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Chapter 24 - ZONING

ARTICLE XII. - SPECIAL LAND USE

**ARTICLE XII. - SPECIAL LAND USE**

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**Sec. 24-271. - Application.**

- (a) Applications for special land uses authorized by this chapter shall be submitted to the Community Development Department (CDD) on a form provided by the City. In addition to a complete application, the applicant is required to submit a site plan prepared in accordance with [section 24-242](#), Application, and written explanation of how the application satisfies [section 24-273](#), Review standards. Incomplete applications may not be accepted.
- (b) Special land uses may be approved by the city council after receiving a report from the planning commission, at council's discretion.

(Ord. No. 1087, § 12.01, 3-8-10)

**Sec. 24-272. - Review procedures.**

The procedures set forth below shall be followed upon the receipt of a completed special land use application, in addition to the procedures listed in [section 24-242](#), Application:

- (1) CDD shall review the proposed application and proposed site plan to determine if all required information has been supplied and forward the completed application, site plan and supporting data to the planning commission for a report and recommendation to city council.
- (2) Upon receipt of a completed application, proposed site plan and supporting data, CDD shall schedule a public hearing in accordance with [section 24-394](#), Public hearings.
- (3) Following the close of the public hearing, the planning commission shall review the special land use application, site plan and supporting data and shall, within 90 days, make a report or recommendation to either approve, approve with conditions or deny the proposed special land use. The planning commission shall state the reasons for its decision and any conditions imposed on the record. A recommendation to approve or approve with conditions shall not constitute approval of the special land use.
- (4) Upon completion of any report and any recommendation by the planning commission, the matter shall be scheduled for consideration by city council. Council may, but shall not be

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required to, hold a public hearing. If council decides to hold a public hearing, notice shall comply with the provisions of [section 24-394](#), Public hearings.

- (5) The city council shall, within 90 days of consideration of the proposed application, approve, approve with conditions or deny a request for a special land use. The city council shall state the reasons for its decision on the record and list any conditions imposed.
- (6) The city council may impose such conditions and safeguards as are deemed necessary for the general welfare, including conditions necessary to: ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads covered by the land use or activity; protect the natural environment and conserve natural resources and energy; ensure compatibility with adjacent uses of land; protect the use of land in a socially and economically responsible manner; protect individual property rights; and to ensure that the purposes of this chapter and the general spirit and purposes of the district in which the special use is proposed will be observed. Conditions so required shall conform to the requirements of the Zoning Act, as amended.

(Ord. No. 1087, § 12.02, 3-8-10)

**Sec. 24-273. - Review standards.**

The city council and the planning commission shall review a request for a special land use in reference to any specific standards stated within this chapter, including the standards for review of site plans, and shall determine whether the proposed special land use will:

- (1) Unreasonably detract from, erode or reduce the desirability or economic viability of any residential or business uses within 2,500 feet of the proposed use.
- (2) Be designed, constructed, operated and maintained so as to be harmonious with the existing or intended character of the general vicinity and will not change the essential character of the area. The site design of the proposed special land use shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:
  - a. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
  - b. The location and screening of outdoor storage, outdoor activity or work areas and mechanical equipment in relation to surrounding development.
  - c. The hours of operation of the proposed use. Approval of a special land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
  - d. The bulk, placement and materials of construction of the proposed use in relation to surrounding uses.
  - e. The impact of parking or traffic on the surrounding area.
- (3) Be served adequately by existing public services and facilities and not impose additional service demands upon the city that will not be adequately addressed by the applicant.
- (4) Further enhance the public health, safety, welfare, and economic benefit and the municipal purposes and policies of the City.
- (5) Be consistent with the intent and purposes of this chapter and the objectives of the master plan and comply with all applicable state and federal laws.

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- (6) The planning commission shall have the authority to require other studies and materials be submitted to confirm compliance with the standards of this section, including but limited to, traffic impact studies, market studies, environmental assessments or utility capacity analyses at the expense of the applicant.

(Ord. No. 1087, § 12.03, 3-8-10)

**Sec. 24-274. - Expiration of approval.**

Unless otherwise specified by the city council, any special land use approved under this section shall expire two years following the date of approval unless construction has begun on the property in conformance with the approved site plan. The community development department shall give notice by certified mail to the applicant before the approval is declared void. Said notice shall be mailed to the applicant at the address indicated on the application. Within 30 days of receipt of notice of intent to void, the applicant shall have the right to request an extension from the city council. The city council may grant an extension for good cause shown, for a period not to exceed one year.

(Ord. No. 1087, § 12.04, 3-8-10)

**Sec. 24-275. - Revocation.**

- (a) The city shall have the authority to revoke any special land use approval after the applicant has failed to comply with any of the applicable requirements of this article, other applicable Sections of this Ordinance, conditions of the special land use approval or if one or more of the following conditions apply:
- (1) The special land use is not constructed in conformance with the approved plans or the property is not being used in conformance with the approval special land use.
  - (2) Compliance with the special land use permit and any conditions has not been consistently demonstrated and administrative attempts to secure compliance have been unsuccessful.
  - (3) The special land use permit is issued erroneously on the basis of incorrect or misleading information supplied by the applicant.
- (b) The planning commission shall conduct a public hearing in accordance with [section 24-394](#), Public hearings. The applicant shall be provided an opportunity to present information and to answer questions.
- (c) The planning commission shall make a recommendation to the city council to revoke the special land use if it finds that a violation exists and has not been remedied.

(Ord. No. 1087, § 12.05, 3-8-10)

**Sec. 24-276. - Reapplication.**

Applications for a special land use which have been denied wholly or in part shall not be resubmitted until the expiration of one (1) year from the date of such denial, except on grounds of newly discovered evidence or change of conditions found to be sufficient to justify reconsideration by the planning commission.

(Ord. No. 1087, § 12.06, 3-8-10)

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**Sec. 24-277. - Amendment of approved special land use.**

- (a) The community development department shall determine whether a proposed amendment constitutes a minor or major amendment, based on the total cumulative expansion since the original special land use approval as follows:
- (1) Changes increase the building's usable floor area by more than 20 percent.
  - (2) Parking lots are expanded by more than 20 percent.
  - (3) The occupancy, capacity or membership of the use is increased by more than 20 percent.
  - (4) The use is expanded to occupy an additional 20 percent or more land area.
  - (5) The expansion will result in a 20 percent or more increase in traffic generation based upon the latest edition of the Institute of Traffic Engineers Trip Generation Manual or will change the number or location of driveway access points.
  - (6) Any change affecting any previous approved special use condition imposed by the city.
- (b) Any change which meets or exceeds one or more of the conditions listed above shall be considered a major amendment and shall require a new special land use permit and shall be reviewed using the procedures and requirements of this article.
- (c) Minor amendments do not require a new application for a special land use, but shall still be subject to the site plan review requirements of Article XI, Site Plan Review.
- (d) Change to another type of special land use shall require submission of a new application for a special land use following the review procedures contained in this article. A change in use that is still the same type of use, as determined by the community development department, shall not require a new special land use application, unless it involves a major amendment. A change in ownership shall not constitute a change in use.

(Ord. No. 1087, § 12.07, 3-8-10)

**Sec. 24-278. - Appeals.**

The board of zoning appeals (BZA) shall not have the authority to hear appeals of the planning commission's or city council's decision to approve or deny a special land use, nor to grant variances to any conditions imposed on special land use approval. Appeals from decisions under this article may be taken to circuit court.

(Ord. No. 1087, § 12.08, 3-8-10)

**Secs. 24-279—24-300. - Reserved.**