

Bainbridge Township Berrien County, Michigan



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Bill Hodge, Supervisor
Patty Hiler-Molter, Clerk
Nancy Weber, Treasurer

SPECIAL LAND USE PERMIT **Article X**

Applications for Special Land Use Permit shall be submitted through the Zoning Administrator to Planning Commission accompanied by a \$250.00 filing fee. Checks should be payable to “Bainbridge Township”.

Include the following:

1. Application.
2. Site Plan in conformance with Article XI (11).
3. Copy of current paid tax bill, deed or other proof of ownership, which includes a legal description of the property, property tax number and proof of taxes paid of said property.
4. Statement of Compliance.
5. Request for the Public Hearing.

Applicant should attend the Planning Commission meeting and Public Hearing to answer any questions that may arise. If a special meeting of Planning Commission is requested, a charge of \$500.00 is required to defray township expenses.

APPLICATION FOR SPECIAL LAND USE PERMIT

Applicant Name: _____

(Address) (City) (State) (Zip)

Home Phone #: _____ Work/Mobile Phone #: _____

Tax Code Number: 11-01- _____ - _____ - _____ - _____ Zone District: _____

Describe Special Land Use Requested:

Describe design change in property:

Describe any construction that would be necessary:

Describe equipment and or materials to be used for proposed use:

Describe ability to adequately provide for the service and facility under consideration:

Describe additional public services needed for proposed use:

Until a permit has been granted pursuant to the Special Land Use Permit, there shall be no construction or excavation of said land nor shall use of the land be made toward the intended purposes of such Special Land Use Permit.

Signed: _____ Date: _____

STATEMENT OF COMPLIANCE

1. I represent that the enclosed application will comply with the following General Standards:
 - a. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - b. The special land use shall not inappropriately change the essential character of the surrounding area.
 - c. The special land use shall not interfere with the general enjoyment of adjacent property.
 - d. The special land use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
 - e. The special land use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
 - f. The special land use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special land use shall be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration.
 - g. The special land use shall not place demands on public services and facilities in excess of available capacity.
 - h. The special land use shall be consistent with the intent and purpose of this Ordinance, and the objectives of any currently adopted Bainbridge Township Development Plan.

Signature of Applicant: _____ / Date: _____

**PUBLIC HEARING REQUEST
FOR SPECIAL LAND USE PERMIT**

11-01- _____ - _____ - _____ - _____
Property Tax Code Number

I hereby request a public hearing for the purpose of securing a Special Land Use Permit for property described by the property tax code number shown above.

The address of this property is:

(Address) (City) (State) (Zip)

The requested Special Land Use Permit is for the following purpose:

I enclose application, site plan, proof of ownership and legal description of the property, proof of paid taxes, a list of names and addresses of the owners of property within 300 feet of the property covered by this application, and a statement of compliance.

(Name of applicant)

(Street and Number)

(City) (State) (Zip)

_____/_____
(Signature) (Date)

ARTICLE XI

Site Plan and Scaled Drawing Requirements

Section 11.01 - Intent

- A. The intent of requiring site plan or scaled drawing submittal and review in certain instances specified herein is to facilitate determination of whether certain development proposals meet all applicable requirements and are in harmony with the purpose, intent and spirit of this Ordinance.
- B. It is further the intent to assist township officials in encouraging and assisting proposers of land development to design and implement land use proposals which foster orderly, efficient, compatible and aesthetic uses of land in Bainbridge Township.

Section 11.02 - When Required

- A. Variance or Special Land Use – Except for Single-Family, Two-Family: A site plan shall be prepared and submitted in accordance with Sections 11.03 A. and 11.04 with any application for:
 - 1. Variance or Special Land Use Permit, other than for a Special Land Use Permit for a Home Occupation;
 - 2. With any application for Rezoning, other than Rezoning for the sole purpose of constructing a single-family, two-family or agricultural permitted principal use;
 - 3. With any application for a Zoning Compliance Permit or Building Permit, other than for the sole purpose of constructing a single-family, two-family or agricultural permitted principal use or accessory use thereto; and
 - 4. With any application for a Planned Unit Development or Condominium.
- B. Rezoning – Single-Family, Two-Family: A scaled drawing shall be prepared for the sole purpose of constructing a single-family, two-family or agricultural permitted principal use or accessory use thereto and submitted in accordance with Sections 11.03 B. and 11.04 with any application for:
 - 1. Rezoning;
 - 2. Zoning Compliance Permit;
 - 3. Building Permit; or
 - 4. Variance.

Section 11.03 - Contents

- A. A required site plan shall be drawn at a scale of one (1) inch equals one hundred (100) feet and shall contain the following information:
1. The boundary lines of the area included in the site plan, including angles, dimensions and reference to a section corner, quarter corner or point on a recorded plat, an arrow pointing north, and the individual lot areas and dimensions of the land included in the site plan.
 2. Existing and proposed topography, drainage systems, and structures, with topographic contour intervals of not more than two (2) feet.
 3. The shape, size and location of all structures on the lot including yard dimensions, height, floor area and ground coverage ratios and the finished ground and basement floor grades.
 4. Natural features such as wood lots, trees of more than one (1) foot in diameter, streams and lakes or ponds, and man-made features such as exiting roads and structures, with indication as to which features are to be retained and which removed or altered. Adjacent properties and their uses shall be identified.
 5. Proposed streets, driveways, parking spaces, curb cuts, loading spaces and sidewalks, with indication of direction of travel for one-way streets and drives and the inside radius of all curves. The width of streets, driveways and sidewalks, and the total number and layout of parking spaces shall be shown.
 6. The size and location of all existing and proposed public and private utilities and required landscaping.
 7. A vicinity sketch showing location of the site in relation to the surrounding street system.
 8. A legal description of the land and lots included in the site plan.
 9. Any other information necessary to establish compliance with this and any other ordinances.
 10. The availability of adequate utility capacity.
 11. The name, signature, title and mailing address of the person who prepared the site plan. A site plan for any development shall be prepared by a registered architect, engineer, professional community planner or land surveyor.
- B. A required scaled drawing shall be drawn at a scale appropriate to the dimensions of development and shall contain the following information:
1. A legal description of the land involved.

2. A vicinity sketch showing location of the site in relation to the surrounding street system.
3. The size and location of all structures proposed for and presently located on the site.
4. The boundary lines of the parcel of land involved including dimensions and an arrow pointing north.
5. Proposed streets and driveways. The width of streets and driveways shall be shown.
6. Any other information necessary to establish compliance with this and any other ordinances.
7. The name, signature and mailing address of the person who prepared the scaled drawing.

Section 11.04 - Review Process and Approval

- A. Any required site plan or scaled drawing shall be submitted, of original quality, to the Zoning Administrator along with a cover letter signed by the owner of the land and/or prospective developer providing a general explanation and background information on the proposed development.
- B. The Zoning Administrator shall examine the site plan or scaled drawing as to proper form and content and particularly as to compliance with all applicable requirements of this Ordinance.
- C. If the proposed development does not require the issuance of a Special Land Use Permit by the Planning Commission, Variance by the Board of Appeals or a Rezoning of land by the Township Board, within thirty (30) days after receipt the Zoning Administrator shall notify in writing the proposer of the development of the approval or disapproval of the site plan or scaled drawing. If the site plan or scaled drawing is disapproved, the reasons therefore shall be given. Such disapproval shall be limited to inadequacy or defect in form or content and/or noncompliance with identified applicable provisions of this Ordinance. The Zoning Administrator may, at his discretion, request consultation with the Planning Commission prior to his approval or disapproval of the site plan.
- D. If the proposed development requires issuance of a Special Land Use Permit, the Zoning Administrator shall transmit his findings as described in paragraph C. above, to the Planning Commission along with a copy of the site plan and covering letter. The proposer of the development shall be notified of the status of his requested site plan approval.
- E. If the proposed development requires a rezoning of land, the Zoning Administrator shall transmit his findings as described in paragraph C., above, to the Township Board which shall follow the amendment procedure as provided in Article XV (15). The site plan or scaled drawing and cover letter shall accompany the Zoning Administrator's findings.

The proposer of the development shall be notified of the status of his requested site plan or scaled drawing for approval.

- F. If the proposed development requires a Variance, the Zoning Administrator shall transmit his findings as described in paragraph C., above, to the Board of Appeals which shall follow the Variance procedure as provided in Article XIII (13). The site plan or scaled drawing and cover letter shall accompany the Zoning Administrator's findings. The proposer of the development shall be notified of the status of his requested site plan or scaled drawing for approval.
- G. The decision rejecting, approving, or conditionally approving a site plan shall be based upon the requirements contained in Section 11.03, A. The decision rejecting, approving or conditionally approving a scaled drawing shall be based upon the requirements contained in Section 11.03, B.
- H. A site plan or scaled drawing shall be approved if it contains the information required by this Ordinance and is in compliance with this Ordinance and the conditions imposed thereunder, other applicable Township, County, State or Federal laws, rules or regulations.
- I. The site plan or scale drawing as approved shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan or scaled drawing, unless a change conforming to this Ordinance receives the mutual agreement of the landowner and approving body.
- J. Upon approval of a site plan, the secretary of the approving body shall, within five (5) days, file with the Zoning Administrator a copy of the approved site plan or scaled drawing.

ARTICLE X

Special Land Uses

Section 10.01 – Purpose

- A. Special land uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the surrounding area, public services, facilities, and adjacent uses of land. The purpose of this Article is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish special land uses. The standards for approval and requirements provided for under the provisions of this Article shall be in addition to those required elsewhere in this Ordinance which are applicable to the special land use under consideration.
- B. This Article hereby requires the Planning Commission, to issue Special Land Use Permits provided:
 - 1. The proposed use is one listed as a special land use for the district in which said use is proposed to be located; and
 - 2. The Planning Commission insures before approving a Special Land Use Permit request that both:
 - a. The standards of the district in which the special land use is to be located are fulfilled; and
 - b. The standards or other requirements of this Article are fully complied with.

Section 10.02 – Application Procedures

- A. **Applicant:** Any person owning or having an interest in the subject property may file an application for one or more Special Land Use Permits provided for in this Ordinance in the zoning district in which the land is situated.
- B. **Application:** Applications for Special Land Use Permits shall be submitted through the Zoning Administrator, to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
- C. **Required Information:** An application for a Special Land Use Permit shall be presented to the Zoning Administrator and accompanied by, but not limited to, the following documents and information:

1. A Special Land Use Permit application form which has been completed in full by the applicant.
 2. A site plan in conformance with Article XI (11) of this Ordinance.
 3. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Section 10.04 C.1, and other standards imposed by this Ordinance affecting the special use under consideration.
- D. **Incomplete Application:** An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

Section 10.03 – Processing

- A. **Copy of Application to Planning Commission:** The Zoning Administrator shall forward a copy of the application for the Special Land Use Permit to the Planning Commission within thirty (30) days of receiving the request.
- B. **Hearing:** After a preliminary review of the site plan and an application for a Special Land Use Permit the Planning Commission shall hold a hearing on the site plan and special land use request. Notice of the hearing shall be given not less than fifteen (15) days by mail or personal delivery to the owners of property for which Special Land Use Permit approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. Notice of the public hearing shall also be published not less than fifteen (15) days before the date of the public hearing on the application, in a newspaper of general distribution in the Township.

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 occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four 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 structure, who shall be requested to post the notice at the primary entrance to the structure. Each notice given under this section shall:

1. Describe the nature of the request;
2. Indicate the property which is the subject of the request;
3. State when, where and at what time the public hearing on the request will be considered; and
4. Indicate when and where written comments will be received concerning the request.

Section 10.04 – Review and Approval

- A. **Review:** The review of an application and site plan requesting a Special Land Use Permit shall be made by the Planning Commission in accord with the procedures and standards specified in this Article. If a submitted application and site plan do not meet the requirements of the Ordinance, they may not be approved. However, if the applicant agrees to make changes to the site plan and application in order to bring them into compliance with the Ordinance, such changes shall be allowed and shall be either noted on the application or site plan itself, or attached to it, or these documents shall be resubmitted incorporating said changes. A site plan and application for a Special Land Use Permit shall be approved by the Planning Commission if they comply in all respects with the requirements of this Ordinance and other applicable Township, County, State or Federal laws, rules or regulations. Approval and issuance of a Special Land Use Permit shall signify prior approval of the application and site plan therefore, including any modification and any conditions imposed where necessary to comply with this Ordinance. The site plan, as approved, and any statements of conditions and modifications shall become part of the Special Land Use Permit and shall be enforceable as such. The decision to approve or deny a request for a Special Land Use Permit shall be retained as a part of the record of action on the request and shall incorporate a statement of conclusions which specify the basis for the decision, any changes to the originally submitted application and site plan necessary to insure compliance with this Ordinance, and any condition imposed with approval. Once a Special Land Use Permit is issued, all site development and use of land on the property affected shall be consistent with the approved Special Land Use Permit, unless a change conforming to Ordinance requirements receives the mutual agreement of the landowner and the Planning Commission and is documented as such.
- B. **Appeals:** Any person, firm, corporation or department, board or bureau of the Township aggrieved by the decision of the Planning Commission on Special Land Use Permits may seek review by the Board of Appeals in the manner prescribed in Article XIII (13).
- C. **Conditions and Guarantees:** Prior to approval of a Special Land Use Permit application and required site plan, the Planning Commission shall insure that the standards specified in this Section as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the Special Land Use Permit under consideration.
1. **General Standards:** The Planning Commission shall review the particular circumstances of the special land use request under consideration in terms of the following standards, and approve a Special Land Use Permit only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance.
 - a. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - b. The special land use shall not inappropriately change the essential character of the surrounding area.

- c. The special land use shall not interfere with the general enjoyment of adjacent property.
 - d. The special land use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
 - e. The special land use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
 - f. The special land use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special land use shall be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration.
 - g. The special land use shall not place demands on public services and facilities in excess of available capacity.
 - h. The special land use shall be consistent with the intent and purpose of this Ordinance, and the objectives of any currently adopted Bainbridge Township Master Plan.
2. **Conditions:** The Planning Commission may impose reasonable conditions with the approval of a special land use application and site plan which are necessary to insure compliance with the standards for approval stated in this Section and any other applicable Township ordinances and regulations. Such conditions shall be considered an integral part of the Special Land Use Permit and approved site plan and shall be enforced by the Zoning Administrator. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.
3. **Performance Guarantee:** In authorizing a Special Land Use Permit, the Planning Commission may require that a cash deposit, certificate check, or irrevocable bank letter of credit be furnished by the developer to insure compliance with an approved site plan and the Special Land Use Permit requirements. Such guarantee shall be deposited with the Township Clerk at the time of the issuance of the Special Land Use Permit. In fixing the amount of such performance guarantee, the Planning Commission 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 Township and future users or inhabitants of the proposed project or project area including, but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project which is the subject of zoning approval nor to improvements for which a performance guarantee has been deposited pursuant to Michigan Zoning Enabling Act, Act 110

of 2006, as amended. The Planning Commission and the project developer shall establish an agreeable procedure for the rebate of any cash deposits required under this Section, in reasonable proportion to the ratio of the work completed on the required improvements as work progresses. Said agreement shall be written as an element of the conditions surrounding the approval of the Special Land Use Permit.

D. Decision:

1. **Issuance of a Special Land Use Permit:** Upon approval by the Planning Commission, the Zoning Administrator shall issue a Special Land Use Permit to the applicant. It shall be the responsibility of the Zoning Administrator to monitor compliance with the terms, conditions and restrictions of any Special Land Use Permit and take any enforcement action necessary in the event of a violation of the Special Land Use Permit.
2. **Effective Date:** The Special Land Use Permit shall become effective when the application has been approved by the Planning Commission.
 - a. A Building Permit shall not be issued until approval of such Special Land Use Permit by the Planning Commission.
 - b. Until a Building Permit has been granted pursuant to the Special Land Use Permit, there shall be no construction or excavation of said land, nor shall use of the land be made toward the intended purposes of such Special Land Use Permit.
 - c. Land subject to a Special Land Use Permit may not be used or occupied for purposes of such special land use until after a Certificate of Occupancy for same has been issued pursuant to the provisions of this Ordinance.
3. **Permit Validity:**
 - a. A Special Land Use Permit is transferable to a subsequent owner provided that all terms and conditions of the permit are met by any subsequent owner.
 - b. In instances where development authorized by a Special Land Use Permit has not commenced within one (1) year (365 days) from the date of issuance or the last date of review authorized by this subsection, the Planning Commission shall review the permit in relation to the applicable standards and requirements of this Ordinance. Upon a finding that there has been a change in conditions on the property or the surrounding area or in provisions of this Ordinance applicable to the Special Land Use Permit under review, such that the permit is no longer in conformance with the requirements of this Ordinance, the permit shall become null and void. Where it is determined that such permits are in conformance with the provisions of this Ordinance and there has not been a change in conditions affecting the validity of the permit, the Special Land Use Permit shall remain valid, subject to periodic review in accord with the provisions of this subsection.

4. **Requirement for Compliance -- Penalties:** It shall be the duty and obligation of the owner(s) and occupant(s) or operator(s) of land and uses subject to a Special Land Use Permit, and approved site plan therefore, that the continued use of such land shall at all times be in compliance with the use requirements of this Ordinance. Failure thereof shall be violation of this Ordinance and subject to the penalties and remedies provided in Article XII (12) and the continuance thereof is declared to be a nuisance.

5. **Once Granted a Special Land Use Permit the Use is a Permitted Use:** Any use for which a Special Land Use Permit has been granted shall be deemed a conforming use permitted in the district in which such use is located provided:
 - a. Such permit was issued in conformity with the provisions of this Ordinance;
 - b. Such permit shall be deemed to effect only the lot or portion thereof and uses thereupon for which the Special Land Use Permit shall have been explicitly granted;
 - c. Such permit authorized a use which is subsequently built, operated and maintained in compliance with this Ordinance, the Special Land Use Permit and all conditions established with its approval; and
 - d. The Special Land Use Permit requirements are met.

6. **Specific Requirements:** The foregoing general requirements are basic and apply to all special uses. Specific requirements listed in the District Regulations, Article IV (5) and General Provisions Article XVI (16) relating to particular special uses are in addition to, and shall be required, in all applicable situations.