

SECTION 7.01 PURPOSE AND INTENT

It is the intent of this Article to provide a set of procedures and standards for the review of special land uses which provide control and reasonable flexibility based on the specific uses of land or structures, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land uses. By such a procedure, the Planning Commission shall have the opportunity to impose conditions upon each use as deemed necessary for the protection of the public welfare. Such conditions shall be based on standards in this Ordinance.

Approval standards for special land uses are included in **Section 7.03**, Standards for Granting Special Use Permit, and additional supplemental development standards for specific development uses, including planned unit developments are included in **Article 8**, Supplemental Site Development Standards.

SECTION 7.02 SPECIAL USE PERMIT PROCEDURES

Uses requiring a Special Use Permit shall be subject to the general provisions and supplemental site development standards of this Ordinance, the provisions of the Zoning District where located and 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. **Application Procedure:** An application for a zoning permit for any special land use or structure identified as such in a particular zoning district shall be submitted and processed under the following procedures.
1. **Pre-Application Conference:** A pre-application conference shall be held to discuss the applicant's objectives and how these may be achieved under the Ordinance, before a Special Use Permit application is submitted. This conference shall be scheduled upon request by the applicant. Participants in this conference shall include the applicant, the site designer, the Zoning Administrator, the Planning Commission chair (or designee) and Village consultants, as deemed necessary by the Planning Commission Chair. The applicant may prepare a conceptual rough sketch plan for this session; however, no engineered site plans or surveys will be considered at the pre-application conference. If necessary, a site visit may be scheduled at this conference. Concepts and statements presented at the pre-application conference shall not be legally binding on any party. In order for any proposal to be formally considered, the applicant shall submit an application based on the requirements of **Section 7.02.A.2** below, after the pre-application conference.
 2. **Submission of Application:** An application with the following materials shall be submitted to the Zoning Administrator on a specific form for that purpose at least thirty (30) days prior to the meeting at which the Planning Commission first considers the Special Use Permit application:
 - a. Special Use Permit Application form supplied by the Zoning Administrator
 - b. Payment of a fee, per **Section 10.04**
 - c. Site plan meeting the requirements of **Section 6.03**

- d. Written statement of analysis regarding the estimated population holding capacity of any proposed residential land use, the anticipated impact upon community services—and infrastructure, including availability of needed sewer capacity, impact upon neighboring land uses and streets, and the anticipated impact upon on-site and adjacent natural resources.
- B. **Check for Completeness and Accuracy:** Within ten (10) working days of the receipt of the submission of an application, the Planning Commission Chair (or designated agent(s) and/or consultants) and the Zoning Administrator shall determine whether it is in proper form and contains required information for a complete application for Planning Commission consideration. Once deemed to be complete, copies of the application materials shall be submitted per **Section 6.04**.
- C. **Notice Requirements for Planning Commission Public Hearings:** The notices for all public hearings before the Planning Commission concerning requests for Special Use Permits and planned unit developments shall comply with all of the following:
1. The content of the notice shall include all of the following information:
 - a. A description of the nature of the proposed special use or planned unit development request.
 - b. A description of the property on which the proposed special use or planned unit development will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
 - c. The time, date, and place the proposed special use or planned unit development request will be considered.
 - d. The address where written comments will be received concerning the proposed special use or planned unit development request and the deadline by which such comments must be received.
 2. The notice shall be published in a newspaper of general circulation within the Village not less than 15 days before the scheduled public hearing. The notice shall also be posted on the Village website in accordance with the Open Meetings Act, as amended.
 3. The notice shall be sent by first-class mail or personal delivery to the owners of the property on which the proposed special use or planned unit development will be located not less than 15 days before the scheduled public hearing.
 4. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property on which the proposed special use or planned unit development will be located and to the occupants of all structures within 300 feet of the property on which the proposed special use or planned unit development will be located not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Village. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection.

5. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

SECTION 7.03 STANDARDS FOR GRANTING A SPECIAL USE PERMIT

Approval of a Special Use Permit shall be based on the determination that the proposal will comply with all applicable requirements of this Ordinance, including site plan review criteria set forth in **Article 6** and applicable supplemental standards for the specific use set forth in **Article 8**. The Planning Commission shall approve, or approve with conditions an application for a Special Use Permit only upon finding that the proposed special land use complies with the following standards:

- A. Allowed Special Land Use
The property subject to the application is located in a Zoning District in which the proposed special land use is allowed.
- B. Compatibility with Adjacent Land Uses
 - a. 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.
 - b. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties 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 street or seen from any adjacent land owned by another person.
 - c. If deemed necessary by the Planning Commission, the hours of operation that the special use is allowed to operate, be open or otherwise occur, shall be imposed as a condition of approval to ensure compatibility with the surrounding land uses.
 - d. The proposed use is compatible with the Village of Bellaire Master Plan.
- C. Public Services
 - a. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.
 - b. The proposed special land uses will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.
- D. Economic Well-Being of the Community
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.
- E. Compatibility with Natural Environment
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 Village or the natural environment as a whole.
- F. Compliance with Supplemental Development Standards
The proposed special land use complies with all applicable Supplemental Development Standards required under this Ordinance.

- G. Conditional Approvals
The Planning Commission may impose reasonable conditions with the approval of a Special Use Permit, pursuant to **Section 10.06** of this Ordinance.
- H. Meets the Site Plan review requirements of **Article 6** of this Ordinance.

SECTION 7.04 PERFORMANCE GUARANTEE

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 10.05** of this Ordinance.

SECTION 7.05 AMENDMENT OF APPROVED SPECIAL USE PERMITS

- A. **Site Plan:** The site plan, as approved as part of the Special Use Permit, shall become part of the record of approval, and subsequent actions shall be consistent with the approved site plan. Amendments to the approved Special Use Permit, including the site plan, shall comply with the application and review procedures of **Article 6**.
- B. **Use or Activity:** A change in the character of the use or activity from what was originally approved, shall require re-approval (see **Section 6.07** regarding major and minor site plan amendments). Changes requiring a new application and review procedure include, but shall not be limited to:
1. The addition of land to the legal description of the original Special Use Permit;
 2. The establishment of another use or uses;
 3. The addition of more sales or service area, or the addition of dwelling units; and
 4. An expansion or increase in intensity of use.

SECTION 7.06 EXPIRATION OF APPROVED SPECIAL USE PERMIT

- A. 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 or the property owner applies to the Planning Commission for an extension prior to the expiration of the Special Use Permit. The Planning Commission may grant one (1) extension of an approved Special Use Permit for an additional one (1) year period if it finds:
1. The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and
 2. The requirements and standards for Special Use Permit approval that are reasonably related to the development have not changed.
- B. If the Special Use Permit expires pursuant to subsection A above, no work pursuant to the Special Use Permit may be undertaken until a new Special Use Permit is obtained from the Planning Commission following the procedures for a new Special Use Permit.

SECTION 7.07 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 per **Section 10.07** of this Ordinance.

SECTION 7.08 JURISDICTION OF THE ZONING BOARD OF APPEALS

The Zoning Board of Appeals has jurisdiction to accept appeals of the decision of the Planning Commission with respect to special uses.

SECTION 7.09 SPECIAL USE PERMIT INSPECTION

The Zoning Administrator shall have the right to inspect any special use to ensure continued compliance with the conditions of the Special Use Permit.