

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING SECTION 30-2.C., STANDARDS AND REQUIREMENTS FOR DEVELOPMENT APPLICATIONS, OF ARTICLE 30-2, ADMINISTRATION, UNDER CHAPTER 30, THE UNIFIED DEVELOPMENT ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA

BE IT ORDAINED, by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. Subsection 30-2.C.7., Special Use Permit, of Section 30-2.C., Standards and Requirements for Development Applications, is amended by deleting the same in its entirety and substituting with the following:

30-2.C.7. Special Use Permit

a. **Purpose**

A use designated as a special use in a particular zoning district is one that may be appropriate in the district, but because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. The purpose of this section is to establish procedures and standards for review and approval of Special Use Permits that provide for such special consideration.

b. **Applicability**

A Special Use Permit is required for development of any use designated in Table 30-4.A, Use Table, as a special use in the zoning district where proposed.

c. **Initiation**

An application for a Special Use Permit may be initiated by any person who may submit applications in accordance with Section 30-2.B.1, Authority to File Applications.

d. **Procedure**

1. *Basic Procedures*

Except as modified by Sections 30-2.C.7.d.2—7 below, procedures and requirements for the submission, completeness determination,

review, recommendation, hearing, and decision on applications are as established in Section 30-2.B, Common Review Procedures.

2. *Application May Include Vested Rights Request*

As provided by North Carolina Gen. Stats. 160D-108.1, an applicant may establish a vested right pursuant to a site-specific vesting plan, provided that the plan meets the requirements of Section 30-1.I.1, Site-Specific Vesting Plan. The applicant may submit a site-specific vesting plan to establish a vested right concurrently with the application for a Special Use Permit or after the approval of a Special Use Permit provided that the underlying Special Use Permit remains valid and unexpired.

- a. If an applicant submits a site-specific vesting plan and requests approval thereof concurrently with the application for a Special Use Permit, then the request shall be included in the same review, notice and hearing as for the Special Use Permit application.
- b. If an applicant submits a site-specific vesting plan for approval at any time after the approval of the underlying Special Use Permit, then a legislative hearing with notice as required by North Carolina Gen. Stats. 160D-602 shall be held.

3. *Review by Staff and Technical Review Committee*

Before completion of the staff report, the Special Use Permit application shall be reviewed by the staff and the Technical Review Committee, who may suggest revisions consistent with the provisions of Section 30-2.C.7.e, Special Use Permit Standards.

4. *Public Hearing, Review, and Action by City Council*

Following the review of the application by the staff and the Technical Review Committee, the City Council shall conduct an evidentiary hearing on the application in accordance with Section 30-2.B.12., Public Notification, and Section 30-2.B.14., Public Evidentiary Hearing Procedures (Quasi-Judicial Decisions), and Section 30-2.B.15., Action by Decision-Making Board (Decisions). The City Council, by a majority vote of a quorum present, shall take one of the following actions based on the standards in Section 30-2.C.7.e., Special Use Permit Standards:

- a. Approval of the application as submitted;

- b. Approval of the application subject to conditions agreed to by the applicant;
- c. Denial of the application; or
- d. Remand of the application back to the staff for additional information.

5. *Conditions of Approval*

In approving a Special Use Permit, the City Council may impose appropriate conditions on the approval in accordance with Section 30-2.B.16, Conditions of Approval; provided that only those conditions to which the landowner and applicant, if different, agree(s) to in writing shall be included in the approval. Pursuant to North Carolina Gen. Stats. 160D-705(c), the City Council shall not impose conditions or requirements for which it does not have authority, including, without limitation, taxes, impact fees, building design elements within the scope of North Carolina Gen. Stats. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

6. *Permit Issuance*

If the application is approved, the City Manager shall prepare a Special Use Permit identifying the site and approved plans and documents and listing any conditions of approval, and shall issue the permit to the applicant in accordance with the City Council's decision.

7. *Expiration*

a. *General*

- 1. The City Council may prescribe a time limit within which a Building Permit for the development authorized by a Special Use Permit shall be obtained. Failure to obtain a Building Permit within the specified time limit shall void the Special Use Permit.
- 2. Unless specified otherwise by the City Council, a Special Use Permit shall automatically expire if a Building Permit for the development authorized by

the Special Use Permit is not obtained within one year after the date of issuance of the Special Use Permit, or if the development authorized by the Special Use Permit is discontinued and not resumed for a period of one year.

b. *Extension*

Upon written request submitted at least 30 days before expiration of the time period provided in accordance with Section 30-2.C.7.d.7.a above, and upon a showing of good cause, the City Manager may grant one extension not to exceed six months. Failure to submit a written request for an extension within the time limits established by this section shall result in the expiration of the Special Use Permit.

e. **Special Use Permit Standards**

A Special Use Permit shall be approved only upon a finding that the applicant demonstrates that all of the following standards are met:

1. The special use complies with all applicable standards, conditions, and specifications in this Ordinance, including in Section 30-4.C, Use-Specific Standards;
2. The special use will be in harmony with the area in which it is located;
3. The special use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
4. The special use is in general conformity with the City's adopted land use plans and policies;
5. The special use will not substantially injure the value of the abutting land, or the special use is a public necessity; and
6. The special use complies with all other relevant City, State, and Federal laws and regulations.

f. **Effect of Approval**

A Special Use Permit shall authorize only the particular special use and associated development that is approved. A Special Use Permit, including any approved plans and conditions, shall run with the land and shall not be

affected by a change in ownership, unless specifically conditioned as part of the approval. Special uses shall meet all applicable federal and state requirements for location and operation. Failure to maintain compliance with federal and state requirements may result in the revocation of the Special Use Permit by the City Manager.

g. **Amendments**

After a Special Use Permit has been issued, no changes or deviations from the terms of the application or the approval shall be made without written approval of the proposed changes or deviations. Except for minor modifications, as provided in Section 30-2.C.16., Administrative Adjustment, any change or deviation shall be subject to the same review procedure and approval standards as required for the initial approval. Changes in the permitted uses or density of the overall development are not minor modifications.

Section 2. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code or Ordinances, City of Fayetteville, North Carolina, and the section of this ordinance may be renumbered to accomplish such intention.

ADOPTED this the _____ day of _____, 2022.

CITY OF FAYETTEVILLE

MITCH COLVIN, Mayor

ATTEST:

PAMELA J. MEGILL, City Clerk