



Article 7

SPECIAL USES

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Section 7.010. Statement of intent

The division of the City into zoning districts is based on the principle that similar conditions prevail throughout a particular district. Some uses of land are not appropriate as a "permitted use" in certain districts and are designated as special uses. Because they have a unique, special or unusual impact upon the use of enjoyment or neighboring property, these uses are only appropriate at a certain locations and upon receipt of a special use permit. Special uses shall be permitted only as provided herein and consistent with 65 ILCS 5/11-13-1.1. Unless otherwise provided by this Ordinance, a special use shall be subject to all of the regulations applicable within the zoning district in which the special use is authorized in addition to such other regulations as established by the terms or conditions of the special use permit that supplement, but may not reduce, such otherwise applicable minimum regulations.

Section 7.020. When special use permit required

A landowner shall obtain a special use permit prior to the issuance of a building permit:

- 1) For any use listed as a "special use" in the applicable zoning district. and
- 2) For any use otherwise requiring a special use permit by this Chapter.

Section 7.030. Special use permit; application requirements

Any person owning or having a cognizable interest in a given property may file an application. Except as may be omitted upon written consent of the Director, the following items shall be submitted in support of an application for a special use permit:

- 1) All general application requirements, including but not limited to, Article VIII, Division III.
- 2) All preliminary and final site plan requirements contained in Article 3 or as otherwise required by this Code.
- 3) A comprehensive narrative description of the use sought.
- 4) Development schedule providing reasonable guarantees for the completion of the proposed development or other construction according to the development schedule.
- 5) Any land areas within the Environmental Corridor (See Environmental Corridor Map Appendix).
- 6) A statement regarding the requested length of term of the use after the date of issuance of the permit, if applicable.
- 7) A statement regarding any special conditions governing the operation of the proposed use(s), site development and other pertinent descriptive factors.
- 8) Color photographs of surrounding structures within two hundred fifty (250) feet and elevation drawings of the proposed special use in sufficient detail to determine compliance with the zoning district regulations in which the special use is to be located.
- 9) A landscaping plan and any screening elements;
- 10) Such other information as may be required by the Director relevant to the specific application to ensure compliance with the purposes and provisions of this Ordinance.

Section 7.040. Procedures and criteria for considering special use permits

- 1) Notice and hearing: No Special Use shall be made except by specific case or application and after a public hearing before the Planning Commission. Such hearing shall be after publication and notice of the time and place of the hearing as provided for in this Ordinance in Article IV, Section 8.070 applicable to zoning district amendments. The Commission shall hear the applicant and all interested persons who appear at the hearing.
- 2) Findings of Fact and Decision: Subsequent to the hearing, the Commission shall render a decision on the application based on the criteria established in this Article. Each such decision shall be accompanied by findings of fact, including a separate conclusion, and shall refer to any exhibits containing plans and specifications for the proposed use, and shall remain a part of the permanent records of the Planning Commission. The findings of fact shall specify the reason or reasons for granting or denying the special use. In making its decision, the Commission shall:
 - a. Grant the application, with or without conditions; including such conditions as are reasonably necessary to meet the standards of this Ordinance and other applicable law and to otherwise protect the immediate neighborhood or the City from adverse effects of the use or building proposed;
 - b. Deny the application; or
 - c. Refer the application back to the applicant for modification or to the Director for additional review or study if deemed necessary by the Commission.

Any completed application submitted in conformance with this Article shall be deemed denied by the Planning Commission, for purposes of appeal to the Council, if no final written action has been rendered within 120 days from the date the complete application is filed. In such case, the applicant shall file its written appeal with the City Council within 10 days thereafter to seek Council review.

- 3) Standards for considering applications. A special use may be permitted only upon the applicant presenting evidence and bearing the burden of proof that such use meets the standards and requirements established for such classification in this Ordinance, and the granting of the permit may be subject to such conditions necessary to meet such standards.

No special use permit may be granted unless the Planning Commission finds:

- a) That the special use is necessary for the public convenience at that location;
- b) That the special use is not injurious to the use and enjoyment of neighboring properties, nor detrimental to the public health, safety, morals or general welfare;
- c) That adequate utilities, access roads, drainage and other necessary supporting facilities have been provided for;
- d) That adequate measures have been provided to accommodate ingress and egress so as to avoid congestion, not unduly impede surrounding traffic flows, or create hazardous or unsafe conditions;
- e) That the special use is will not adversely impact property values in the neighborhood;;
and
- f) That the special use will conforms to all other requirements of the district.

In considering any special use application, the Commission and the City Council may give consideration to the criteria stated below, to the extent they are pertinent to the particular application. The Commission and City Council also may consider other factors that may be relevant to a particular application.

- a) Satisfaction of any and all conditions and requirements applicable to the requested special use, as set forth in Supplementary Use Regulations.
 - b) The existing uses and zoning of nearby property.
 - c) The extent to which property values are diminished by the proposed use.
 - d) The extent to which the destruction of property values, if any, of the property to be rezoned or nearby property promotes the health, safety, morals or general welfare of the public.
 - e) The relative gain to the public as compared to the hardship imposed on the individual property owner.
 - f) The suitability of the property for the zoned purpose.
 - g) The length of time the property has remained vacant as zoned considered in the context of land development in the area in the vicinity of the subject property.
 - h) The public need for the proposed use.
 - i) The extent to which the proposed use will adversely affect the capacity or safety of that portion of the street network impacted by the use, or present parking problems in the vicinity of the property.
 - j) The extent to which the proposed use will create excessive storm water runoff, air pollution, water pollution, noise pollution or other environmental harm.
 - k) The extent to which public facilities and services, are available and adequate to meet the demand for facilities and services generated by the proposed use.
 - l) The conformance of the proposed use to the Comprehensive Plan, the Major Street Plan, the Capital Improvements Plan, and other adopted planning policies.
 - m) The recommendation of professional staff.
- 4) Denial: If the application is denied, the applicant shall not again apply within 12 months for a special use permit for substantially the same proposal unless there has occurred a substantial change of circumstances and the Commission consents to resubmission of substantially the same proposal. Otherwise, substantially the same proposal shall be submitted no earlier than one year after the date of denial. If the application is referred back to the applicant for modification, the applicant may resubmit the application in accordance with the directions of the Commission, if any, otherwise in time for the next regular meeting of the Commission.
- 5) Appeal to City Council: Immediately following final action by the Planning Commission on any special use permit, a report shall be filed with the City Council concerning such action. Within 21 days after the Planning Commission's decision, the City Council, upon majority vote, may exercise the power of review of any Planning Commission decision on an application for a special use permit.

Upon adoption of the motion to exercise the power of review, the City Council may refer the matter to committee. Following this adoption, and before acting on the special use permit, the City Council may set the matter for hearing before the committee or the City Council. The City Council will give written notice of any such hearing to the applicant and all other persons who appeared and spoke at the public hearing before the Planning Commission. In addition, the City Council may, in its discretion, notify and allow to be heard at the hearing any other person who the Council believes may be aggrieved by any decision or action concerning the special use permit.

Following its review, the City Council may affirm, reverse, or modify, in whole or in part, any determination of the Planning Commission. An affirmative majority vote of the City Council shall be required to overturn or modify a decision by the Planning Commission concerning a special use permit. The decision of the City Council shall be made within 45 days of the Planning Commission vote, unless extended for specified cause by a majority vote of the council, or the Planning Commission decision shall become final.

Unless the City Council exercises its power of review of a special use permit, the decision of the Planning Commission shall become effective after 21 days following its decision.

Section 7.050. Vesting of rights

- 1) The mere issuance of a special use permit gives no vested rights to the permit holder.
- 2) A right to continue a specially permitted use shall vest only if the project is constructed and the use actually begun, and only for as long as may be specified in the permit;.
- 3) The right to continue the special use that was permitted prior to the effective date of this Chapter shall last only as long as specified by the special use permit.
- 4) As of the effective date of this Chapter, existing permits shall be subject to the provisions for transferability as expressed in this Chapter.
- 5) Uses that are allowed without a special use permit prior to the effective date of this Chapter, but are designated as special uses in this Chapter, shall be allowed to continue as nonconforming uses if the requirements of Article 8 are satisfied.

Section 7.060. Public Buildings, Public Utility Buildings or Structures

Except where the use is otherwise designated as a permitted or planned use pursuant to another section of this Ordinance, the Planning Commission may by special use permit authorize any other building or use of the City, the County, the Township, Public School District, University, any State or Federal agency, or public utility in either a governmental or proprietary capacity, in any zoning district as the Commission deems necessary for the convenience and welfare. Such building, structure or use shall be subject to such of the requirements of the district wherein the building, structure or use is situated and to such of the other regulations applying to uses permitted in the development as the Commission deems necessary to comply with the general provisions of this Ordinance and to assure compatibility of the development with the character of its locality.

Section 7.070. Final Development Plan; transferability, lapse, expiration and revocation

- 1) Final Development Plan; Effective date of permit. Unless otherwise specified in the terms of the special use permit, such permit shall be effective to authorize the use granted therein only upon

approval of a final development plan and recording thereof as provided for final development plans, elsewhere in this Ordinance. (See Section 19.110)

2) Transferability:

- a) A special use permit may be conveyed with the land only if a right to continue the use has vested under the terms of this Article. The transfer of a permit in which no right has vested shall be invalid. Nothing in this Article shall be construed to alter the expiration date of permits or the authority of the City Council to revoke a permit.
- b) A permit cannot be assigned or transferred to a different parcel of land.
- c) Every entity attempting to convey a special use permit shall give notice in writing to the Director within seventy-two (72) hours after having sold, transferred, given away or otherwise disposed of an interest in or control of a parcel of land for which a special use permit has been issued. Such notice shall include the name and address of the successor in interest or control of the parcel. Receipt of such notice shall not constitute acceptance of an invalid transfer.

3) Lapse: A special use permit in which no vested right has been established, shall lapse and become void unless the applicant applies for any building permit incident to the proposed use within one year of the date of approval by the City Council. Upon the written request of the property owner and for good cause shown, the City Council may grant one extension of not more than one year. An application for extension will be considered only if it is submitted, in writing, prior to the expiration of the initial period.

4) Expiration of Permit: The approved special use permit may specify the duration of its validity and shall expire, unless renewed by approval of a new special use permit as provided herein. A special use permit shall also expire if no final site plan has been submitted and approved within twelve (12) months from the date of the special use permit approval. The City Council may grant one site plan extension not exceeding twelve (12) months upon written request. The approval of a revised preliminary site plan shall not automatically extend the time period during which the preliminary site plan and/or special use permit is valid. An expired special use permit shall grant no authority of any kind upon such expiration and no use shall be permitted to continue thereafter in reliance on such permit authority.

5) Revocation: Any special use permit granted under the authority of this section is subject to revocation for any or all of the following reasons:

- a) Noncompliance with any applicable requirement as set forth in this Article.
- b) Noncompliance with any special conditions imposed at the time of approval or renewal of the special use permit.
- c) Violation of any provisions of the Code of Ordinances pertaining to the use of the land, construction or uses of buildings or structures or activities conducted on the premises by the permit holder, agents of the permit holder, or tenants.
- d) Violation of any other applicable provisions of the Code of Ordinances or any state or federal law or regulation by the permit holder, agents of the permit holder, or tenants, provided that such violations relate to the conduct or activity authorized by the special use permit or the qualifications of such persons to engage in the permitted use.
- e) Attempted transfer of a permit in violation of this Article.

- f) Revocation is necessary to preserve the public health, safety, and welfare.
- 6) Procedure for revocation:
 - a. Revocation proceedings may be initiated by the City Council.
 - b. Unless the permit holder and the landowner agree in writing that the permit may be revoked, the City Council shall hold a public hearing to consider the revocation of the special use permit.
 - c. The City shall give the permit holder and landowner notice of the scheduled revocation hearing at least fifteen days prior to the date scheduled for such hearing by certified mail, return receipt requested. If such notice cannot be delivered or is not accepted, notice may be given by publishing a notice of hearing in a newspaper of general circulation in the City or by posting a notice of hearing on the property at least fifteen days prior to the date scheduled for the hearing.
 - d. The public hearing shall be conducted in accordance with rules of procedure established by the City Council. At the conclusion of the public hearing, the City Council may render its decision or take the matter under advisement.
 - e. No special use permit shall be revoked unless a majority of the City Council is satisfied by a preponderance of the evidence that grounds for revocation exist. Any motion for the revocation of a special use permit shall clearly state the grounds for revocation.

Section 7.080. Violations

No property for which a special use permit has been granted shall be used or developed contrary to the requirements of such permit and final site plan, unless such permit is amended by approval granted in the manner as provided for the initial approval of a special use permit; provided that nothing herein shall preclude additional particulars or requirements in a final site plan or an amended final site plan as may be necessary to satisfy the conditions of the special use permit. In addition to the other remedies for violation provided herein, such violations are subject to all other penalties and enforcement provisions as established for other violations of this Ordinance.