

**ARTICLE 7**

**SPECIAL LAND USE REVIEW**

**SECTION 701 INTENT AND PURPOSE**

- A. It is the intent of this Article to provide a set of procedures and standards for the review of specific uses of land or structures for the protection of the health, safety and general welfare of the inhabitants of the City of Laingsburg (“City”) in the review and approval of certain specified types of land use activities that because of their particular and unique characteristics require special consideration in relation to the welfare of adjacent properties and to the community as a whole.
- B. Use of land and/or structures possessing these characteristics may be authorized within certain zoning districts by the issuance of a Special Land Use approval.
- C. By such a procedure, the Planning Commission and City Council shall have additional criteria in which to review the specific use as well as the opportunity to review the circumstance of the use in relation to surrounding properties and retain the ability to impose conditions and safeguards upon each use that are deemed necessary for the protection of the public welfare.
- D. Uses requiring Special Land Use are specifically cited as such under the districts outlined in Article 5. Certain uses have additional provisions for their review and implementation outlined in Article 8 of this Ordinance.
  - 1. These additional provisions were created in response to the particular and unique characteristics of the use to mitigate impact and protect the continued viability and personal enjoyment of adjacent properties and their use.
  - 2. Some uses listed under the districts do not have additional provisions provided for in Article 8. These uses are still eligible for review as a Special Land Use and subject to provisions and conditions as provided under Article 7.

**SECTION 702 SPECIAL LAND USE APPLICATION**

- A. Any person with a legal interest in a property may apply for Special Land Use approval. An application and required information shall be submitted to the Zoning Administrator and must contain the following to be accepted for review by the Planning Commission and City Council:
  - 1. A completed application signed by the owner; if the owner is a corporation, a corporate officer must sign the application; if the owner is a partnership, a general partner must sign the application; if the owner is an individual, each

individual owner must sign the application. If the owner(s) is not the applicant, the applicant must provide a statement from the owner that the applicant has permission to proceed. Such statement shall include a detailed description of the proposal.

2. Payment of review fees as adopted and published by the City.
  3. Ten (10) copies of a Preliminary Site Plan drawing(s) showing information as required under Section 604. A narrative report shall accompany the Preliminary Site Plan providing a description of the project, discussing the concept and feasibility of the project. Additional copies may be requested by the Zoning Administrator as necessary.
  4. It shall be incumbent upon the applicant to also furnish adequate evidence in support of the proposed Special Land Use complying with the provisions of this Ordinance. It shall be the obligation of the applicant to furnish sufficient evidence, or proof, of present and future compliance with the provisions of the Ordinance.
- B. Upon receipt of a petition for Special Land Use approval, which includes a Preliminary Site Plan, the Zoning Administrator and/or their assigns shall review the application for completeness. An application that does not contain the information required by this Ordinance shall be returned to the applicant.
1. An application that contains the information required by this Ordinance shall be scheduled for a public hearing before the Planning Commission. The application must be submitted no less than twenty-one (21) days before the next available Planning Commission meeting to be considered for placement on the agenda.
  2. Upon notification of a complete application from the Zoning Administrator, the Clerk shall provide public notice for the public hearing at which the application for Special Land Use approval and a Preliminary Site Plan will be heard. The Clerk shall provide public notice under Sections 306.A & B.
  3. By submittal of a petition for Special Land Use approval, the applicant grants permission to the Zoning Administrator and/or assigns, members of the Planning Commission and City Council the right to enter and access property under petition to review condition and situation of the property in order to make informed decisions.
- C. Until a petition for Special Land Use, including Final Site Plan approval as prescribed herein, has been approved and until proper zoning and building permits have been granted pursuant to the Special Land Use approval, there shall be no excavation of land, construction of structure or infrastructure, or shall there be made any use of land

related to the petition for the Special Land Use unless in accordance with the provisions set forth in Section 604.C.

### **SECTION 703           PROCEDURE FOR REVIEW AND DECISION**

- A. The Planning Commission shall conduct a public hearing regarding the petitioned Special Land Use. Following the public hearing, the Planning Commission shall review the petitioned Special Land Use and Preliminary Site Plan and shall take one of the following actions:
1. Recommendation of Approval - Upon finding that the Preliminary Site Plan meets the criteria and standards set forth in Sections 604 and 606, the provisions specific to the use being petitioned for as found in Article 8, and the Special Land Use meets the basis of determination provisions under Section 704.A, the Planning Commission shall recommend approval (with or without conditions) of the Special Land Use and Preliminary Site Plan to the City Council.
    - a. The Planning Commission shall make findings based on the particular facts of the petition and the analysis of conformance and compliance with the provisions of this Ordinance. These findings shall be embodied in a statement of conclusions formulating the basis for the decision.
    - b. If conditions are determined to be necessary to the approval of the Special Land Use petition, the conditions shall be determined based upon the provisions of Section 704.C.
  2. Tabling - Upon finding that the petition for Special Land Use approval does not meet the criteria and standards set forth in in Sections 604 and 606, the provisions specific to the use being petitioned for as found in Article 8, and the petition does not meet the basis of determination provisions under Section 704.A, but the petition could meet such criteria if revised, the Planning Commission may table action until requested revisions are submitted. If revisions are not submitted within three (3) months of the action to table by the Planning Commission, the petition shall automatically be null and void.
  3. Recommendation of Denial - Upon finding that the petition for Special Land Use approval and Preliminary Site Plan do not and cannot meet the criteria and standards set forth in Sections 604, 606, 704.A and specific provisions set forth in Article 8, the Planning Commission shall recommend denial of the petition to the City Council. In doing so, the Planning Commission shall define its rationale in a statement of conclusions formulating the basis for the decision.

- B. Upon receiving a recommendation from the Planning Commission, the City Council shall review the petition for Special Land Use, including the Preliminary Site Plan, and the recommended conditions and revisions forwarded by the Planning Commission. Taking into consideration the recommendations of the Planning Commission and the criteria and standards set forth in Section 704.A, the City Council may accept or reject the recommendation of the Planning Commission and shall approve, deny, or table the petition for Special Land Use approval. The City Council may also refer the petition back to the Planning Commission for additional consideration.
  
- C. If the petition for Special Land Use and the Preliminary Site Plan is approved (with or without conditions) a Final Site Plan must be approved pursuant to the provisions of Article 6 prior to commencement of use of land or structure for which the Special Land Use was approved. The Final Site Plan shall be in compliance with the provisions of the Special Land Use approval, including conditions, revisions and informational requirements. The Final Site Plan shall be in substantial compliance with the Preliminary Site Plan, although minor changes and modifications are anticipated as necessary.

**SECTION 704            BASIS OF DETERMINATION AND CONDITIONS**

- A. The Planning Commission and City Council shall review the particular circumstances of a petition for Special Land Use approval in terms of the following standards, and shall grant its recommendation of approval or approval only upon a finding of compliance with each of the following standards as well as applicable standards established elsewhere in this Ordinance.
  - 1. The proposed use, activities, processes, materials, equipment and conditions of operation will not be detrimental to the public welfare, persons or property by reason of excessive noise, fumes, dust, glare, traffic or objectionable odors.
  - 2. Essential public facilities and services such as roads, fire and police protection, drainage facilities, refuse disposal, schools are adequate for the proposed use or are capable of being adequately provided for.
  - 3. Requirements for additional public services and facilities that will be created by the proposed use will not be detrimental to the economic welfare of the community.
  - 4. All standards set forth in this Ordinance will be complied with, including any standards set forth in this Ordinance for a particular use.
  - 5. All administrative requirements pertaining to the issuance of a Special Land Use approval have or will be complied with.

6. The proposed use, activities, processes, materials and equipment and conditions of operations shall be consistent with the goals, objectives and policies of the Master Plan.
  7. The proposed land use or activity is compatible with the adjacent uses of land and natural environment.
- B. The Planning Commission has the ability to recommend conditions necessary to insure compliance with the preceding standards and other provisions of this Ordinance. Such conditions shall be enforced by the Zoning Administrator and shall be recorded in the record of the approval of the Special Land Use. The City Council shall have the ability to remove or add conditions without referral of the application back to the Planning Commission for additional review and recommendation.
- C. Conditions to a Special Land Use approval shall adhere to the following standards and criteria:
1. Ensure that public services and facilities affected by a proposed use or activity will be capable of accommodating increased service and facility requirements.
  2. Promote and insure compatibility with adjacent uses of land and to protect through screening and buffering.
  3. Protect and conserve natural resources and energy and to protect the environment and health, safety and welfare of the residents and future residents of the community.
  4. Promote the use of land in a socially and economically desirable manner and to protect the social and economic well-being of those who will use the land or activity, residents and property owners immediately adjacent to the proposed land use or activity, and the community as a whole.
  5. Be related to the valid exercise of the police power, and to the proposed use or activity.
  6. Meet the intent and purpose of this Ordinance and provisions outlined herein; be related to standards established in the Ordinance for the land use or activity under consideration; and be necessary to insure compliance with the standards outlined as the basis for determination.

## **SECTION 705            PERFORMANCE GUARANTEE**

- A. In reviewing a petition for Special Land Use, the Planning Commission may recommend and the City Council may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond be furnished by the applicant and/or

property owner to insure compliance with an approved Special Land Use, including conditions ultimately approved. Such guarantee shall be deposited with the City Clerk prior to issuance of any zoning or building permits.

- B. In fixing the amount of such performance guarantee, the City Council shall limit it to reasonable improvements required to meet the standards of this Ordinance and to protect the natural resources or the health, safety and welfare of the residents of the community. Items included under the performance guarantee include, but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project that is the subject of zoning approval nor to improvements for which a performance guarantee, or some other form of surety, is required pursuant to State law.

**SECTION 706 SPECIAL LAND USE EFFECTIVE DATE, TRANSFER AND EXPIRATION**

- A. The approved Special Land Use shall become effective upon determination of compliance with the Final Site Plan as set forth under Section 605.C.
  - 1. Land subject to a Special Land Use approval may not be used or occupied for petitioned purposes until after a zoning permit for same has been issued pursuant to this Ordinance.
  - 2. No zoning or building permit shall be issued until compliance with the City Council's approval of the Special Land Use has been substantiated on the Final Site Plan.
- B. In order to ensure continued compliance with the terms of this Ordinance and an approval for a Special Land Use issued under it, each Special Land Use shall be attributable only to the applicant and/or property owner who retained interest at the time of filing for Special Land Use approval unless such Special Land Use is transferred from the present landowner or operator to a subsequent owner or operator.
  - 1. The Zoning Administrator shall be notified of the transfer from one party to another and be provided documentation that the individual receiving the transfer assumes full responsibility, obligation, and commitment to maintain compliance with the Special Land Use and Final Site Plan as approved or be subject to the provisions of Section 707.
- C. A Special Land Use shall be valid for as long as the use, permitted development and conditions continue in accordance with the recorded terms stated therein.
  - 1. For property under an approved Special Land Use, substantial construction, as opposed to site preparation activities, on the proposed site must commence within twelve (12) months of the effective date of the Special Land Use. If

the permit holder fails to commence construction within twelve (12) months of the effective date, the approval shall expire and shall be of no further force and effect. If the special land use is for use of land or of an existing building with no modification necessary, the permit holder must commence the use within twelve (12) months of the effective date.

2. The Zoning Administrator shall notify in writing the petitioner, owner of property and/or use that an approval is subject to expiration. The City Council shall assess, at the request of the owner of property affected by the Special Land Use, if an extension is warranted due to unusual circumstances that are beyond the control of the applicant and make recommendation to the City Council.

## **SECTION 707            COMPLIANCE WITH SPECIAL LAND USE**

- A. It shall be the duty and obligation of the party responsible for the Special Land Use to at all times be in compliance with the use requirements of this Ordinance and the stipulations of the Special Land Use approval under which their particular use is governed.
- B. The development, of which the Site Plan and use are governed by the Special Land Use approval, is subject to inspection by the Zoning Administrator or their assigns, to verify compliance with the approval and this Ordinance.
- C. Failure to maintain compliance shall constitute a violation of this Ordinance and be subject to the penalties and remedies provided in Section 307 and the continuance thereof is hereby declared to be a nuisance per se.

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