

CHAPTER 3
USES PERMITTED IN DISTRICTS

The Planning and Zoning Commission strives to accommodate reasonable demands for public and private uses that are conducive to the protection and enhancement of Grove and Grand Lake's environmental, recreational and socioeconomic resources. The Uses permitted in the various zoning districts are identified on the Zoning Regulations Permitted Use Table.

Although, the Permitted Use Table captures the majority of uses allowed in the various zoning districts, the Planning and Zoning Commission recognizes other current or potential future uses may fall outside these uses. In some instances the Planning and Zoning Commission may permit a use not listed that is determined to have a limited impact and to have little or no effect on resources and existing uses in that zoned district provided that is in compliance with City Codes and Zoning Regulations. Certain uses may not be appropriate in some districts, given the location's characteristics and prevailing use pattern. The Planning and Zoning Commission may require more scrutiny and justification through the permitting process and may deny uses that have a significant negative impact on properties located within any zoned districts.

Any Use that is identified on the Permitted Use Table as a Reviewable Use (R) will not be allowed until an application has been submitted to the Planning and Zoning Commission for their review. Upon receipt of the application, the Planning and Zoning Commission will consider the following to determine if the proposed Use, shall be approved or denied:

- Characteristics of existing permitted uses allowed within the zoning district where the property is located;
- Location and topography of the property;
- Impact on adjacent properties;
- Environmental effects;
- Potential economic development and tourism benefits; and
- Land Use Map

NON-CONFORMING USES

Existing Uses that met the City of Grove Zoning Regulations and City Codes at the time the Use was allowed, but which may no longer be compatible with the Uses Permitted in Districts, shall become a Non-Conforming Use and must comply with Chapter 6 Section 6-1 Non-Conforming Uses of the City of Grove Zoning Regulations. *(Amended per Ordinance No. 693, 01/20/2015)*

SECTION 3-1 SPECIAL USE PERMIT

1. PURPOSE:

Uses identified as a Use that requires a Special Use Permit (SUP) are more intense or have a greater impact than those permitted by right. The provisions of this Section are hereby

established to regulate Uses in a manner that will prevent negative impacts on the community and residential neighborhoods.

2. REQUIREMENT:

A Special Use Permit is required for any Use that is not a Use allowed by right and is not identified as a Permitted Use in a particular zoning district as indicated on the Permitted Use Table.

Approval of a Special Use Permit shall not be a matter of right but shall only be granted when the proposed use is in harmony with the character of the zone where it shall be located.

A Special Use Permit will be issued *only* when the City Council determines the Use may be integrated with other adjacent land uses and the Use meets the evaluation criteria hereby established by the terms of this Chapter.

3. NON-TRANSFERRABLE

Once a Special Use Permit is approved, that Use may continue as long as the property owner abides by the requirements of the Ordinances and any special conditions placed upon the Use by the City Council.

The Special Use Permit is granted to the property owner for a Special Use at the Special property and is not transferable.

EXCEPTION: If the property is for sale, and the sale is contingent upon the buyer being able to obtain a Special Use Permit, the application can be signed by both the buyer and the seller, or the seller can provide written permission to allow the buyer to submit the application. The Special Use Permit will be issued to the buyer upon proof of ownership of the property.

4. APPLICATION

The Special Use Permit process is commenced by the property owner submitting an application, supporting documentation and a non-refundable application fee (\$200.00) to the Community Development Department.

The application will be provided by the City and shall include the following information:

- a. Name, address and telephone number of the property owner, a warranty deed;
- b. Physical address, general description of location of the subject property;
- c. Brief statement describing the intended Use, and the affect the proposed the Special Use will have of the character of adjacent properties, the community and neighborhood;
- d. Provide a list of names and mailing addresses of all property owners within a three-hundred foot (300') radius measured from the center of the subject property;
- e. Provide two copies of a Special Use Permit plan drawn to an appropriate scale and containing the following:
 - ✓ Dimensions of the subject property, including easements and rights-of-ways, and location with respect to streets and adjacent properties;

- ✓ Dimensions of buildings and located with respect to property boundaries;
- ✓ Location and type of existing and proposed outdoor features such as signs, fences, pools, hot tubs, fences, landscaping or outdoor light fixtures;
- ✓ Location of off-street parking, loading spaces and access drives;
- ✓ Number of residential dwelling unit, if any, per structure;
- ✓ Any other physical features or characteristics which may be unique to the subject property or particular use proposed;
- ✓ Existing use of abutting/adjoining properties;
- ✓ Existing Zoning of the subject property and the abutting/adjoining properties;
- ✓ Location of existing and proposed public utilities;
- ✓ Location of existing easements;
- ✓ Building elevation drawings and construction materials when abutting a residential district.

5. CONSIDERATION CRITERIA

Prior to a Special Use Permit being approved, the following criteria shall be considered:

- a. Documented impacts on adjacent property owners;
- b. Property values or living conditions in residential districts;
- c. Population density;
- d. Impact on Infrastructure
- e. Public safety;
- f. Storm Water Drainage
- g. Reduction in light and air to adjacent areas;
- h. Deterrent to improvements or development of adjacent property in accord with existing regulations;
- i. Substantial reasons why the property cannot be used in accordance with existing zoning without the Special Use being granted;
- j. Harm to any historic, aesthetic or other intrinsic value of the structure to house the use;
- k. Adequacy of parking, and whether providing parking for the Use would damage existing scenic areas, including front yards, gardens and grounds;
- l. Traffic congestion near the proposed site, including ingress and egress, two-way traffic, danger from curves or other terrain conditions; prevention of smooth flowing traffic for residents, visitors, customers, and motorists;
- m. Adequacy of utilities serving the site;
- n. Adequacy of refuse and service areas;
- o. Screening and buffering from adjacent properties;
- p. Environmental impact of the proposed Use, including but not limited to odors, noise, smoke or signs;
- q. The temporal nature of the Use, with allowances for temporary activities only in extreme cases where effort is already underway to construct a permanent facility.

6. REVIEW AND NOTICE REQUIREMENT

Upon receipt of a Special Use Permit application, Staff will review and determine if application is complete and all required documentation has been provided. Upon review

by Staff, the Planning & Zoning Commission shall hold a Public Hearing to consider the application.

A Notice of the Public Hearing shall be published in a newspaper of general circulation in the City of Grove. Such Notice shall also be given in writing by mail to all property owners within a three-hundred foot (300') radius measured from the center of the subject property.

Required Notices shall be published and mailed at least twenty (20) days prior to the date of said public hearing and shall contain the following:

- ✓ The legal description of the subject property, the street address (if any) and a general description of where the property is located within the City;
- ✓ The current zoning of the property;
- ✓ The date, time and place of the Public Hearing

The City shall place a sign on the subject property a minimum of ten (10) days prior to the Public Hearing. The sign shall contain the following:

- ✓ Notice of Public Hearing for consideration of Special Use Permit;
- ✓ The date, time and place of the Public Hearings

7. HEARING PROCEDURE

The applicant or representative must be present at the Public Hearing for the matter to be considered. If the applicant is unable to attend, written authorization from the applicant authorizing representation must be submitted to the Planning & Zoning Commission prior to the Public Hearing.

The Planning & Zoning Commission shall hear the applicant's request for a Special Use Permit at the Public Hearing and shall hear public comments regarding the Special Use Permit request. Any person affected by a proposed use may express approval or disapproval in writing or in person at the Public Hearing. Any lack of response by surrounding property owners shall not be interpreted as approval or disapproval. Following the public hearing, the Planning & Zoning Commission shall consider comments received and take action to make a recommendation to the City Council to approve, approve with conditions or deny the Special Use Permit.

The City Council shall consider the Planning Commission's recommendation, comments received and take action to approve, approve with conditions or deny the Special Use Permit.

When a Special Use Permit is opposed in writing by more than twenty (20) percent of the property owners located within a three-hundred foot (300') radius measured from the center of the subject property, such Special Use Permit shall not become effective except by a favorable vote of four fifths (4/5) of all members of the City Council.

If the Special Use Permit is denied, said application shall not be eligible for reconsideration for one year subsequent to such denial.

A new application affecting or including all or part of the same property must be substantially different from the application denied, in the opinion of the City Council, to be eligible for consideration within less than one year of the denial of the original application.

8. REVOCATION

The City may revoke a Special Use Permit, if the Use approved is not implemented within one-year of the date of approval.

The City may revoke a Special Use Permit for violation of any condition of the permit. In the event that the City learns of any such violation, it shall notify the property owner of the violation. The property owner may be heard at the meeting of the Planning & Zoning Commission scheduled for consideration of the revocation and show cause why the permit should not be revoked. If the property owner fails to appear or fails to show good cause why the permit should not be revoked, the permit shall be revoked and the Use shall cease.

Any continuation of the Use shall be a violation of the Ordinances, and is subject to a Fine up to \$500 plus court costs.

9. INSPECTION

Inspection by City Staff will occur annually to verify continual compliance with the conditions approved of the Special Use Permit. If a complaint is received, the property owner shall allow City Staff the right of entry to perform inspections to verify compliance with the conditions of approval.

Passed and approved by Mayor and Council 4/19/2022; Ordinance No. 810.