

SECTION 9 USES AUTHORIZED BY SPECIAL USE PERMIT

1. GENERAL STANDARDS AND REQUIREMENTS

a. INTENT AND PURPOSE - Rather than permitting all of the many and varied land use activities within individual and limited zoning districts, it is the intent of this ordinance to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the investor or developer, but that will, at the same time, promote the intent and purpose of this zoning ordinance, and insure that the land use of 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 use. In order to provide controllable and reasonable flexibility, this Article permits detailed review of certain specified types of land use activities which, 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. Land and structure uses possessing these characteristics may be authorized within certain zone procedure; the Planning Commission has the opportunity to impose conditions and safeguards upon each use which are deemed necessary for the protection of the public welfare.

The following section, together with previous references in other sections of this Ordinance, designate specific uses that require a special use permit and, in addition, specify the procedures and standards which must be met before such a permit can be issued.

- b. PERMIT PROCEDURES** - An application for a special use permit for any land or structure use permitted under this Article shall be submitted and processed under the following procedures:
1. **Submission of Application** - Any application shall be submitted through the Village Clerk on a special form for that purpose. Each application shall be accompanied by the payment of a fee as established by the Planning Commission to cover costs of processing the application. No part of any fee shall be refundable.
 2. **Data required** - Every application shall be accompanied by the following information and data.
 - i. The special form supplied by the Village Clerk, filed out in full by the applicant, including a statement of supporting evidence concerning the required findings specified in subsection 3.
 - ii. Site plan, as required in **Section 20**
 3. **Changes in the Site Plan** - The site plan, as approved, shall become part of the record of approval, and subsequent actions related to the activity authorized, shall be consistent with the approved site plan unless a change conforming to this Ordinance receives the mutual agreement of the landowner and the Planning Commission.
 4. **Approval of the Site Plan by Compliance** - A site plan shall be approved if it contains the information required by this section and is in compliance with the zoning ordinance and the conditions imposed there under, other applicable ordinances, and State and Federal statutes.
 5. **Public Hearing** - The application, along with all required data shall be transmitted to the Village for review. After adequate review and study of the application, one (1) notice of a public hearing on the special use permit shall be published in a newspaper of general circulation in the Village of Mayville and shall be sent by mail or personal delivery to the owners of property for which approval is being considered to all persons whom real property

is assessed within 300 feet of the boundary of the property in question, and to occupants of all structures within 300 feet, except that 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 each unit or spatial area owned or leased by different individuals, or spatial area receiver notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the entrance to the structure, the notice shall:

- i. Describe the nature of the special land use request.
 - ii. Indicate the property which is the subject of the special land use request.
 - iii. State when and where the public hearing on the special land use requested will be held.
 - iv. Indicate when and where written comments will be received concerning the request.
6. **Village Council** - At the meeting following the public hearing, the Village Council shall consider the special use permit applications. If it is felt additional study is necessary, it shall establish the date of an additional public hearing. The decision rendered by the Village Council on the special use permit application shall be accompanied with a clear explanation of the reason for the action taken. Any permit issued shall contain all the specified conditions under which the use is allowed. Only upon approval of the Village Council shall a special use permit be issued by the Village Clerk.
7. **Permit Expiration** - A special use permit issued under this section shall be valid for a period of one (1) year from the date of the issuance of said permit. If construction has not commenced and proceeded meaningfully toward completion by the end of the one (1) year period, the Zoning Administrator shall notify the applicant in writing of the expiration or the revocation of said permit. The Planning Commission shall review every special use permit and the associated land use prior discontinuance of said permit based on whether the activities, structure and other site characteristics satisfactorily comply with the conditions stipulated in special use permit. After the first year review, the Planning Commission may extend the permit for periods of longer than one (1) year.

If an activity permitted by a Special Use Permit is discontinued for a period of one (1) year, such permit is expired.

8. **Permit Revocation** - The Planning Commission shall have the authority to revoke any special use permit after it has been proved that the holder of the permit has failed to comply with any of the applicable conditions specified in the permit. Prior to permit revocation, the Planning Commission shall hold a public hearing on the revocation meeting the same notice requirements as required for issuance of a Special Use Permit. After a revocation notice has been given, the use for which the permit was granted must cease within sixty (60) days.
9. **Violation and Penalties** - Failure to terminate the use for which the permit was granted within sixty (60) days is declared to be a nuisance per se and a violation of this ordinance.
10. **Reapplication** - No application for a special use permit which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the ground of newly discovered evidence or proof of changed conditions.

c. DETERMINATIONS - Before making a recommendation on a special use permit application, the Planning Commission shall establish clear and convincing proof that the following general standards, as well as the specific standard outlined in each applicable section of this Article shall be satisfied.

1. **General Standards** - The Planning Commission shall review each application for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each use on its proposed location will:
 - i. Be harmonious with and in accordance with the general principles and objectives of the Future Land Use Plan of the Village of Mayville.
 - ii. Be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character or the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
 - iii. Not be hazardous or disturbing to existing or future use in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
 - iv. Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and waste water facilities and schools.
 - v. Not involved uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, vibrations or odors.
 - vi. 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 these standards.
2. **Conditions and Safeguards** - The Planning Commission may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights and for insuring that the intent and objectives of this Ordinance will be observed. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Village Clerk shall maintain a record of changes granted in conditions. The breach of any condition, safeguard, or requirement shall, as determined by the Village Council following a public hearing, invalidate the permit granted.

2. SPECIFIC STANDARDS AND REQUIREMENTS

The following are specific standards for some of the uses permitted by Special Use Permit and should be applied in addition to the general requirements above.

a. GRAVEL PITS

1. Any change of the natural contour of the land, both during mining operations and at the time of abandonment shall be maintained as safe to all trespassers and any other persons having reason to be within the area of gravel mining activity.
2. No business or industrial buildings or structures of permanent nature shall be erected, except that when such building is permitted use within the district in which the gravel pit is located.
3. No truck parking or storage shall be located within two hundred (200) feet of any adjacent residence, or within fifty (50) feet of any adjacent property.
4. All of the operations shall be screened with a wire screen or uniformly painted wood fence six (6) feet in height, with evergreen screen planting on any side adjacent to residentially-zoned property.
5. No part of the operation or removal shall take place closer than two hundred (200) feet from the nearest adjacent residence or closer than one hundred (100) feet from any street line.
6. After the natural resources have been removed the property shall be restored by the replacement of topsoil where feasible and all excavations shall be sloped to a gradient with not more than a thirty (30) degree slope and the contour shall be caused to blend as nearly as possible with the natural surroundings.
7. All truck operations shall be directed away from residential streets, wherever possible.
8. The Planning Commission may require such bond(s) as deemed necessary to insure that requirements are fulfilled, and may revoke permission to operation at any time specified conditions are not maintained.

b. OIL, GAS OR BRINE WELLS

1. This category covers drilling operations for any underground natural resource.
2. No business or industrial buildings or structures of a permanent nature shall be erected, except that when such building is permitted use within the district in which the drilling is located.
3. No truck parking or storage shall be located within two hundred (200) feet of any adjacent residence, or within fifty (50) feet of any other adjacent property.
4. All the operation shall be screened with a wire screen or uniformly painted wood fence six (6) feet in height, with evergreen screen planting on any side adjacent to residentially-zoned property.
5. No part of the operation or removal shall take closer than two hundred (200) feet from the nearest adjacent residence, or closer than one hundred (100) feet from any street line.
6. After the natural resources have been removed from the property, the property shall be restored by the replacement of topsoil when feasible, and all excavations shall be sloped to a gradient with not more than a thirty (30) degree slope and the contour shall be caused to blend as nearly as possible with the natural surroundings.
7. All trucks operations shall be directed away from residential streets, wherever possible.
8. The Planning Commission may require such bond as deemed necessary to insure that requirements are fulfilled, and may revoke permission to operate at any time specified conditions are not maintained.

c. RADIO AND TELEVISION STATION

1. All buildings shall be at least one hundred (100) feet from all property lines.
2. All masts, towers, aerials and transmitters shall be at least a distance, equal to the height of such structures, from all property lines.
3. The buildings shall conform to the character of the neighborhood in which they are located.

d. DRIVE-IN THEATERS

1. The site shall be at least ten (10) acres in area.
2. The area of public assembly shall be enclosed within an eight (8) foot uniformly painted solid fence or wall.
3. Any structure, including fences, shall be at least one hundred (100) feet from all property lines.
4. The ticket booth shall be at least two hundred (200) feet from the street right-of-way to which ingress is made.
5. Any other requirements and conditions which the Planning Commission deems necessary for the protection of the public.

e. MOBILE HOME PARK

1. The site shall meet the requirements of the Mobile Home Commission Act. PA 419 of 1976 as amended.
2. The site shall meet the locational criteria for mobile homes parks as outlined in the Village of Mayville Land Use Plan.

f. MEDICAL MARIJUANA DISPENSARY

1. The site shall not be located within 1,000 feet of any school, nursery, licensed day care center or other building which is used for the care or instruction of children under 18 years of age.
2. The site shall not be located within 1,000 feet of a church, house of worship, or other religious facility or institution.
3. The site shall not be located within 1,000 feet of a public or municipal park.