

Notice of a Meeting
Dalworthington Gardens Planning and Zoning Commission

May 16, 2022 at 6:00 P.M.

City Hall Council Chambers, 2600 Roosevelt Drive, Dalworthington Gardens, Texas

1. Call to Order

2. Discussion and possible action to consider changes to the City of Dalworthington Gardens Code of Ordinances, Chapter 14, Zoning, to change the authority for hearing special exceptions.
 - i. Public hearing
 - ii. Discussion and possible action

3. Adjourn

CERTIFICATION

This is to certify that a copy of the **May 16, 2022** Planning and Zoning Commission Agenda was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, www.cityofdwtg.net, in compliance with Chapter 551, Texas Government Code.

DATE OF POSTING: _____ TIME OF POSTING: _____ TAKEN DOWN: _____

Lola Hazel, City Administrator

Staff Agenda Report

Agenda Item: 2.

Agenda Subject: Discussion and possible action to consider changes to the City of Dalworthington Gardens Code of Ordinances, Chapter 14, Zoning, to change the authority for hearing special exceptions.

Background Information: At the April 21 City Council Meeting, staff requested consideration of a change to the authority to hear special exception cases. The current process for special exceptions is to go before the Planning and Zoning Commission, and then is sent to the Zoning Board of Adjustments for final decision. An ordinance is being presented that would change the process to go before the Planning and Zoning Commission and then to City Council for final approval.

Recommended Action/Motion: Approve Ordinance No. 2022-11 amending the City of Dalworthington Gardens Code of Ordinances, Chapter 14, Zoning, to provide that special exceptions are considered by the Planning and Zoning Commission and the City Council.

Attachments: Ordinance
Redlined Changes

Sec. 14.02.092 Defined terms

Board. The board of adjustment of the city.

Commission. The planning and zoning commission of the city.

Council. The city council of the city.

Division 8. Special Exceptions and Other Permits

Sec. 14.02.321 Special exceptions

(a) Purpose. Certain uses are classified as special exceptions, and may be permitted in designated districts when specifically authorized by this division after approval by the ~~board~~City Council. Such exceptions may be granted in order that the city may develop in accordance with the intent and purpose of this article, that land may be fully utilized for a lawful purpose, and that substantial justice may be done.

(b) Criteria for granting a special exception. In reaching a decision on any application for a special exception, the ~~board~~City Council shall determine:

- (1) That the requested exception will establish only those uses permitted under this division;
- (2) That the location of proposed activities and improvements are clearly defined on a site plan filed by the applicant; and
- (3) That the exception will be wholly compatible with the use and permitted development of adjacent properties, either as filed or subject to such requirements as the board may find necessary to protect and maintain the stability of adjacent properties.

(c) Authorized special exceptions. The following uses may be allowed as special exceptions in the districts specified, subject to full and complete compliance with all conditions herein provided, together with such other conditions as the ~~board~~City Council may impose. The conduct of any of the uses described in this subsection (c) shall be illegal in the city unless on property bearing a valid special exception therefor issued in accordance with the terms of this division.

<u>Special Exception</u>	<u>District Requiring Board Approval</u>
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- (1) Construction field office and storage yard (other than on jobsite). All districts

Conditions: Temporary, for time fixed by the board.

- (2) Amusement or entertainment, commercial commercial [sic], B-2 - LI indoor or outdoor.

- (3) Child care facilities. MF - LI
- (4) Residential recreation facilities. SF - MF
- (5) Parking, under division 9 conditions. All districts
- (6) Development sign of more than one year duration. SF - MF
- (7) Screening devices, over height or in required front yard. All districts

(2005 Code, sec. 17.8.01)

- (8) Except for brewpubs and wineries, service of alcoholic beverages for on-premises consumption; for brewpubs and wineries, service of alcoholic beverages for on-premises and off-premises consumption may be permitted B-2 - LI

(Ordinance 2019-05, sec. 6, adopted 7/18/19)

- (9) Light industrial or manufacturing uses, other than storage, to be conducted outside buildings. LI
- (10) Real estate sales office: A temporary real estate sales office. SF - MF
- (11) Retail gasoline service stations, pumps and facilities, storage tanks underground. B-3 - LI
- (12) A private stable under the following conditions: SF
 - (A) The use must be one that would in all respects qualify as an incidental use under the terms of [section 14.02.172\(6\)](#) of this article if located on the same property as a primary residential use;
 - (B) The property on which the use is to be conducted must be adjacent to or within 500 feet of the primary residence to

which it would be incidental if located on the same property;

- (C) The owner of the primary residence and the private stable must be the same; and
- (D) The private stable shall not be used for commercial purposes.

This special exception may be revoked by the board upon notice and after hearing in the event of a violation of any of the conditions described above.

- (13) Private school. B-2 - LI
- (14) Motor vehicle sales. LI
- (15) Retail specialty and novelty establishment. B-3 - LI

Definitions: For the purpose of this subsection:

- (A) "Retail specialty and novelty establishment" is a place of business which derives more than 50% of its monthly revenues from the retail sale of specialty and novelty items.
- (B) "Specialty and novelty items" means any of the following:
 - (i) Drug paraphernalia, as that term is defined in 481.002 of the Texas Health and Safety Code;
 - (ii) Wearing apparel containing obscene pictures or words, such as T-shirts, belt buckles, jewelry or any other wearing apparel;
 - (iii) Salves, ointments, gels, creams, jellies, lotions and oils advertised and designed as a sexual stimulus;

- (iv) Magazines, books, records, videocassettes, pictures, drawings and other similar material depicting and describing sexual conduct in a manner that is designed for adult use and consumption;
- (v) Incense.

(16) Billiard table establishment. B-3 - LI

Definitions: For the purposes of this subsection:

- (A) “Billiard table establishment” means any business containing a billiard table for commercial use and not merely for sale.
- (B) “Billiard table” means a table surrounded by a ledge or cushion with or without pockets on which balls are impelled by a stick or cue, but not including a coin-operated billiard table.

(17) Skill or pleasure coin-operated machines, commercial use of eight (8) or more per occupancy. B-3 - LI

Definitions: For the purposes of this subsection, the term “skill or pleasure coin-operated machine” shall have the meaning ascribed thereto by article 8801, V.T.C.S. [V.T.C.A., Occupations Code, chapter 2153]

(18) Sexually oriented business. LI

Definition: For the purpose of this subsection, “Sexually oriented business” shall have the meaning ascribed thereto by chapter 243 of the Texas Local Government Code.

Condition: No such use may be permitted at a location within one thousand (1,000) feet of a church, school, public park, boundary of a residential district or property line of a lot devoted to residential use.

(19) Motor vehicle parking, commercial. B-3 - LI

- (20) Long-term personal care facility. SF - MF

Definition: For the purposes of this subsection, a “long-term personal care facility” is a residence used as an assisted living residence for not more than four (4) unrelated persons.

Conditions: No such use shall be permitted unless:

- (A) The State of Texas has issued a license for the location under chapter 142 of the Texas Health and Safety Code; and
- (B) The owner of the facility resides in the residence.

The special exception shall continue for so long as a valid state license, as described in subsection (A), shall be in effect, unless the special exception should otherwise be terminated for violation of its terms or applicable laws.

- (21) Schools, clubs or centers for gymnastics, exercise or physical fitness. B-1 - B-2

Condition: The use shall comply with all regulatory provisions of the district in which it is located.

(2005 Code, sec. 17.8.01)

- (22) Mobile food establishment. B-2 and B-3

(Ordinance 2018-01, sec. 6, adopted 2/15/18)

- (23) HUD-code manufactured home as primary dwelling MF

(Ordinance 2018-05, sec. 4, adopted 3/27/18)

- (24) Credit access business under the following conditions: L-I

(A) No such use may be permitted at a location within one thousand (1,000) feet of a school, designated place of worship, public park, boundary of a residential district, or property line of a lot devoted to residential use.

(Ordinance 2020-12 adopted 12/17/20)

(d) Application for special exception.

(1) Qualification of applicant. Application for a special exception may be made by the owner of, or other person having a contractual or possessory interest in, the subject property. Any application filed by a person who is not the owner of the property for which the special exception is sought shall be accompanied by evidence of the consent of the owner.

(2) Contents of application. An application for a special exception shall be filed with the zoning administrator. The application shall contain the following information as well as such additional information as may be prescribed by rule of or reasonably requested by the commission or the zoning administrator:

(A) The applicant's name, address and interest in the subject property;

(B) The owner's name and address, if different from that of the applicant, and the owner's signed consent to the filing of the application;

(C) The street address and legal description of the property;

(D) The zoning classification and present use of the subject property;

(E) A description of the proposed special exception;

(F) A site plan sketch, showing the location of the use on the property;

(G) A statement as to why the proposed special exception will not cause substantial injury to the value, use or enjoyment of other property in the neighborhood;

(H) A statement as to how the proposed special exception is to be designed, arranged and operated in order to ensure that development and use of neighboring property in accordance with the applicable district regulations will not be prevented or made unlikely, and that the value, use and reasonable enjoyment of such property will not be impaired or adversely affected; and

(I) An identification of any potentially adverse effects that may be associated with the proposed special exception and the means proposed by the applicant to avoid, minimize or mitigate such effects.

(3) Processing of application. Upon receipt of an application for a special exception, it shall be referred to the commission for investigation as to the manner in which the proposed character and location of the special exception will affect the master plan of the city. The commission shall, after appropriate notice, hold a public hearing and report the results of its

study to the ~~board~~City Council, and thereafter the ~~board~~City Council may, after public notice and hearing, grant the permit, including the imposition of conditions of use which the ~~board~~City Council may deem essential to ~~insure~~ensure that the special exception is consistent with the spirit, purpose and intent of this article, will not substantially and permanently injure the appropriate use of neighboring property, and will substantially serve the public convenience and welfare.

(2005 Code, sec. 17.8.01)

Sec. 14.02.322 Temporary uses

(a) Purpose. Certain temporary uses of land are essential to the full development and utilization of the land for its lawful purpose. The temporary uses hereinafter enumerated shall not be deemed violations of this article when made under the conditions herein provided.

(b) Permitted uses. The permissible temporary uses, the conditions of use and the zoning districts wherein the same shall be permitted are:

<u>Use</u>	<u>Districts</u>
(1) Construction office.	All districts
Temporary field or construction offices and building material storage areas to be used solely in support of construction on the property where the same is located may be permitted for specific periods of time when approved by the zoning administrator, but such uses shall not continue beyond completion of construction and may be terminated sooner on the order of the zoning administrator.	
(2) Real estate sales office.	SF - MF
Temporary real estate sales offices may be authorized by the zoning administrator when such use is located in a permanent residential structure or “model home”; provided, that: (i) sales activities conducted therein shall related only to the sale of property within such subdivision; (ii) such use may be terminated on the order of the zoning administrator; and (iii) in no event shall such use continue after the substantial development and sale of the subdivision.	
(3) Holiday plant sales.	B-3 - LI

The temporary sales of Christmas trees and other forms of decorative plant materials associated with the celebration of religious events shall be permitted for a period of thirty (30) days prior to the day of religious

celebration. The zoning administrator shall issue a permit for such sale when he finds:

- (A) That there is available on the property an off-street parking area, either improved or unimproved, equal to the size of the plant material display and sales area; and
- (B) That the location and layout of drives, parking areas, lighting, and sale signs will not constitute a hazard to public travel on the abutting public streets.

Trees, stands, equipment, trash, signs and lighting shall be removed from the property by the permit holder within seven (7) days after final termination of sales activities.

(2005 Code, sec. 17.8.02)

ORDINANCE NO. 2022-11

AN ORDINANCE OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS AMENDING CHAPTER 14 “ZONING”, OF THE CITY OF DALWORTHINGTON GARDENS CODE OF ORDINANCES, BY AMENDING SECTION 14.02.321 “SPECIAL EXCEPTIONS” TO PROVIDE THAT SPECIAL EXCEPTIONS ARE CONSIDERED BY THE PLANNING AND ZONING COMMISSION AND THE CITY COUNCIL; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Dalworthington Gardens is a Type-A general law municipality located in Tarrant County, created in accordance with the provisions of Chapter 6 of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Council desires to amend Chapter 14 “Zoning” of the City of Dalworthington Gardens Code of Ordinances to require the Planning and Zoning Commission to report the results of its study of applications for special exception permits directly to the City Council for grant or denial.

WHEREAS, the City Council has determined that it is in the best interest of the City of Dalworthington Gardens to amend Chapter 14 “Zoning” of the Dalworthington Gardens Code of Ordinances.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS THAT:

SECTION 1.

Section 14.02.321 “Special exceptions” of Chapter 14 “Zoning” of the City of Dalworthington Gardens Code of Ordinances is hereby amended by amending subsections (a)(b) and (c) as follows:

“Sec. 14.02.321 Special exceptions

(a) Purpose. Certain uses are classified as special exceptions, and may be permitted in designated districts when specifically authorized by this division after approval by the City Council. Such exceptions may be granted in order that the city may develop in accordance with the intent and purpose of this article, that land may be fully utilized for a lawful purpose, and that substantial justice may be done.

(b) Criteria for granting a special exception. In reaching a decision on any application for a special exception, the City Council shall determine:

(1) That the requested exception will establish only those uses permitted under this division;

(2) That the location of proposed activities and improvements are clearly defined on a site plan filed by the applicant; and

(3) That the exception will be wholly compatible with the use and permitted development of adjacent properties, either as filed or subject to such requirements as the board may find necessary to protect and maintain the stability of adjacent properties.

(c) Authorized special exceptions. The following uses may be allowed as special exceptions in the districts specified, subject to full and complete compliance with all conditions herein provided, together with such other conditions as the City Council may impose. The conduct of any of the uses described in this subsection (c) shall be illegal in the city unless on property bearing a valid special exception therefor issued in accordance with the terms of this division.

....

[list of special exceptions to remain unchanged]

SECTION 2.

Section 14.02.321 “Special exceptions” of Chapter 14 “Zoning” of the City of Dalworthington Gardens Code of Ordinances is hereby amended by amending subsection (d)(3) “Processing of Application” to read as follows:

“Sec. 14.02.321 Special exceptions

...

(d) Application for special exception.

...

(3) Processing of application. Upon receipt of an application for a special exception, it shall be referred to the commission for investigation as to the manner in which the proposed character and location of the special exception will affect the master plan of the city. The commission shall, after appropriate notice, hold a public hearing and report the results of its study to the City Council, and thereafter the Council may, after public notice and hearing, grant the permit, including the imposition of conditions of use which the Council may deem essential to ensure that the special exception is consistent with the spirit, purpose and intent of this article, will not substantially and permanently injure the appropriate use of neighboring property, and will substantially serve the public convenience and welfare.”

SECTION 3.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Dalworthington Gardens, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 4.

It is hereby declared to be the intention of the City council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 5.

All rights and remedies of the City of Dalworthington Gardens are expressly saved as to any and all violations of the provisions of any ordinances governing subdivisions that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

This ordinance shall be in full force and effect immediately after passage.

AND IT IS SO ORDAINED.

PASSED AND APPROVED on the ___ day of ___, 2022.

CITY OF DALWORTHINGTON GARDENS

By: _____
Laurie Bianco, Mayor

ATTEST:

Lola Hazel, City Administrator/Secretary

COMMERCIAL RECORDER PROOF

EMAIL ADDRESS: recorder@flash.net

Deadline for submitting legal notices is **11:00 (am)** the business day before

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LEGAL NOTICE

Notice is hereby given that the Dalworthington Gardens Planning and Zoning Commission will hold a public hearing on May 16, 2022 at 6:00 p.m., and the Dalworthington Gardens City Council will hold a public hearing on May 19, 2022 at 7:00 p.m., both of which are to be held in the City Hall Council Chambers, 2600 Roosevelt Drive, Dalworthington Gardens, Texas to consider the following:

1. A change to the City of Dalworthington Gardens Code of Ordinances, Chapter 14, Zoning, to change the authority for hearing special exceptions.

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