

## Article 86: Special Uses

### 8601 Purpose

This Ordinance divides the **Village** into Areas in which specific **Uses** are permitted which are mutually compatible. In addition, there may be certain other **Uses** which may be appropriate to include, in an Area, due to the specific circumstances surrounding the **Use**, the impact on neighboring **Uses** and public facilities. Such **Uses**, because of their particular location or the particular nature of the service offered, may be established in an Area through a Special **Use** Permit.

### 8602 Authority to Grant Permits

The **Commission** has the authority to approve or disapprove Special **Use** Permits in accordance with this Ordinance. If approved by the **Commission**, the **Administrator shall** issue these permits.

### 8603 Application and Fee

Application for any special **Use** permit permissible under the provisions of this Ordinance **shall** be made to the **Administrator** by filling in the official special **Use** permit application form, submitting required data, exhibits and information, and depositing the required minimum fee. (See Section 8204 Fees)

### 8604 Information Required in Application

- A. An application for Special **Use** Permit **shall** include:
1. An Application form which includes, at a minimum:
    - a. The applicant's name and address.
    - b. A signed affidavit that the applicant is the owner, or has an **Ownership** interest, or is acting on the owner's behalf.
    - c. The address and legal description of the property.
    - d. A specific statement and supporting information demonstrating that compliance with the standards for special use permit approved as provided in **Section 8608**.
    - e. A complete description of the proposed development including: The number of **Parcels** or units; and the number and characteristics of the population impact such as density, elderly **Persons**, school children, tourists, **Family** size, and related material as applicable.
    - f. Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of sewage for treatment, volume of water consumption related to groundwater reserves or community system capacity, change in traffic volume on adjacent **Streets** and other factors that may apply to the particular development.
    - g. Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment.
  2. A site plan:
    - a. A Category three site plan as specified in **Section 9406** of this Ordinance.
    - b. Evidence of having received or having an agreement for, or concurrent approval for what is shown on the site plan for, any other necessary permits required prior to a

Construction Code Permit or conditioned upon obtaining approval for the necessary permits.

- c. Elevations on all **Buildings**, including **Accessory Buildings**.
  - d. An environmental assessment if needed.
  - e. Measures which **shall** be undertaken to control soil erosion, shoreline protection, excessive noise, or adverse impacts of the development on the surrounding properties.
3. The applicant **shall** certify that the information included is correct and that measures proposed to mitigate adverse impacts **shall** be completed in a timely fashion, if the Special **Use** Permit is approved.

### **8605 Review for Completeness**

Upon receipt of the Special **Use** Permit application, the **Administrator shall** review the application to insure it is complete.

- A. If the application is not complete, the **Administrator shall** return the application to the applicant with a letter that specifies the additional material required.
- B. If the application is complete, the **Administrator** and chair of the **Commission shall** establish a date to hold a public hearing on the Special **Use** Permit application.

### **8606 Notice of Public Hearing**

The notices for all public hearings before the planning commission concerning requests for special use permits shall comply with all of the following:

- A. The content of the notice shall include all of the following information:
  1. A description of the nature of the proposed special use request.
  2. A description of the property on which the proposed special use will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
  3. The time, date, and place the proposed special use request will be considered.
  4. The address where and the deadline when written comments will be received concerning the proposed special use request.
  5. The notice shall be published in a newspaper of general circulation within the township not less than 15 days before the scheduled public hearing.
  6. The notice shall be sent by first-class mail or personal delivery to the owners of the property on which the proposed special use will be located not less than 15 days before the scheduled public hearing.
  7. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property on which the proposed special use will be located and to the occupants of all structures within 300 feet of the property on which the proposed special use will be located not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the village. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
- B. The notice **shall** include:
  1. The nature of the Special **Use** Permit being requested.
  2. The property(ies) for which the request has been made.

3. A listing of all existing **Street** addresses within the property(ies) which is(are) subject of the special **Use**. (**Street** addresses do not need to be created and listed if no such addresses currently exist. If there are no **Street** addresses another means of identification may be used.)
  4. The location where the application documents can be viewed and copied prior to the date the application will be considered.
  5. The date, time and location of when the hearing on application will take place.
  6. The address at which written comments should be directed prior to the consideration.
  7. For members of the **Commission** only, a complete copy of the special **Use** permit application and supporting documents in the record
- C. A township, **Village**, city, county, utility, and road agency which receives notice pursuant to this **Section** of this Ordinance may choose to submit material to the **Commission**. Such submissions **shall** be delivered to the **Village** at or before the hearing on the issue. Such submissions **shall** be considered advice to the **Commission**. The applicant may wish to present his application to the township, **Village**, city, county, utility, and road agency which receives notice pursuant to this **Section** prior to the hearing, or prior to submitting the application to the **Commission**.

#### **8607 Hearing and Decision**

- A. The **Commission shall** hold a public hearing to receive input on the Special **Use** Permit application.
- B. After the public hearing the **Commission shall** either grant, grant with conditions, or deny the application. The decision **shall** be in writing and reflect the reasons for the decision. At a minimum the record of the decision **shall** include:
  1. A summary of public comments made at the hearing;
  2. Formal determination of the facts;
  3. The conclusions derived from the facts (reasons for the decision); and
  4. The decision which **shall** be one of the following:
    - a. Grant the Special **Use** Permit;
    - b. Grant with conditions the Special **Use** Permit (including a written list of all conditions upon which a permit is granted or occupancy is allowed),
    - c. Deny the Special **Use** Permit;
    - d. A special **Use** permit and site plan **shall** be approved simultaneously; or
    - e. A special **Use** permit is granted prior to approval of a site plan and conditioned upon approval of the site plan.

#### **8608 Special Use Permit Standards**

- A. The standards for determining if a Special **Use** Permit is to be granted are:
  1. The **Use** is compatible with adjacent land **Uses**;
  2. The **Use** is consistent with the intent and purpose of the area; if applicable
  3. The **Use** is designed to insure that public services and facilities are capable of accommodating increased loads caused by the land **Use** or activity; and
  4. The **Use** complies with other general and specific standards of this Ordinance, the respective Area, and general provisions of this ordinance.
- B. If the commission finds that all standards have been met, the permit must be issued.

### **8609 Special Use Permit Conditions**

The planning commission may attach reasonable conditions with the approval of a special use permit. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

### **8610 Security Requirement**

- A. In connection with the construction of improvements through special land use approval, the Planning Commission may require the applicant to furnish the township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the township clerk at or before the time the township issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the township clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:
  - 1. One-third of the cash deposit after completion of one-third of the public and site improvements;
  - 2. Two-thirds of the cash deposit after completion of two-thirds of the public and site improvements; and
  - 3. The balance at the completion of the public and site improvements.
- B. Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the township as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

### **8611 Amendment of Special Use Permit**

Amendments to an approved special use permit shall be permitted only under the following circumstances:

- A. The owner of property for which a special land use has been approved shall notify the zoning administrator of any desired change to the approved special use permit. Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - 1. Reduction of the size of any building and/or sign.
  - 2. Movement of buildings and/or signs by no more than ten (10) feet.
  - 3. Landscaping approved in the special use permit that is replaced by similar landscaping to an equal or greater extent.
  - 4. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
  - 5. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
  - 6. Changes related to subsections 1 through 5 above, required or requested by state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval.
- B. All amendments to a special land use permit approved by the zoning administrator shall be in writing. After approval by the zoning administrator, the Applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the zoning administrator to sign and date all approved amendments.
- C. An amendment to an approved special use permit that cannot be processed by the zoning administrator under subsection A above shall be processed in the same manner as the original special use permit application.

### **8612 Transfer of Special Use Permit**

A Special **Use** Permit, with any and all associated benefits, conditions and required security **shall** be transferred to a new owner. The original owner, upon transferring the Special **Use** Permit **shall** advise the zoning **Administrator** of said transfer in order to insure the continued validity of the permit, compliance with security and other conditions.

### **8613 Expiration of Special Use Permits**

A Special **Use** Permit **shall** be valid for as long as the approved special **Use** continues in accordance with the terms and conditions of the approved permit. The Special **Use** Permit **shall** expire on the occurrence of one or more of the following conditions:

- A. If replaced or superseded by a subsequent Special **Use** Permit.

- B. If replaced or superseded by a permitted **Use**.
- C. If the applicant requests the rescinding of the Special **Use** Permit.
- D. If the **Use** is not used, moved or vacated for a period of one year. Notice of the expiration **shall** be given to the property owner in writing.

If the special **Use** permit was issued, conditioned upon approval of a site plan and evidence of obtaining all other necessary permits, pursuant to **Section** 8604.A.2 of this ordinance, and the site plan was not submitted after one year.