

ARTICLE 4 SPECIAL LAND USES

Section 4.10 Purpose

The intent of this Article is to provide regulations for uses which are essentially compatible with uses permitted by right in a given district, but which, by reason of the special nature of such uses or their particular location in relation to neighboring properties, require a more detailed level of review by the city. Because of their unique characteristics, it is often necessary to place restrictions or conditions associated with the approval of special land uses to ensure their compatibility with surrounding development.

Section 4.20 Standards for Approval

- a) **Basic Approval Standards** - Prior to approving a special land use application, the following general standards, in addition to any specific standards required for an individual special use shall be satisfied. The proposed use or activity shall:
- 1) Be compatible and in accordance with the City of Ferrysburg Master Plan.
 - 2) Be designed, constructed, operated and maintained so as to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed.
 - 3) Be adequately served by public facilities and services such as streets, police and fire protection, drainage structures, water and sewage facilities, recreation facilities, and primary and secondary schools.
 - 4) Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to the natural environment, public health, safety or welfare by reason of excessive production of traffic, noise, smoke, odors or other such nuisance.
 - 5) Promote the public interest through provision of a service, facility, or use determined to be beneficial to the residents of the city.
- b) **Special Use Subject to Site Plan Review** - Properties for which application for a special land use is made shall also be subject to site plan review and approval in accordance with the requirements of Article V, Site Plan Review.

Section 430 Application Procedure

a) **Applicant** - Any person owning or having an interest in the subject property may file a written application for one or more special land use permits as provided for in this Ordinance.

b) **Application and Fee** - The following materials shall be submitted to the Zoning Administrator at least twenty one (21) days prior to the meeting at which the Planning Commission first

considers the special land use application. Unless waived by the Zoning Administrator, twelve (12) copies of the application, site plan, and other written and graphic instruments shall be provided. Information waived by the Zoning Administrator may be subsequently requested by the Planning Commission and/or City Council.

- 1) Payment of the required fee.
- 2) Copies of a site plan meeting the requirements of Article V.
- 3) Completed and signed application form.
- 4) Proof of ownership and description of ownership interest.
- 5) An analysis of the planning and market implications of the proposed use may be required by the Planning Commission and/or City Council pursuant to the following impacts:
 - a. Traffic impacts including analysis of trip generation, impact on existing and projected traffic capacities, and impact on surrounding traffic patterns.
 - b. Environmental impacts.
 - c. Impacts on public facilities and services including, but not limited to, sanitary sewers, water, storm drainage, police and fire protection, schools and recreational facilities.
 - d. Potential for negative economic impact on the neighborhood, surrounding area, and/or city as a whole.

In presenting the analysis of the planning implications the applicant shall provide information which describes the methodology used. The analysis shall be carried out by qualified individuals and verification of same shall be provided by the applicant.

Section 4.40 Designated Review Authority and Approval Procedure

a)Final Approval by City Council After Receipt of Planning Commission

Recommendation- The Ferrysburg City Council shall have final review and approval authority for all special land uses. Prior to said review, the City Council shall receive from the Planning Commission a recommendation concerning approval, approval with conditions, or denial of the proposed special land use. Receipt of the recommendation from the Planning Commission shall be as follows:

- 1)Following the submission of the required application materials the Planning Commission shall hold a public hearing in accordance with the Zoning Act.
- 2)The Planning Commission shall review the application in terms of the requirements of Section 4.20, as well as any specific standards required for the special land use and shall recommend to the City Council, in writing, approval, approval with conditions, or denial of the application.

b)City Council Action - Upon receipt of the Planning Commission recommendation, the City Council shall review the application in terms of the requirements of Section 4.20, and shall approve, approve with conditions or deny the application.

c)Special Use Permit - Upon approval of a special land use application, the Zoning Administrator shall issue a special land use permit.

Section 4.50 Conditions of Approval and Performance Guarantee

[See Section 12.60]

a)Conditions - In granting a special land use, the City Council may impose any additional conditions, limitations, and performance guarantees as in its judgment may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the review considerations of Section 4.20 are met.

b)Conditions Attached to Property - Approval of a special land use, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property.

c)Record of Conditions - A record of conditions imposed shall be maintained by the City. The conditions shall remain unchanged unless an amendment to the special land use is approved.

d)Record Shall Be Contained in Council Minutes - A record of the decision of the City Council, the reasons for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the City Council.

Section 4.60 Validity of Use Permitted With Special Approval

a)Termination of Special Land Use for Failure to Commence Construction or Secure Extension - In cases where actual physical construction of a substantial nature of the structures authorized by a special land use permit has not commenced within one (1) year of issuance, and a written application for extension of the approval has not been filed as provided in Subsection b) below, the permit shall automatically become null and void and all rights thereunder shall terminate.

b)Extension - Upon written application filed with the City Clerk of the City of Ferrysburg prior to the termination of the one (1) year period, the City Council may authorize a single extension of the time limit for a further period of not more than one (1) year. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction with the one (1) year extension. The one (1) year extension shall commence upon the granting of same by the City Council.

c)Special Land Use Conforming - The granting of a special land use permit shall allow that particular use to be conforming on the subject property, as long as the standards of this Ordinance, and any conditions required as part of permit approval, are maintained.

d) Cessation of Special Use Resulting in Termination - Any use for which a special land use permit has been granted and which ceases to continuously operate for a one (1) year period shall be considered abandoned and subject to revocation by the City. The process of revoking a special land use permit shall be based on the following:

1) Planning Commission Public Hearing - At the expiration of the one (1) year period, the Planning Commission shall conduct a public hearing regarding revocation of the special land use permit.

2) Notification of Owner - The owner of the property on which the special land use permit has been granted shall be notified of said hearing for purposes of providing evidence as to why the special land use permit should be maintained and to demonstrate that the use authorized by the permit has a strong likelihood of commencing within a period of ninety (90) days after final disposition of this matter by the City Council.

3) Planning Commission Recommendation - The Planning Commission shall recommend to City Council that the special land use permit receive the ninety (90) extension, the extension with conditions, or that the special land use permit be terminated.

4) Council Consideration - Upon receipt and consideration of the Planning Commission recommendation, the City Council shall act to extend the special land use for a period not to exceed ninety (90) days during which the special use shall be activated, shall extend the use for a period not to exceed ninety (90) days with conditions, or shall terminate the special land use permit.

5) Permit Revocation - A special land use which has received the above extension but which has not been initiated in the required time period or has failed to comply with any conditions which have been attached to the extension approval shall become null and void and the special land use permit shall be revoked.

e) Resubmittal of a Special Land Use Request - No application for a special land use permit which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the City Council.

Section 4.70 Amendments/Deviations from Approved Special Land Use Permits

Amendments to approved special land use permits shall require submittal of a new application which shall be subject to all the requirements of Article IV.