

## Legislation Text

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**File #:** 2021-4408, **Version:** 1

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### Appeal of a prohibited use in the Envision LS Zoning Overlay

The applicant, Sonrise Masonry, requests approval to use a lot located at 1305 SW Jefferson Street for outdoor storage. Outdoor storage is a prohibited use in the Envision LS overlay. An aerial attached to the packet outlines the subject property. Sonrise Masonry's current operation is directly east of the 1305 SW Jefferson St. property. Their proposal is to fence the lot fronting Jefferson Street and use it for storage of inventory and equipment.

The Envision Overlay standards were modified to allow for direct appeals to the City Council on the subject of prohibited uses through the following code provision. The process and criteria are similar to the legislative process for land use applications heard by the City Council.

#### F. Appeals for prohibited uses.

1. Filing with City Clerk. If an applicant seeks relief from the restrictions in Subsection E. of this section (ADP Prohibited Uses), the applicant may file a written appeal with the City Clerk which shall include the following information:
  - a. Date prepared;
  - b. Name, address and telephone number of the applicant and the name, address and telephone number of the landowner if different than the applicant;
  - c. Affidavit testifying to proof of ownership or of authorization of agent pursuant to Section 2.020, if applicable;
  - d. Name, address and telephone number of all persons preparing any technical studies, maps, drawings and documents submitted with the appeal;
  - e. Accurate legal description, accompanied by a legal description closure report for metes and bounds descriptions, of the property for which the application is submitted;
  - f. Description of the proposed use, including size of the propose structure(s), floor area of each use within each structure, a description of the alterations, repairs or improvements that are proposed to existing structures, and any additional information needed to understand the location, extent and character of the proposed development, including whether the proposed development will be one or more new structures or alteration to one or more existing structures;
  - g. A statement setting forth the reasons why relief should be granted and why the prohibited use should be allowed; and
  - h. Any additional information required by City staff in order to evaluate the request.
2. City Council hearing. The City Clerk shall schedule a hearing before the City Council within 30 days following the date that the appeal is filed, or as soon thereafter as practicable in the normal course of managing Council agendas, at which the applicant shall bear the burden of establishing that the requested relief should be granted.
3. Decision and standards for determination. The standard to be applied to the Council's decision on the appeal shall be the same standard that applies to legislative decisions of the City Council. The Council may grant approval to the appeal or deny the appeal by motion, resolution or ordinance. By granting an appeal, such

decision will only provide relief from the prohibited use restriction set forth in part E of this Section, in that the proposed use will be considered as a potentially allowable use for the applicant's subject property, but no additional rights shall accrue to the applicant. All other UDO requirements which would apply to development of the property shall be satisfied if an appeal is granted. An appeal granted by the Council shall apply only to the property that is legally described in the written appeal and shall not be transferrable to any other property in the ADP or any other property owned by the applicant.

4. Development application. If the appeal is granted by the City Council, a subsequent application may be made by the applicant or property owner and such application shall be processed according to all applicable UDO requirements.

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