

SPECIAL LAND USE/SITE PLAN REVIEW REQUIREMENTS AND PROCEDURES

§ 152.105 SPECIAL LAND USES.

(A) *Generally.*

(1) The formulation and enactment of this chapter is based upon the division of the city into districts in each of which are permitted compatible uses; however, there are certain other uses which may be necessary or desirable to allow in certain locations in certain districts, but because of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the city.

(2) Such uses, on account of their peculiar location need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

(B) *Authority to grant permits.* The Planning Commission, as hereinafter provided, shall have the authority to grant special use permits, subject to such conditions of design, operation, and safeguards as the Planning Commission may determine for all special land uses specified in the various district provisions of this chapter.

(C) *Application and fee.* The application for any special land use permit permissible under the provisions of this chapter shall be made to the Planning Commission through the Zoning Administrator by filing an official special land use permit application form, submitting a site plan in accordance with § 152.106, and depositing the required fee as established by resolution of the City Council, except that no fee shall be required of any governmental body or agency. No part of such fee shall be returnable to the applicant.

(D) *Application and site plan requirements.* An application for a special land use permit shall include the applicant's name and address in full, a statement that the applicant is the owner of the property, and a site plan as specified in and in conformance with § 152.106.

(E) *Public hearing.* The Planning Commission shall hold a public hearing upon any application for a special land use permit. The special land uses and activities that are eligible for approval are those that are specified as such in the various district provisions of this chapter. Upon receipt of an application for a special land use which requires discretionary decision:

(1) The city shall publish notice of the request in a newspaper of general circulation within the city;

(2) Notice of the request shall also be sent by mail or personal delivery to:

(a) The owners of property for which approval is being considered;

(b) All persons to whom real property is assessed within 300 feet of the property for which approval is being considered, regardless of whether the assessed property is located within the zoning jurisdiction; and

(c) To the occupants of all structures within 300 feet of the property for which approval is being considered, regardless of whether the occupant is located within the zoning jurisdiction; provided that, if the name of the occupant is not known, the term "occupant" may be used in making notification under this section.

(3) The notice shall be given not less than 15 days before the date the application will be considered for approval. The notice shall do all of the following:

(a) Describe the nature of the request;

(b) Indicate the property that is the subject of the request by including a listing of all existing street addresses within the property; provided, that street addresses do not have to be created and listed if no such addresses exist within the property on the date the request is submitted, in which case other means of identification may be used;

(c) State when and where the request will be considered; and

(d) Indicate when and where written comments will be received concerning the request.

(F) *Required standards and findings for making determinations.* The Planning Commission shall review the site plan submitted in accordance with § 152.106 for proposed conditional uses in terms of the following standards and required findings, and shall find and record adequate data, information, and evidence showing that such a use on the proposed site, lot, or parcel meets or does not meet these standards.

(1) Development standards applying to all proposed conditional uses include:

(a) The proposed special land use shall be harmonious with and in accordance with the general objectives, intent, and purposes of this chapter;

(b) The proposed special land use shall be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with existing or intended character of the general area;

(c) The proposed special land use shall be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal; or the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;

(d) The proposed special land use shall not be hazardous or disturbing to existing or future neighboring uses; and

(e) The proposed special land use shall not create excessive additional requirements at public costs for public facilities and service.

(2) Development standards applying to specific proposed special land use: a special land use permit shall not be issued for the uses specified in this division unless complying with the site development requirements as herein specified. The Planning Commission may impose additional conditions and safeguards when deemed necessary by that body in accordance with this division (F).

(G) *Determination and imposition of conditions.* If the facts in the case do not establish beyond a reasonable doubt that the findings and standards set forth in this chapter will apply to the proposed use, the Planning Commissions shall not issue a special land use permit. In approving a special land use permit the Planning Commission shall impose such conditions of use as it deems necessary to protect the best interest of the city and achieve the objectives of this chapter.

(H) *Approval, approval with conditions or denial of special land use permit.* Upon holding a public hearing and the finding that the requirements of divisions (C) through (E) above have been satisfactorily met by the applicant, the Planning Commission shall within 30 days approve, approve with conditions, or deny the special land use application. If approved, the special land use permit shall be issued to the applicant. The Zoning Administrator shall not issue a zoning compliance permit until a copy of the special land use permit, signed by the Planning Commission Secretary, has been received.

(I) *Voiding of special land use permit.*

(1) A special land use permit shall become null and void upon any of the following occurrences:

(a) Construction or use of the property has not commenced in accordance with the requirements, conditions, and safeguards of the permit within 365 days of the date on which it was granted;

(b) Progress toward completion of the development for which the special land use permit was granted is not continuous and ongoing. For purposes of this division (I), **CONTINUOUS AND ONGOING** shall mean the performance of regular work during a Monday through Saturday workweek without interruption that exceeds 14 continuous calendar days or a total of ten workdays within any 30-day period; or

(c) There is a violation of a requirement, condition, or safeguard of the special land use permit.

(2) No special land use permit may be terminated or cancelled except upon a determination by the Planning Commission's written findings of fact following a duly noticed public hearing that one or more of the grounds for termination set forth in division (I)(1) above exists. Notice of the public hearing at which consideration will be given to the termination of a special land use permit shall be given as follows.

(a) The city shall publish notice of the hearing in a newspaper of general circulation within the city.

(b) Notice of the hearing shall also be sent by mail or personal delivery to:

1. The owners of property for which a special land use permit has been granted;

2. All persons to whom real property is assessed within 300 feet of the property for which a special land use permit has been granted, regardless of whether the assessed property is located within the zoning jurisdiction; and

3. To the occupants of all structures within 300 feet of the property for which a special land use permit has been granted, regardless of whether the occupant is located within the zoning jurisdiction; provided, that if the name of the occupant is not known, the term "occupant" may be used in making notification under this section.

(3) The notice shall be given not less than 15 days before the date of the hearing. The notice shall do all of the following:

(a) Describe the reason(s) for the proposed termination;

(b) Indicate the property that is the subject of the hearing by including a listing of all existing street addresses within the property; provided, that street addresses do not have to be created and listed if no such addresses exist within the property on the date the request is submitted, in which case other means of identification may be used;

(c) State when and where the hearing will be held and the matter considered; and

(d) Indicate when and where written comments will be received concerning the issues involved.

(Ord., § 601, passed 6-11-2002; Ord. passed 4-12-2011)

§ 152.106 SITE PLAN REVIEW AND APPROVAL.

(A) *Generally.* It is recognized by this chapter that there is value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural features. Toward this end, this chapter requires site plan review by the Planning Commission for certain buildings and structures that can be expected to have a significant impact on natural resources, traffic patterns, and on adjacent land usage.

(B) *Buildings, structures, and uses requiring site plan.* The Zoning Administrator shall not issue a zoning compliance certificate nor shall the Building Inspector issue a building permit for the construction of the buildings and structures identified in this section unless a site plan has been reviewed and approved by the Planning Commission and such approval is in effect:

(1) Any special land use;

(2) A multiple-family building containing three or more dwelling units;

(3) More than one multiple-family building on a lot, parcel, tract of land, or on a combination of lots under one ownership;

(4) A mobile home park;

(5) An office in any residential district; and

(6) Any gasoline service station abutting a residential district.

(C) *Application and fee for site plan review.* Any person may require a request for a site plan review by the Planning Commission by filing with the Zoning Administrator a completed application upon the forms furnished by the and payment of a fee established by resolution of the city. Fees applicable to site plan reviews for planned unit developments and conditional uses are waived in lieu of fees established by resolution of the City Council for these purposes. As an integral part of said application, the applicant shall file at least ten copies of the site plan.

(D) *Planning Commission review of site plan.* Upon receipt of complete application materials from the Zoning Administrator, the Planning Commission shall undertake a study of the same and shall, within 30 days, approve, approve with conditions, or deny such site plan, advising the applicant in writing of the decision. Any site plan failing to meet requirements of this chapter shall be denied and the reasons for denial set forth in the minutes of the Planning Commission meeting at which the decision to deny was made.

(E) *Required data for site plan.* Every site plan submitted to the Planning Commission shall be in accordance with the following requirements.

(1) Every site plan submitted, except site plans required for uses as prescribed in division (E)(2) below, shall be drawn to a readable scale and shall include the following:

(a) The name of the applicant, scale used, a north arrow, the date prepared, and the name and address of the preparer if other than the applicant;

(b) All property boundaries and dimensions thereof; the location and use of all existing and proposed structures;

(c) The location of all existing and proposed streets, parking lots, driveways, utilities, and other improvements to be constructed or used as a part of the project; and

(d) The current zoning classifications on the subject property and all adjacent property.

(2) Site plans submitted for the following conditional uses shall be subject to the requirements of this division (E):

(a) Travel trailer parks;

(b) Mobile home parks;

(c) Automobile service stations;

(d) Hotels or motels;

(e) Drive-in business;

(f) Automobile repair garages;

(g) Drive-in theaters;

(h) Junk yards;

(i) Bulk oil storage;

(j) A multiple-family building structure containing three or more dwelling units;

(k) More than one multiple-family building on a lot, parcel, or tract of land, or on a combination of lots under one ownership;

(l) An office in any residential district; and

(m) Any gasoline service station abutting a residential district.

(3) Site plans submitted for the uses prescribed in division (E)(2) above shall be submitted in accordance with the following requirements.

(a) The site plan shall be of a scale not to be greater than one inch equals 20 feet nor less than one inch equals 200 feet, and of such accuracy that the Planning Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity.

(b) The property shall be identified by lot lines and location, including dimensions, angles, and size, and correlated with the legal description of said property. Such plan shall further include the name and address of the property owner, developer, and registered design professional that prepared the site plan.

(c) The site plan shall show the scale, north point, topography (at least two-foot contour intervals), and natural features such as woodlots, streams, rivers, lakes, grains and similar features.

(d) The site plan shall show existing humanmade features, such as buildings, structures, high tension towers, pipelines, and existing utilities such as water and sewer lines, excavations, bridges, culverts, drains, and easements, and shall identify adjacent properties and their existing uses.

(e) The site plan shall show the location, proposed finished floor and grade line elevations, size of the proposed principal and accessory buildings, their relation one to another and to any existing structure on the site, the height of all buildings, and the square footage of floor space. Site plans for residential development shall include a density schedule showing the number of dwelling units per net acre, including a dwelling schedule showing the unit type and number of each unit types.

(f) The site plan shall show the proposed streets, driveways, sidewalks, and other vehicular and pedestrian circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking area and the identification of service lanes and service parking.

(g) The site plan shall show the proposed location, use and size of open spaces, and the location of any landscaping, fences, or walls on the site. Any proposed alteration to the topography and other natural features shall be indicated. The site plan shall further show any proposed location of connections to existing utilities and proposed extensions thereof.

(F) *Standards for site plan review.*

(1) In reviewing the site plan, the Planning Commission shall ascertain whether the proposed site plan is consistent with all regulations of this chapter and state and federal law. Further, in consideration of each site plan the Planning Commission shall find that the provisions of divisions (D) and (E) above as well as provisions of the zoning district in which said have been satisfactorily met by the applicant. Decisions rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in this chapter. A site plan shall be approved if it contains the information required in division (E) above and is in compliance with this chapter, the conditions imposed pursuant to this chapter, other applicable ordinances, and state and federal statutes.

(2) In addition, each of the following standards shall apply.

(a) The use shall be designed, constructed, operated, and maintained in a manner harmonious with the character of the adjacent property and the surrounding area.

(b) The use shall not inappropriately change the essential character of the surrounding area.

(c) The use shall not interfere with the natural environment of the vicinity.

(d) The use shall not interfere with the general enjoyment of the adjacent property.

(e) The use shall represent an improvement to the use or surrounding area in general, yet also be in keeping with the natural environment of the site.

(f) The use shall not be hazardous to adjacent property, or involve uses, activities, materials, or equipment that will be detrimental to the health, safety, or welfare of persons or property through excessive production of traffic, noise, smoke, odor, fumes, glare, or dust.

(g) Essential public facilities and services shall adequately serve the use, or it shall be demonstrated that the person responsible for the proposed use shall be able to continually provide for the services and facilities deemed essential to the use under consideration.

(h) The use shall not place demands on public services and facilities in excess of current capacity.

(i) The use shall be consistent with the intent and purpose of this chapter.

(G) *Approval of site plan.* Upon the Planning Commission approval of a site plan, the Commission shall file with the Zoning Administrator four copies thereof. The Zoning Administrator shall, within ten (4) days, transmit to the one copy to the Building Inspector, shall not issue a building permit until he or she has received a certified approved site plan. The site plan as approved by the Planning Commission shall become part of the official file record and subsequent actions relating to the activity authorized shall be consistent with the approved site plan.

(H) *Expiration of site plan approval.* The approved site plan shall expire, and be of no effect, 365 days after the date of approval if site or building construction improvements have not been commenced.

(I) *Revisions to approved site plan.* An approved site plan may be amended by the Planning Commission upon the request of the applicant. Such amendment shall be made upon application and in accordance with the procedure provided in this section. Any fees specified by City Council shall be paid in connection with such application.

(J) *Performance bond.* A performance bond may be required by the Planning Commission to insure the completion of required site improvements shown on the approved site plan. Such bond may be up to an amount equal to the estimated cost of the site improvement(s). The estimated cost of the site improvements shall be made in writing to the Planning Commission by a registered engineer or architect and shall be subject to review and approval of the City Engineer. The bond may be in the form of cash or irrevocable letter of credit from an insurance company or bank licensed to do business in the state or surety construction bond. The cash, letter of credit, or surety bond shall be placed on file with the City Clerk Treasurer. If cash, progressive release of funds on deposit may be given, provided the Zoning Administrator certifies progress toward project completion. Releases by the Clerk Treasurer shall be in not more than four installments.

(K) *Enforcement.*

(1) The Zoning Administrator shall through site inspections ascertain that implementation of any development undertaken is in accordance with the approved site plan, and notify the owner/developer and Planning Commission in writing of any discrepancies therewith. The Zoning Administrator shall issue an order to the owner/developer to conform to the approved site plan, listing matters not in conformance and requiring correction.

(2) Upon notification of discrepancies in the implementation of the approved site plan, the owner/developer shall have not more than 45 days to correct deficiencies listed by the Zoning Administrator. Thereafter, the Planning Commission may declare the performance bond forfeited and use the proceeds to make corrections on the development site.

(Ord., § 602, passed 6-11-2002)