

Special Use

(1) Purpose

It is recognized that there are certain uses which, because of their unique characteristics, cannot be properly classified in a particular district or districts without consideration of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

(2) Initiation

A property owner in the City, or his/her designee, may file an application to use his/her land for one or more of the special uses authorized within the zoning district. A property owner may only propose a special use for property under his/her control.

(3) Authority

The Zoning Board of Adjustment will take formal action on special use applications.

(4) Procedure

An application for a special use must be filed with the Planning staff. Once it is determined that the application is complete, the application will be scheduled for consideration by the Zoning Board of Adjustment.

(a) Upon receipt of a complete application, the Zoning Board of Adjustment will consider the special use at a public hearing. Public notice is required per item (5) below.

(b) The Zoning Board of Adjustment must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section. The Zoning Board of Adjustment must either approve, approve with conditions, or deny the special use.

(c) The Zoning Board of Adjustment may impose conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special use as may be deemed necessary for the protection of the public health, safety, and welfare.

(5) Required Notice

(a) Notice of hearings must be mailed to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing.

(b) In the absence of evidence to the contrary, the County tax listing will be used to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but no more than 25 days, prior to the date of the hearing.

(c) Within that same period, the City will also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(6) Approval Standards

The listing of a use as a special use within a zoning district does not constitute an assurance or presumption that such special use will be approved. Rather, each special use must be evaluated on an individual basis, in relation to all applicable standards of this Ordinance. Such evaluation will determine whether approval of the special use is appropriate at the particular location and in the particular manner proposed. The decision of the Zoning Board of Adjustment must make findings to support each of the following conclusions:

(a) The proposed special use will not endanger the public health, safety, or welfare.

(b) The proposed special use is compatible with the general land use of adjacent properties and other property within the immediate vicinity.

(c) The special use in the specific location proposed is consistent with the spirit and intent of this Ordinance and adopted land use policies, such as station area plans.

(7) Modifications to Approved Special Uses

Any modifications to the conditions of approval for a previously approved special use must be resubmitted as a new special use application. Any modifications that meet Ordinance standards are permitted, subject to the regulations of this Ordinance.

(8) Expiration

A special use approval expires if any one of the following conditions occurs and no request for an extension of the special use validity is granted or pending. The Zoning Board of Adjustment may grant an extension for a period of validity, so long as the applicant applies in writing for an extension of time at any time prior to the date of expiration. No public hearing is required for approval of such extension of time

- (a) When an approved special use is changed to another use.
- (b) For special uses approved in conjunction with new construction or additions or enlargements to an existing structure, the special use approval expires within one year of the date of approval if a building permit has not been issued.
- (c) For special uses approved in conjunction with an existing structure or on lot where no structure is planned, the special use approval expires within one year of the date of approval if the licenses or permits required for the operation or maintenance of the use have not been obtained.