

O-33-23

Expiration of Special Exceptions to City Zoning Districts

AMENDMENT 1 – ALD. SCHANDELMEIER

MOTION:

On Page 1, strike lines 42 through 44; on Page 2, strike lines 23 through 28; and on Page 2, in line 23, insert the following:

A. **Special Exception Established.** A special exception shall be deemed to be established upon the issuance of a use permit for the special exception use.

B. **Expiration of Special Exception Not Established.**

1. In any case where a grading permit or building permit to implement the special exception use has not been established within two years after the date of the granting of the special exception, a major modification to the special exception, a minor modification the Director deems significant, or an extension of the special exception prior to the adoption Ordinance O-33-23 the special exception shall expire.
2. The Board of Appeals, in its discretion and upon a showing of good cause, may grant up to two successive extensions of the special exception for periods of not longer than one year each; provided that, a written request for each extension prior to the expiration of the special exception.
3. In any case where a special exception use has not been established within four years after the date of granting the special exception, modification of the special exception, or extension of the special exception prior to the adoption Ordinance O-33-23, the special exception shall expire.
4. The Board of Appeals, in its discretion and upon a showing that neighborhood or area conditions surrounding the special exception have not materially changed in a manner which would show that the special exception use at the particular approved location would now have adverse effects above and beyond those effects inherently associated with such a special exception use irrespective of its location within the zoning district, may grant additional extensions of the special exception for periods of not longer than one year each; provided that, a written request for each extension prior to the expiration of the special exception.

C. This § 21.26.070(B) shall apply retroactively to all special exceptions approved by the Board of Appeals since January 1, 2020.

Explanation: ~~Strikethrough~~ indicates matter stricken from existing law.
 Underlining indicates a change to the City Code.
 Underlining & black - copyediting or reformatting of existing Code section
 Underlining & red - new matter added to the code.
 Underlining & blue - amendment

D. Cessation of Established Special Exception Use.

1. An established special exception expires if the special exception ceases for more than one year after issuance of a use permit for the special exception use; or
2. The Board of Appeals, in its discretion and upon a showing of good cause, may grant up to two successive extensions of a special exception use which has ceased for more than one year provided that, a written request for each extension is filed while the special exception is still valid.

D. Destruction or damage of special exception use.

In the case of a building or structure that is destroyed or damaged by fire, or another casualty, or an act of God, the Planning and Zoning Director may approve the re-establishment of the use provided that restoration is actively and diligently pursued to completion in a timely fashion.

Changes to the First Reader version:

Black = Current Code

Red = Ordinance Change to Current Code

Blue = Change to Ordinance

- A. **Special Exception Established.** A special exception shall be deemed to be established upon the issuance of a ~~grading or building permit for improvements to implement the special exception use~~ use permit for the special exception use.
- B. A. **Special Exception Not Established.** In any case where a special exception has not been established within ~~one~~ **two** years after the date of granting the special exception, the special exception shall expire. However, the Board of Appeals, in its discretion and upon a showing of good cause, may grant up to two successive extensions of the granting of the special exception for periods of not longer than six months ~~one year~~ each; provided that, a written request for each extension is filed while the prior grant is still valid.
1. In any case where a grading permit or building permit to implement the special exception use has not been established within two years after the date of the granting of the special exception, a major modification to the special exception, a minor modification the Director deems significant, or an extension of the special exception prior to the adoption Ordinance O-33-24 the special exception shall expire.
 2. The Board of Appeals, in its discretion and upon a showing of good cause, may grant up to two successive extensions of the special exception for periods of not longer than one year each; provided that, a written request for each extension prior

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to the expiration of the special exception.

3. In any case where a special exception use has not been established within four years after the date of granting the special exception, modification of the special exception, or extension of the special exception prior to the adoption Ordinance O-33-24, the special exception shall expire.
 4. The Board of Appeals, in its discretion and upon a showing that neighborhood or area conditions surrounding the special exception have not materially changed in a manner which would show that the special exception use at the particular approved location would now have adverse effects above and beyond those effects inherently associated with such a special exception use irrespective of its location within the zoning district, may grant additional extensions of the special exception for periods of not longer than one year each; provided that, a written
- C. This § 21.26.070.B shall apply retroactively to all special exceptions approved by the Board of Appeals since January 1, 2020.

D. Cessation of Established Special Exception Use.

~~A special exception expires if it ceases for more than six months. In the case of a building or structure which is destroyed or damaged by fire or other casualty or act of God, the Planning and Zoning Director may approve the reestablishment of the use provided that restoration is actively and diligently pursued to completion in a timely fashion.~~

~~1. A special exception expires if:~~

~~a. The special exception ceases for more than six months after issuance of a use permit for the special exception use; or~~

~~b. Prior to the issuance of a use permit for the special exception use, grading or building work pursuant to a grading or building permit to implement the special exception ceases for six months or after three years.~~

~~2. Prior to the issuance of a use permit for the special exception use, the Board of Appeals, in its discretion and upon a showing of good cause, may grant up to two successive extensions of the special exception for periods of not longer than one year each; provided that, a written request for each extension is filed while the special exception is still valid.~~

1. An established special exception expires if the special exception ceases for more than one year after issuance of a use permit for the special exception use; or
2. The Board of Appeals, in its discretion and upon a showing of good cause, may grant up to two successive extensions of a special exception use which has ceased for more than one year provided that, a written request for each extension is filed while the special exception is still valid.

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- D. Destruction or damage of special exception use.** In the case of a building or structure that is destroyed or damaged by fire, or another casualty, or an act of God, the Planning and Zoning Director may approve the re-establishment of the use provided that restoration is actively and diligently pursued to completion in a timely fashion.

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