

## **400 ARTICLE IV SPECIAL EXCEPTIONS / SPECIAL LAND USE**

### **401 Special Exception Procedure (Requires Site Plan Review)**

**A. Intent and Purpose:** In order to provide flexibility and still afford protection of property values and orderly and compatible development of property within the township, the Planning Commission is authorized to review, approve or disapprove, the establishment of certain uses designated as Special Exception Uses within the various zoning classifications set forth in this Ordinance. The Township Board shall have the final approval.

Such Special Exception Uses have been selected because of the unique characteristics of the use which, in the particular zone 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 districts and accordingly detrimental thereto.

With this in mind, such Special Exception Uses are not permitted to be engaged in within the particular zone in which they are listed unless and until the Planning Commission, in its absolute discretion, is satisfied that the same, under the conditions, controls, limitations, circumstances and safeguards proposed therefore, and imposed by said Commission, would be compatible with the other uses expressly permitted within a said district, with the natural environment and within the capacities of public services and facilities affected by the land use; such uses would not, in any manner, be detrimental or injurious thereto; would not, in any matter, be detrimental or injurious to the use or development of adjacent properties, to the occupants thereof or to the general neighborhood; would promote the public health, safety, morals and general welfare of the community; would encourage the use of lands in accordance with their character and adaptability; and that the standards required by the Commission for the allowance of such Special Exception Use can and will, in its judgment, be met at all times by the applicant or any future owner or lessee of the special exception property in question.

**402 A. All applications** for Special Exception Use/Special Land Use Permits shall be filed with the Ordinance Enforcement Officer and shall include all pertinent plans, specifications, and other data required by this Ordinance. The Ordinance Enforcement Officer shall review applications for completeness and notify applicants of any missing or incomplete information. When the Ordinance Enforcement Officer determines that an application is complete, he or she shall file the complete application with the Township Clerk, who shall forward the application to the Planning Commission. None of the deadlines described in this Chapter shall begin to run until the Ordinance Enforcement Officer determines that an application is complete and files it with the Township Clerk, and the Ordinance Enforcement Officer's determination that an application is complete shall not preclude the Planning Commission from requiring additional information. Applications are neither deemed granted nor denied if any deadlines under this Chapter are not met. A filing fee, as established by resolution of the Lake Township Board, is required.

**403 B. The Planning Commission shall**, upon receipt of the application in proper form, schedule and hold a hearing upon the request preceded by notification to the applicant, the owner of the property proposed for consideration and the owners and occupants of all property within three hundred (300) feet of the boundary of the property proposed for consideration as shown by the latest assessment roll. If the name of an occupant is not known, the term "occupant" may be used in the notice. The notice shall be mailed or personally delivered and published in a local newspaper not less than fifteen (15) days prior to the hearing. 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 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.

All notices shall describe the nature of the Special Land Use request, indicate the property which is the subject of the Special Land Use request, state when and where the Special Land Use request will be considered, and indicate when and where written comments will be received concerning the request.

- 404 C. **Following such hearing**, said Commission shall either grant or deny a permit for such Special Exception Use and shall state its reasons for its decision in the matter. All conditions, limitations and requirements upon which any such permit are granted shall be specified in detail by said Commission in its decision and shall be filed with the Ordinance Enforcement Officer of the Township. Any conditions, limitations or requirements upon which approval is based shall be reasonable and designed to protect natural resources, the health, safety and welfare and the social and economic well-being of the owners and occupants of the land in question, of the area adjacent thereto and of the community as a whole; constitute a valid exercise of the police power and be related to the purposes which are effected by the proposed use or activity; be consistent with the intent and purpose of this Zoning Ordinance; designed to ensure compatibility with adjacent uses of land and the natural environment; and designed to ensure 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.
- 405 D. **The Planning Commission** shall have the right to limit the duration of a Special Exception Use where the same is of a temporary nature and may reserve the right of annual review of compliance with the conditions and limitations imposed upon such use. Any use failing to comply with such conditions and limitations may be terminated by action of said Commission after a hearing upon application of any aggrieved party.
- 406 E. **The plan** and specifications and all conditions, limitations and requirements imposed by the Commission shall be recorded with the township and shall be incorporated as a part of the special exception permit. Violations of any of these at any time shall cause revocation of a said permit and said Special Exception Use shall cease to be a lawful use.
- 407 F. **Any property** which is the subject of a Special Exception permit which has not been used for a period of **one (1) year** without just cause being shown during the **one (1) year** period and is beyond the control of the owner such as weather, fire, financing and health matters and which is acceptable to the Planning Commission for the purposes for which such Special Exception was granted, shall thereafter be required to be used for only permissible uses set forth in the particular zoning classification

and the permit for such Special Exception uses shall thereupon terminate.

**408 G. To ensure compliance** with this ordinance and any conditions, limitations or requirements imposed by the Planning Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the township and future users or inhabitants of the proposed project or project area, the Planning Commission may require a cash deposit, certified check or irrevocable bank letter of credit or surety bond covering the estimated cost of furnishing such condition, limitation or requirement conditioned upon the faithful completion of the required improvement. Such security shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the commencement of such construction or activity. Where the improvement required will take more than six (6) months to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

**409 H. An important concern** in reviewing Special Exception Use requests is whether or not the proposed site is appropriate for the use in question. A Special Exception Use may have particular intrinsic or design characteristics that could create potential problems for adjacent property owners. For this reason, a Special Exception use may be appropriate in one place, but not in all locations throughout the particular zoning district. The following checklist shall be used to consider the appropriateness of a Special Exception use in a particular area.

**1. Relationship** to the general safety, health and welfare of the community at large. This includes:

- a. accessibility of the property in question to fire and police protection;
  - b. traffic conditions (especially adding to a hazardous situation);
  - c. transportation design requirements, if any, which will be needed to accommodate any traffic impact from the use intended;
  - d. appropriateness of the location, nature and height of the proposed use to the size, type and kind of buildings, uses and structures in the vicinity and adjacent properties, including the safety and convenience of people therefrom.
- 2. Any potential** decrease in the market value of adjacent buildings, uses, and structures which are permitted by right under current zoning, if the Special Exception use is approved.
- 3. Harmony** with the township master plan. This considers whether the location and size of the proposed use, the nature and intensity of the activities involved, the size of the site with respect to existing and future streets (giving access to it), parks and drainage systems, will be in harmony with the township land use plan, and the character of land use which is intended by the comprehensive plan for the area or district in question.
- 4. Impact** from the applicant's proposed use, its location and intensity and the height of its buildings, walls, fences and other structures upon the appropriate character of development existing or planned for the area.
- 5. Any hazards** arising from storage and use of hazardous or flammable fluids.
- 6. That the operation** in connection with any special use is not environmentally objectionable to nearby properties by reason of noise, fumes, pollution, vibration, or light to an extent which is more than would be expected of any use permitted by right for the district in which the Special Exception use is proposed.

**410 I. SPECIAL EXCEPTION APPEAL PROCESS**

If the Planning Commission fails to approve a Special Exception, the decision may be appealed to the Zoning Board of Appeals.

**See Article X, Chapter 23, Zoning Board of Appeals**

COPY