

ARTICLE 28

SPECIAL LAND USES

§28.05 - INTENT & PURPOSE

It is the intent and purpose of this Article to:

- (A) Recognize that there are certain uses that may be necessary or desirable to allow in certain locations within zoning districts but which, due to their actual or potential impact on neighboring uses or public facilities, need to be more-carefully reviewed with respect to their location, design, and operation;
- (B) Establish the procedures for review of special land uses;
- (C) Establish standards for review of special land uses;
- (D) Provide a mechanism for public input on decisions involving more-intense land uses;
- (E) Promote a planned and orderly development pattern that can be adequately served by public facilities and services in a cost-effective manner;
- (F) Provide greater flexibility to integrate land uses within the Township; and
- (G) Ensure that more-intense land uses can be accommodated by the environmental condition of their location.

§28.10 - AUTHORITY

- (A) **Approval:** The authority to approve, approve with conditions, or deny a special land use shall be with the Planning Commission. Its decision shall be final and may not be appealed to the Zoning Board of Appeals.
- (B) **Major Amendment:** The authority to approve, approve with conditions, or deny a major amendment or expansion or a minor amendment that has been referred from the Director of Planning and Zoning or at request of the applicant of an approved special land use shall be with the Planning Commission. Its decision shall be final and may not be appealed to the Zoning Board of Appeals.
- (C) **Minor Amendment:** The authority to approve, approve with conditions, or deny a minor amendment or expansion of an approved special land use shall be with the Director of Planning and Zoning. This decision may be appealed to the Zoning Board of Appeals.
- (D) **Revocation & Suspension:** The authority to revoke or suspend an approved special land use shall be with the Planning Commission.

§28.15 - GENERAL PROVISIONS

- (A) **Site Plan Required:** The special land use approval shall be before or at the same meeting as the preliminary, combined, or amended site plan review and before administrative site plan approval.
- (B) **Special Land Uses Requiring a Variance:** The applicant shall obtain any necessary variance(s) before special land use approval.
- (C) **Separate Approval:** A separate special land use approval shall be required for each use that requires a special land use approval.
- (D) **Right to Enter Property:** Submission of a special land use application shall constitute permission for the Township to access the property to complete onsite investigations for the purpose of administering this Article.
- (E) **Performance Guarantee:** The applicant shall provide a performance guarantee, as outlined in §24.25 of this Ordinance, before issuance of a zoning permit for the special land use.
- (F) **Conditions of Approval:** The approving authority may impose reasonable conditions in granting a special land use approval, amendment, or expansion, as outlined in §24.45 of this Ordinance.
- (G) **Contact with Planning Commissioners (Ex-parte Contact):** No person shall communicate directly with any member of the Planning Commission outside of a public hearing with the intent of influencing the member's action or decision. Written comments may be submitted to the Director of Planning and Zoning for distribution to the Planning Commission. This shall not prohibit the Director of Planning and Zoning from promulgating staff reports and other related materials to the Planning Commission.
- (H) **Public Hearing:** Special land uses shall be reviewed at a public hearing, as outlined below.
- (1) **Planning Commission Review:** Special land uses, including original approval and major amendments or expansions of approved special land uses, shall be reviewed by the Planning Commission at a public hearing, as outlined in §24.40 of this Ordinance.
 - (2) **Director of Planning & Zoning Review:** Minor amendments or expansions of an approved special land use shall be noticed as part of the administrative site plan review process. A public hearing shall only be required if requested by any of the interested parties.
- (I) **Zoning Permit:** A zoning permit shall be required before establishment, expansion, or amendment of a special land use that has been approved.
- (J) **Change of Special Land Use:** Change of an approved special land use to another special land use shall require a separate review of that new special land use and shall be processed in the same manner as a new application.

§28.20 - REVIEW PROCESS

Special land uses shall be reviewed as described below and in this Article.

- (A) **Preapplication Meeting:** The applicant shall meet with Township Officials, other agencies, and other interested parties before submission of a special land use application, as outlined in §24.20 of this Ordinance.

- (B) Application:** A special land use application shall include the following:
- (1) *Application Form:* A signed and completed application form;
 - (2) *Fee:* An application fee, as outlined in the adopted Fee Schedule;
 - (3) *Site Plans:* The applicant shall submit at least one (1) hard copy and a digital copy of the associated site plan, in a format acceptable to the Township, with the application and shall submit at least fifteen (15) hard copies remaining copies following the review of completeness. When copies are required for site plan review, the number of copies required for the special land use may be reduced accordingly;
 - (4) *Additional Materials:* Any additional information determined necessary by the Director of Planning and Zoning; and
 - (5) *Complete & Accurate:* Submission of an application constitutes a representation that all the information is complete and accurate.
- (C) Review of Completeness:** A special land use application shall be reviewed by the Director of Planning and Zoning for completeness, as outlined in §24.10(C) of this Ordinance.
- (D) Scheduling:** Upon declaration of an administratively complete special land use application by the Director of Planning and Zoning, the application shall be placed on the next available agenda for the Planning Commission. The applicant may request it be placed on a later meeting agenda or may request a special meeting, with payment of an additional special meeting fee
- (E) Applicant's Responsibilities:** The applicant shall post a public notice sign or signs, provided by the Township, on the site, clearly visible from each adjacent street and mark the property, at least fifteen (15) days before the public hearing. The public notice sign(s) and marking shall be maintained in good condition until a final decision is made.
- (F) Notice of Hearing:** The Township shall give public notice of the special land use public hearing, as outlined in §24.35 of this Ordinance.
- (G) Planning Commission Review:** The Planning Commission, following a public hearing, shall approve, approve with conditions, deny, or postpone a special land use using the standards in this Article.
- (1) *Approval:* If a special land use is approved, the Planning Commission shall cite its reasons for approval and any conditions necessary for approval. The concurring vote of at least four (4) members of the Planning Commission shall be necessary for approval.
 - (2) *Denial:* If a special land use is denied, the Planning Commission shall cite its reasons for denial.
 - (3) *Postponement:* If the Planning Commission determines that the special land use does not contain enough information necessary to conduct a review, additional information is necessary, or significant changes are necessary to receive approval, it may postpone review until a later date and shall cite the reasons for postponement. TIME
- ~~(H) Director of Planning & Zoning Review: HERE?~~**
- ~~(H)~~ **(H) Timely Decisions:** The Planning Commission shall render its decision within sixty (60) days of the date the application is administratively complete, unless a delay is agreed to by the applicant and the Planning Commission. The decision shall be final upon adoption of meeting minutes or signing of a resolution by the Township, whichever occurs first.
- ~~(I)~~ **(I) Acceptance of Conditions:** The approval of any special land use shall only be effective upon acceptance of the approval and any conditions of the approval by the applicant.

~~(K)~~(J) **Expiration:** An approved special land use shall run with the land but shall expire, as outlined below.

- (1) **Establishment:** An approved special land use shall be established within two (2) years of the approval date, or the approval shall become null and void, and the special land use shall extinguish.
- (2) **Discontinuation:** An approved special land use that has been inactive for a period of two (2) consecutive years or more, whether or not there is an intent to abandon the use, shall become null and void, and the special land use shall extinguish.
- (3) **Notice:** Upon finding that an approved special land use has expired, the Director of Planning and Zoning shall send written notice to the property owner to the last known address of record.
- (4) **Effect:** Special land uses that have expired shall be resubmitted for review as a new application.

§28.25 - DECISION CRITERIA

Special land uses shall be approved, or approved with conditions, if the Planning Commission finds all of the following applicable criteria to be true:

- (A) **Master Plan:** The special land use shall be compatible with the goals, objectives, and future land use map of the Master Plan;
- (B) **Zoning District:** The special land use shall be consistent with the intent of the zoning district in which it is located.
- (C) **Compatibility:** The special land use shall not be detrimental or disturbing to existing or reasonably anticipated future uses in the general vicinity and shall not significantly alter the existing or intended character of the general vicinity;
- (D) **Services:** The special land use shall be adequately served by essential public facilities and services, including, but not limited to: streets, police, fire protection, drainage, solid waste disposal, water and sewage, and schools;
- (E) **Health, Safety, & Welfare Impacts:** The special land use shall not involve any activities, processes, or materials that are detrimental to the natural environment or public health, safety, or welfare because of an excessive increase of traffic, noise, vibration, smoke, fumes, odors, glare, or other such nuisances;
- (F) **Mitigation:** The special land use shall provide mitigation to minimize or prevent negative impacts; and
- (G) **Applicable Ordinances & Laws:** The special land use shall comply with the provisions of this Ordinance, other Township Ordinances, and all applicable county, state, and federal laws.

§28.30 - REHEARING & REAPPLICATION

- (A) **Rehearing:** A rehearing shall be processed in the same manner as the original application, as outlined in §24.55 of this Ordinance.
- (B) **Reapplication:** A special land use application that has been denied shall not be resubmitted for reconsideration, except as permitted in §24.60 of this Ordinance.

§28.35 - SUSPENSION & REVOCATION

An approved special land use may be revoked or suspended as outlined below.

- (A) **Suspension:** An approved special land use may be suspended temporarily and immediately by the Planning Commission, as outlined below in §24.65 of this Ordinance.
- (B) **Revocation:** An approved special land use may be revoked by the Planning Commission, as outlined in §24.70 of this Ordinance.

§28.40 - AMENDMENTS & EXPANSIONS

An approved special land use may be amended or expanded as outlined below.

- (A) **Minor Amendment or Expansion:** A minor amendment or expansion of an approved special land use shall be reviewed and approved by the Director of Planning and Zoning, but may be referred or appealed to the Planning Commission, as outlined in §28.40(A)(4) of this Ordinance. ~~The Director of Planning and Zoning may refer a minor amendment or expansion to the Planning Commission for review and approval upon making a written finding that there are unique circumstances or conditions with the property or special land use that make review by the Planning Commission more appropriate.~~

- (1) **Limitations:** Minor amendments or expansions of an approved special land use are not likely to have an impact on the general vicinity and shall be limited to the following:
- a. **Floor Area:** An increase of the useable floor area used by the special land use by twenty (20) percent or less from the originally-approved useable floor area;
 - b. **Parking Lot:** An expansion of the off-street parking lot area or number of parking spaces by twenty (20) percent or less from the originally-approval off-street parking lot area or number of parking spaces;
 - c. **Occupancy:** An increase of capacity or membership of the special land use by twenty (20) percent or less from the originally-approved capacity or membership;
 - d. **Land:** An increase in the land area dedicated to the special land use by twenty (20) percent or less from the originally-approved land area; and
 - e. **Location:** Relocation of the special land use to another location on the site that is within twenty-five (25) feet of the originally-approved location.
- (2) **Process:** Minor amendments or expansions of an approved special land use reviewed by the Director of Planning and Zoning shall also include an ~~Administrative~~ administrative Site site Planplan.
- (3) **Conditions:** The approving authority may impose reasonable conditions in granting approval of a minor amendment or expansion of an approved special land use, as outlined in §24.45 of this Ordinance.

~~(3)(4)~~ **Planning Commission Review:** A minor amendment or expansion may be referred to the Planning Commission by the Director of Planning and Zoning upon making a written finding that there are unique circumstances or conditions with the property or special land use that make review by the Planning Commission more appropriate. An applicant may request in writing that a minor amendment or expansion of an approved special land use be reviewed by the Planning Commission.

- (B) Major Amendment or Expansion:** A major amendment or expansion of an approved special land use shall be reviewed by the Planning Commission at a public hearing, as outlined in this Article.
- (1) Types:** Major amendments or expansions of an approved special land use are likely to have an impact on the general vicinity.
 - (2) Public Hearing:** Major amendments or expansions of an approved special land use shall be reviewed by the Planning Commission at a public hearing, as outlined in this Article.
 - (3) Conditions:** The Planning Commission may impose reasonable conditions in granting approval of a major amendment or expansion of an approved special land use, as outlined in §24.45 of this Ordinance.
- (C) Decision Criteria:** An amendment or expansion of an approved special land use shall be approved, or approved with conditions, if the approving authority finds all of the following to be true:
- (1) Original Decision Criteria:** The amendment or expansion of the special land use shall not negatively affect any of the original decision criteria.
 - (2) Conditions:** The amendment or expansion of the special land use shall not conflict with any conditions of the original approval.
 - (3) Impact:** The amendment or expansion of the special land use shall not have a significant impact on the use, value, or enjoyment of the surrounding area or the Township in general or appropriate mitigation measures will be made.

End of Article 26.

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