

ARTICLE XIX SPECIAL USES

Section 19.01 - Purpose. Special uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but has characteristics or locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this chapter is to establish equitable procedures and criteria which shall be applied in the determination of request to establish special uses. The criteria for decision and requirements provided for under the provision of the chapter shall be in addition to those required elsewhere in this Ordinance which are applicable to the special use under consideration.

Section 19.02 - Application Procedures. An application for permission to establish a special use shall be submitted and acted upon in accordance with the following procedures:

1. **Application.** Applications for a special use are requested to be submitted twenty days prior to the next scheduled Planning Commission meeting through the Zoning Administrator who will review the application for completeness, then transmit the application to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Village Council to cover the costs of processing the application. No part of this fee shall be refundable.
2. **Required Information.** An application for a Special Use Permit shall be accompanied by the following documents and information:
 - A. An application form, supplied by the Zoning Administrator, which has been completed in full by applicant.
 - B. A site plan, as specified in Article XXI.
3. **Public Hearings.** Upon receipt of an application for a special land use which requires a decision of the Planning Commission, a notice that a request for special land use approval has been received and that a public hearing will be held shall be published in a newspaper of general circulation in the Village and shall be sent by mail or personally delivered to the owners of property for which approval is being considered, to all persons whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. The notice shall be given not less than five (5) and not more than fifteen (15) days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial area 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. The notice shall:
 - A. Describe the nature of the special land use requested.
 - B. Indicate the property which is the subject of the special land use request.
 - C. State when and where the public hearings on the special land use request will be held.
 - D. Indicate when and where written comments will be received concerning the request.
3. **Planning Commission Review and Approval.** Within thirty (30) days following the public hearing, the Planning Commission shall review the application for a special use, comments received at the public hearing, the

site plan, and other materials submitted in relation to the application, and deny application, approve the application, or approve the application with conditions. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision, and any conditions imposed. The decision of the Planning Commission on the special use application shall be made in accordance with the criteria for approval stated in Article XIX with conditions by the Planning Commission, the applicant may apply for a building permit.

Section 19.03 - Basis of Determination Prior to approval of a special use application, the Planning Commission shall insure that standards specified in this Article, as well as applicable standards established elsewhere in this ordinance, shall be satisfied by the completion and operation of the special use under consideration.

1. **General Standards.** The Planning Commission shall review the particular circumstances of the special use application under consideration in terms of the special use standards, and shall approve a special use only upon a finding in compliance with each of the following standards, as well as applicable standards established elsewhere in this ordinance.
 - A. The special use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - B. The special use shall not change the essential use of the surrounding area.
 - C. The special use shall not be hazardous to adjacent property, or involve uses, activities, materials, or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes or glare.
 - D. The special use shall not place demands on public services and facilities in excess of current capacity.
 - E. The special use is in compliance with the Village of Three Oaks Master Plan.

2. **Conditions.** The Planning Commission may require reasonable conditions in conjunction with approval of a special land use. The conditions may include conditions necessary to insure 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, to protect the natural environment and conserve natural resources and energy, to insure the compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desired manner. Conditions imposed shall do all the following:
 - A. Be designed to protect natural resources, the health, safety and welfare, as well as 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.
 - B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - C. Be necessary to meet the intent and purpose of the zoning regulations; 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.
 - D. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the public record of the approval action and remain unchanged except upon the mutual consent of the Planning Commission and the landowners.

- 3.. **Termination.** If any special use is not put into effect within six (6) months of the date of approval by the Planning Commission, is discontinued through vacancy of the premises, lack of operation or otherwise for a continuous period of six (6) months, then the special use shall lapse and be null and void. Future use of said property shall conform in its entirety to the provisions of this Ordinance; however, the Planning Commission, for good cause, may grant an extension for time to comply or to continue the special use if, in its judgement, such extension is necessary in order to avoid injustice or undue hardship to the owners of the property.