

# CHAPTER 7. SPECIAL USE PERMITS

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## 📖 Section 700 - Application

**700.01 Generally.** A special use permit may be initiated by the owner, user or potential user of the subject property by making application in writing to the City Clerk on such forms as the Clerk may provide for such purposes. The application shall contain such information as may be required by the Planning and Zoning Commission to properly consider the application. The application shall be accompanied by the fee specified from time to time by resolution of the City Council. Any fee paid to the City Clerk shall be refunded if the applicant withdraws his or her permit application prior to consideration of such application by the Planning and Zoning Commission.

**700.02 Floodplain District.** In the case of an application for a special use permit within a General Floodplain Sub-district of the Floodplain District, see [Chapter 15](#), Floodplain Management Regulations, of these Zoning Regulations.

## **Section 705 – Planning and Zoning Commission Consideration**

**705.01 Consideration by Commission.** The Planning and Zoning Commission shall hold a public hearing on the application for a special use permit within 30 days after such application is received by the City Clerk.

## **Section 710 – Notice of Public Hearing**

**710.01 Notice of Public Hearing.** Notice of the time, place and purpose of the public hearing shall be published in the official newspaper at least ten days prior to the day of the hearing. Notice shall also be mailed at least ten days before the day of the hearing to each owner of affected property and the owners of property situated wholly or partly within 350 feet of the property affected by the variance. For purposes of giving mailed notice, owners shall be those as shown to be such on the records of the St. Louis County Auditor. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this notice provision has been made. Notice of a hearing for any special use permit affecting any property in a Shoreland or Floodplain District shall be mailed to the Commissioner of Natural Resources of the State of Minnesota at least 15 days prior to any such hearing.

## **Section 715 – Report to City Council**

**715.01 Report.** The Planning and Zoning Commission shall submit its report on such application to the City Council within 65 days after the public hearing held by it on such application; provided, that the City Council may, upon good cause, grant an extension of this period upon application by the Planning and Zoning Commission or the applicant. Such report shall include an accurate description of the proposed special use, the legal description of the property upon which the special use is sought to be located, any recommendations or proposed conditions by the Planning and Zoning Commission, the conclusions of the Planning and Zoning Commission with respect to the compatibility of the proposed use with the Hermantown Comprehensive Plan and the conclusions of the Planning and Zoning Commission with respect to the compatibility of the proposed use with the character and development of the neighborhood and the conclusions of the Planning and Zoning Commission with respect to any other criteria required is to be met before the permit for which application is made can be issued.

## **Section 720 – City Council Consideration**

**720.01 Consideration of Application.** The City Council shall thereafter consider such application for a special use permit and may hold such public meetings or such public hearing or hearings as it may deem appropriate to aid it in making a determination on such application. Any public hearing held by the City Council on such application shall be given as specified in [Section 710](#) of this chapter. The City Council may require the applicant to submit to it whatever information it deems necessary for it properly to evaluate and pass on the application.

## **Section 725 – Governing Criteria**

**725.01 General Requirements.** No special use permit shall be approved unless positive findings are made with respect to each and every one of the following criteria:

**725.01.1.** The proposed development is likely to be compatible with development permitted under the general provisions of this chapter on substantially all land in the vicinity of the proposed development;

**725.01.2.** The proposed use will not be injurious to the use and enjoyment of the environment, or detrimental to the rightful use and enjoyment of other property in the immediate vicinity of the proposed development;

**725.01.3.** The proposed use is consistent with the overall Hermantown Comprehensive Plan and with the spirit and intent of the provisions of this chapter;

**725.01.4.** The proposed use will not result in a random pattern of development with little contiguity to existing programmed development, and will not cause negative fiscal and environmental effects upon the community; and

**725.01.5.** Any other criteria required to be considered by it under the provisions of this code for any special use permit.

**725.02 Grading and Filling.** In addition to the criteria for any special use permit a special use permit for grading and filling within a Shoreland or Wetland District shall not be issued unless the following factors are given due consideration:

**725.02.1.** Whether the proposed activity is primarily dependent on being located in the Shoreland or Wetland District and whether feasible alternative sites are available;

**725.02.2.** The smallest amount of bare ground is exposed for as short a time as possible;

**725.02.3.** Adequate methods to prevent erosion and trap sediment are employed;

**725.02.4.** Fill is stabilized to accepted engineering standards;

**725.02.5.** Adequate methods are employed to reduce the runoff and/or flow of water on or over the affected shoreland so that the grading, filling or alteration of the natural topography does not contribute to downstream flooding;

**725.02.6.** Adequate methods are employed to preserve water quality so that the grading, filling or alteration of the natural topography will not detrimentally affect the quality of the public waters of the City of Hermantown;

**725.02.7.** Adequate methods are employed for the preservation or establishment of local vegetation that provides wildlife habitat and screening; and

**725.02.8.** Any fill used will consist of suitable material free from toxic pollutants in other than trace quantities.

**725.03 Accessory Structure.** In addition to the criteria for any special use permit, a special use permit for an accessory structure in an S-1, R-1, R-2 or R-3 Zone District shall not be issued unless positive findings are made with respect to each and every one of the following criteria:

**725.03.1.** Adequate safeguards and assurances have been provided to the City that no use or activity not otherwise allowed in the zone district in which such accessory structure is to be located will take place in the accessory structure at any time;

**725.03.2.** The accessory structure shall be aesthetically consistent with surrounding, adjoining properties. Aesthetic factors shall be considered with a view towards the highest possible use of the area in the vicinity of the proposed accessory structure. In making its determination, the City Council shall consider the size, shape, general appearance, structural materials and landscaping of the accessory structure; and

**725.03.3.** Conflicts with adjacent land uses shall be eliminated by providing, where necessary, buffer zones, dividing, screening or fencing.

## **Section 730 – Decision by the City Council**

**730.01 Decision and Action.** The City Council shall make its decision on an application for a special use permit as soon as possible following the receipt by it of the report and recommendation of the City Council. Action on any application shall be by majority vote of the members of the City Council present and voting.

**730.02 Decision to be in Writing.** The decision of the City Council shall be in writing with the factual basis and reasons supporting such decision set forth in the resolution containing the decision.

**730.03 Safeguards and Restrictions.** The City Council may impose appropriate safeguards, conditions and restrictions, including performance bonds and a time limitation on such permit, to ensure that the spirit and intent of the Comprehensive Plan is met and to conserve and protect property and property values in the neighborhood. Further, for special use permits in a Floodplain District or a Wetland District all special use permits issued for grading or filling shall be subject to the following conditions:

**730.03.1.** That the smallest amount of bare ground is exposed for as short a time as feasible;

**730.03.2.** That temporary groundcover, such as mulch, is used, and permanent groundcover, such as sod, is planted;

**730.03.3.** That adequate methods to prevent erosion and trap sediment are employed;

**730.03.4.** That fill is stabilized to accepted engineering standards;

**730.03.5.** That adequate methods are employed to reduce the runoff and/or flow of water on or over the affected shoreland so that the grading, filling or alteration of the natural topography does not contribute to downstream flooding;

**730.03.6.** That adequate methods are employed to preserve water quality so that the grading, filling or alteration of the natural topography will not detrimentally affect the quality of the public waters of the City of Hermantown;

**730.03.7.** That adequate methods are employed for the preservation or establishment of local vegetation that provides wildlife habitat and screening; and

**730.03.8.** That the fill used will consist of suitable material free from toxic pollutants in other than trace quantities.

**730.04 Violations.** Violations of any such conditions and safeguards, when made a part of the terms under which the special use permit is granted, shall be deemed a violation of this code.

## **Section 735 – Finality of Decision**

**735.01 When Final.** A decision on a special use permit shall be final upon the adoption of the resolution containing such decision by the City Council.

**735.02 Filing of Copy.** After such decision is final, a certified copy of it shall be filed for record with the County Recorder or Registrar of Titles of St. Louis County. Each special use permit shall contain the legal description of the property.

**735.03 Mailing of Copy; Shoreland or Wetlands.** A copy of all special use permits for grading or filling in a Shoreland District or Wetland District shall be furnished by mail to the Commissioner of Natural Resources of the State of Minnesota and the St. Paul District of the U.S. Army Corps of Engineers within five days of the special use permit becoming final.

**735.04 Mailing of Copy; Floodplain District.** A copy of all special use permits for activity in a Flood Plain District shall be forwarded by mail to the Commissioner of Natural Resources for the State of Minnesota within ten days of such special use permit becoming final.

## **Section 740 – Duration of Permit**

**740.01 Duration of Permit.** Any permit issued by the City Council shall remain in effect so long as the conditions imposed in such permit are observed or the expiration of the time limitation imposed on such permit, whichever is earlier; provided, however, that nothing herein shall prevent the City Council from enacting or amending official controls to change the status of any special use permit.

## **Section 745 – Renewals**

**745.01 Renewals.** Upon the expiration of the time period established as a limit on any permit granted hereunder, such permit shall terminate and the use authorized by such permit shall immediately cease; provided, however, that if the permittee shall make application for a renewal of such special use permit prior to the expiration of such time period, such permit shall continue in effect until action is taken by the City Council on such application for the renewal of such permit. Upon the City Council taking action on such application for renewal, the previous permit shall terminate and the use authorized by such permit shall immediately cease, if such application for renewal is denied, or continue under the renewal permit, if such application for renewal is granted. All such applications for renewals shall be made in accordance with the procedures set forth in this [Chapter 7](#).