

## **Article VII: Uses Subject to Special Use Permit**

### **Section 7.01 – Purpose**

It is the purpose of this Article to specify the procedure and requirements for the review of special land uses, as specified in this Ordinance. Uses classified as special land uses are recognized as possessing unique characteristics (relative to location, design, size, public infrastructure needs, and other similar characteristics), which require individual review and approval standards in order to safeguard the general health, safety, and welfare of the Township.

### **Section 7.02 – Uses Subject to Special Use Permit**

Uses requiring special use permit shall be subject to the general provisions and supplemental site development standards of this Ordinance, and the provisions of the zoning district where located in addition to applicable provisions of this Article to prevent conflict with or impairment of the other uses or uses permitted by right of the district. Each use shall be considered an individual case.

#### **A. Applications:**

Application shall be submitted through the office of the Zoning Administrator, to the Planning Commission, on a special form provided for that purpose, and shall include the following:

1. Site plan prepared under the requirements of Section 6.03 – Site Plan Review (All Districts) - Site Plan Data Required.
2. Name and address of applicant and owner of the premises.
3. Description of proposed use, including parking facilities, if required, and any exceptional traffic situation the use may generate.
4. A statement by applicant appraising the effect on the neighborhood.
5. The application shall be accompanied by the fee established by the Township Board of Trustees.
6. A detailed written statement, with supporting evidence, demonstrating how the proposed special land use will comply with the standards for special use permit specified in Section 7.02.4 of this Ordinance.

#### **B. Zoning Administrator's Review:**

1. The Zoning Administrator shall review the application and information submitted under subsection A above to determine if all required information was supplied. If the Zoning Administrator determines that all required information was not supplied, he or she shall send written notification to the applicant detailing the deficiencies. The application for the special use permit shall not proceed until all required information has been supplied.
2. Once all required information is submitted, the Zoning Administrator shall forward the application to the Planning Commission for its review under the procedures of this Article.

**C. Public Hearings:**

A public hearing shall be held for all special use permit requests. The secretary of the Planning Commission shall provide notice of the special use permit request and public hearing as required by the Michigan Zoning Enabling Act, Act 110 of Public Acts 2006. The notice shall be given not less than fifteen (15) days before the date the application will be considered. The notice shall describe the nature of the special use permit request, indicate the subject property, state when and where the special use permit request will be considered, and when and where written comments will be received concerning the request. Notices shall be provided as follows:

1. One (1) notice shall be published in a newspaper, which circulates generally in the Township.
2. Notice shall be sent by mail or personal delivery to the owners of the subject property.
3. Notice shall be sent by mail or personal delivery to the owners of property within three hundred (300) feet of the boundary of the subject property regardless of whether the property is located in Evangeline Township.
4. Notice shall be sent by mail or personal delivery to the occupants of structures within three hundred (300) feet of the boundary of the subject property regardless of whether the occupants are located in the Township. If a structure contains more than one (1) dwelling unit or spatial area, one (1) occupant of each dwelling unit or spatial area shall receive notice.

**D. Standards for granting Special use permit:**

The Planning Commission shall approve, or approve with conditions an application for a special land use permit only upon finding that the proposed special land use complies with the following standards:

1. The property subject to the application is located in a Zoning District in which the proposed special land use is allowed.
2. The proposed use subject to a special use permit shall be designed, constructed, operated and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
3. The proposed special land use shall not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties or uses in the area by reason of traffic, noise, smoke, fumes glare, odors, or the accumulation of scrap material that can be seen from any public road or seen from any adjacent land owned by another person.
4. The proposed special land use shall not place demands on fire, police, or other public resources in excess of current capacity
5. The proposed special land uses shall be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.
6. The proposed special land use shall not be detrimental to the economic well-being of the surrounding residents, businesses, landowners, and the community as a whole.
7. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the township or the natural environment as a whole.
8. The proposed special land use complies with all applicable specific standards required under this Ordinance.

**E. Conditional Approvals:** The Planning Commission may impose reasonable conditions with the approval of a special use permit, pursuant to **Section 10.03** of this Ordinance.

**F. Performance Guarantee Required:** The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a special use permit, pursuant to **Section 10.06** of this Ordinance.

**G. Amendment of Approved Special Use Permits:** Amendment of an approved special use permit shall be permitted only under the following circumstances:

1. The owner of property for which a special use permit has been approved shall notify the Zoning Administrator in writing of any desired change to the approved special use. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - a. Reduction of the size of any building and/or sign.
  - b. Movement of building and/or signs by no more than ten (10) feet.
  - c. Landscaping approved in the special use that is replaced by similar landscaping to an equal or greater extent.
  - d. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
  - e. Internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design.
  - f. Changes related to item a. through e. above, required or requested by Evangeline Township, Charlevoix County, or other State or Federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval.
  - g. All amendments to a special land use approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare and submit a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.
2. An amendment to an approved special use permit that cannot be processed by the Zoning Administrator under subsection A. above shall be processed in the same manner as the original special land use application.

**H. Expiration of Special Use Permit:**

1. An approved special use permit shall expire one (1) year following approval by the Planning Commission, unless substantial construction has begun pursuant to the permit prior to the expiration, and/or the property owner applies to the Planning Commission for an extension prior to the expiration of the special use permit. The Planning Commission shall grant the requested extension for an additional one year, if it finds good cause for the extension and that the zoning regulations governing the special use permit approval have not changed since the approval.
2. If the special use permit expires pursuant to subsection A. above, no work pursuant to the special use permit shall be undertaken until a new special use permit is obtained from the Planning Commission following the procedures for a new special use permit.

**I. Reapplication:** No application for a special use permit which has been denied, wholly or in part, by the Planning Commission shall be re-submitted for a period of one (1) year from the date of such denial, unless a rehearing is granted pursuant to **Section 10.04** of this Ordinance.

**J. Jurisdiction of the Zoning Board of Appeals:** The Zoning Board of Appeals shall have no jurisdiction over decisions of the Planning Commission in regard to matters concerning the granting of special use permits.

**K. Inspection:** The Zoning Administrator shall have the right to inspect any permitted special use to ensure continued compliance with the conditions of the special use permit.

This page left blank intentionally