

5.3.2. Special Use

- (A) **Purpose.** The purpose of the special use process is to address potential impacts of certain land uses on existing and allowed uses in the same neighborhood. The special use process considers the location, design, configuration, intensity, density, natural hazards and other relevant factors pertaining to the proposed use.
- (B) **Applicability.** No special use application shall be considered unless the underlying land is located within a particular zoning district which allows the proposed special use.
- (C) **Criteria.** In approving a special use, the following criteria may be considered:
- The special use is generally consistent with the applicable Master Plan;
 - The special use will be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;
 - The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;
 - The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;
 - The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;
 - The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and/or
 - The special use conforms or will conform to all other applicable County rules, regulations or ordinances.
- (D) **Limits of Approval.** Issuance of a special use permit shall authorize only the particular use and activity for which it is issued, for the time period, if specified, and in accordance with the permit conditions imposed. The special use permit runs with the land. The special use is based upon the parcel size stated in the application. A reduction or increase in parcel size is considered a substantial modification of the special use unless specifically provided for in the approval. The special use permit does not relieve the owner from compliance with any other permits, standards and regulations of this Code. No building permit shall be authorized to implement the use until the special use permit is approved. The Board of County Commissioners may impose time restrictions on the approved special use permit as a condition of approval as it deems necessary.
- (E) **Performance Guarantees and Financial Assurance.** Sufficient performance guarantees and financial assurance may be required to ensure implementation of and compliance with the conditions imposed. The terms or any required guarantees and financial assurance shall be made part of a development agreement.
- (F) **Public Facilities and Services.** Special use permits shall be subject to the terms and requirements of the applicable development standards and regulations relating to the provision and financing of necessary public facilities and services. Determinations concerning the adequacy and efficiency of the provision of necessary public facilities and services, and the financing of the same, shall be based on standards and criteria adopted by the BoCC and may include a requirement that the applicant for a special use permit agrees to contribute a fair and equitable share of the costs of the public facilities and services through the payment of development impact fees, special assessments, participation in a local improvement district or special district, or other similar mechanism for the provision and financing of adequate public facilities and services.
- Sufficient financial assurance may be required to ensure the timely completion of any public improvements needed to address potential impacts of the proposed use. The terms and conditions regarding the provision of public facilities and services shall be made part of the development agreement.
- (G) **Limited to Approved Special Uses.** Any land on which a special use permit is approved shall be limited to those uses and structures enumerated within the special use permit and no more than one principal allowed use.
- (H) **Administrative Approval Authorized.** Any special use may be acted upon by the PCD Director, except for those related to a CD request or mineral and natural resources extraction, which includes processing. The PCD Director, in his sole discretion, is authorized to elevate a special use application to a public hearing.

(I) **Post Approval Requirements.**

- (1) **Site Development Plan or Site Plan Review Required.** Site development plan review or site plan review is required before an application for a building permit can be authorized by the PCD. Site development plan or site plan review may be concurrent with the special use permit process; however, the final site development plan or site plan shall be modified by the applicant to reflect the conditions of approval.
- (2) **Conditions Included in Development Agreement and Filed for Recording.** Conditions may be included in the development agreement signed by the applicant and the County. The development agreement shall be filed for recording by the applicant with the Clerk and Recorder.

(J) **Periodic Review of Special Use Permit.**

- (1) **Special Use Permit Subject to Periodic Review.** Approved special uses shall be subject to a periodic review by the PCD to determine compliance with all applicable requirements and standards of this Code, and the conditions. The initial review shall be not more than one year from the date of issuance of the special use permit unless otherwise provided. Upon completion of each periodic review, the PCD shall document its findings and any recommendations or requirements to the holder of the special use permit.
- (2) **Hearing Concerning Findings of Periodic Review.** The BoCC shall have the power to conduct, after notice, public hearings concerning a special use permit and compliance of the owner with the applicable requirements and standards of this Code, and the conditions imposed by the County.

(K) **Abandonment.**

- (1) **Determination of Abandonment of Use.** Unless otherwise provided, a special use shall be deemed abandoned, and the special use permit shall have no further force and effect, if: (1) the primary intended use or activity has not been substantially implemented within 2 years of approval of the special use; or (2) the primary intended use or activity has been discontinued for a period of 2 consecutive years. For purposes of this provision, a special use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the approved special use site.
- (2) **Determination of Abandonment of Mineral Extraction.** A mineral extraction special use shall be deemed abandoned, and the special use permit shall have no further force and effect, if the mineral extraction activity has been discontinued for a period of 3 years.
- (3) **Extension of Special Use Permit.** Prior to the expiration of the special use permit due to a determination of abandonment, a one year extension may be granted by the PCD Director for good cause shown after receiving a written request for extension

(L) **Suspension or Revocation.**

- (1) **Violation of Permit Grounds for Suspension or Revocation.** The violation of any applicable requirement or standard of this Code, or of any condition, safeguard or commitments of record of the special use permit or development agreement shall constitute sufficient grounds for suspension or revocation of the special use permit by the BoCC, after a public hearing at which the holder of the special use permit shall be afforded the opportunity to be heard.
- (2) **Notice of Revocation Hearing.** Notice of the public hearing on the suspension or revocation of a special use permit shall be in accordance the Procedures Manual, and given by conspicuously posting the subject property for a period of at least 10 days prior to the public hearing, and mailing a copy of the written notice to the holder of the special use permit and any complaining party at least 10 days prior to the public hearing.
- (3) **Determination of Suspension or Revocation.** In determining whether suspension or revocation is warranted, the BoCC shall consider, among other factors, the nature and magnitude of the violations found to exist; the impact of the violations on the health, safety and welfare of adjacent property owners and surrounding communities; and any other evidence presented in aggravation or mitigation of the violations committed.
- (4) **Suspension or Revocation in Addition to Other Penalties.** Suspension or revocation is in addition to any other remedies and enforcement provisions provided by this Code or by law.

(M) **Permit Transferability.** The special use permit is valid only for the lot or parcel identified on the special use permit and may be transferred to a new property owner.

(Res. No. 16-164, 5-17-2016; Res. No. [17-374](#), Exh. A, 12-12-2017)