

SPECIAL APPROVAL LAND USE (SALU) REVOCATION RULES & PROCEDURES

I. Purpose

Guidelines for the enforcement of conditions of SALU approval, determining when a SALU case should be processed for revocation consideration, and the procedures for processing such a case. A SALU revocation is considered a last resort and only after other enforcement remedies are exhausted.

II. Preliminary Findings

If the City Manager or his/her designate reasonably believes, based upon available information, that the applicant, property owner, or occupant for whom a special approval land use has been approved, has failed to satisfy the conditions of approval imposed by the Planning Commission, written notice shall be given to the applicant, property owner, or occupant. Notice will be sent certified and regular mail.

If the party fails to comply within ten (10) days, the following procedural remedies shall be available to enforce conditions of approval imposed by the Planning Commission relating to a SALU. Extensions to the 10-day compliance period may be granted if the City Manager or his/her designate has evidence of good cause, as voluntary compliance is the preferred solution.

III. Enforcement

1. The Building Official, Code Enforcement Officer, Fire Marshal, Police Officer, or other City employee authorized to issue appearance tickets or civil infractions may issue an ordinance complaint or civil infraction to be prosecuted in the District Court
2. After City Council authorization, the city attorney may commence litigation in the Circuit Court. Typically this is the result of continuing violations adversely affecting the surrounding area or an immediate threat to public health safety and welfare.
3. The City through the appropriate authorized official may take any other enforcement or remedial action authorized by law.
4. The Planning Commission may conduct a hearing to determine whether the conditions of approval have been satisfied.

IV. Revocation Hearing

If the Planning Commission received a request from the City Manager or his/her designate supported by credible information that the applicant, property owner, or occupant for whom a special approval land use has been approved has failed to satisfy the conditions of approval, the Planning Commission may conduct a hearing in accordance with the following procedures to review whether the applicant, property owner, or occupant has satisfied the conditions of approval:



1. The applicant, property owner, or occupant granted the special approval land use and other persons entitled to notice of the original special approval land use hearing shall be advised in writing by the City administration of the date of the meeting at which the Planning Commission intends to review whether the conditions of approval have been continuously satisfied. Notice shall be not less than thirty (30) days before the scheduled meeting, except in cases where the public health, safety or welfare is imminently threatened or endangered, in which case a hearing shall be held no earlier than five (5) days after written notice of the meeting date has been given.
2. The written notice shall specify the condition(s) of the special approval land use with which the applicant, property owner, or occupant is alleged to have failed to continuously satisfy.
3. At the hearing, the City administration and other interested parties (or their authorized representatives) shall be given an opportunity to present evidence or information showing that the conditions of approval have been continuously satisfied.
4. At the hearing, the applicant, property owner, or occupant and other interested parties (or their authorized representatives) shall be given an opportunity to present evidence or information showing whether the conditions of approval have been continuously satisfied.
5. After the Planning Commission concludes the hearing, the Planning Commission may make its determination as to whether the applicant, property owner, or occupant has continuously satisfied the conditions of approval, or whether the applicant, owner or occupant should be given additional time to satisfy the conditions of approval. Any conditions of approval originally imposed may be changed only with the concurrence of the applicant, property owner or occupant. The Planning Commission may determine that the applicant, property owner, or occupant has satisfied the conditions of approval, has failed to continuously satisfy the conditions, or if it deems appropriate, grant an additional time period for compliance with the concurrence of the applicant property owner or occupant. The Planning Commission may revoke the special approval land use if the Planning Commission determines by majority vote of those Commissioners present that the applicant, property owner, or occupant has not continuously satisfied one or more of the conditions of approval. The reasons for the Commission's action shall be recorded into the record, with a written copy furnished to the applicant, property owner, or occupant after certification of the minutes of the meeting at which such action was taken. The decision of the Planning Commission shall be based on findings of fact, and each and every such finding shall be supported in the record of the proceedings of the Commission.

V. Appeal of Planning Commission Decision

The applicant, property owner, or occupant, or any person who has an interest affected by the Zoning Ordinance who is aggrieved by a final decision of the Planning Commission, including revocation of a special approval land use, may appeal a final decision of the Planning Commission to the Circuit court within the time period prescribed by law. The appeal period shall commence on the date the minutes of the Planning Commission are certified relating to the Planning Commission's decision.

