

CHAPTER 7
SPECIAL USE
(CONDITIONAL USE)

7-1. GENERAL

7-1.01 It is apparent that there is an ever increasing number of new uses for property. Many of these new uses, as well as some other conventional uses, have characteristics of such unique and special nature relative to location, design, size, method of operation, circulation, and public facilities that each use must be considered separately.

7-1.02 The Planning and Zoning Commission shall hold a public hearing on each Special Use Permit application as specified in the Schedule of Regulations. The Planning and Zoning Commission may approve without reservation, approve with additional conditions, or deny the request for a Special Use Permit. The Planning and Zoning Commission shall act under the conditions as hereon specified, and the Planning and Zoning Commission shall consider such additional safeguards as will uphold the intent of this Ordinance. (Amended 11-9-06, 10-20-08)

7-1.03 APPLICABILITY (Amended 12-17-90)

This chapter applies to all Special Uses except Livestock Confinement Operations which are covered in Chapter 13 of this Ordinance.

7-2. CONTENTS OF APPLICATION FOR A SPECIAL USE PERMIT

7-2.01 An application for Special Use Permit shall be filed with the Administrator by at least one (1) owner or lessee of the property for which the Special Use is proposed. The application shall provide the following information:

- a. The name, complete address, and telephone number of the applicant.
- b. The legal description of the property.
- c. A full description of the present use of the property.
- d. The present, zoning district of the property.
- e. A full description of the proposed Special Use.
- f. A site plan, drawn to scale, of the proposed site for the Special Use which shows the location of all buildings, parking and loading areas, traffic access, traffic circulation, open spaces, landscaping, refuse area, service area, utilities, signs, yard(s) and such other information as the Planning and Zoning Commission may require in an effort to determine if the proposed Special Use meets the intent and the requirements of this Ordinance. (Amended 11-9-06, 10-20-08)
- g. A narrative statement which evaluates the effects of such elements as noise, glare, odor, fumes, and vibration on adjoining property. The applicant shall discuss the general compatibility of the use with adjacent and other properties in the district. (Amended 4-6-06)

- h. Documentation from public agencies and affected individuals indicating response to the proposed use. For example, letters (a) from the North Side Canal Company indicating that "the drainage from the proposed improvement does not adversely affect canals, canal laterals, nor waste water drainage", (b) from the Health Authority evaluating the proposal and containing specific recommendations concerning it, and (c) from the Jerome County Highway Commission evaluating the proposal and its effect upon public roads.
- i. A non-refundable fee, determined by the governing board, shall accompany each application for a Conditional Use or Special Use Permit.

7-2.02 All applications for Special Use Permit, which include a structure that exceeds the maximum height requirement of this Ordinance, shall include a Variance request with the application and the Special Use Permit and Variance shall be considered in one application. All existing uses that have a Special Use Permit shall obtain Variance if a structure which exceeds the maximum height requirement of this Ordinance is added to the site. (Added 3-21-02)

7-3. GENERAL STANDARDS APPLICABLE TO ALL SPECIAL USES

7-3.01 The Planning and Zoning Commission shall review the facts and circumstances of each proposed Special Use, and that same Use may be granted to an applicant if the proposed Use is otherwise prohibited by the terms of this Ordinance; however, the same Use may be allowed with conditions appended by the Planning and Zoning Commission and/or the Board under specific provisions of this Ordinance if the proposed Use is otherwise prohibited by the terms of this Ordinance. The Use must not conflict with the Comprehensive Plan, and it may be allowed subject to conditions and terms, including the following standards. The Planning and Zoning Commission shall find evidence sufficient to show that each proposed Use at the proposed location will comply with Idaho Code 67-6512 and will: (Amended 11-9-06, 10-20-08)

- a. Constitute a Special Use as established on the Official Schedule of District Regulations for the zoning district involved.
- b. Be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance to the existing or intended character of the general vicinity. The proposed Use will not change the essential character of the area.
- c. Produce no hazard nor disturb the present neighboring uses.
- d. Be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewers, and schools. If such services are not already available in the area, the person or agent responsible for the establishment of the proposed Use shall provide such services.
- 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 community.
- f. Not involve uses, activities, processes, materials, equipment, conditions, or operations that will be detrimental to any person or property, nor to the

general welfare because of excessive production of traffic, noise, smoke, fumes, glare, or odors.

- g. Have vehicular approaches to the property which are designed to avoid the creation of interference with traffic on surrounding public thoroughfares.
- h. Not result in the destruction, loss of, nor damage to a natural, scenic, or historic feature.
- i. All new land use changes shall be required to use surface water, where reasonably available, as the primary water source for irrigation in accordance with Idaho Code 67-6537 USE OF SURFACE AND GROUND WATER. (Amended 4-6-06)

7-4. PUBLIC SITES AND OPEN SPACES

7-4.01 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 may, as authorized in Section 67-6517, Idaho Code, is located in whole or in part within a proposed development, the Planning and Zoning Commission shall notify the appropriate public agency concerning the proposed acquisition of land. Within thirty (30) days of the date of notice, the public agency may request the governing body to suspend consideration on the permit for sixty (60) days after the date of the request. If an agreement is not made within the aforesaid sixty (60) days the Planning and Zoning Commission shall resume consideration of the Special Use application. (Amended 11-9-06, 10-20-08)

b. NATURAL FEATURES

Existing natural features which add value to residential development and enhance the attractiveness of the community, such as trees, watercourses, historic sites, and similar irreplaceable assets, shall be preserved in the design of the development.

c. SPECIAL DEVELOPMENTS

In the case of planned unit developments and large-scale developments, the Planning and Zoning Commission may require sufficient park or open space facilities of acceptable size, location and site characteristics that may be suitable for the proposed development. (Amended 11-9-08, 10-20-08)

7-5. SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

7-5.01 In granting any Special Use, the Planning and Zoning Commission may prescribe appropriate conditions, bonds, and safeguards in conformance 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. Upon granting a Special Use

Permit, conditions may be attached to the Special Use Permit including, but not limited to those which: (Amended 11-9-06, 10-20-08)

- a. Minimize adverse impact on other development.
- b. Control the sequence and timing of development.
- c. Control the duration of development.
- d. Assure that development is maintained properly.
- e. Designate the exact location and nature of development.
- f. Require the provision for on-site or off-site public facilities or services.
- g. Require more restrictive standards than are generally required in an ordinance.

Prior to granting a Special Use Permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed Special Use. A Special Use Permit shall not be considered as establishing a binding precedent which grants other Special Use Permits. A Special Use Permit is not transferable from one parcel of land to another. (Idaho Code 67-6512).

7-6. PROCEDURE FOR HEARING NOTICE

7-6.01 Prior to granting a Special Use Permit, at least one (1) public hearing shall be held during which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place of the hearing as well as a summary of the proposal to be heard shall be published in the official newspaper or in a paper of general circulation within the jurisdiction. Notice may be made available to other newspapers, radio stations, and television stations serving the jurisdiction for use as a public service announcement. Notice shall be provided to property owners having property within one-quarter (1/4) mile outside the perimeter of the land being considered for Special Use, and similar notice shall also be given in any additional area that may be substantially impacted by the proposed Special Use as determined by the Planning and Zoning Commission. When notice is required for two hundred (200) or more property owners and/or residents, two (2) notices published in the official newspaper or in a newspaper of general circulation shall be considered as sufficient notice to that population. The second of the two notices published in the newspaper shall appear ten (10) days prior to the public hearing. (Amended 4-17-03, 11-9-06, 10-20-08)

7-7. ACTION BY THE PLANNING AND ZONING COMMISSION (Amended 11-9-06, 10-20-08)

7-7.01 Within one hundred eighty (180) days following the public hearing, the Planning and Zoning Commission shall either approve without reservation, approve with additional conditions, or deny the application for Special Use as presented. If the application is approved without reservation, or approved with additional conditions, the Planning and Zoning Commission shall direct the Administrator to issue a Special Use Permit stating the conditions specified by the Planning and Zoning Commission for approval. The conditions which may be attached to a Special Use Permit include, but are not limited to, those which: (Amended 11-9-06, 10-20-08)

- a. Minimize adverse affect(s) on other development.
- b. Controlling the sequence and timing of development.
- c. Control the duration of the development.
- d. Assure proper maintenance of the development.
- e. Indicate the exact location and nature of the development.
- f. Require the provision of on-site public facilities and services.
- g. Require more restrictive conditions and standards than those generally required in an ordinance.

7-7.02 Prior to granting a Special Use Permit, the Planning and Zoning Commission may request studies from various sources, including public agencies, concerning social, economic, fiscal, and environmental effects from the proposed Special Use. A Special Use Permit is not transferable from one parcel of land to another. (Amended 11-9-06, 10-20-08)

7-7.03 When it grants or denies an application for a Special Use Permit, the Planning and Zoning Commission shall specify: (Amended 11-9-06,10-20-08)

- a. The Ordinance(s) and standards and/or regulations used in evaluating the application.
- b. The reasons for approval or denial.
- c. The actions, if any, that an applicant might take should he reapply.

7-7.04 The applicant, or any affected person, who appears, in person or in writing, before the Planning and Zoning Commission may appeal the decision of the Planning and Zoning Commission to the Board; any appeal must be submitted to the Board within fifteen (15) days after the date of the action of the Planning and Zoning Commission. (Amended 11-9-06, 10-20-08)

7-8. NOTIFICATION TO APPLICANT

7-8.01 The Administrator shall send written notification of the action of the Planning and Zoning Commission to the applicant within ten (10) days after the Planning and Zoning Commission has made its decision. The notification shall set forth the reasons and conditions pertinent to the decision of the Planning and Zoning Commission. (Amended 11-9-06, 10-20-08)

7-9. APPEAL PROCEDURE

Any affected person aggrieved by a final decision of the Administrator or Planning and Zoning Commission may appeal that decision according to the provisions of Chapter 23 of the JCZO or other applicable provisions of law.

7-10. VIOLATIONS (Added 5-28-96)

- 7-10.01
- a. Failure to comply with any of the conditions upon which the Special Use Permit was granted shall be deemed a violation of the Special Use Permit and of the Ordinance.
 - b. Failure to comply with the proposed plan and description of the Special Use within two (2) years of issuing the permit shall be a violation of the Special Use Permit.
 - c. Failure to comply with the general standards applicable to all Special Uses as outlined in Section 7-3.01 shall be a violation of the Special Use Permit.
- 7-10.02 A violation of the Special Use Permit shall be prosecuted as a violation of the JCZO as provided in Chapter 20 of this Ordinance.
- 7-11. PENALTIES (Added 5-28-96)
- 7-11.01 A violation of the Special Use Permit shall subject the property owner to the penalties prescribed in Chapter 20 of the JCZO.
- 7-11.02 In addition to the other penalties provided after a finding of violation by the court or after notice and hearing before the Planning and Zoning Commission and a finding of violation of any condition or limitation of the Special Use Permit, the Planning and Zoning Commission may suspend or revoke the Special Use Permit. (Added 5-28-96; 11-9-06,10-20-08)