

15.32.240 Application for special exceptions.

All application for special exceptions shall be filed with the City Engineer or his or her designee. The City Engineer shall or his or her designee shall file a copy of the request with the Planning Department, which shall schedule a review of the exception by the Planning Commission. The fee for the special exception shall be \$250.

A. *Time for action by the Planning Commission.* Within 30 days after receiving an official application, the Commission shall either recommend approval or disapproval of the application or require additional information. In those cases where additional information is requested, time for action by the Commission to recommend approval or disapproval of an application shall be extended an additional 30 days. No more than 2 extensions shall be granted.

B. *Time for action by the Common Council.* After the Planning Commission has recommended either approval or denial, a copy of their decision shall be filed within 5 days with the city's Finance Officer. The Common Council shall set, within 30 days following the date of Planning Commission action, a hearing on the application for the special exception. The counsel shall, within 30 days of the hearing, either approve or deny or require additional information of the applicant. In those cases where additional information may be required, time for action by the Council to approve or deny an application shall be extended additional 30 days. No more than 2 extensions shall be granted by the Council; however, the failure of the Council to approve or deny shall not be construed as approval.

C. *Procedure to be followed by Planning Commission in special exception permits.* Upon receiving an application for a special exception permit involving the use of fill or construction of structures, the commission or Common Council shall require prior to rendering a recommendation thereon:

1. The applications shall include postal registration data that substantiates petitioners good faith attempt of mailing certified letters with return receipts to all property owners within 250 feet, inclusive of dedicated ways, of the area described. The certified mailings shall include the dates set for the hearings before the Commission on the special exception and shall be on a form provided by the City Engineer;

2. Require the applicant to furnish such of the following information as is deemed necessary by the Commission or Council for determining the suitability of the particular site for the proposed use:

a. Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the preceding to the location of the channel or floodway, the base flood elevation, and regulatory flood protection elevations;

b. A typical valley cross section, to scale, showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross section areas to be occupied by the proposed development, and high-water information;

c. Plan (surface view), to scale, showing elevations or contours of the ground; pertinent structures, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary, facilities; photographs showing existing land uses and vegetation upstream and downstream for a significant reach, soil types, and other pertinent information;

d. Profile, to scale, showing the slope of the bottom of the channel or flow line of the stream and the existing and proposed flood elevations; and

e. Specifications of building construction and materials, floodproofing, storage of materials, water supply and sanitary facilities.

3. Transmit 1 copy of the information described in subsection C.2.a. of this section to a registered professional engineer for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities; the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters;

4. Based upon the technical evaluation of the designated engineer or expert, the Commission shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard.

D. *Factors upon which the decision of the Commission or Common Council shall be based.* In passing upon the applications, the Commission and Council shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to health, safety, welfare and property due to increased flood heights or velocities caused by encroachments.

2. The danger that materials may be swept onto other lands or downstream to the injury of any person or property;

3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual

occupant, both present and future;

5. The importance of the services provided by the proposed facility to the community;
6. The requirements of the facility for a waterfront location;
7. The availability of alternative locations not subject to flooding for the proposed use;
8. The compatibility of the proposed use with existing anticipated, or other proposed developments in the foreseeable future;
9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
10. The safety of access to the property in times of flood for ordinary and emergency vehicles;
11. The expected heights, velocity, duration, rate of rise and sediment transportation of the floodwaters expected at the site; and
12. Such other factors which are relevant to the purpose of this chapter.

E. *Conditions attached to special exceptions.*

1. Upon consideration of the preceding factors and the purposes of this chapter, the commission or Council may attach such conditions to be granting of special exceptions as it deems necessary to further the purposes of this chapter.

2. Conditions for variances:

a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and with surrounded by lots with existing structures constructed below the base level, providing subdivisions 1. through 12. of subsection D. of this section have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justifications required for issuing the variance increase.

b. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the national register of historic places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.

c. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

d. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

e. Variances shall only be issued upon:

i. A showing of good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, caused fraud on or victimization of the public as identified in subsection D. of this section or conflict with existing local laws or ordinances.

f. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increasing risk from the reduced lowest floor elevation.

3. Among such conditions without limitation because of specific enumeration may be included:

a. Modification of waste disposal and water supply facilities;

b. Limitations on period of use and operation;

c. Imposition of operational controls, sureties and deed restrictions;

- d. Requirements for construction of channel modification dikes, levees, and other protective measures;
- e. Floodproofing safeguard. Floodproofing safeguards such as the following shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rare of rise, hydrostatic and hydrodynamic forces and other factors associated with the regulatory flood. The Planning Commission shall require that the applicant submit a plan or document certified by the registered professional engineer that the floodproofing safeguards are consistent with the regulatory flood protection elevation and associated flood factors for the particular area. The following floodproofing safeguards may be required without limitation because of specific enumeration:
- i. Anchorage to resist flotation and lateral movement;
 - ii. Installation of watertight doors, bulkheads and shutters, or similar methods of construction;
 - iii. Reinforcement of walls to resist water pressures;
 - iv. Use of paints, membranes or mortars to reduce seepage of water through walls;
 - v. Addition of mass or weight to structures to resist flotation;
 - vi. Installation of pumps to lower water levels in the structure;
 - vii. Pumping facilities or comparable practices for subsurface drainage systems for building to relieve external foundation wall and basement flood pressures;
 - viii. Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters;
 - ix. Construction to resist rupture or collapse caused by water pressure or floating debris;
 - x. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm waters into the buildings or structures. Gravity draining of basement may be eliminated by mechanical devices;
 - xi. Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation by the regulatory flood;
 - xii. Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids, or other toxic materials which could be hazardous to public health, safety and welfare in a manner which will assure that the facilities are situated at elevations above the height associated with the regulatory flood protection elevation or are adequately floodproofed to prevent flotation of storage containers, which could result in the escape of toxic materials into floodwaters;
 - xiii. Such other safeguards that the commission and/or Common Council shall determine necessary.

F. *Overriding recommendation of Planning Commission.* It shall take a majority vote of the entire membership of the Common Council to over-ride the recommendation of the Planning Commission.

(Ord. 3926,2003: Ord. 3833 (part), 2002: Ord. 3775 (part), 2002: prior code § 9-105)