

§ 31. SUP – SPECIFIC USE PERMITS.

31.1 SPECIFIC USES:

The purpose of this district is to allow certain uses within base zoning districts that, under most circumstances, would not be compatible with other permitted uses but with certain conditions and development restrictions may be compatible.

The City Council by an affirmative vote may, after public hearing and proper notice (in accordance with the procedures set forth in Section 10) to all parties affected, and after recommendations from the Planning and Zoning Commission that the uses are in general conformance with the intent of the Comprehensive Plan and with general objectives of the City, and containing such requirements and safeguards as are necessary to protect adjoining property, authorize certain uses by a Specific Use Permit (SUP). As a zoning action, issuance of an SUP shall only apply to real property (i.e., shall not be attached to any person, business entity, etc.), shall not be transferred from one property to another (i.e., shall not move if a business operation relocates), and shall not expire without proper zoning action to rescind the SUP (i.e., change the zoning to remove the SUP, with appropriate public notification, public hearing, etc.).

A zoning application for an SUP shall be accompanied by a metes and bounds description and a survey (i.e., drawing) exhibit showing the property for which the SUP is being requested, and by a site plan (see Section 12) drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size, height, construction materials, and locations of buildings and the uses to be allowed; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences; and the relationship of the intended use to all existing properties and land uses in all directions to a minimum distance of two hundred feet (200'). The City shall make available application forms specifying drawing requirements. The City Administrator (or his/her designee), Planning and Zoning Commission or City Council may require additional information or drawings (such as building floor plans), operating data and expert evaluation or testimony concerning the location, function and characteristics of any building or use proposed. The site plan shall be reviewed and approved along with the SUP zoning application, and in accordance with Section 12 of this Ordinance.

31.2 SPECIFIC USE PERMIT REGULATIONS:

- A. In recommending that a Specific Use Permit for the premises under consideration be granted, the City shall determine that such uses are harmonious and adaptable to building structures and uses of abutting property and other property in the vicinity of the premises under consideration, and shall make recommendations as to requirements for the paving of streets, alleys and sidewalks, means of ingress and egress to public streets, provisions for drainage, adequate off-street parking, screening and open space, heights of structures, and compatibility of buildings. In approving a requested SUP, the

Planning and Zoning Commission and City Council may consider any or all of the following:

1. The use is harmonious and compatible with surrounding existing uses or proposed uses;
2. The activities requested by the applicant are normally associated with the permitted uses in the base district;
3. The nature of the use is reasonable;
4. Any negative impact on the surrounding area has been mitigated;
5. That any additional conditions specified ensure that the intent of the district purposes are being upheld;
6. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:
 - a. Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
 - b. Off-street parking and loading areas;
 - c. Refuse and service areas;
 - d. Utilities with reference to location, availability, and compatibility;
 - e. Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
 - f. Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
 - g. Required yards and open space;
 - h. Height and bulk of structures;
 - i. Hours of operation;
 - j. Exterior construction material, building design and building facade treatment;
 - k. Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets;

1. Provision for pedestrian access, amenities and areas; and
 7. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.
- B. In granting a Specific Use Permit, the Planning and Zoning Commission and City Council may impose conditions which shall be complied with by the owner or grantee before a certificate of occupancy may be issued by the Building Official, or his/her designee, for use of the building on such property pursuant to such Specific Use Permit and such conditions precedent to the granting of the certificate of occupancy. Any special conditions shall be set forth in writing by the City Council prior to issuance of the certificate of occupancy, and shall be incorporated into the amending ordinance establishing the SUP.
- C. A building permit or certificate of occupancy shall be applied for (following site plan approval) and secured within one (1) year from the time of granting the Specific Use Permit, provided however, that the City Council may authorize an extension of up to one (1) additional year. After the one-year period (and the extension, if such has been granted by City Council) has elapsed, the SUP's site plan shall be deemed to be expired. The applicant/property owner(s) must then submit a new site plan for approval prior to any construction or to application for a building permit for the area designated for the Specific Use Permit. The new site plan must be resubmitted for review and approval in accordance with Section 12 of this Ordinance.
- D. No building, premises, or land used under a Specific Use Permit may be enlarged, modified, structurally altered, or otherwise significantly changed unless an amended Specific Use Permit is granted for such enlargement, modification, structural alteration, or change. Uses should only be for the specific use(s) authorized in the ordinance granting the SUP.
- Only minor changes or alterations to the building itself (i.e., those that do not involve the addition of land area covered by the SUP or modification of any special stipulations adopted in the ordinance granting the SUP, either of which must be done using the procedures outlined in Section 10) may be approved by the City Administrator, or his/her designee.
- E. The Zoning Board of Adjustments shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the specific land use designated by any Specific Use Permit.
- F. When the City Council authorizes granting of a Specific Use Permit, the Zoning District Map shall be amended according to its legend to indicate that the affected area has conditional and limited uses, and said amendment is to indicate the zoning district for the approved use and prefixed by a "SUP", or "S" designation followed by the identification number assigned to that particular SUP (e.g., S-1, S-2, S-3, and so on). A list of all issued SUPs,

showing the uses permitted and any other special stipulations of each SUP, shall be maintained as part of this Ordinance.

31.3 USE REGULATIONS:

- A. Uses allowed by SUP are specified in Section 32 (Use Charts).

31.4 EXPIRATION AND EXTENSION:

- A. Termination of approval of a site plan associated with an SUP for failure to commence development and extension of the time for performance for a site plan associated with an SUP shall be governed by Section 12 of this Ordinance.

31.5 PRIOR SUP ORDINANCES REMAINING IN EFFECT:

- A. Prior to adoption of this Ordinance, the City Council had established various SUPs, some of which are to be continued in full force and effect. The permits or parts of permits approved prior to this Ordinance, and specified in Appendix A-2, shall be carried forth in full force and effect and are the conditions, restrictions, regulations and requirements which apply to the respective Specific Use Permits shown on the Zoning District Map as of the effective date of this Ordinance. Each prior SUP ordinance is hereby assigned a unique identification number (e.g., S-1, S-2, S-3, and so on) as shown in Appendix A-2, and subsequent SUP ordinances adopted after the effective date of this Ordinance shall be similarly numbered for identification purposes.

(Ordinance 782 adopted 2/16/04; Ordinance 2009-0899 adopted 10/5/09; Ordinance 782 adopted 2/16/14; Ordinance 2014-0970 adopted 12/29/14; Ordinance 2015-0973 adopted 3/2/15; Ordinance 2015-0974 adopted 3/2/15; Ordinance 2015-0975 adopted 3/2/15)