

## Article 5 PROCEDURES for SPECIAL LAND USES

### **Section 5.01 Purpose**

It is the purpose of this Ordinance to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the investor or developer, but that will, at the same time, promote the intent and purpose of this Zoning Ordinance, and insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land uses. In order to provide control and reasonable flexibility, this Article permits detailed review of certain specified types of land use activities which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Land uses and structures possessing these characteristics may be authorized within certain zoning districts by the issuance of a zoning permit for a Special Land Use.

### **Section 5.02 Procedures For Special Land Uses**

An application for a zoning permit for any special land use or structure identified as such in a particular zoning district shall be submitted and processed under the following procedures:

**A. Submission and Distribution of Application:** Any person or representatives thereof, owning or having an ownership interest in the subject property, may file an application for one or more zoning permits for a special land use as provided for in this Ordinance. The application form shall be supplied by the Zoning Administrator and the following minimum information shall be required:

1. Name and address of applicant and, if different from the landowner, the landowner's name and address.
2. A legal description of the property and a description of the proposed project.
3. A statement or statements addressing the extent to which the application complies with the approval standards of Section 5.06 of this Ordinance.

At least twelve (12) copies of a special land use application shall be submitted to the Zoning Administrator and each application copy shall be accompanied by a site plan prepared pursuant to Section 4.03(B). The Zoning Administrator shall record the date of their receipt. Upon receipt of completed forms and plans, the Zoning Administrator shall forward the materials to the Planning Commission. See Section 3.04(A)(1)-(5).

### **B. Planning Commission Action:**

1. Review: Upon receipt of completed forms and plans, the Planning Commission shall review the application and plans and determine their conformity with the applicable provisions of this Ordinance and the provisions of Section 4.05. The Planning Commission may also submit a copy of the application, including the site plan, to each of the following agencies considered to be impacted or affected by the application for the special land use. The Planning Commission shall request the reviewing agency to respond within twenty (20) days of receipt of the materials although the Planning Commission need not delay action on the application if such response has not been received within such time period.
  - a. County Road Commission.
  - b. County Health Department.
  - c. County Drain Commissioner.
  - d. Other agencies as relevant, including the local fire department.
2. Public Hearing:
  - a. Upon certification that the application materials are complete, the Planning Commission shall publish a notice of public hearing on the special land use application which shall:
    - 1) Describe the nature of the special land use request.
    - 2) Indicate the property which is the subject of the special land use request.
    - 3) State when and where the request will be considered.
    - 4) Indicate when and where written comments will be received concerning the request.
  - b. Notice shall be published in a newspaper of general circulation in the Township and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to which real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. Notice shall be given not less than five (5) and not more than fifteen (15) days before the public hearing.

- 1) If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
3. **Planning Commission Action:** Upon review of the special land use application, all supporting materials, and the public hearing, the Planning Commission shall deny, approve, or approve with conditions the application for special land use approval. Its decision shall be incorporated in a statement of conclusions relative to the special land use under consideration, and shall specify the basis for the decision and any conditions imposed. In arriving at its decision, the Planning Commission shall refer to and be guided by the site plan standards set forth in Section 4.05, the general special land use standards set forth in Section 5.06, and the specific special land use standards set forth in Article 11. A request for approval of a land use or activity which is in compliance with those standards, other applicable ordinances, and state and federal statutes shall be approved. The Planning Commission may require that a performance guarantee, in accordance with Section 3.07 of this Ordinance, be deposited with the Township to insure completion of improvements. See Section 20.12 regarding conditional approvals.

### **Section 5.03 Appeals**

A person aggrieved in association with a special land use decision may appeal the special land use application decision to the Zoning Board of Appeals.

### **Section 5.04 Reapplication**

No application for a zoning permit for a special land use which has been denied wholly or in part by the Township Board shall be resubmitted until the expiration of one (1) year from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions. A reapplication shall require a new fee and the process will follow all provisions of Section 5.02.

### **Section 5.05 Changes**

**A. Site Plan:** The site plan, as approved, shall become part of the record of approval, and subsequent actions shall be consistent with the approved site plan. Changes to the approved site plan shall comply with the application and review procedures of Section 4.08.

**B. Use or Activity:** A change in the character of the use or activity from what the originally approved zoning permit for special land use authorized shall not occur until such change is applied for and approved according to the application and review procedures of this Article and all other applicable sections of this Ordinance. Changes requiring a new application and review procedure include, but shall not be limited to:

1. the addition of land to the legal description of the original zoning permit for the special land use;
2. the establishment of another special land use or uses;
3. the addition of more sales or service area, or the addition of dwelling units; and
4. an expansion or increase in intensity of use.

### **Section 5.06 Approval Standards**

**A.** Each application for a special land use shall be reviewed for the purpose of determining that the land use or activity which may be authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The land use or activity shall be consistent with the public health, safety, and welfare of the Township. No special land use application shall be approved except where the proposed use and site plan comply with the following standards:

1. Be harmonious with and in accordance with the Master Plan of the Township.
2. Be harmonious with and in accordance with the general objectives, intent and purposes of this Ordinance.
3. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed. In determining whether this requirement has been met, consideration shall be given to:
  - a. The bulk, placement, and materials of construction of proposed structures.
  - b. Pedestrian and vehicular circulation.
  - c. The location of vehicular use or parking areas.

4. Not be hazardous or disturbing to existing or future uses in the same general vicinity.
5. Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools, and minimize the impact of traffic generated by the proposed development on adjacent properties
6. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
7. Not create excessive additional requirements at public cost for public facilities and services.

**B.** Each application for a special land use shall be reviewed for the purpose of determining that the land use or activity conforms to the specific site development requirements identified in Article 11.

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***End of Article 5***