with such standards, it may postpone its recommendation until such time sufficient information has been provided to render a recommendation to the Council, or it may recommend denial of the special use application. The Plan Commission shall recommend to the City Council that the special use be approved, denied, or approved with conditions. Such conditions may include, but are not limited to, one or more of the following:
  - (1) size, height, and location of proposed buildings and structures;
  - (2) landscaping and screening;
  - (3) parking and loading requirements;
  - (4) signage;
  - (5) traffic flow and access requirements;
  - (6) exterior lighting;
  - (7) hours of operation;
  - (8) drainage and stormwater control facilities;

- (9) architectural and engineering features; or
- (10) periodic review of the special use may be imposed.

These conditions may be in addition to any regulations contained in the applicable zoning district or other applicable regulations of the City, to the extent that they serve to avoid or sufficiently mitigate any potential adverse impact of special uses.

- 4. City Council Action:
  - a. After receipt of the Plan Commission's recommendation, the City Council shall consider the proposed special use. The Council may deny, approve, or approve with conditions, the special use, including the adoption of the Plan Commission's recommendations on conditions of use or a modified version thereof. The City Council may refer the application back to the Plan Commission for further study before making its final decision.
  - b. When the Plan Commission recommends denial of a special use application, such special use shall not be approved by the City Council except by the favorable vote of two-thirds (2/3) of the Council.

**SECTION 9.3 STANDARDS FOR SPECIAL USE APPROVAL**

**9.3-1 Review Standards**

It shall be the responsibility of the applicant to clearly establish that the following standards are met:

- 1. The proposed use complies with the standards of this ordinance;
- 2. The impact of projected vehicular traffic volumes and site access is not detrimental with regard to the surrounding traffic flow, pedestrian safety, and accessibility of emergency vehicles and equipment;
- 3. The proposed use will not cause undue impacts on the provision of public services such as police and fire protection, schools, and parks;
- 4. Adequate utility, drainage and other such necessary facilities have been or will be provided;
- 5. The proposed use is compatible with the surrounding area;
- 6. The proposed use will not adversely impact designated historic landmarks or districts; and
- 7. Where a proposed use has the potential for adverse impacts, sufficient measures have been or will be taken by the applicant that would negate, or reduce to an acceptable level, such potentially adverse impacts. Such measures may include, but not necessarily be limited to:
  - a. Improvements to public streets, such as provision of turning lanes, deceleration lanes, traffic control islands, traffic control devices (e.g., electronic signals or traffic control signage), or other effective improvements;
  - b. Limiting vehicular access so as to avoid conflicting turning movements to/from the site and access points of adjacent properties, and to avoid an increase in vehicular traffic in nearby residential areas;
  - c. Provision of cross-access agreement(s) and paved connections between the applicant's property and adjacent property(ies) which would help mitigate traffic on adjacent streets;

- d. Provision of additional screening and landscape buffers, above and beyond the minimum requirements of this ordinance;
- e. Strategically locating accessory facilities, such as trash disposal storage, loading areas, and drive-through facilities, so as to limit potentially adverse impacts on adjacent properties while maintaining appropriate access to such facilities and without impeding internal traffic circulation;
- f. Limiting hours of operation of the use or certain operational activities of the use (e.g., deliveries); and
- g. Any other site or building design techniques which would further enhance neighborhood compatibility.

### **9.3-2 Findings of Fact**

The Plan Commission shall not recommend approval of a special use unless it shall in each specific case, make specific written findings of fact based directly upon the particular evidence presented to it supporting the conclusion that the proposed special use:

1. Complies with all applicable provisions of this ordinance;
2. At the specific location, will not adversely affect public health, safety and welfare; and
3. Will not cause substantial injury to the value of neighboring property;

## **SECTION 9.4 TERMS AND LIMITATIONS**

### **9.4-1 Special Use Authorization Date**

The special use shall become authorized upon approval by the City Council by ordinance. In the event that an application for a special use is filed in conjunction with a change of zoning, the special use shall not become authorized until the date of enactment of the ordinance authorizing the zoning change.

### **9.4-2 Site Plan Approval & Annotation of Official Zoning Map**

If the Council approves a special use with conditions or restrictions that affect the site plan as previously submitted, said site plan shall be revised to reflect such applicable conditions or restrictions and submitted to the Enforcement Officer. Upon determination that the site plan complies with such conditions or restriction, the Enforcement Officer shall retain a permanent record that identifies the applicable property with the ordinance number approving the special use.

### **9.4-3 Failure to Commence Construction or Operation**

Unless otherwise stated in the conditions of an ordinance approving a special use, substantial construction work or operation of the special use (where construction is not involved) shall commence within one (1) year of the effective date of the ordinance unless such time period is extended by the Council. If no extension of time is granted, the authorization for the special shall immediately terminate upon expiration of the one (1) year period.

**9.4-4 Revocation of Special Use Authorization**

Upon finding violation of the terms of the ordinance authorizing a special use, the Council shall have the authority to revoke the authorization of the special use after notice to the appropriate party and/or property owner and affording the same the opportunity to be heard.

**9.4-5 Transferability**

All special uses shall be approved for the specific tract or parcel of land, and may not be transferred to any other location. Once an approved special use is established, the special use authorization, including any conditions placed thereon shall continue with a successor land owner or operator.

**9.4-6 Procedure to Amend Special Use Authorization**

Except for minor changes to a site plan, as described in **Article 8, Section 8.4-1** of this ordinance, any amendment to an existing special use shall require the submission of a new special use application in accordance with the provisions of this Article.

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