

## ARTICLE 20 SPECIAL USE PERMITS

Updated 6-12-17

### Section 20.01 PURPOSE.

The development and execution of this Ordinance is based upon the division of the Township into zoning districts within which the uses of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are special land uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and the public need for the particular use or the particular location. This Article provides the procedures, requirements and conditions for issuance of special use permits.

### Section 20.02 PERMITTED USES.

Special Land Use Designation. Those uses which may be designated as special land uses are identified under Article 3 of this ordinance (General Provisions), or are listed in the district regulations for each of the zoning districts, being Articles 5 through 18 of this ordinance. Such uses are permitted only after the Planning Commission finds that the standards of Section 20.06 will be achieved by the proposed use.

### Section 20.03 APPLICATION FOR A SPECIAL USE PERMIT.

A. Application for a special land use shall be filed with the Zoning Administrator

on the proper form supplied by the Township.

- B. The application shall be accompanied by a preliminary site plan as specified in Article 24, and any other data required by the Zoning Administrator.
- C. In addition, the applicant shall present a statement indicating how the proposed use will conform to the requirements set forth in Article 23 for the particular land use, if applicable.
- D. The application shall be accompanied by a fee to be established by resolution of the Township Board to cover the expense of public hearings.

### Section 20.04 HEARING ON APPLICATION.

*(2017-7, 6-12-2017)*

Upon receipt in proper form of the application and accompanying documents, the Planning Commission shall hold a public hearing on the proposed special land use. At least fifteen (15) days in advance of such hearing, notice shall be published in a local newspaper of general circulation and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. The notice of public hearing must contain the following information: time and place of the hearing, description of the

property in question, the use being proposed, and when and where written comments may be accepted.

**Section 20.05 DECISION ON APPLICATION.**

Following the public hearing, the Planning Commission may deny, approve, or approve with conditions any application for a special land use. A final decision on the special land use application shall be made within 100 days of receipt of the application by the Zoning Administrator. The Planning Commission shall incorporate its decision in a statement of conclusions relative to the special land use under consideration. The statement shall specify the basis for the decision and any conditions imposed.

**Section 20.06 STANDARDS.**

No special land use shall be approved by the Planning Commission unless the Commission finds:

- A.** That the establishment, maintenance, or operation of the special land use will not be detrimental to or endanger the public health, safety, or general welfare.
- B.** That the special land use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor shall it substantially diminish and impair property values in the neighborhood.
- C.** That the establishment of the special land use will not impede the normal and orderly development and improvement

of the surrounding property for uses permitted in the district.

- D.** That adequate utilities, access roads, drainage, and necessary facilities have been or are being provided.
- E.** That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
- F.** That the special land use shall, in all other respects, conform to the applicable regulations of the district in which it is located and to any additional conditions or procedures as specified in Article 23.

**Section 20.07 CONDITIONS AND GUARANTEES.**

Prior to the granting of any special land use, the Planning Commission shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special land use as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in this Article. In all cases in which special land uses are granted, the Planning Commission shall require such evidence and guarantees as deemed necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

**Section 20.08 EFFECT OF DENIAL.**

No application for a special land use which has been denied wholly or in part by the Planning Commission shall be resubmitted

for a period of one year from the date of said order of denial.

**Section 20.09. VALIDITY OF PERMIT**

- A. A Special Land Use shall be valid commencing upon the date of approval by the Planning Commission. The permit shall be valid regardless of a change of ownership of the parcels(s) receiving the Special Land Use permit, provided that all standards and conditions are complied with by any subsequent land owner.
- B. Approval of a Special Land Use Permit is valid for a period of two (2) years unless extended as allowed herein. If actual construction of a substantial portion of improvements included in the accompanying approved site plan has not commenced and proceeded meaningfully toward completion during that period, the approval of the permit shall be voided.

Upon written application filed prior to the termination of the two (2) year validity period, the Planning Commission may authorize an extension of the time limit for approval of a Special Land Use Permit for a further period of not more than one year. Such extension shall only be granted based on evidence from the applicant that there is a likelihood of construction commencing within the one (1) year extension.

- C. If a use authorized by a Special Land Use permit ceases for a Period of two (2) years the Special Land Use permit

shall be considered to be voided and the use shall not be re-established except in accordance with the procedures in Section 20.02 herein.

The cessation of the Special Land Use activity shall be determined by the Zoning Administrator who shall base this determination on the following factors which shall include but are not limited to; the establishment of a different use on the property; removal of any signs pertaining to the Special Land Use; removal, replacement or demolition of the building containing the Special land use; personal observation that the use has been vacated and other similar factors which would provide evidence of the cessation of the Special Land Use.

**Section 20.10 AMENDMENT TO AN APPROVED SPECIAL LAND USE**

- A. Any person owning or operating land for which a Special Land Use has been approved shall notify the Zoning Administrator of any proposed amendment to the approved Special Land Use, or any conditions attached to the approval of the Special Land Use and Site Plan. Any proposed change to the conditions that were attached to the approval of the Special Land Use or any proposed change to the Special Land Use itself shall be reviewed by the Planning Commission, which shall determine if the proposed change or changes are major or minor.
- B. A major change is defined as a change in the conditions of approval or a

change to the Special Land Use which would substantially alter the intensity of the use of the property so as to call into question compliance with the Special Land Use approval standards of Section 20.06 herein.

Examples of a major change may include but are not limited to a substantial increase in the hours of operation, a substantial expansion of the land area devoted to outdoor activity, a substantial increase in the number of items displayed or stored outdoors, an increase in the intensity of the use which would substantially increase traffic or a change in the conditions of approval which may result in a substantial adverse impact on nearby residents or property.

In addition, a major change would also include expanding the land area that was approved for the existing Special Land Use and expanding the building containing the use if such expansion would increase the intensity of the use.

- C. Any major change shall be subject to the procedures for a new Special Land Use as set forth in the Article 20 which would require a public hearing. A minor change requested for a Special Land Use may be approved by the Planning Commission without a public hearing.
- D. If the requested changes apply only to a component of an approved site plan

which is part of an approved Special Land Use the requirements of Section 24.10 shall apply.

**Section 20.11 APPEAL.**

The applicant may appeal a decision of the Planning Commission to the Township Board if such appeal is filed in writing with the Township Clerk within fifteen (15) days of the decision by the Planning Commission. The appeal shall be related to the approval or denial of the Special Land Use permit or a condition imposed by the Planning Commission regarding the operation of the requested use such as but not limited to hours of operation or items displayed outside. The appeal shall not be related to the site plan which accompanies the Special Land Use Permit. The Township Board shall hold a public hearing on the appeal in accordance with notification requirements of Article 20 and decide the appeal on the basis of the standards provided in Section 20.06

**Section 20.12 ADDITIONAL REGULATIONS.**

- A. Nonconforming uses that are Special Land Uses - see Section 26.08.
- B. Standards for Specific Uses - see Article 23.

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Ord. # 2013-21*

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