

**ARTICLE 16. APPLICATION PROCEDURES**

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16.6 SPECIAL EXCEPTION USE

A. Purpose

1. This Code currently allows certain uses to be approved with a Special Use Permit by the Metropolitan Planning Commission. It is recognized, however, that there are certain uses that, because of their unique characteristics, can be more appropriately evaluated by the Zoning Board of Appeals. These uses are known as a Special Exception Use.
2. Under this provision, a use or structure may be authorized by the Zoning Board of Appeals that would not be appropriate generally or without restriction throughout a district but which, if controlled could be appropriate within that district. Uses may be authorized with appropriate conditions and safeguards as may be determined by the Zoning Board of Appeals.

B. Initiation

A property owner in the City of Shreveport, or person expressly authorized in writing by the property owner, may file an application to use his/her land for one or more of the special exception uses authorized within the zoning district. A property owner may only propose a special exception use for property under his/her control.

C. Authority

The Zoning Board of Appeals shall take formal action on requests for special exception use approvals.

D. Application Process

1. Action by Executive Director

All applications for a special exception use must be filed with the Executive Director in accordance with the requirements in Section 15.1 (Application). The Executive Director shall take the following actions upon submittal of an application:

- a. Once it is determined that the application is complete, the Executive Director shall review and provide a summary of the proposed special exception use and shall also include staff comments and a recommendation regarding the application and proposed special exception use.
- b. The Executive Director shall then schedule the application for consideration by the Zoning Board of Appeals.

## **2. Action by the Zoning Board Appeals**

- a. After receipt of a complete application, summary, and staff comments, including a recommendation from the Executive Director, the Zoning Board of Appeals shall consider the special exception use application at a public hearing in accordance with Section 15.3 (Public Hearing). Notice for the public hearing must be in accordance with Section 15.2 (Notice).
- b. The Zoning Board of Appeals must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section and shall take any of the following actions: approval, approval with conditions, or denial of the application for a special exception use.
- c. Decisions on a special exception use are not final until the Zoning Board of Appeals acts concerning the special exception use application.

## **E. Approval Standards**

1. The listing of a use as a special exception use within a zoning district does not constitute an assurance or presumption that such special exception use will be approved. Rather, each special exception use permit must be evaluated on an individual basis, in relation to all applicable standards of this Code. In considering each special exception use permit application, the Zoning Board of Appeals or, on appeal, the City Council will review the overall compatibility of the proposed special exception use with surrounding property as well as such specific items, including but not limited to, screening, parking, and landscaping to make sure that the impact of the special exception use is minimal and that little or no adverse effects occur to nearby property.
2. The Zoning Board of Appeals or, on appeal, the City Council must consider the following development standards and design specifications. The approval of a special exception use is based on a balancing of these development standards and design specifications:
  - a. The design, location, and operating plans must be such that the public health, safety and/or welfare is protected.
  - b. The proposed special exception use is compatible with the general land use of adjacent properties and other property within 300 feet.
  - c. The special exception use conforms to the regulations of the zoning district where it will be located except where allowed under Article 18.
  - d. The special exception use in the specific location proposed is consistent with this code.

## **F. Conditions**

1. The Zoning Board of Appeals or, on appeal, the City Council may impose conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special exception use as may be deemed necessary with the intent of minimizing the impact on nearby properties for the protection of the public health, safety, and welfare.
2. All conditions required for a special exception use permit must be complied with before any part of the use can be occupied.

## **G. Violations**

Violation of any term, condition, requirement, or duration of a special exception use approved under this division is unlawful, and will constitute a violation of this Code, and will subject the violator to the penalties set forth in Article 19 (Enforcement). In addition, the special exception use may be revoked or suspended following public hearings by the Zoning Board of Appeals and the City Council, if appealed.

## H. Modifications to Approved Special Exception Uses

### 1. Administrative Modifications to Approved Special Exception Uses

The Executive Director may approve the following administrative modifications to an approved special exception use when it is determined by the Executive Director that such changes are in substantial conformance with the approved special exception use. Any changes considered a minor or major modification, as defined in this section, cannot be approved as an administrative modification. No notice is required for an administrative modification. Administrative modifications are as follows:

- a. A change of ownership or name of the business.
- b. Changes required during construction when related to final engineering issues such as topography, drainage, underground utilities, or structural safety.
- c. Changes in building design, including building materials that continue to meet the requirements of this Code and any conditions of the final plan approval.
- d. Any additions or enlargements to a structure where the area devoted to a special exception use is increased by less than 10%.
- e. The modification of existing accessory structures or the addition of new accessory structures related to the special exception use when in conformance with the requirements of this Code. This does not include the addition or modification of any outdoor service components, which are considered a minor modification.
- f. A reduction in the amount of bicycle or vehicle parking spaces so long as the remaining number of spaces is in conformance with the requirements of this Code.
- g. The modification of existing signs or the addition of new signs related to the special exception use when in conformance with the requirements of the sign regulations.

### 2. Minor Modifications to Approved Special Exception Uses

The Zoning Board of Appeals, at a public meeting, may approve the following minor modifications to an approved special exception use when it is determined by the Zoning Board of Appeals that such changes are in substantial conformance with the approved special exception use.

- a. Any additions or enlargements to a structure where the area devoted to a special exception use is increased by 10% up to a maximum of 25%.
- b. The addition or modification of new outdoor service components, such as seating or dining areas.
- c. Modifications to the approved landscape plan that result in a reduction of the total amount of plant material from that shown on the approved special exception use.

### 3. Major Modifications to Approved Special Exception Uses

The Zoning Board of Appeals or, on appeal, the City Council may approve any other changes to an approved special exception use permit that do not qualify as an administrative modification or minor modification. Proposed major modifications to an approved special exception use permit must follow the process for approval of a new special exception use of this section.

## I. Term and Expiration of Special Exception Use

### 1. Term

A special exception use is approved indefinitely unless otherwise specified by the Zoning Board of Appeals or, on appeal, the City Council.

## **2. Expiration**

A special exception use approval expires if any one of the following events or circumstances occurs.

- a. When an approved special exception use is changed to or replaced by another use.
- b. For new construction or additions or enlargements to an existing structure, the special exception use approval expires within 180 days of the date of approval if a building permit has not been issued.
- c. For special exception uses within existing structures or on lots where no structure is planned, the special exception use approval expires within 180 days of the date of approval if the licenses or permits required for the operation or maintenance of the use have not been obtained.

## **J. Appeals**

### **1. Appeals of Zoning Board of Appeals Decision**

Within 10 days after the date of the decision for a special exception use by the Zoning Board of Appeals, the applicant or any aggrieved party may appeal to City Council.

### **2. Appeals of City Council**

Within 30 days after the date of the decision by City Council on the appeal, regarding a special exception use permit, the applicant or any aggrieved party may appeal the City Council decision to Caddo Parish Civil District Court.

## **K. Appeal Process**

### **1. Initiation**

#### **a. Applicant or Any Aggrieved Party**

The applicant or any aggrieved party may appeal a Zoning Board of Appeals decision regarding a special exception use. All appeal documents and fees must be filed with the Metropolitan Planning Commission Office.

#### **b. Fees**

- i. The applicant, if appealing the decision, shall be responsible for payment of an appeal fee in accordance with Article 21 (Fees).
- ii. Any other aggrieved party, if appealing the decision, shall not be required to pay an appeal fee.

#### **c. Deadline**

The applicant or any aggrieved party who wants to appeal the decision must file the appeal documents and pay the associated fees with the Metropolitan Planning Commission Office no later than 5:00 p.m. on the 10th calendar day following the date of decision by the Metropolitan Planning Commission.

### **2. Action by Executive Director**

The Executive Director shall forward any filed appeal along with the Metropolitan Planning Commission's Staff Report and the Zoning Board of Appeals decision regarding the special exception use permit to the Clerk of Council no later than the next business day following the receipt of said appeal.

**3. Action by Clerk of City Council**

- a. The clerk of council shall acknowledge in writing the receipt of any appeal from an applicant or any aggrieved party.
- b. Upon receipt of an appeal the Clerk of Council shall place the appeal on the City Council's agenda pursuant to City Council Rules of Procedure Section 1.5.
- c. The Clerk of Council shall mail notice not less than three calendar days before the City Council meeting to the following:

  - i. Applicant filing an appeal,
  - ii. Any aggrieved party filing an appeal,
  - iii. Metropolitan Planning Commission through its Executive Director, and
  - iv. Any person requesting in writing notice of the appeal.

**4. Action by City Council**

- a. Upon the receipt of a copy of the filed appeal via placement on the City Council's Agenda the City Council will follow this Code and the City Council Rules of Procedure in review and action on the appeal. This Code prevails over any conflicting provisions in the City Council Rules of Procedure.

  - i. The City Council must act on the appeal within 90 days unless the City Council grants additional consideration time before the 90-day period has expired.
  - ii. If the City Council does not act upon the appeal within 90 days or grant the additional consideration time before the 90-day period has expired, the appeal is deemed denied and the Zoning Board of Appeals decision is affirmed.
- b. The City Council shall take action on the appeal of a Zoning Board of Appeals decision in one of the following ways: affirm, modify, overrule/reverse or remand to the Zoning Board of Appeals.
- c. Any action by the City Council on an appeal will be by motion or resolution and does not require an ordinance.

  - i. **Simple Majority Vote.** The City Council may render its decision on an appeal of a special exception use with a simple majority vote by a quorum of its members.
  - ii. **Tie Vote.** In the event of a tie vote by a quorum of the City Council members the Zoning Board of Appeal's decision shall be deemed affirmed.

### Special Exception Use Permit

