



Sec. 10.2.9. Special Use Permit

A. Applicability

1. Special uses within each zoning district are uses that may be appropriate in a particular zoning district, but because of the increased potential for incompatibility with adjacent uses, require individual review by the Board of Adjustment.
2. A special use permit is required for all special uses as set forth in *Chapter 6. Use Regulations*.

B. Pre-Application Conference

Before submitting an application for a special use permit, an applicant shall schedule a pre-application conference with the Planning Director to discuss the procedures, standards and regulations required for approval. This requirement may be waived at the discretion of the Planning Director.

C. Application Requirements

1. An application for a special use permit shall be submitted with in accordance with *Sec. 10.2.1.B*.
2. A Special Use Permit Application must be filled out to initiate a request for a special use permit.

D. Approval Process

1. Planning Director Action

Planning Director shall review the application for a special use permit in light of the showings of *Sec. 10.2.9.E* and applicable requirements of *Chapter 6. Use Regulations* and advise the applicant.

2. Board of Adjustment Action

Following notice as required in *Sec. 10.1.8* the Board of Adjustment shall hold a quasi-judicial public hearing as set forth in *Sec. 10.2.1.D.1*.

E. Showings

Before a request for a special use permit is granted, the Board of Adjustment must show that all of the following are met:

1. The proposed use complies with all applicable provisions of this UDO unless otherwise expressly modified in accordance with this UDO;
2. The proposed use is allowed as a special use in the respective zoning district (see *Chapter 6. Use Regulations*);
3. The proposed use complies with any specific use standard listed in *Chapter 6. Use Regulations* without the granting of any variance to the specific use standard;
4. The proposed use is compatible with adjacent uses in terms of location, scale, site design, hours of operation and operating characteristics;
5. Any adverse impacts resulting from the proposed use in the affected area will be effectively mitigated or offset or the special use is denied;
6. Access with respect to pedestrian, bicycle and automotive safety, traffic flow and emergency service is adequate;
7. Signage is suitable and appropriate; and
8. Any appropriate dedications of streets and utilities to the public will be made prior to the issuance of a building permit.

F. Limits on Approval

Whenever the Board of Adjustment approves a special use permit, approval shall not change the zoning of the property or give the property status as a nonconformity as set forth in *Article 10.3. Nonconformities*.

G. Revisions to an Approved Special Use Permit

An approved special use permit shall not without prior approval of the Board of Adjustment:

1. Change to another use for more than 30 days;
2. Increase its density or intensity;
3. Enlarge, expand or increase its size;
4. Substantially change the exterior appearance of buildings; or
5. Add new outdoor equipment and machinery.

H. Expiration

1. A special use permit shall expire after 1 year from the date of approval by the Board of Adjustment unless a completed building permit application is submitted or a zoning permit is submitted when no building permit is required, including payment of all fees has been filed by the applicant and accepted by the City.
2. Any appeal of the issuance of the special use permit to Superior Court shall freeze the running of this 1 year period from commencement of the legal challenge until the end of all appeals. Once the use is constructed, the special use permit runs with the land and does not expire except:
 - a. When the Board of Adjustment conditioned the special use permit to a limited defined time period;
 - b. When the special use permit is revoked in accordance with *Sec. 10.2.1.D.1.*; or
 - c. When the special use is changed to another use for more than 30 days, other than that for which the special use permit was issued or the special use is discontinued or ceased for a continuous period of 365 days or more without the re-approval of the Board of Adjustment. Without the re-approval of the Board of Adjustment, the special use permit is null and void and continuation of the special use is a violation of this UDO.