

## **ARTICLE 7.00 – SPECIAL LAND USES**

### ***Section 7.01 Intent***

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- A. In order to make this Ordinance flexible and still afford protection of property values and facilitate orderly and compatible development of property within the Township, the Township Planning Commission is authorized to approve the establishment of certain uses designated as special land uses within the various zoning districts set forth in this Ordinance.
- B. Such special land uses have been selected because of the unique characteristics of the use which, in the particular district involved, under certain physical circumstances and without proper controls and limitations, might cause it to be incompatible with the other uses permitted in such zoning district and accordingly detrimental thereto.
- C. Such special land uses are not allowed to be engaged in within the zoning district in which they are listed unless and until the Planning Commission determines after a public hearing that the property can be developed and used for the proposed use in accordance with the applicable standards and special land use criteria set forth in this Ordinance.

### ***Section 7.02 Special Land Use Procedure***

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- A. Special Land Use Application Procedure
  - 1. An application for a special land use permit shall be filed with the Township and shall include all pertinent plans, specifications and other data upon which the applicant intends to rely. An application shall not be submitted for Planning Commission consideration until it is administratively complete and all required fees have been paid.
  - 2. The Planning Commission shall, upon receipt of the application in proper form, hold a public hearing on the request, with notification as required by law. The applicant shall have the burden of providing the evidence and the persuasion on all questions of fact which are to be determined by the Planning Commission.
  - 3. Following the public hearing, the Planning Commission shall either approve, deny, or approve with conditions a permit for such special land use and shall state its reasons for its decision in the matter. All conditions, limitations, and requirements upon which any such permit is granted shall be specified by the Planning Commission in its decision.

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B. Data Required

1. Twelve (12) copies of an application for a special land use permit shall be submitted to the Township and accompanied by the following documents and information.
  - a. A complete special land use permit application that provides the following information:
    - 1) Name and address of applicant and owner(s).
    - 2) Legal description, property parcel number, and street address of the subject parcel of land.
    - 3) Area of the subject parcel of land stated in acres, or if less than one (1) acre, in square feet.
    - 4) Present zoning classification of the parcel.
    - 5) Present and proposed land use.
    - 6) Present zoning classification of the parcel.
  - b. A letter or signed narrative describing in detail the proposed special land use and detailing why the location selected is appropriate.
  - c. Statement of the expected effect of the special land use on emergency service requirements, schools, storm water systems, sanitary sewer facilities, circulation patterns, and local traffic volumes.
  - d. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be required by this Ordinance or the Planning Commission; including, but not limited to, measures which will be undertaken to control soil erosion, shoreline protection, excessive noise, or adverse impacts of the development on the surrounding properties; elevations on all buildings, including accessory buildings; and, an environmental assessment.
  - e. A statement and other evidence or proof of present and future compliance with the applicable special land use standards.
2. A site plan containing all the applicable data required by Article 11.00.
3. Supporting statements, evidence, data, information and exhibits that address the standards and requirements for assessing special land use permit applications pursuant to the Special Land Use Review Criteria.
4. Any additional information deemed necessary for the Planning Commission to determine the impact of the proposed special land use on the adjacent properties, public infrastructure, and community as a whole. Such information may take the form

of, but is not limited to, a traffic impact analysis, environmental assessment, market study, or reports and/or testimony by officials representing state, county or local departments of public safety (police and fire), health, highways or roads, and/or environment.

5. The Planning Commission may waive the submission of materials outlined in this Section if such materials are determined to be not applicable to the proposed special land use or relevant to the consideration of the Planning Commission.

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**Section 7.03      *Special Land Use Review Criteria***

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- A. Special land uses are not allowed to be engaged in within a particular district in which they are listed in this Ordinance unless and until the Planning Commission approved or approves with conditions a special land use permit. Such approval shall be granted when the Planning Commission finds from the evidence produced at the hearing that:
  1. The size, nature and character of the use will be compatible with the other uses and buildings and structure expressly permitted with the zoning district.
  2. The use will be compatible with the natural environment of the area.
  3. The use will not adversely affect the capacities of public services and facilities, and will not cause unreasonable traffic congestion or otherwise specially burden the public roads and streets in the area.
  4. The use complies with all off-street parking requirements of the Ordinance, and all other applicable requirements imposed by this Ordinance.
  5. The use will not in any manner be detrimental or injurious to the use or development of adjacent properties, to the occupants thereof, or to the general neighborhood.
  6. The use will not adversely affect the public health, safety and general welfare of the community.
  7. The use will be in accordance with the character and adaptability of the land at issue.
  8. The general standards hereinabove required for the allowance of such a special land use can and will, in the Planning Commission's judgment, be met at all times by the applicant.

9. The specific standards applicable to particular uses as set forth in Article 8.00 can and will, in the Planning Commission's judgment, be complied with at all times.

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**Section 7.04            *Conditions of Approval***

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- A. Any conditions upon which approval is based shall be reasonable and necessary to insure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, or necessary to protect the natural environment and conserve natural resources and energy, or necessary to insure compatibility with adjacent uses of land, or necessary to promote the use of land in a socially and economically desirable manner. Such conditions shall also meet all of the following requirements:
  1. 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.
  2. Be related to the valid exercise of police power, and purposes which are affected by the proposed use or activity.
  3. 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.
- B. The Planning Commission shall have the right to limit the duration of a special land use where the same is of a temporary nature and may reserve the right of periodic review of compliance with the conditions and limitations imposed upon such use.

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**Section 7.05            *Compliance with Approval***

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- A. The plans and specifications submitted by the applicant, and all conditions, limitations and requirements imposed by the Planning Commission, shall be recorded with the Township Clerk and Zoning Administrator, and shall be incorporated as a part of the special land use permit. An approved special land use which at any time fails to comply with the terms of the permit, or any provision of this Ordinance, shall cease to be a lawful use, and shall be subject to revocation in accordance with Section, in addition to the legal sanctions and remedies generally applicable to any violation of this Ordinance.
- B. Any property which is the subject of a special land use permit which has not been used for a period of 12 months (without just cause being shown, which is beyond the control

of the owner and which is acceptable to the Planning Commission) for the purposes for which such special land use permit was granted, shall thereafter be required to be used for only permitted uses set forth in the particular zoning classification and permit for such special land use shall be deemed terminated by abandonment.

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**Section 7.06      Appeals**

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No decision or condition related to a special land use application shall be appealed to the Zoning Board of Appeals. An appeal of a special land use decision or condition may be taken to Circuit Court.

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**Section 7.07      Expiration**

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

1. If replaced or superseded by a subsequent permitted use or special land use permit.
2. If the applicant requests and the Planning Commission approves the rescinding of the special land use permit.
3. If a condition of approval included a stipulation to expire the special land use permit by a certain date.
4. If the special land use is abandoned, moved or vacated for a period of 12 months.

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**Section 7.08      Revocation**

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All approved special land uses shall be subject to the following provisions, as a condition automatically imposed upon every such approved special land use.

- A. The Zoning Administrator may recommend revocation of a special land use permit upon determining a violation of the terms and conditions of a special land use approval or related provision of this Ordinance. The Zoning Administrator shall provide written notice of the revocation recommendation to the permit holder/property owner by personal delivery or regular mail, and also to the Township Clerk.
- B. The Planning Commission shall review the Zoning Administrator's recommendation to revoke a special land use permit, and shall hold a public hearing thereon preceded by

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notice in accordance with statutory provisions governing special land use matters. The Zoning Administrator shall provide written notice of the public hearing to the permit holder/property owner by personal delivery or regular mail.

- C. After notice and public hearing as provided herein, the Planning Commission may vote by a majority of its membership, to revoke a special land use permit upon verifying the grounds for the Zoning Administrator's revocation recommendation by a preponderance of the evidence presented thereon at the hearing, and upon a further finding that the underlying violations have not been cured within a reasonable period of time as established by the Planning Commission. Written notification of a Planning Commission determination to revoke a special land use permit shall be provide to the permit holder/property owner by personal delivery or regular mail.
- D. Premises for which a special land use permit has been revoked by the Planning Commission shall be used only as otherwise allowed pursuant to the relevant section of the Zoning Ordinance for the applicable zoning district.
- E. A determination of the Planning Commission revoking a special land use permit may be appealed to Circuit Court as provided by law.