

ARTICLE III. - SPECIAL USES

Sec. 107-397. - Applicability.

The regulations set forth in this article shall apply to land, buildings and structures located in a professional and business office district (C-1), a business district (C-2), a government and institutional zoning district (GI), a park zoning district (P), a hospital zoning district (H), and a PUD.

(Code 1995, § 14.02.701; Ord. No. 2014-05-21(E), § 12, 5-21-2014)

Sec. 107-398. - Special uses; approval required.

Special uses may be approved by the city council only as authorized under this article.

(Code 1987, ch. 11, subch. G, art. XII, § 2; Code 1995, § 14.02.702)

Sec. 107-399. - Special use permits.

(a) *Permit required.* No special use shall be established, operated, or maintained except as authorized by a special use permit approved in accordance with the requirements of this article.

(b) *Special use permit approved by city council.* A special use permit may be approved only for the special uses specified in this article, and only for the districts wherein such uses are authorized. A special use permit may be approved by the city council acting after notice, a public hearing and recommendation from the commission relative to the proposed permit.

(c) *Application.* An application for a special use permit shall be made in writing in a form prescribed by the city secretary, and shall be accompanied by such information as may be requested (including a site plan, if required) in order to provide for proper review of the proposed use. Such information may include, but is not limited to, site and building plans, drawings and elevations, traffic plans prepared by a licensed professional engineer with experience in traffic safety that includes an analysis of traffic to be generated by the proposed use and indicates the impact on existing traffic conditions within the city, including residential areas, and provides information on the potential congestion caused by ingress and egress, and operational data.

(d) *Report by city secretary or city inspector.* The city secretary or city inspector shall visit the site of the proposed special use and the surrounding area, and thereafter submit his written findings to the commission and the city council.

(e) *Notice and public hearings.*

(1) The commission and city council shall provide notice and hold a public hearing on each application for a special use permit, pursuant to this section and section 107-518(b).

(f) *Review and recommendation of the commission.*

(1) The commission shall review each application for a special use permit to determine whether the proposed special use complies with each of the general criteria in section 107-400, and with each of the specific criteria in section 107-401 applicable to the proposed use, and shall make a separate finding thereon for each criterion.

(2) The commission shall not recommend approval of an application unless it finds that the proposed special use as presented or as modified by the commission complies with each applicable general and specific criterion. A recommendation of approval may be conditioned on the applicant's adoption of specified changes, additions, limitations, safeguards, or effective time periods designed to ensure compliance with the criteria.

(3) The commission shall forward its findings and recommendations to the city council in writing.

(g) Review and action by city council.

(1) The city council shall determine whether the proposed special use complies with each of the general criteria in section 107-400 and with each of the special criteria in section 107-401 applicable to the proposed use, and shall make separate findings thereon or adopt the findings made by the commission.

(2) The city council may condition its approval of an application on the applicant's adoption of specified changes, additions, limitations, safeguards, or effective time periods designed to ensure compliance with the criteria.

(3) The city council shall not grant a special use permit unless it finds that the proposed special use, as presented or as modified by the council, complies with each applicable general and specific criterion; otherwise it shall deny the application.

(Code 1987, ch. 11, subch. G, art. XII, § 3; Code 1995, § 14.02.703; Ord. No. 2009-05-07B, §§ 4, 5, 5-7-2009; Ord. No. 2023-05-17-11 , § 2(Exh. A), 5-17-2023)

Sec. 107-400. - General criteria applicable to all special uses.

A proposed special use must comply with all the following criteria:

(1) The appearance, size, density and operating characteristics of the proposed special use shall be compatible with the surrounding neighborhood and uses;

(2) The proposed use will not have an adverse effect on the value of surrounding properties nor impede their proper development;

(3) The proposed use will not create a nuisance nor otherwise interfere with the neighbors' enjoyment of their property or operation of their business;

(4) The traffic that the proposed use can reasonably be expected to generate on existing streets will not create nor add significantly to congestion, safety hazards, nor parking problems in the area, nor will it disturb the peace and quiet of the neighborhood; and

(5) The proposed use complies with all other applicable city ordinances and regulations.

(Code 1987, ch. 11, subch. G, art. XII, § 4; Code 1995, § 14.02.704)

Sec. 107-401. - Criteria applicable to individual special uses.

(a) Alcoholic beverages sold in a restaurant for on-premises consumption. A proposal to sell alcoholic beverages in a restaurant for on-premises consumption must comply with the following specific criteria and conditions, as well as the general criteria prescribed under section 107-400:

- (1) The restaurant where alcoholic beverages are proposed to be sold is not located within 300 feet of a church or school;
- (2) The restaurant where alcoholic beverages are proposed to be sold is not located on property, two or more sides of which abut property in a residential district;
- (3) The gross receipts derived from the sale of alcoholic beverages shall not exceed the gross receipts derived from the sale of food; and
- (4) The permit shall be reviewed annually by the city secretary and if reissued, reissued at the end of the city's fiscal year.

(b) Alcoholic beverages sold in grocery stores for off-premises consumption.

- (1) The grocery store where the alcoholic beverages are proposed to be sold is not located within 300 feet of a church or school;
- (2) The grocery store where the alcoholic beverages are proposed to be sold is not located on property, two or more sides of which abut property in a residential district;
- (3) The permit shall be reviewed annually by the city secretary and if reissued, reissued at the end of the city's fiscal year;

(4) Additional fees are to be collected after three years' operation in accordance with alcoholic beverage commission permit rules; and

(5) A permit shall only be granted if:

a. The applicant agrees that all litter associated with off-premises consumption of alcoholic beverages within 200 feet of the applicant's premises is presumed to be the applicant's; and

b. The applicant agrees to collect and dispose of all litter within 200 feet of the boundary line of the premises from which alcoholic beverages are sold.

(c) Banks/savings and loan associations in C-1 districts. A proposed bank or savings and loan association in a C-1 district must comply with the following specific criteria and conditions, as well as the general criteria prescribed under section 107-400:

- (1) The site plan must provide adequate stack space for motor vehicles;
- (2) The site shall be designed and developed in a manner that will not impede the flow of traffic in the vicinity of the bank or savings and loan association;

(3) The site plan shall provide for adequate landscaping and the maintenance of landscaped areas shall be governed by the provisions of restrictive covenants enforceable by the city; and

(4) There shall be no more than one curb cut for access to the office complex unless otherwise approved by the city council.

(d) Personal wireless telephone service facility in certain parts of a C-1, C-2, and H district, and a PUD. A proposed personal wireless telephone service facility on a lot with frontage on Bee Caves Road in a C-1, C-2, or H district or in a PUD must comply with the following specific criteria and conditions as well as the general criteria prescribed under section 107-400:

(1) The facility shall have a design and appearance that mimics other uses and ancillary structures in the vicinity, such as a flagpole, tree trunk or other object compatible with surrounding buildings and uses, or, in lieu thereof, the lower 15 feet of a freestanding facility shall be screened by vegetation;

(2) The use or operation of the facility shall not be attended by noise or light that is incompatible with surrounding uses, or other attributes constituting a nuisance to surrounding uses;

(3) The facility will at all times be operated in compliance with applicable federal and state law, including law regulating radio frequencies, microwaves, and other electronic or magnetic emissions or transmissions; and

(4) No auxiliary generator or power source producing excessive noise or polluting emissions shall be included.

(Code 1987, ch. 11, subch. G, art. XII, § 5; Code 1995, § 14.02.705; Ord. No. 2009-05-07B, §§ 6, 7, 5-7-2009; Ord. No. 2014-05-21(E), § 13, 5-21-2014)

Sec. 107-402. - General requirements for all special uses.

(a) *Adherence to approved plans and regulations.* Each special use shall be established, operated and maintained in accordance with the plans, terms, conditions, and limitations contained in the permit approved by the city council.

(b) *Duration.* The duration or life of a special use permit shall be prescribed by the city council.

(c) *Revocation.* The city council, after notice and public hearing, may revoke any special use permit for one or more of the following reasons:

(1) A substantial violation of any of the plans, terms, conditions, or limitations applicable to the special use;

(2) A substantial violation of any applicable ordinance or regulation;

(3) Operation or maintenance of the special use in a manner that is detrimental to the public health or safety, or so as to constitute a nuisance; or

(4) Discontinuance of the use.

(d) *Lapse of permit.* A special use permit shall automatically expire if the use has not been commenced within one year of the date the permit was issued. If the particular special use requires the construction of a building or structure, a special use permit shall automatically expire if the construction of such building or structure has not been commenced within one year of the date the permit was issued.

(e) *Transfer.* A special use permit is only transferable within one year of the date the permit is originally issued, provided that none of the following occurs:

(1) Any change of the plans, terms, conditions, or limitations applicable to the special use;

(2) Any violation of any applicable ordinance or regulation;

(3) Operation or maintenance of the special use in a manner that is detrimental to the public health or safety, or so as to constitute a nuisance; or

(4) Discontinuance of the use.

(f) *Termination.* A special use permit shall cease upon the sale of the property unless transferred in accordance with subsection (e) of this section, or a change in the use of the property, or the expiration of the lease under which the property is held.

(Code 1987, ch. 11, subch. G, art. XII, § 6; Code 1995, § 14.02.706)