

SPECIAL USES

§ 157.435 PURPOSE.

In order to accomplish the general purpose of this chapter, certain unusual uses need special considerations which are potentially incompatible with the uses normally permitted in the zoning districts established herein. The purpose of this subchapter is to employ the special use as a flexible means of permitting certain exceptions to the districts' established rules and regulations adopted herein in cases where the public benefit of such uses outweighs the potential harm, and under such conditions imposed as are necessary to protect the public health, safety, and welfare and individual property rights.

(Prior Code, 7 TCC 1-25(a))

§ 157.436 GENERAL REQUIREMENTS.

The following uses shall be subject to the standards and regulations of this subchapter and to any additional requirements imposed in the public interest to cover circumstances unique to the selected site. All conditions and requirements set forth for a particular special use for the zoning district in which the special use is located shall apply to the special use, except where specifically amended by the terms of the particular special use permit.

For the purposes of this subchapter, a "Class A special use" includes any special use referenced in §157.480(C)(a), regarding Class A zoning cases. Also for the purposes of this subchapter, any special use other than a Class A special use is a "Class B special use."

(Prior Code, 7 TCC 1-25(b))

§ 157.437 APPLICATION PROCEDURE.

An application for special use permit shall be submitted to the Community Development Administrator and shall include, but shall not be limited to, the following information:

- (A) State the name and address of the applicant and the name and address of the owner, if applicant is not such owner;
- (B) The legal description and address (if available) of property;
- (C) A written description of the proposed use that includes information concerning proposed hours of operation, expected traffic patterns, and any other pertinent details concerning the proposed use;
- (D) The present and proposed land use;
- (E) The surrounding zoning classifications;
- (F) An explanation of the need for the special use at the proposed site;
- (G) A site plan which contains at a minimum the following:
 - (1) All existing and proposed buildings and structures on the site;
 - (2) All proposed parking and loading areas (when applicable);
 - (3) Proposed water and sewage systems;
 - (4) Placement of exterior lighting; and
 - (5) Landscaping.
- (H) A copy of such site plan at a size not to exceed 11 inches by 14 inches; and
- (I) A statement signed by the appropriate road official stating that the proposed access way is adequate for the proposed use.

(Prior Code, 7 TCC 1-25(c))

§ 157.438 STANDARDS APPLICABLE TO SPECIAL USES.

- (A) When considering an application for a special use permit, the decision making body, based on evidence presented, shall find:
- (1) The special use shall, in all other respects, conform to the applicable regulations of this chapter for the district in which it is located. Special uses when combined with variances for this same property shall be considered compliant for the purposes of this section;
 - (2) The special use will be consistent with the purposes, goals, objectives, and standards of the officially adopted county comprehensive land use plan and these regulations, or of any officially adopted comprehensive plan of a municipality with a one and one-half mile planning jurisdiction; and
 - (3) The petitioner has provided the information required by § 157.437, and has demonstrated the ability to complete the proposal shown in § 157.437(A) through (I), and has met those items required by the statements described in § 157.437(I).
- (B) When considering an application for a special use permit, the decision making body, based on evidence presented, shall also find, not one of which shall be controlling:
- (1) The site shall be so situated as to minimize adverse effects, including visual impacts on adjacent properties;
 - (2) The establishment, maintenance, or operation of the special use shall not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the neighboring vicinity;
 - (3) The special use shall not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted;
 - (4) The special use shall not substantially diminish and impair property value within the neighborhood;
 - (5) Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided;
 - (6) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and hazard on the public streets;
 - (7) The evidence establishes that granting the use, which is located one-half mile or less from a livestock feeding operation, will not increase the population density around the livestock feeding operation to such levels as would hinder the operation or expansion of such operation;
 - (8) Evidence presented establishes that granting the use, which is located more than one-half mile from a livestock feeding operation will not hinder the operation or expansion of such operation;
 - (9) Seventy-five percent of the site contains soils having a productivity index of less than 125;
 - (10) The special use is consistent with the existing uses of property within the general area of the property in question; and
 - (11) The suitability of the property in question is for the special use as proposed.

(Prior Code, 7 TCC 1-25(d))

§ 157.439 PARTICULAR SPECIAL USES.

- (A)
- (1) Accessory structures prior to the principal structure;
 - (2) Adult entertainment establishment;
 - (3) Adaptive reuse of existing structures;
 - (4) Banquet Facilities;

- (5) Bed and breakfast;
- (6) Borrow pits;
- (7) Cemeteries;
- (8) Chickens/fowl;
- (9) Day care center;
- (10) Day care home;
- (11) Energy Storage Systems Facility.
- (12) Game breeding/shoot preserve;
- (13) Golf courses;
- (14) Golf driving range;
- (15) Gravel pits;
- (16) Home commercial special use;
- (17) Kennel, commercial;
- (18) Landscape waste composting and mulching facility;
- (19) Manufactured/mobile homes for retired/disabled persons;
- (20) Manufactured/mobile homes, accessory to agriculture;
- (21) Outdoor/indoor paintball facilities;
- (22) Personal Storage/Recreational Buildings
- (23) Recreational facilities, Class I, Class II, and Class III;
- (24) Shooting range, outdoor;
- (25) Single-family dwellings;
- (26) Solar Energy Facility, Commercial;
- (27) Wind energy conversion systems, Small; and
- (28) Wind energy conversion systems, Commercial.

- (B) Other uses of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities, and which are not allowed by right may also be allowed by special use, subject to the basic requirements of this section.

(Prior Code, 7 TCC 1-25(e))

§ 157.440 REQUIREMENTS FOR PARTICULAR SPECIAL USES.

In addition to the information required in § 157.437, the following contains information and requirements specific to each special use listed.

- (A) *Accessory structures prior to principal structures.* Specific regulations for accessory structures prior to the principal structures in the R-1 and R-2 Zoning Districts:

- (1) The accessory structure shall not exceed a total of 1,200 square feet;
- (2) The accessory structure shall meet all setback requirements for an accessory structure for the zoning districts it is located;
- (3) The accessory structure shall only be used for personal storage and for equipment necessary to maintain the property; and
- (4) The building permit for construction of the principal structure shall be applied for by the applicant and issued by the Community Development Administrator within three years from the date of approval by the Zoning Board of Appeals. If the applicant is unable to meet this criteria, the applicant shall be required to reappear before the Zoning Board of Appeals for reconsideration of the request within three years from the date of approval by the Zoning Board of Appeals.

(B) *Adult entertainment establishment.* Specific regulations for adult entertainment establishments in the C-2 Zoning District:

- (1) An adult entertainment establishment shall not be allowed within 500 feet of another existing adult use;
- (2) An adult entertainment establishment shall not be located within 700 feet of any agriculture or residential zoning district;
- (3) An adult entertainment establishment shall not be located within 700 feet of a pre-existing school or place of worship;
- (4) An adult entertainment establishment shall not be located in a structure which contains another business that sells or dispenses in some manner alcoholic beverages;
- (5) For the purpose of these regulations, measurements shall be made in a straight line, without regard to intervening structures or objects, from the property line of the proposed adult entertainment establishment to the nearest property line of another adult use, school, place of worship, or district zoned agriculture or residential; and
- (6) The adult entertainment establishment shall meet all requirements of Chapter 150.

(C) *Adaptive reuse of existing structures.* Specific requirements for adaptive reuse of existing structures in the R-1 Low Density Residential Districts:

- (1) The existing structure(s) for which the adaptive reuse is sought shall have been existence at the site for a minimum of ten years prior to the date of a special use petition;
- (2) The proposed adaptive reuse does not meet the regulations and standards of other special use permits in the particular districts in which it is located; and
- (3) The special use application shall set forth the specific proposed new uses, which may include one or more of the following uses or in combination: personal service establishment; specialized care facilities; multi-family dwellings; commercial retail establishment; health club or fitness centers; and offices (business and professional).

(D) *Banquet facilities.*

- (1) Specific regulations and submittal requirements for banquet facilities in the A-1, A- 2, and the RR Zoning Districts shall include the following:
 - (a) The expected number of attendees per event;
 - (b) The number of events per year;
 - (c) The number of employees;
 - (d) The hours of operation;
 - (e) Sound amplification to be used and a plan to minimize any amplified sounds;

- (f) Temporary structures or tents to be used in association with the planned events;
- (g) Signage;
- (h) Security to be provided; and
- (i) Location of all trash receptacles.

(2) Regulations:

- (a) All structures shall meet the county's Building and Property Maintenance Code requirements;
- (b) Temporary structures, including tents and canopies may be erected no more than 72 hours prior to an event and shall be removed no more than 72 hours following an event;
- (c) There shall be no overnight accommodations;
- (d) In addition to the regulations under § 157.316(G) and (H), parking for ADA access shall be paved with a hard surface and a reserved parking sign for ADA compliance shall be installed; and
- (e) All events shall end by 11:00 p.m. *END* shall mean that all activities are concluded and all clients and guests have departed.

(E) *Bed and breakfast.* Specific regulations for bed and breakfast in the R-R Rural Residential, R-1 and R-2 Zoning Districts:

- (1) An owner or operator must reside at the establishment while guest rooms are rented; and
- (2) No guests may stay at the establishment for a total of more than 30 days in any period of 12 consecutive calendar months.

(F) *Borrow pits.* Specific regulations for borrow pits in the A-1 Agricultural Preservation Zoning District and A-2 Agriculture District:

- (1) All excavations shall be subject to the setback and yard restrictions for a principal structure in the district in which they are located; and
- (2) Copies of all applicable county and state permits shall be submitted to the Community Development Department prior to the issuance of any permits by its office.

(G) *Cemeteries.* Specific regulations for cemeteries in the A-1 Agricultural Preservation, A-2 Agriculture, R-R Rural Residential, R-1, and R-2 Zoning Districts:

- (1) All graves and burial lots shall have two side yards and a rear yard of at least 25 feet each, which are to contain no graves or burial lots, and a setback of at least 30 feet from any right-of-way bounding the cemetery, which contain no graves or burial lots; and
- (2) All burial buildings, such as mausoleums, vaults, and columbariums, shall be setback at least 85 feet from any street bounding a cemetery and there shall be two side yards and rear yard of at least 55 feet each, which may contain graves or burial lots with the setback set forth in division (F)(1) above.

(H) *Chickens/fowl.* The inability to comply with the regulation of § 157.060 Chickens/fowl shall require special use for chickens/fowl in the R-1 Low Density Residential and R-2 Multi Family Residential District(s).

(I) *Day care center.* Specific regulations for day care centers in the R-R Rural Residential, R-1, R-2, and C-1 Zoning Districts:

- (1) All facilities shall comply with the requirements of the County Health Department and the state for the type of facility being proposed;

- (2) In addition to the front yard required in the zone in which the facility is located, there shall be two side yards and a rear yard of at least 30 feet each. No outside recreation apparatus or play fields shall be located within 30 feet of any rear or side yard; and
 - (3) All outdoor recreation areas within 200 feet of a street or boundary line shall be bounded with a fence.
- (J) *Day care home.* Specific regulations for day care homes in the R-R Rural Residential, R-1, and C-1 Zoning Districts:
 - (1) All facilities shall comply with the requirements of the County Health Department and the state for the type of facility being proposed; and
 - (2) All outdoor recreation areas within 200 feet of a street or boundary line shall be bound with a fence.
- (K) Energy Storage System Facility, subject to all regulations as found in §153;
- (L) *Game breeding/shoot preserve.* Specific regulations for game breeding and shoot preserves in the A-1 Agricultural Preservation Zoning District and Conservation District:
 - (1) A letter from the state's Department of Conservation is required, stating that the proposed area meets the requirements of that Department for the establishment of a game breeding and shooting preserve area;
 - (2) Discharge of any gun used to take aim on a preserve area, must fall within the limits of the preserve area unless written permission is obtained from surrounding landowners;
 - (3) The area shall comply with all requirements established by the state relating to game breeding and shooting preserve areas (520 ILCS 5/3.27 through 5/3.35); and
 - (4) All state and/or federal permits required shall be obtained prior to issuance of a special use permit.
- (M) *Golf courses.* Specific regulations for golf courses in the A-2, R-R, R-1, and R-2 Zoning Districts: Golf courses, including uses normally ancillary to such uses, such as restaurants, but not including commercially operated driving ranges or miniature golf courses, provided such ancillary uses, parking, and all structures shall be located at least 500 feet from any adjacent dwellings and 100 feet from the side and rear lot line.
- (N) *Golf driving range.* Specific regulations for golf driving ranges in the A-2, Rural Residential, R-1, R-2, and C-1 Zoning Districts: Golf driving or miniature golf courses, provided parking and all structures are located at least 500 feet from any adjacent dwellings and 100 feet from the side and rear lot line.
- (O) *Gravel pits.* Specific regulations for gravel pits in the A-1, A-2, Conservation, I-1, and the I-2 Zoning Districts:
 - (1) In addition to the application requirements, the following shall be submitted:
 - (a) A map showing:
 - 1. The location of all property lines, existing roads, easements, utilities, and other significant features;
 - 2. The existing conditions on the tract, including contour lines (at least five-foot intervals), watercourses, existing drainage facilities, and wooded areas;
 - 3. The existing buildings and structures with an indication of those which will be retained as part of the development; and
 - 4. The existing land uses of adjacent tracts.
 - (b) Site plan of operations demonstrating the following:
 - 1. Excavation lines in relation to property lines;
 - 2. Ingress and egress during operation;
 - 3. Proposed buffer strips and plantings; and

4. Stock piles of mineral material and overburden

- (2) Where overburden will exceed ten feet in depth or where the operation will affect more than ten acres during a permit year, an operating permit, including any conservation and reclamation plan and requisite bonding, shall be secured as required by the IEPA or the state's Department of Mines and Minerals, in accordance with provision of the Surface-Mined Land Conservation and Reclamation Act, 225 ILCS 715/1 et seq. Proof of such bonding and plans shall be submitted to the Community Development Administrator prior to operations;
 - (3) Where overburden will not exceed ten feet in depth and where the operation will not affect more than ten acres during a permit year, a reclamation plan shall be submitted to the Community Development Administrator along with bonding for the cost of reclamation at the time of filing the special use application;
 - (4) All gravel pits shall be inspected by the state's Department of Mines and Minerals at least every three months pursuant to 225 ILCS 710/9.01. The operator of the mine shall send of a copy of such record inspection to the Community Development Administrator;
 - (5)
 - (a) No mineral extraction operation shall be carried out within 1,000 linear feet of any existing dwelling or within 300 feet of any existing structure (other than a dwelling), other than those owned by the applicant for the permit, unless written permission is first obtained from the owner of such dwelling or structure; and
 - (b) The stock piling of overburden shall be permitted within the buffer strips permitted. However, a perimeter setback of 100 feet shall be maintained free of equipment, stockpiles, and overburden.
 - (6) All excavations and stockpiles shall be treated as structures for these regulations with regard to setback from property lines; and
 - (7)
 - (a) Trucks entering and leaving a mineral extraction facility shall meet the weight requirements of affected roads; and
 - (b) In the event that haulage roads relating to the mineral extraction facility intersect with collector, county, state, or other public roadways, the operator shall be responsible for obtaining a permit from the regulating agency of that particular road and for such other safe traffic contract as the ZBA may require.
- (P) *Home commercial special use.* Specific regulations for home commercial special use in the A-1, A-2, and Rural Residential Zoning Districts:
- (1) A home commercial special use shall be permitted only in conjunction with a single-family dwelling;
 - (2) Articles may be sold or offered for sale on the premises;
 - (3) Materials or equipment may be stored outdoors, provided such storage is screened from surrounding property and from any abutting street;
 - (4) No heat, glare, noise, vibration, noxious or toxic fumes, odors, vapors, gases, particulate, or similar matter shall be produced at any time which are readily detectable without the use of instruments at any point on the boundaries of the premises; and
 - (5) One identification sign may be displayed. Such sign may be illuminated by white, non- flashing lights, said illumination to be only during daylight hours. Such sign shall not extend beyond the lot lines, shall not obstruct the view of motorists entering or leaving the premises or adjacent property, and shall not exceed six square feet in area.
- (Q) *Kennel, commercial.* Specific regulation for commercial kennels in the A-1, A-2, R-R, C-1, C-2, and I-1 Zoning Districts:
- (1) The applicant shall provide evidence, prior to or at the public hearing, of all applicable permits required by the state pursuant to state statutes;

- (2) In the A-2 and R-R Districts, no kennels shall be located closer than 200 feet from any off-site residential building or 100 feet from any property line, unless maintained within a completely enclosed building; and
- (3) There shall be no objectionable odors noticeable at or beyond the lot line.

(R) *Landscape waste composting and mulching facility.* Special regulations for landscape waste composting and mulching facility in the A-1, A-2, I-1, and I-2 Zoning Districts:

- (1) All facilities shall be accompanied by copies of all valid permits issued and required by the Illinois Environmental Protection Agency and all other applicable local, state, or federal agencies;
- (2) All landscape waste composting and mulching facilities shall be located on a site containing at least five acres;
- (3) (a) The location of the portion of the site where active biological decomposition of the landscape waste is taking place shall not be located less than 500 feet from the following:
 1. A lot line of any lot containing a residence that exists prior to the establishment of the composting operation; and
 2. A boundary line of a R-1, R-2, Rural Residential, C-1, or C-2 Zoning District that exists prior to the establishment of the composting operation.
- (b) The location of all operations of such landscape waste composting facility shall be outside the boundary of any special flood hazard area.
- (4) Unless otherwise specifically noted, the location of the portion of the site where active biological decomposition of the landscape waste is taking place shall be setback a minimum of 200 feet from all other property lines. In addition, the facility shall be setback not less than 200 feet from a potable water supply;
- (5) Evidence shall be submitted to show that the operation shall be conducted in such a manner as to prevent the blowing of any waste materials or dust particulate matter onto adjoining property or roadway;
- (6) The proposed hours of operations shall be submitted with the special use permit application for the facility. In no case, however, shall the facility operate before sunrise or after sunset;
- (7) A reclamation plan along with the bonding for the cost of reclamation shall be submitted with the application;
- (8) Each landscape waste composting facility shall have a landscape buffer around its perimeter. The Zoning Board of Appeals may require a greater buffer to protect adjacent property from adverse visual, noise, and other impacts associated with a specific compost facility;
- (9) The operation shall provide entrances with ingress and egress so designed as to minimize traffic congestion. No more than one vehicle entrance shall be allowed for each 660 feet of lot frontage on a public street. There shall be enough room on-site to accommodate peak traffic volume and company vehicles;
- (10) Storage bins may be allowed to be stored on-site as an ancillary use, provided they are durable, covered, and meet the same setbacks required for accessory/principal structures on the site. The number of storage bins may be limited by the ZBA/County Board and shall be completely screened from view from off-site;
- (11) All roads, driveways, parking lots, and loading and unloading areas within 100 feet of any lot line shall be graded and paved asphalt/concrete surface; and
- (12) The sale or marketing of any composted or mulched waste material at retail or wholesale from such facility shall be allowed only when such sale or marketing is accessory and incidental to the composting and mulching facility.

(S) *Manufactured/mobile homes for retired/disabled persons.* Special regulations for manufactured/mobile homes for retired/disabled persons in the A-1, A-2, Conservation, R-1, R-2, and Rural Residential Zoning Districts:

- (1) One manufactured/mobile home may be located on the same lot or tract of land on which a single-family detached dwelling is occupied as a permanent residence by a family member;

- (2) The manufactured/mobile home shall be placed on a solid foundation or on a concrete pad with complete skirting, and shall be provided with a water supply and sanitary sewage system as approved by the County Health Department;
 - (3) The manufactured/mobile home shall not violate any recorded subdivision regulation or covenant; and
 - (4) A permit issued for such special use shall extend only to the person or persons named therein as the occupants of the manufactured/mobile home, and shall expire when the manufactured/mobile home is vacated by such person or persons, or when the dwelling on the premises is no longer occupied by a family member. Upon expiration of the permit, said manufactured/mobile home shall be removed from the premises within 90 days thereafter.
- (T) *Manufactured/mobile homes, accessory to agriculture.* Specific regulations for manufactured/ mobile homes accessory to agriculture in the A-1, A-2, and Conservation Districts:
- (1) One manufactured/mobile home may be located on the same lot or tract of land on which a single-family detached dwelling is occupied by the farm owner;
 - (2) The manufactured/mobile home shall be placed on a solid foundation or on a concrete pad with complete skirting, and shall be provided with a water supply and sanitary sewage system as approved by the County Health Department; and
 - (3) A permit for such special use shall only allow employees of the farm owner to occupy the permitted manufactured/mobile home. Once the accessory to agriculture use of the manufactured/mobile home ceases, said manufactured/mobile home shall be removed from the premises within 90 days.
- (U) *Outdoor/indoor paintball facilities.* Specific regulations for paintball facilities in the A-1, A-2, I-1, I-2, and Conservation Zoning Districts:
- (1) Operation is required to maintain membership in the American Paintball League (or similar reputable national organization) and enforce their operating rules, as of December 31, 1998;
 - (2) No outdoor paintball activities shall take place:
 - (a) Within 30 feet of a property line if there is an effective barrier to the paintballs which is aesthetically appealing, safety wise, and compatible with the neighboring properties; or
 - (b) Within 200 feet of a property line if there is not an effective barrier.
 - (3) A copy of the current liability policy for bodily injury shall be provided to the Community Development Department; and
 - (4) A sign-off shall be provided from the County Health Department for food service provided for remuneration and for sanitation facilities.
- (V) *Personal Storage/Recreational Buildings.* Specific regulations for personal recreational buildings as a principal structures in the RR, A-1, A-2, and Conservation Zoning Districts
- (1) The structure shall not exceed 2500 square feet;
 - (2) The structural shall meet the principal structure setbacks for the zoning district in which it is permitted;
 - (3) The structure shall be used for; storage of personal or family owned items such as; vehicles, recreational equipment/vehicles and equipment to maintain the property.
 - (4) The building may be equipped with restroom facilities when accompanied by an approved septic system. Sleeping rooms are prohibited.
- (W) *Recreational facilities.* Specific regulations for recreational facilities, Class I, Class II, and Class III in the R-1, A-1, A-2, Conservation, C-2, I-1, and I-2 Zoning Districts:

- (1) No recreational activity, spectator area, building, or parking lot shall be located closer than 100 feet to any residentially developed/zoned property; and
 - (2) Copies of all inspection reports and other paperwork from the state's Carnival Amusement Ride Inspection Division and other governing authorities shall be provided to the Community Development Administrator every 30 days.
- (X) *Shooting range, out door.* Specific regulations for outdoor shooting ranges in the A-2, I-1, and I-2 Zoning Districts:
- (1) The layout of all handgun, rifle, shotgun, trap, and skeet ranges shall conform to the most current, as of December 31, 1997, National Rifle Association standards with regard to layout and dimensions. The range shall be fenced around the perimeter of the area;
 - (2) Outdoor shooting ranges shall be located at least 1,000 feet from the building restriction line of any dwelling;
 - (3) An earthen berm shall be provided at least 20 feet high and six feet thick at the top, and constructed as not to cause ricochets;
 - (4) The outdoor shooting range shall be covered by accident and liability insurance; and
 - (5) A sign shall be posted on the range site listing allowable types of firearms and stating the rules of operation.
- (Y) *Single-family dwellings.* Specific regulations for non-farm single-family detached dwelling sites in the A-1 Agricultural Preservation, A-2 Agriculture, and Conservation Zoning Districts:
- (1) Each lot shall be located a distance of at least one-half mile from a livestock feeding operation, measured from the nearest corner of either the earthen waste lagoon or livestock feeding operation, whichever is closer, to the corner of the proposed dwelling;
 - (2) Lots that are located more than one-half mile from a livestock feeding operation, measured from the nearest corner of either the earthen waste lagoon or livestock feeding operation, whichever is closer, to the corner of the proposed dwelling, may be granted if the lot meets the standards as found in § 157.438;
 - (3) The division of a parcel for special use consideration shall be allowed to occur only one time on any parcel of land;
 - (4) In order to minimize the conversion of important prime agricultural land in the county, first preference for land conversion for new zoning lots shall be given to land containing soils having a productivity index of less than 125 on at least 75% of the parcel;
 - (5) Each such lot shall be at least one acre in size and contain 20 feet of frontage on a public road, and the minimum lot width at the front building setback line shall be 200 feet; and
 - (6) Each such lot shall meet the requirements of Chapter 152 regulating development in floodplain areas.
- (Z) Solar Energy Facility, Commercial, subject to all regulations as found in §§ 153;
- (AA) Wind energy systems, Small subject to all regulations as found in §157.062. There shall only be one wind energy system allowed on a zoning lot;
- (BB) Wind energy systems, Commercial, subject to all regulations as found in §§ 153.

(Prior Code, 7 TCC 1-25(f)) (Ord. LU-17-14, passed 11-15-2017; Ord. LU-18-06, passed 6-27-2018)

§ 157.441 CONDITIONS.

The ZBA, Community Development Administrator, and the Land Use Planner may recommend the attachment of such conditions to a special use permit as are necessary to carry out the purposes of the comprehensive plan and to prevent or minimize adverse effects upon other property in the neighborhood including, but not limited to, limitations on size and location, requirements for landscaping and lighting, provisions of adequate ingress and egress, and other conditions such as the duration of the permit, hours of operation, and mitigation of environmental impacts.

(Prior Code, 7 TCC 1-25(g))

§ 157.442 ACTION BY ZONING BOARD OF APPEALS.

- (A) The ZBA shall conduct a public hearing to consider the special use proposal in accordance with the provisions in §§ 157.480 through 157.492.
- (B) The ZBA shall review the special use application, the recommendation of the Community Development Administrator and Land Use Planner, and the testimony at the public hearing.
- (C) In the case of Class A special uses, the ZBA shall make a report of its findings to the County Board, and in said report the ZBA shall indicate its recommendation. The report shall contain findings of fact specifying, where applicable, the reason for the ZBA's recommendation of approval or denial.
- (D) In the case of Class B special uses, the ZBA shall issue its findings of fact and decision indicating approval, approval with conditions, or denial of the proposed special use permit.

(Prior Code, 7 TCC 1-25(h))

§ 157.443 ACTION BY LAND USE COMMITTEE.

When the case involves a Class A special use, or when the ZBA cannot issue a decision due to lack of four concurring votes, the Land Use Committee may review special use applications, the report of the ZBA, the recommendation of the Community Development Administrator and Land Use Planner, and shall recommend approval or denial of the findings of fact and recommendation by the ZBA to the County Board. The Land Use Committee may also recommend tabling the special use or referral back to the ZBA for further consideration.

(Prior Code, 7 TCC 1-25(i))

§ 157.444 ACTION BY COUNTY BOARD.

When the case involves a Class A special use, or when the ZBA cannot issue a decision due to lack of four concurring votes, the County Board shall review the proposed special use, the report of the ZBA, the recommendation of the Land Use Committee, and the recommendation of the Community Development Administrator and Land Use Planner, and shall grant or deny the application for special use permit by a majority vote of the members present constituting a quorum. The County Board may also table the proposed special use or refer the petition back to the ZBA for further consideration.

(Prior Code, 7 TCC 1-25(j))

§ 157.445 FEES.

The petitioner shall pay all required fees associated with the request as well as the required publication costs. The filing fee shall be paid to the Community Development Department at the time of filing of the special use and the publication cost shall be paid prior to any final disposition of the request by the County Board.

When the case involves a Class A request, the applicant, upon submittal of an application shall submit a certified check to the Tazewell County Community Development Department in the amount of fifty thousand dollars (\$50,000). A lesser amount may be accepted at the Community Development Administrator's discretion if defined criteria can be met. All funds shall be made payable to Tazewell County. This amount shall be placed in a FDIC-insured money-market interest bearing account and will be used to cover the County's cost incurred during the review process and public hearings. The fund shall be used for, but not limited to; costs of experts and attorneys retained by the County, cost incurred due to additional hearing beyond the normally scheduled hearings, cost due to additional staff time required to process and review the case and the cost of any appeals or judicial review should it be necessary. Should the County find it necessary to draw on such fees, written and detailed notice related to the cost should be provided for review which shall not exceed a fifteen (15) day period. Should the actual costs to the County exceed the cost deposit, the applicant shall remit additional funds as outlined in the applicable fee schedule within fifteen (15) days of the receipt of written notice from the Tazewell County Community Development Department. Total fee shall not exceed one hundred thousand dollars (\$100,000). The County may refuse the issuance of a permit application or continue any hearings until additional funds have been paid. In the absence of administrative review or appeal, all remaining funds not drawn upon, including interest accrued, shall be returned to the petitioner forty-five (45) days following the decision of the Tazewell County Board.

(Prior Code, 7 TCC 1-25(k))

§ 157.446 IMPLEMENTATION AND CESSATION.

- (A) If a Class B special use that has been granted is not implemented according to the plans as presented and approved within one year from the date of approval by the ZBA, such special use shall be rescinded by the Community Development Administrator. If a permit has not been issued for a Class A special use, as approved by the Tazewell County Board, within two years from the date of final approval, the special use shall be considered expired.
- (B) A special use about to expire may be extended for the original approval period by application for renewal through written request of said special use to the Zoning Board of Appeals for Class B requests and by written request to the County Board for all Class A requests. The request for extension is only applicable if there are no changes proposed from the initial approval and the original request is compliant with the current code for which the request is being made. Additionally, the request for extension must be submitted and the decision rendered prior to the expiration of the original approval, otherwise the petitioner must submit a new application. The fee for a request for extension shall be the same as the original request and shall also include the cost of publication. If changes are proposed aside from a request for extension the original application, the request shall be considered a new request and the application process shall be in accordance with the requirements of §157.480 through 157.492.
- (C) If a special use that has been granted and implemented, subsequently ceases operation for a period of six consecutive months, that special use shall be deemed terminated and shall not be reestablished except by following the process as required for the initial grant of such use.

(Prior Code, 7 TCC 1-25(l))

§ 157.447 REVOCATION.

- (A) In any case where the requirements of the special use or conditions thereof are not being met based upon a report from the Community Development Administrator, the County Board may refer the matter to the Zoning Board of Appeals for public hearing to consider revocation of said special use. A decision to either utilize or forego this revocation procedure shall not preclude in any way the county's ability to seek legal remedies through the court system.
- (B) Any hearing for revocation undertaken by the Zoning Board of Appeals shall be in accordance with §§ 157.480 through 157.492.
- (C) Subsequent to the public hearing, the Zoning Board of Appeals shall make a decision with attached findings of fact.

(Prior Code, 7 TCC 1-25(m))