

ARTICLE XIV. SPECIAL USES

SECTION

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Sec. 150.1401 Purpose and Authorization.

(A) The development and execution of the Zoning Ordinance is based upon the division of the City into zoning districts, within which the use of land and buildings, and the bulk and location of buildings and structures in relation to land, and the regulation thereof, are substantially uniform.

(1) Because of their unique characteristics, it is recognized that there are special uses which cannot be properly classified in any particular district or districts without consideration in each individual case of the impact of those special uses on neighboring land and of the public need for a particular special use at a particular location.

(2) While specific regulations for specific zoning districts in this Chapter may recognize particular uses that may be allowable in such zoning district as a special use, all such special uses fall, nevertheless, into two broad categories:

(a) Uses publicly operated or traditionally affiliated with the public interest; and

(b) Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities; such uses include but are not limited to Planned Unit Developments meeting the standards and requirements of this Chapter.

(B) Pursuant to the provisions of this Chapter, the location, construction, extension, or structural alteration of any use for which a special use permit is required may be authorized by a permit issued pursuant to a specific ordinance therefore adopted by the City Council, subject to the standards set forth in this Chapter and subject to such other conditions as may be imposed pursuant thereto. Prior to such authorization, a public hearing shall be held and notice given in the manner prescribed in this Article.

(C) Special uses shall be permitted only upon the issuance of one (1) of the following types of permits, each of which is elaborated upon in a subsequent Article of this Chapter:

(1) Conditional Use; and

(2) Planned Unit Development.

Sec. 150.1402 Application for Special Use.

(A) The petitioner shall file an application for a special use with the Zoning Administrator on forms provided by the Zoning Administrator, who shall forward a copy of such application without delay to the City Clerk for processing of payment, and preparation and publication of legal notice.

(B) The application for a special use shall contain the following information, as well as such additional information as may be prescribed by rule of the Plan Commission:

(1) The particular zoning district within this Chapter which will allow the proposed special use;

(2) The present zoning of the subject property;

(3) The present use of the subject property;

(4) Whether the proposed special use will be a conditional use or a planned unit development;

(5) The legal description of the subject property;

(6) The commonly known location (address) of the subject property: and

(7) Plans and other data.

(C) All applications shall be verified by the Applicant.

(D) At the time of filing, the application for a special use shall be accompanied by:

(1) Except for applications filed by the City of Highland Park, proof of ownership or current contract to purchase or lease the subject property, accompanied by proof of authority to file the application on behalf of the owner since only persons owning or having interest in the subject property may file an application to use such land for one or more of the special uses allowable in this Chapter in the zoning district in which the subject property is situated (except in other instances as set forth in this Chapter: and

(a) Each application shall be signed by the owner of record of the subject property; and

(b) If the application is made by the trustee or beneficiary of a land trust, the application shall identify each beneficiary of such land trust by name and address and identify such beneficiary's interest therein.

(2) Payment of an application fee equal to the amount established from time to time by resolution adopted by the City Council and maintained in the office of the Zoning Administrator.

(E) Applications shall be governed by additional administrative procedures prescribed by the Plan Commission.

(F) Applications for special use permits may be proposed by the City Council, the City Manager, the Plan Commission, or any person having an ownership interest in any property proposed for the special use. (Sec. 150.1402 amended by Ord. 14-98, passed 2/9/98)

Sec. 150.1403 Processing, Notice, and Hearing.

(A) Upon receipt by the Zoning Administrator of a complete application for special use that has been duly filed, the Zoning Administrator shall assign a case and/or docket number to the application, shall schedule the matter for hearing before the Plan Commission, and shall maintain a file for such application, which file shall be open to the public for inspection during regular business hours. All documents that are pertinent to the case, including but not limited to the application, legal notice, evidence, and transcript of proceedings, if any, shall be placed in the file.

(B) Not more than ninety (90) days after the filing of an application, a hearing shall be held on the application.

(C) Not more than thirty (30) days nor less than fifteen (15) days before the hearing date on which the application for a special use is to be considered, the City Clerk shall cause notice thereof to be published in one or more newspapers published in the City, or, if no newspaper is published within the City, then in one or more newspapers with a general circulation within the City. In addition to such published notice, not more than thirty (30) days nor less than fifteen (15) days before the hearing, the applicant, his agent, or his attorney must notify either in person or by certified mail (return receipt requested) the owners of all property within two hundred fifty (250) feet (exclusive of dedicated rights-of-way) of the legal boundaries of the subject property. Proof of such notification must be presented at the hearing. The notices in required in this Section shall contain:

- (1) The legal description of the subject property;
- (2) The address of the subject property;
- (3) A brief statement of the nature of the requested special use;
- (4) The name(s) and address(es) of the legal and/or beneficial owner(s) of the subject property;
- (5) The name(s) and address(es) of the petitioner(s);
- (6) The name of the legal representative of the petitioner, if any; and
- (7) A statement of the date, time, and place of the hearing for which the notice is being given.

(D) Prior to the hearing, the Zoning Administrator shall also cause one or more signs to be posted on the subject property.

(1) The number and location of signs shall be determined by the Zoning Administrator.

(2) Each sign must be a minimum of 24" x 24" in size, have letters a minimum of 3/8" wide stroke by 2-1/2" high, and contain the following information:

(a) The fact that a public hearing will be held regarding the subject property, with direction to interested members of the general public to call the office of the Zoning Administrator for further information concerning date, time, and place and subject matter of the public hearing; and

(b) The telephone number of the Zoning Administrator.

(E) Within ten (10) days after the commencement of the public hearing regarding the special use, the City shall cause the removal of the sign or signs from the subject property and return same to the office of the Zoning Administrator.

(F) Any party may appear in person, by agent, or by attorney and be heard at the hearing held pursuant to any such application for special use.

Sec. 150.1404 Standards.

(A) The Plan Commission or the City Council, as the case may be, shall not recommend or grant a special use permit be issued unless it shall make findings of fact based upon evidence presented at the hearing in any given case that:

(1) The special use will serve the public convenience at the location of the subject property; or the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;

(2) The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with the special use, the size of the subject property in relation to such special use, and the location of the site with respect to streets giving access to it, shall be such that it will be in harmony with the appropriate, orderly development of the zoning district in which it is located;

(3) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity of the subject property for the purposes already permitted in such zoning district, nor substantially diminish and impair the value of other property in the neighborhood;

(4) The nature, location, and size of the buildings or structures involved with the establishment of the special use will not impede, substantially hinder, or discourage the development and use of adjacent land and buildings in accord with the regulations of the zoning district within which they are located;

(5) Adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided;

(6) Parking areas of adequate size for the special use shall be properly located and suitably screened from adjoining residential uses, and the entrance and exit driveways to and from these parking areas shall be designed to prevent traffic hazards, eliminate nuisance, and minimize traffic congestion in the public streets;

(7) The special use shall in all other respects conform to the applicable regulations of the zoning district in which it is located, except as such regulations may, in each instance, be modified as provided in this Chapter;

(8) There is reasonable assurance that the special use will be completed and maintained as and if authorized; and

(9) The special use shall comply with all applicable requirements set forth in this Chapter.

(B) In order to comply with the foregoing standards and to protect adjacent property and property values, the Plan Commission or the City Council, as the case may be, may impose conditions and restrictions upon the subject property; and the location, construction, and design of buildings.

(C) The terms of the special use so granted shall be specifically set forth in a statement which is supported by the findings of fact of the Plan Commission. The subject property shall not be used in violation of the ordinance, unless such usage is allowed by additional ordinance, pursuant to additional hearings on appeals therefor.

Sec. 150.1405 Plan Commission Recommendation.

(A) Within forty-five (45) days of the close of the public hearing on any matter requiring a special use permit by ordinance, the Plan Commission shall forward its recommendation to the City Council, as well as to the City Clerk and the Zoning Administrator.

(1) The Plan Commission may recommend, and the City Council may require, such additional conditions or restrictions upon the construction, location, and operation of a special use as shall be deemed necessary to satisfy the applicable standards found in this Chapter.

(2) Such conditions or restrictions may include, but not be limited to: the stipulated expiration date of the special use permit; bonds or other cash guarantees of satisfactory completion; controls on signs more restrictive than the Sign Code; ensurance of adequate fire fighting and emergency access; controls on environmental factors such as noise, light, litter, and other similar aspects of the proposed special use; and routing of construction vehicles.

(B) The failure of the Plan Commission to provide a recommendation within such 45 day period, or such further time to which the applicant may, in writing, agree, shall be deemed a recommendation against the issuance of the special use. (Ord. 18-04, J. 30, p. 49-54, passed 3/8/04)

Sec. 150.1406 Action by City Council.

(A) After receiving the report of the Plan Commission, the City Council shall review the report and may accept the findings and recommendation in whole or in part, or may reject them in whole or in part, or may refer the matter back to the Plan Commission for further consideration.

(B) After reviewing the report of the Plan Commission, by ordinance the City Council may authorize the issuance of a special use permit. (Ord. 18-04, J. 30, p. 49-54, passed 3/8/04)

(C) No application for a special use permit which has been denied wholly or partly by the City Council shall be resubmitted for a period of one (1) year from the date of such denial, except on the grounds of new evidence or proof of changed conditions found to be valid by the Plan Commission.

(D) No modification, alteration, or expansion of a special use authorized by a special use permit shall be permitted without reapplication in the same manner as required for an original special use permit.

(1) In the case of a proposed amendment providing for the modification, alteration or expansion of an existing special use, if requested, the City Council may (but need not) waive the requirement for a formal public hearing and act upon the proposed modification, alteration, or expansion provided that:

(a) Notice of a proposed public hearing has been duly published and served in the manner required by this Chapter, provided such notice contains the following statement: **IF NO WRITTEN REQUEST FOR A PUBLIC HEARING OR NO OBJECTION TO THE PROPOSED AMENDMENT IS FILED WITH THE CITY CLERK AT LEAST SEVEN DAYS PRIOR TO THE AFORESAID DATE SET FOR SUCH PUBLIC HEARING, NO PUBLIC HEARING WILL BE HELD AND THE PLAN COMMISSION WILL CONSIDER THE PROPOSED AMENDMENT AT A MEETING IN THE CITY HALL ON THE DATE SET FOR THE PUBLIC HEARING;**

(b) No objection to the proposed amendment, or request for a public hearing on the proposed amendment is filed;

(c) The Plan Commission has considered the proposed amendment and submitted its report and recommendations thereon to the City Council, including in such report and recommendations the finding whether or not the proposed modification, alteration, or expansion constitutes a change in the essential character of the use and will not materially change the impact of the special use on adjacent properties or the community as a whole; and

(d) The City Council determines that the proposed amendment does not constitute a change in the essential character of the use and will not materially change the impact of the use on adjacent properties or the community as a whole.

(2) The waiver of public hearing does not relieve the applicant of the obligation to serve formal notice on adjoining property owners, nor does it relieve the Plan

Commission of the obligation to review the application, take judicial notice of the earlier public hearing, and report its findings and make its recommendation to the City Council.

(E) A special use permit may be revoked by the City Council after a finding of the existence of any one of the following conditions or of the occurrence of any of the following events:

(1) Authorized construction is not initiated within twelve (12) months of the granting of the special use permit, or construction is not completed within twenty-four (24) months of the granting of such a permit, except that the twenty-four (24) month completion requirement shall not apply to Planned Unit Developments.

(2) The operation of the use for which a special use permit was granted is not begun within three (3) months of the completion of construction permitted under the permit, or within three (3) months of the issuance thereof where no construction has been permitted.

(3) The operation of the use for which a special use permit has been issued ceases for a continuous period of six (6) months.

(4) The landscaping or buffer facilities (fences, walls, earth berms, etc.) required by a special use permit are not being maintained in a healthy, attractive, and effective manner.

(5) The special use and related property are not kept in good repair, free of refuse, or are not operated and maintained in a manner so that they will not become a public nuisance and will not be detrimental to the public health, safety and welfare.

(6) Any of the provisions of this Chapter or any conditions specifically designated for the special use are violated.

(F) Upon request by the applicant to whom a special use permit has been granted, the City Council may extend the time for the commencement of construction as follows:

(1) If a delay, or anticipated delay, is caused by governmental action without fault on the part of the applicant, an extension may be granted for a period not longer than the period of the governmental delay; and

(2) For good cause shown, an extension may be granted for such period of time as the Council deems appropriate but not to exceed twelve (12) months exclusive of extensions authorized under subparagraph (1) hereinabove.

(G) If revoked, a special use permit may be reinstated by the City Council upon petition of the applicant made to the City Council within ninety (90) days of the revocation, provided that the condition(s) which were the cause of the revocation have been eliminated and the special use is in total compliance with this Chapter and the ordinance granting the special use permit.

(H) Unless otherwise provided in the special use permit, or unless the permit is revoked by the City Council for one of the conditions listed above, special use permits shall remain valid for a specific special use on a specific piece of property, even though that use or the property may change ownership, manager, occupancy, or operator, provided that the special use continues to comply with the requirements and regulations of the special use permit.

(1) The owner of a parcel of property which is the subject of a special use permit shall supply all successive owners, managers, occupants, and operators of the special use on the property or of the property itself with a copy of the ordinance authorizing the special use permit and all related requirements and regulations; and

(2) Such successive owners, managers, occupants, and operators shall forward to the Zoning Administrator an acknowledgement that they have read the ordinance and related requirements and regulations and agree to comply therewith.