

CHAPTER 1230 **Special Use Permits and Similar Uses**

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1230.01 PURPOSE.

When a proposed use is permitted in a zoning district as a Special Use, as set forth in the district regulations, a Special Use permit is required and the application for such Special Use permit shall be submitted and reviewed according to the guidelines outlined in this chapter.

(Ord. 58-01. Passed 5-29-01.)

1230.02 PREAPPLICATION MEETING ENCOURAGED.

The applicant is encouraged to meet with the Planning Coordinator and Zoning Enforcement Officer or his/her designee prior to submitting an application for a Special Use permit. The purpose of this meeting is to discuss early and informally with the applicant the purpose and effect of these zoning regulations and the criteria and standards contained within. However, no action shall be taken at such a meeting, and no discussions, opinion, suggestions, or recommendations of the Planning Coordinator or Zoning Enforcement Officer shall be relied upon by the applicant to indicate subsequent approval or disapproval of the application.

(Ord. 58-01. Passed 5-29-01; Ord. 76-16. Passed 7-11-16.)

1230.03 SUBMISSION OF APPLICATION.

The applicant shall file with the Planning Coordinator an application for a Special Use permit on the form provided for such purposes, which shall be accompanied by payment of the required fee established by Council. The application for a Special Use permit shall disclose all uses

proposed for the development, their location, extent and characteristics, and shall include the following:

(a) A general development plan which includes the following unless specific items are determined by the Planning Coordinator to be inapplicable or unnecessary and are waived in writing by the Planning Coordinator.

(1) The applicant's legally sufficient proof of standing to proceed on subject property;

(2) The location of all existing structures and access points on the property;

(3) The location of existing buildings, parking areas and access drives on parcels within 200 feet of the site;

(4) A site plan depicting:

A. The location, size and scope of all proposed construction including buildings, structures, parking areas, landscape and buffer areas and access points;

B. Existing and proposed topography, major vegetation features, wooded areas and a preliminary storm water management plan; and

C. The proposed internal road and pedestrian circulation;

(5) Preliminary floor plans and building elevations;

(6) A summary table showing total acres of the proposed development, the number of acres and/or amount of floor area devoted to each type of use, the number of proposed dwelling units and/or beds by type, if applicable; and the number of parking spaces;

(7) A written description of the facilities and services to be provided;

(8) Proposed phases, if the project is to be developed in phases, indicating the phases during which any common facilities are to be constructed and are not otherwise required to be constructed in each phase pursuant to this Zoning Code; and,

(9) Upon review by the Planning Commission, any of the above information waived by the Planning Coordinator may subsequently be required as well as additional documentation determined by the Planning Commission to be needed to fully evaluate the proposed Special Use.

All drawings shall be to scale and dimensioned to fully convey the size, scope and location of all facilities on the site, including but not limited to: buildings, floor plans, building elevations, parking, access, landscape areas, and storm water management.

(b) A list of all record title holders of property immediately adjacent to, adjoining, abutting or directly across the street from the property on which the Special Use is proposed, including their addresses and permanent parcel number, as shown on the current tax duplicate in the office of the County Treasurer.

(c) A statement of need for the proposed use, and documentation that the location is consistent with the locational requirements for the proposed use.

(d) A summary report identifying and evaluating the consequences and effects of the proposed use on the surrounding properties and the neighborhood at large.

(e) A statement indicating how the negative effects of the proposed use will be mitigated and how all the conditions for approval set forth in [Chapter 1280](#) for the proposed use will be met.

(Ord. 58-01. Passed 5-29-01; Ord. 76-16. Passed 7-11-16.)

1230.04 SPECIAL USE REVIEW PROCEDURES.

Applications for a Special Use permit shall be reviewed and distributed according to the following procedures.

(a) Review for Completeness. The Planning Coordinator shall review the submitted application for completeness and compliance with the applicable submission requirements. If the application is deemed insufficient, the Planning Coordinator shall notify the applicant within ten days of receipt of the application of the deficiencies and place the application on hold until complete. When the application is determined complete and the application fee has been paid, the Planning Coordinator shall officially accept the application for consideration and place it on the Planning Commission's agenda.

(b) Distribution of Plans. Within three business days after determining that an application is complete, the Planning Coordinator shall forward the application to the appropriate City departments and professional consultants for review and comment. Any reports, comments or expert opinions shall be returned to the Planning Coordinator within ten days from the date the application is deemed complete.

(c) Architectural Review in the C-2 District. Applications which include new construction or the significant alteration of a building in the C-2 French Creek district shall be forwarded to the City Architect for review and comment. The City Architect shall review such application for compliance with the design guidelines set forth in Section [1270.09](#). The City Architect shall provide a recommendation regarding such application to the Planning Coordinator within ten days from the date the application is deemed complete.

(d) Transmission to the Planning Commission. The Planning Coordinator shall distribute the application and any recommendations from the individuals or departments in division (b) and (c) above to the Planning Commission.

(Ord. 58-01. Passed 5-29-01; Ord. 76-16. Passed 7-11-16.)

1230.05 REVIEW BY PLANNING COMMISSION.

(a) The Planning Commission shall review the general development plan for the proposed Special Use, to determine whether or not the proposed use is appropriate and in keeping with the purpose and intent of this Planning and Zoning Code and in making its determination shall specifically consider the development plan review procedures and criteria (Section [1228.10](#)); the General Criteria for all Special Uses (Section [1280.02](#)); the Specific Conditions for Special Uses (Section [1280.03](#)) and, as applicable, Supplemental Regulations for Certain Uses (Section [1280.06](#)).

(b) The Planning Commission may require the applicant to submit such additional information as deemed necessary, including the carrying out of special studies and the provisions of expert advice.

(Ord. 58-01. Passed 5-29-01; Ord. 76-16. Passed 7-11-16.)

1230.06 PUBLIC HEARING AND NOTICE BY PLANNING COMMISSION.

The Planning Commission shall hold a public hearing on the proposed Special Use. Public notice of such public hearing shall be given to the applicant and to the record title holders of property that are immediately adjacent to, adjoining, abutting, or directly across the street from the property on which the special use is proposed. Further notice shall be given in one or more newspapers of general circulation in the city. All notices shall be made at least ten days before the date of the public hearing. All notices shall set forth the time and place of the public hearing and the nature of the proposed Special Use. Failure of delivery of such notice shall not invalidate action taken on such application.

(Ord. 58-01. Passed 5-29-01.)

1230.07 ACTION BY PLANNING COMMISSION.

The Planning Commission shall take one of the following actions:

(a) If the proposed Special Use is determined by the Planning Commission to be appropriate and in conformance with the review criteria outlined in [Chapter 1280](#), the Planning Commission shall recommend approval of the Special Use permit. As part of the recommendation, the Planning Commission may prescribe appropriate conditions, stipulations, safeguards and limitations on the duration of the use as it may deem necessary and in conformance with the intent and purposes of [Chapter 1280](#). When making a favorable recommendation for approval to City Council the Planning Commission shall also make a determination, based on the nature and extent of the proposed Special Use, whether the general development plan information submitted pursuant to Section [1230.03](#) should be considered a final development plan in which case no further action would be required by the Planning Commission. If the Planning Commission does not make such determination, then, subsequent to confirmation of the Special Use permit by Council, a final development plan, pursuant to Section [1228.09](#), shall be submitted to the Planning Commission and reviewed and approved pursuant to the applicable provisions of Sections [1228.09](#) through [1228.18](#) prior to a building permit being issued.

(b) If the proposed use is found not to comply with the specifications of this Planning and Zoning Code, the Planning Commission shall deny the application. The Planning Commission shall indicate in its minutes the reasons for its action.

(Ord. 58-01. Passed 5-29-01; Ord. 76-16. Passed 7-11-16.)

1230.08 CONFIRMATION BY CITY COUNCIL.

The recommendation of the Planning Commission shall be submitted to Council for confirmation as follows:

(a) The purpose of Council's review shall be to confirm or deny the recommendation of the Planning Commission.

(b) Council shall act on the recommendation of the Planning Commission according to the following:

(1) Council, by a majority vote, may confirm the recommendation of the Planning Commission; or

(2) Council, by a majority vote, may approve a minor modification of the recommendation of the Planning Commission when the Planning Commission recommends approval or approval with modification; or

(3) Council, by a majority vote, may refer the Special Use application back to the Planning Commission for further study and review; or

(4) Any recommendation by the Planning Commission for approval or approval with modification of the application shall require a majority vote by Council to reject such recommendation and disapprove the application.

(5) Any recommendation by the Planning Commission for denial of the application shall require a vote of two-thirds of the membership of Council to reject such recommendation and approve the application.

(c) Council shall act upon the recommendation of the Planning Commission within three regular meetings of Council. Failure of Council to act within this time frame shall be deemed a confirmation of the Planning Commission's recommendation.

(Ord. 58-01. Passed 5-29-01.)

1230.09 TERMS AND DURATION OF SPECIAL USE PERMIT.

Following Council's approval of an application for a Special Use permit, the Zoning Enforcement Officer shall provide a copy of the signed ordinance authorizing the Special Use Permit.

(a) The permit/ordinance shall authorize a particular Special Use on the specific parcel for which it was approved. The permit/ordinance shall be valid only for the use and the operation of such use as specified on the permit. The breach of any condition, safeguard or requirement shall constitute a violation of this Planning and Zoning Code.

(b) The Special Use permit shall expire one year from the date of enactment unless the following occur:

(1) The final development plan is approved for uses that require a final development plan;

(2) Construction in the establishment of the use has begun. Construction is deemed to have begun when all necessary excavation and piers or footings of the structure included in the application have been completed; or

(3) As otherwise specifically approved by the Planning Commission.

(c) Any expansion, enlargement, or change in the operation of the Special Use that involves enlarging buildings or structures, expanding impervious surfaces, including parking areas, or changing the use shall require approval of a separate Special Use permit and revised development plan.

(Ord. 58-01. Passed 5-29-01; Ord. 76-16. Passed 7-11-16.)

1230.10 REAPPLICATION.

No re-application for a Special Use permit shall be accepted by the Planning Coordinator until the expiration of six months after the denial, unless the re-application is based on newly discovered evidence, not discoverable at the time of the previous public hearing, sufficient to justify another hearing as determined by the Planning Commission. A re-application shall comply with all the requirements of this chapter, including payment of the required fee.

(Ord. 58-01. Passed 5-29-01; Ord. 76-16. Passed 7-11-16.)

1230.11 SIMILAR USES.

To the extent that new types of uses are created and are not addressed by this Planning and Zoning Code, this section provides the procedure by which the Planning Commission and Council may make a determination that a new use is similar to a use permitted in a district.

(a) Determination. A proposed use may be permitted as a similar use when the Planning Commission determines that such proposed use is in compliance with the following provisions:

- (1) The proposed use is not specifically listed as a prohibited use in any other district;
- (2) The proposed use is not listed as a permitted building or use in any other district;
- (3) The proposed use conforms to and is consistent with the purpose statement of the proposed district more appropriately than in any other district; and
- (4) The proposed use is of the same general character as the permitted uses in the district to which it is proposed or is similar to a specific use permitted in that district.

(b) Procedure. The Planning Commission shall review the proposed use according to the Special Use procedures set forth in Sections [1230.05](#) and [1230.06](#), including the requirement for a public hearing.

(c) Action by Planning Commission. The Planning Commission shall, within ten days after its hearing, forward a recommendation to City Council. The Planning Commission shall recommend that Council approve, approve with modifications or deny the application for a similar use determination and provide the reasons for their decision.

(d) Confirmation by Council. Council shall review and act on the proposed use according to the special use procedures set forth in Section [1230.08](#).

(e) Assignment to Districts. If Council, by a majority vote of its members, concurs with the recommendations of the Planning Commission and approves the proposed similar use, then the similar use shall be added to those districts that allow the principal or Special Use that is most similar, as identified in the recommendation.

(Ord. 58-01. Passed 5-29-01.)

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