

## CHAPTER 15

### SPECIAL USE

15-1. GENERAL: It is recognized that an increasing number of new kinds of uses are appearing, and that many of these and some other conventional uses possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulation and public facilities that each specific use must be considered individually.

The Commission shall hold a public hearing on each Special Use Permit application as specified in the Schedule of Regulations. The Commission may approve, conditionally approve or deny a Special Use Permit under the conditions herein specified and such additional safeguards as will uphold the intent of this Ordinance.

15-2. CONTENTS OF APPLICATION FOR SPECIAL USE PERMIT: An application for 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:

- A. Name, address and phone number of applicant and name, address and phone number of owner, if applicant is not the owner;
- B. Legal description of property;
- C. Description of existing use;
- D. Zoning District;
- E. Description of proposed special use;
- F. A plan drawn to an approved scale of the proposed site for the special use showing the location 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 proposed special use meets the intent and requirements of this Ordinance; and
- G. A narrative statement evaluating the effect on adjoining property, the effect of such elements as noise, glare, odor, fumes 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 Comprehensive Plan.

15-3. GENERAL STANDARDS APPLICABLE TO ALL SPECIAL USES: 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:

- A. Will in fact, constitute a special use as established on the Official Schedule of District Regulations for the zoning district involved;

- B. Will be harmonious with and in accordance with general objectives or with any specific objective of the Comprehensive Plan and/or the Zoning Ordinance.
- C. Will be designed, constructed, operated and maintained to be harmonious and appropriate 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;
- D. Will not be hazardous or disturbing to existing or future neighboring uses;
- E. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools, or the persons or agencies responsible for the establishments of the proposed use shall provide adequately any such services;
- F. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- G. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
- H. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and
- I. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

15-4. PUBLIC SITES AND OPEN SPACES: Public sites and open spaces shall conform to the following:

- A. Public Uses. Where it is determined that a proposed park, playground, school or other public use as shown on the future acquisition map, as authorized in section 67-6517, Idaho Code, is located in whole or in part within a proposed development the commission shall notify the appropriate public agency concerning the land proposed to be acquired. Within thirty (30) days of the date of notice, the public agency may request the governing body to suspend consideration of the permit for sixty (60) days from the date of the request; however, if an agreement is not reached within sixty (60) days the Commission shall resume consideration of the special use application;
- B. Natural Features. Existing natural features which add value to residential development and enhance the attractiveness of the community (such as trees, watercourses, historic spots and similar irreplaceable assets) shall be preserved in the design of the development; and
- C. Special Developments. In the case of planned unit developments and large-scale developments the Commission shall require sufficient park or open space facilities of acceptable size, location and site characteristics that may be suitable for the proposed development.

15-5. 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 permit is granted, shall be deemed a violation of this Ordinance and may be subject to revocation of said permit.

15-6. TRANSFER OF SPECIAL USE PERMITS: Special Use Permits will transfer with the change of ownership of the property unless prohibited by specific condition(s) of the permit. Prohibition or special provisions for transfer of permit may be specified as conditions of permit approval.

15-7. 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 a 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 be posted on the premises not less than one week prior to the hearing. Notice shall also be provided to property owners or purchasers of record within three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed special use as determined by the Commission. When notice is required to two hundred (200) or more property owners or purchasers of record, in lieu of the mailing notification, two (2) notices in the newspaper or paper of general circulation is sufficient; provided, the second notice appears ten (10) days prior to the public hearing. If notice is given to fewer than two hundred (200) property owners or purchasers or record, notice shall be by regular first class mail with postage prepaid to the address shown on the rolls of the County Tax Collector at the time of mailing. An agent from the respective jurisdiction who mails the notices shall file a certificate with the Commission secretary showing the date of mailing and listing the names and addresses to which the notice was sent.

15-8. SPECIAL REQUIREMENTS FOR HEARINGS IN THE COUNTY: In cases where the parcel or property involved in the special use application is located outside any of the incorporated City Limit the following additional hearing requirements shall apply:

- A. If the parcel borders on or is close to a City Limits notice shall be provided to property owners or purchasers of record located in the City Limits within three hundred (300) feet of the external boundaries of the land being considered. In addition notice shall be provided to property owners or purchasers of record located outside the City Limits within one half (1/2) mile of the external boundaries of the land being considered;
- B. If the parcel is completely outside and at least three hundred feet from a City Limits notice shall be provided to property owners or purchasers of record located

outside the City Limits within one half (1/2) mile of the external boundaries of the land being considered; and

- C. If the parcel is completely outside and at least three hundred feet from a City Limits and if the application is for a Commercial or Industrial Livestock Confinement Operation notice shall be provided to property owners or purchasers of record located outside the City Limits within one (1) mile of the external limits of the confinement operation considered.

15-9. SPECIAL USE PERMIT APPLICATION PROCEDURE IN CITY AREAS OF IMPACT: In cases where the parcel or property involved in the Special Use Permit application is located in an Area of City Impact, the applicable City shall have thirty (30) days to review the application. The purpose of this review is to allow the City time to review and evaluate the application with respects to the possible impact on the City or compliance with the City's ordinances and Comprehensive Plan. If the City deems that thirty (30) days are inadequate for a thorough review, it may be granted a thirty (30) day extension upon written request.

After the review, the City may make a recommendation to the County to approve, conditionally approve, postpone decision for additional information or disapprove the request for the special use permit. Upon making a recommendation the City shall specify:

- A. The Ordinance and standards used in evaluating the application;
- B. The reasons for the specific recommendation; and
- C. The recommended actions, if any, that the applicant could take to obtain a permit.

15-10. ACTION BY THE COMMISSION: Within twenty-eight (28) days after the public hearing, the Commission shall either approve, conditionally approve, postpone decision for further study or disapprove the application as presented. If the application is approved or approved with modifications the Commission shall direct the Administrator to issue a Special Use Permit listing the specific conditions specified by the Commission for approval.

Upon granting of a Special Use Permit, conditions may be attached to a Special Use Permit, 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 public facilities or services;
- G. Requiring more restrictive standards than those generally required in an Ordinance; and

- H. Limiting duration of the special use permit and requiring termination of the use upon expiration of the permit.

Prior to granting a Special Use Permit, the Commission may request studies from the Planning staff or public agencies concerning social, economic, fiscal and environmental effects of the proposed special use. A Special Use Permit is not transferable from one (1) parcel of land to another. Upon granting or denying an application the Commission shall specify:

- A. The Ordinance and standards used in evaluating the application;
- B. The reasons for approval or denial; and
- C. The actions, if any, that the applicant could take to obtain a permit.

15-11. NOTIFICATION TO APPLICANT: Within Seven (7) days after a decision has been rendered the Administrator shall provide the applicant with written notice of the action on the request.

15-12. APPEAL TO BOARD OR RESPECTIVE COUNCIL: The applicant or any affected person who appears in person or in writing before the Commission may appeal the decision of the Commission to the Board or respective Council provided the appeal is submitted to the Board or respective Council within fourteen (14) days from the Commission's action. Upon receipt of an appeal from the action of the Commission, the Board or respective Council shall set a hearing date to consider all information, testimony and Commission's minutes of the public hearing to reach a decision to uphold, conditionally uphold or overrule the decision of the Commission. The Board or respective Council may overrule the Commission by a favorable vote of a simply majority of the quorum of the full Board or respective Council.

