

SECTION 12.4.9 ZONING PERMIT WITH SPECIAL EXCEPTION REVIEW

12.4.9.1 Applicability

Zoning permit with special exception review is required for the following:

- A. Establishment, expansion or enlargement of any use listed as a “Special Exception” use (“ZPSE”) in the Use and Parking Tables found in Articles 3 through 9.
- B. Establishment, expansion or enlargement of any use where an applicable use limitation in Articles 3 through 9, or in Article 11, Use Limitations and Definitions, or any other provision of this Code, states that Special Exception review under this Section is required.

12.4.9.2 Review Process

A. Initiation

The owner of the subject property or the owner’s authorized agent may initiate an application for a zoning permit with special exception review.

B. Pre-Application Meeting

A pre-application meeting with the Zoning Administrator is mandatory for review of a use qualifying as a zoning permit with special exception review under this Section. See Section 12.3.2, Pre-Application Meeting. Pre-application meetings for all other special exceptions are optional.

C. Application and Fees

1. Submittal in Writing

All applications for zoning permit with special exception review shall be filed in writing with the Zoning Administrator. The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

2. Concurrent Applications

The applicant may submit an application for zoning permit with special exception review concurrent with other applications according to Section 12.3.3.9, Concurrent Applications. In no case, however, shall the City issue a building permit, as applicable, until the Board of Adjustment approves the special exception use and Community Planning and Development issues a zoning permit.

D. Public Notice Requirements

Informational Notice shall be provided as stated in Section 12.3.4.5, Informational Notice – General Provisions.

E. Review, Referral, and Recommendation by Zoning Administrator

1. The Zoning Administrator shall refer the application to the Board of Adjustment. The Board of Adjustment shall schedule the application for review and final decision at a public hearing, according to the rules of the Board of Adjustment.
2. The Zoning Administrator may refer the application to other affected or interested agencies for review and comment.
3. The Zoning Administrator shall consider the comments from all interested agencies, prepare a written recommendation based on the application's compliance with the review criteria below, and submit a written recommendation to the Board of Adjustment according to the rules of the Board of Adjustment.

F. Public Hearing and Final Decision by Board of Adjustment

1. The Board of Adjustment shall provide public notice and hold a public hearing on the proposed special exception according to the rules of the Board of Adjustment. The Board shall consider the recommendation of the Zoning Administrator and any relevant public comments, in addition to the review criteria below, and approve, approve with conditions, or deny the application for a zoning permit with special exception review.
2. The Board of Adjustment may place conditions and restrictions upon the establishment, location, construction, maintenance, and operation of a special exception use as it deems necessary to promote the public health, safety, and general welfare of the community.

G. Issuance of Zoning Permits after BOA Final Decision

After the Board of Adjustment's final decision on an application for a zoning permit with special exception review, Community Planning and Development shall either issue or deny a zoning permit consistent with the Board of Adjustment's final decision. Community Planning and Development shall expressly note on the face of the zoning permit any conditions or restrictions approved by the Board of Adjustment.

12.4.9.3 Review Criteria

No application for a zoning permit with special exception review shall be approved by the Board of Adjustment unless the Board finds that all of the following conditions are met or can be met through conditions placed on approval of the application:

- A. The special exception is consistent with the Comprehensive Plan;
- B. The proposed special exception shall be consistent with the purposes and objectives of the Zone District in which it is located;
- C. If located within a GDP area, the special exception shall be consistent with the GDP;
- D. The special exception is in compliance with all applicable regulations in this Code, including but not limited to, any specific use limitations stated in Articles 3 through 9, and in Article 11, Use Limitations and Definitions;
- E. The establishment, maintenance, and operation of the special exception will not be detrimental to or endanger the public health, safety, or general welfare of the community;
- F. The use and enjoyment of other existing uses on the surrounding property will not be substantially impaired by the establishment, maintenance, and operation of the special exception;
- G. The establishment of the special exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- H. The aggregate impacts of similar special exceptions shall not result in harmful external effects or environmental impacts; and
- I. Any potential adverse impacts from the proposed special exception can and will be adequately mitigated.

12.4.9.4 Requirements and Limitations After Zoning Permit Issuance

A. Expiration and Extensions

- 1. Except as otherwise allowed in subsection A.2. below, a zoning permit with special exception review shall expire 12 months from the date of the Board of Adjustment's decision unless the special exception use begins operating, or a valid building permit is issued. Upon a showing of good cause, the Zoning Administrator may extend the permit for the special exception for additional time periods not to exceed a total of 12 additional months.
- 2. If a zoning permit with special exception review is granted upon review and approval of a Site Development Plan according to Section 12.4.3 of this Code, then the zoning permit authorizing construction or an allowed use shall expire at the same time as the approved Site Development Plan.

B. Limit on Reapplication for Denied Special Exceptions

No application for a zoning permit with special exception review denied by the Board of Adjustment shall be considered for a period of 1 year from the date of the original denial unless the Zoning Administrator determines that the application contains substantial changes that address the reasons for denial of the application.