

## CHAPTER 10

### SPECIAL USE PERMITS

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10-10-1      **GENERAL:** It is Recognized that an increasing number of new uses are appearing daily and that many of these and some other more conventional uses possess characteristics of such special nature relative to location, design, size, method of operation, traffic circulation and public convenience that each use must be considered individually. An application for a special use permit shall be filed as hereinafter provided and shall be referred to the Commission who hold a public hearing on the request for special use permit. The Commission shall hold a public hearing pursuant to the provision of 67-6512 of the Idaho Code or as it may be supplemented and shall consider the standards as contained in Section 10.3 of the Planning and Zoning Ordinance. The Commission then may approve, conditionally approve, or deny a special use permit under the conditions as herein specified considering such additional safe guards as will uphold the intent of this ordinance.

10-10-2      **CONTENTS OF APPLICATION FOR A SPECIAL USE PERMIT:** An application for a Special Use Permit shall be filed with the Administrator by at least one (1) owner or lessee of property for which such special use is proposed. At a minimum, the application shall contain the following information:

- (A) Name, address and phone number of applicant;
- (B) Legal description of property;
- (C) Description of existing use;
- (D) Zoning district;
- (E) Description of proposed special use;

- (F) A plan of the proposed site for the special use showing the locations of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards, and such other information as the Commission may require to determine if the proposes special use meets the intent and requirements of this Ordinance; and
- (G) A statement evaluating the effects on adjoining property; the effects of such elements as noise, pollution and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the Plan.

10-10-3 GENERAL STANDARDS APPLICABLE TO ALL SPECIAL USE: The Commission shall review the particular facts and circumstances of each proposed special use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location will:

- (A) Constitute a special use as established on the Official Schedule of District Regulations of the zoning district involved;
- (B) Be harmonious with and in accordance with the general objectives or with any specific objective of the Plan and/or this Ordinance (see 10-9-2);
- (C) Be designed constructed, operated and maintained to be harmonious and appropriated in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area as far as is possible;
- (D) Not be unduly hazardous or disturbing to existing or future neighboring uses;
- (E) Not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the City;
- (F) Be served adequately by essential public facilities and services or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide such services;
- (G) Not involve uses, activities, processes, materials, equipment and condition of operation that will be detrimental to persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes or other pollutants;

- (H) Have vehicular approaches to the property which will be so designed as not to constitute a hazard to traffic on adjacent public thoroughfares; and
- (I) Not result in the destruction, loss or damage of a scenic or historic feature of major importance.

10-10-4 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS: In granting any special use, the Commission may prescribe appropriate conditions, bonds and safeguards in conformity with this Ordinance. Violations of such conditions, bonds, or safeguards, when made a part of the terms under which the special use is granted, shall be deemed a violation of this Ordinance.

10-10-5 PROCEDURE FOR HEARING AND NOTICE: Prior to granting a Special Use Permit, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place and summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement.

Notice shall also be provided to property owners and residents within three hundred (300) feet beyond the external boundaries of the land being considered. When notice is required to two hundred (200) or more property owners or residents, in lieu of mailing notification, three (3) notices in the official newspaper or paper of general circulation is sufficient, provided the third notice appears at least ten (1) days prior to the public hearing.

A hearing notice shall be posted on the property to be considered for a Special Use Permit in accordance with State law.

10-10-6 ACTION BY THE COMMISSION: No later than the next regular meeting after the public hearing , the Commission shall approve, conditionally approve or disapprove the application as presented. If the application is approved or approved with modifications, the Commission shall direct the City Clerk to issue a Special Use Permit listing the special conditions specified by the Commission.

Upon granting a Special Use Permit, the Commission may attached conditions including, but not limited to, those:

- (A) Minimizing adverse impact on other development;
- (B) Controlling the sequence and timing of development;
- (C) Controlling the duration of development;
- (D) Assuring that development is maintained properly;
- (E) Designating the exact location and nature of development;

- (F) Requiring the provision for on-site or off-site public affairs or services; and
- (G) Requiring more restrictive standards than those generally required in this Ordinance.

Prior to granting a Special Use Permit, the Commission may request studies from the Administrator or public agencies concerning social, economic, fiscal and environmental effects of the proposed special use. A Special Use Permit shall not be considered as establishing a binding precedent to grant other Special Use Permits. A Special Use Permit is not transferrable from one (1) parcel of land to another.

Upon granting or denying an application for a Special Use Permit, the Commission shall specify:

- (A) The Ordinance section and/or standards used in evaluating the application; and
- (B) The reasons for approval or denial;

10-10-7 NOTIFICATION TO APPLICANT: Ten (10) days after a decision has been rendered, the City Clerk shall provide the applicant with written notice of the action taken on the request for a Special USE Permit.

10-10-8 ACTION BY AFFECTED PERSONS: An affected person aggrieved by a decision may appeal the commission's decision to the city council by filing a written notice of appeal within thirty days (30) days of the announcement of the commission's decision. The city council then shall have the right to review the decision either based on the record before the commission or to hold another public hearing and make its own findings of fact and conclusions of law on the Special Use Permit and either grant or deny the Special Use Permit. In addition, the city council shall have the right and authority to review a decision of the commission if the city council deems it appropriate to do so. Any person who wishes to appeal the decision of the city council may seek judicial review pursuant to the procedures provided by the Idaho Code.

10-10-9 REVOCATION OF A SPECIAL USE PERMIT: Once a Special Use Permit has been granted, it may be revoked upon violation of any of the conditions imposed therein.