

Article 6:
SPECIAL USE PERMITS

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A. Purpose and Intent

Special permits are authorized under the terms of this article to provide for certain uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by only the application of the underlying zoning district regulations. Further, special permit uses are those uses which, if not specially regulated, can have an undue impact on or be incompatible with other uses of land within or adjacent to a given zoning district. Upon the granting of a special use permit by Town Council, these uses may be allowed to be located or expanded within given designated zoning districts under the standards, controls, limitations, performance criteria, restrictions and other regulations of this article.

B. General Standards and Criteria for Special Use Permit Review

All applications for special use permit shall be reviewed using the following criteria:

1. The proposed use shall be:
 - a. In harmony with the adopted Comprehensive Plan;
 - b. In harmony with the intent and purpose of the zoning district in which the use is proposed to be located and
 - c. In harmony with the character of adjacent properties and the surrounding neighborhoods and also with existing and proposed development.
2. The proposed use shall be adequately served by essential public services such as streets, drainage facilities, fire protection and public water and sewer facilities.
3. The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.
4. The proposed use shall be designated, sited and landscaped so that the use will not hinder or discourage the appropriate development or use of adjacent properties and surrounding neighborhoods.

C. Special Conditions

1. In granting any special use permit, the Town Council may impose any conditions necessary to assure that the proposed use will conform with the requirements of this section and will continue to do so. The Town Council may take all necessary actions to ensure compliance with the conditions imposed.
2. The Town Council may impose reasonable standards as deemed necessary to protect the public interest and welfare. Such standards may include, but need not be limited to:
 - a. More restrictive sign standards.
 - b. Additional open space, landscaping or screening requirements.
 - c. Additional yard requirements.
 - d. Special lighting requirements.
 - e. Time limitations on hours of operation.
 - f. Additional off-street parking and loading requirements.
 - g. Additional utility, drainage and public facility requirements.
 - h. Additional right-of-way and public access requirements.
 - i. Additional requirements to ensure compatibility with the Comprehensive Plan.
 - j. Conditions for renewal, extension, expiration, and/or revocation of special use permit.
3. The Town Council may specify time limits or expiration dates for a special use permit, including provisions for periodic review and renewal.

D. Application Requirements for Special Use Permit

1. An application for a special use permit shall be made by the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property on which the proposed use is to be located. The application shall be submitted to the Planning and Zoning Administrator, and shall be accompanied by the filing fee as established by the Town Council.
2. If the request for a special use permit has been denied by Town Council, a request in substantially the same form shall not be resubmitted within one (1) year of the date of denial.
3. The application shall include the following information:
 - a. A preliminary site plan in accordance with the Site Plan Regulations and the Design and Construction Standards Manual.
 - b. A description of the proposed use and, where applicable, the hours of operation and the proposed number of employees/patrons.
 - c. A written statement of proposed project compatibility with the following:
 - (1) The Comprehensive Plan.
 - (2) The applicable zoning district.
 - (3) The surrounding properties.
 - (4) Current and future neighborhood conditions.
 - (5) Pedestrian and vehicular traffic patterns, on-site and off-site.
 - (6) Adequate public facilities.
 - d. When requested by the Planning and Zoning Administrator, the Planning Commission, or the Town Council, the following information shall be provided by the applicant:
 - (1) The architectural elevations and floor plans of proposed building(s).
 - (2) Traffic impact analysis.
 - (3) Fiscal impact analysis.
 - (4) Parking and site circulation analysis.
 - (5) Photographs of property and surrounding area.
 - (6) Environmental impact statement.

E. Action by Planning Commission

1. No special use permit shall be approved unless the proposal has been reviewed by the Planning Commission. The Planning Commission shall conduct at least one (1) public hearing in accordance with this ordinance. Following the public hearing, the Planning Commission shall prepare and by motion adopt its recommendations, which may include changes in the applicant's original proposal resulting from the hearing, and shall report such recommendations, together with any explanatory material, to the Town Council.
2. Failure of the Planning Commission to report within ninety (90) days after the first meeting of the Planning Commission after the proposal has been referred to the Planning Commission shall be deemed approval, unless the proposed special use permit has been withdrawn by the applicant prior to the expiration of such time period or the time period has been extended by mutual agreement by the Town and the applicant.

F. Action by Town Council

1. Before approving a special use permit, the Town Council shall hold at least one (1) public hearing in accordance with this ordinance after which the Town Council may make appropriate changes to or impose appropriate conditions upon the proposed special use. Nothing herein shall preclude the Town Council from holding a joint public hearing with the Planning Commission.
2. A concurring vote of a majority of the members of Town Council shall be required to approve a special use permit.

G. Extension, Renewal, Expiration, Revocation**1. Extension**

- a. An extension shall be for the purpose of administratively extending timeframes established by the Town Council for the implementation and/or completion of certain improvements which were stipulated as a condition of original special permit approval. A request for extension may be initiated by the property owner.
- b. Upon initiation of property owner's request for extension, or upon any other initiative, the Zoning Administrator shall inspect the special use permit, review the

record of compliance with those conditions and restrictions previously imposed by the Town Council; and make a determination on whether the special use permit satisfies other conditions of approval and the provisions of the article.

- c. Upon a favorable finding, the Zoning Administrator shall approve an extension of the original special permit for a period of time not to exceed one (1) year or for such timeframe as may have been otherwise specified for future extension by the Town Council at the time of approval of original special permit.
- d. If it is determined that the use is not in compliance with all conditions and restrictions previously imposed by the Town Council, the Zoning Administrator shall, depending on the nature of the noncompliance, either deny the extension or require the remedy of any violation within a specified time. If the extension is denied or the property owner fails to correct the violation within the time specified, the special permit shall expire. The approval of a new special permit shall be required prior to any subsequent reinstatement of the use.

2. **Renewal**

- a. A renewal shall be for the purpose of allowing a new period of time for the operation of a currently valid special use permit; provided, however, that the Town Council shall not approve a renewal application for a use which is no longer allowed as a special use permit in the zoning district in which the special use permit is located.
- b. The procedure for the renewal of a special use permit shall be the same as specified herein for the approval of the original permit, except that the Zoning Administrator may waive any submission requirement if such requirement is deemed not necessary for an adequate review of the application.
- c. The Town Council shall review the applicant's record of compliance with those conditions and restrictions previously imposed and determine if the use still satisfies the provisions of this Article.
- d. Any special use permit that is not renewed prior to the established time shall expire without notice and become null and void.

3. Expiration

- a. Whenever a special use permit is approved by the Town Council, the special use authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the Town Council may have specified, or, if no such time has been specified, then within eighteen (18) months from the approval date of such permit.
- b. If the special use or construction has not commenced in accordance with the above provisions, then the special use permit shall automatically expire without notice and become null and void.

4. Revocation

- a. Unless a time limit is specified for a special use permit, the same shall be valid for an indefinite period of time, except that if the use or activity should cease for any reason for a continuous period of two (2) years or more, the special permit shall automatically terminate without notice and become null and void.
- b. The approval of a new special use permit shall be required prior to any subsequent reinstatement of the use.
- c. A special use permit shall be revocable upon written order of the Town Council at any time because of the failure of the owner or operator of the use covered by the permit to observe all requirements with respect to the maintenance and conduct of the use and all conditions in connection with the permit that were imposed in issuing the same. A revoked permit shall become null and void.

H. Other Provisions

The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law with respect to violations of the provisions of this ordinance.

I. Bed & Breakfasts

1. All applicable Building Code and State Health Department regulations shall be met.

2. If the bed and breakfast is located in a residential district, then the property owner must be the occupant/resident of the structure.
3. One off-street parking space shall be provided on site for each bedroom rented, and shall be used by the occupants of the rental bedrooms. Two additional off-street parking spaces shall be provided for the occupant(s) of the dwelling.
4. All applications for a special use permit for a bed and breakfast shall be accompanied by a site plan in accordance with Article 11, Site Plan Requirements, of the Zoning Ordinance.
5. The bed and breakfast shall not contain restaurant facilities, but may provide food service for transient, overnight guests only.
(Ord. of 05-04-2004)