

**ARTICLE 1100
SPECIAL PERMIT USES**

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1100.01 PURPOSE

It is the intent of Special Permit Uses to provide for certain uses which shall be permitted only if adequate conditions exist or can be imposed that will make such uses compatible with the purposes of this ordinance and the Putnam County Comprehensive Plan. The special permit procedure shall provide for some measure of individualized judgment and the imposing of conditions on certain uses, in order to make them compatible with uses in the surrounding area. It is further intended that the special permit, through a Site Plan Review process, shall provide a method whereby it can be determined whether or not a use would cause any damage, hazard, nuisance, or other detriment to persons or property in the vicinity.

1100.02 AUTHORITY

The Board of Zoning Appeals may, in accordance with the procedures and standards set out in this Article, and other regulations applicable to the district in which the subject property is located, approve Special Permit Uses. Each Special Permit Use shall be evaluated, on an individual basis, by the Board of Zoning Appeals in relation to its compliance with the standards and conditions set forth in this Article and with the standards for the district in which it is located in order to determine whether approval of the conditional use is appropriate at the particular location and in the particular manner proposed.

1100.03 COMPLIANCE WITH OTHER REQUIREMENTS

Nothing in this Article shall be deemed to prohibit or unreasonably limit any use guaranteed by state or federal law. However, reasonable conditions may be required by the BZA in order to satisfy the purposes as outlined in Section 1100.01.

1100.04 REVIEW PROCEDURE FOR SPECIAL PERMIT USES

A. Applicant

An application for a Special Permit Use may be filed with the Board of Zoning Appeals by the owner, lessee, or other person having a legal or equitable interest in the subject property.

B. Application

An applicant for a Special Permit Use shall file a plan and an application on forms provided by the Planning Officer. The plan for the use and development of the tract shall demonstrate that the general and specific criteria have been met.

C. Action on Application

The Board of Zoning Appeals shall hold a hearing thereon, notice of which may be published in a newspaper of general circulation, and mailed to the last known address of the owners of the property within two hundred and fifty feet (250) feet of the parcel for which a special permit use is requested at least fifteen (15) days before the hearing. The application and any reports, covenants, deeds, plans, or other information requested or required in conjunction with or as part of the application shall be submitted to the Board of Zoning Appeals thirty (30) days prior to the date of public hearing. Failure to timely submit any of the reports, covenants, deeds, plans or other information will result in the continuance of the public hearing to a later date, determined by the Board of Zoning Appeals, which will allow the Board of Zoning Appeals, County officials or advisors to evaluate the reports, covenants, deeds, plans or other information in time for the hearing to take place.

The Board of Zoning Appeals shall issue the special permit use certificate if it determines that the proposed special permit use satisfies, or through the imposition of conditions pursuant to this Article satisfies, the standards set forth in this Article. If the Board of Zoning Appeals determines that such proposed use does not, and with the imposition of conditions will not, satisfy the standards set forth in this Article, the Board of Zoning Appeals shall deny the issuance of a special permit use certificate.

D. Issuance of Permit

If the Board of Zoning Appeals determines that the issuance of a special permit use certificate is warranted, the Board of Zoning Appeals may condition such issuance upon specific requirements and limitations with respect to location, construction, maintenance, landscaping, operation, and other factors and features of the site or the use it deems necessary or appropriate to protect the interests of the community and to ensure satisfaction of the standards set forth in this Article.

E. Rejection of Application

The rejection of an application for a special permit use certificate by the Board of Zoning Appeals constitutes the final determination of the County. The approval of a special permit use certificate shall become null and void if building permits have not been issued for all buildings and structures within six (6) months after approval of a special permit use certificate.

F. Supplementary Conditions and Safeguards

In granting any special permit use, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Zoning Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the special permit use is granted, shall be deemed a violation of this Zoning Ordinance.

G. Expiration of Special Use Permit Certificate

A special permit use shall be deemed to authorize only one particular special permit use and such special permit use certificate shall automatically expire if, for any reason, the special permit use has ceased by discontinuance or abandonment for a period of more than six (6) months.

1100.05 GENERAL CONSIDERATIONS FOR SPECIAL PERMIT USES

In determining whether the issuance of a special permit use is warranted, the standards the Board of Zoning Appeals shall take into consideration are the following:

- A. The use will not discourage the development or impair the value of the surrounding and adjacent land and use district(s);
- B. The concentration and volume of vehicles in connection with the use will not be more dangerous or hazardous than the usual traffic of the use district;
- C. The proposed use must not produce a negative impact upon the abutting or surrounding properties and zoning uses given the characteristics, size, location, intensity and nature of the proposed use and any structure;
- D. The location, extent, arrangement and intensity of the proposed use shall be such that its operation will not be objectionable to adjacent and surrounding uses by reason of noise, smoke, dust, odors, fumes, vibrations or glare;
- E. The use, arrangement of and location of uses and structures must be compatible with surrounding uses and zones or must be capable of being made compatible through the imposition of conditions;
- F. The use and structures must not be detrimental to the health, safety and welfare of the locality involved;
- G. The use and structures must conform to the purpose, intent, and objectives of this Zoning Ordinance; and
- H. The proposed use is properly located in relation to any adopted master plan, general plan, land use plan, thoroughfare plan, or street plan, particularly in its relation to existing collection and local street systems and pedestrian circulation.

1100.06 FACTORS FOR CONSIDERING SPECIAL PERMIT USES

Factors to be considered in evaluating the standards set forth in Section 1100.05 may include, but are not limited to, the following:

- I. Land use;
- J. Height;
- K. Setbacks;
- L. Business or other activities;
- M. Open space;
- N. Density;
- O. Location of structures and uses on the site;
- P. Screening;
- Q. Signs/advertisements;

- R. Paving;
- S. Entrances;
- T. Hours of operation;
- U. Lighting;
- V. Landscaping;
- W. Fencing/walling;
- X. Mechanical systems/HVAC;
- Y. Dumpster locations; and
- Z. Parking.

1100.07 SPECIAL PERMIT USE – SPECIAL CONDITIONS

The following special conditions shall apply as a condition to Special Permit Uses:

- A. Restaurants, Bars or Taverns within 200 feet of a Residential District
 1. Business shall be conducted within an enclosed building, except that meal service may be provided on an outside patio, provided that the patio is no more than 1/3 the floor area of the entire use.
 2. Amplified live performances shall not be permitted.
 3. Business shall not be conducted on the premises between 12:00am (midnight) and 7:00am.
 4. All bars, taverns or restaurants serving alcohol shall be licensed to operate under the laws of the State of West Virginia.
- B. Automobile Service Stations
 1. The use shall be located at least 100 feet from the property boundary of any residential district.
 2. All minor repair work, vehicle washing, lubrication and the installation of parts and accessories shall be conducted wholly within an enclosed structure.
 3. All automobile parts, dismantled vehicles and similar materials shall be stored within an enclosed building or shall be totally screened from view by a solid or privacy fence. A chain link fence with slats shall not constitute acceptable screening or fencing for the purposes of this regulation.
 4. All vehicles awaiting repair shall be stored on site in approved parking spaces and under no circumstances shall such vehicles be stored on or obstruct access to a public right-of-way.

5. All discarded materials such as tires, cans, drums and the like, shall be stored in an enclosed area and undercover.
6. A canopy over the fuel pumps that is detached from the principal building may be erected provided that such structure is located at least ten (10) feet from any property line or street right-of-way and such structure is not enclosed.
7. Canopy lighting shall be designed to shield or cut-off direct view of the light from any property line. It is preferable that canopy lighting is recessed into the canopy.
8. There shall be adequate space on the subject property to allow up to 3 cars to stack in a line for services without using any portion of an adjacent public thoroughfare.

C. Automobile Repair; Including Body and Paint Work.

1. The use shall be located at least 100 feet from the property boundary of any residential district.
2. All repair work, vehicle washing, lubrication, and the installation of parts and accessories shall be conducted wholly within an enclosed structure.
3. All automobile parts, damaged and dismantled vehicles, and similar materials shall be stored within an enclosed building or shall be totally screened from view by a solid or privacy fence. A chain link fence with slates shall not constitute acceptable screening or fencing for the purpose of this regulation.
4. All vehicles waiting repair shall be stored on site in approved parking spaces and under no circumstance shall such vehicles be stored on or obstruct access to a public right-of-way.
5. All discarded materials such as tires, cans, drums, and the like, shall be stored in an enclosed area and undercover.
6. Canopy lighting shall be designed to shield or cut-off direct view of the light from any property line. It is preferable that canopy lighting is recessed into the canopy.
7. There shall be adequate space on the subject property to allow up to three (3) cars to stack in a line for service without using any portion of an adjacent public thoroughfare.

D. Commercial Recreation and Commercial Entertainment

1. The County may restrict outdoor lighting on the property to a greater extent than this Ordinance may otherwise require in order to eliminate glare on abutting public roads and private property.
2. All principal structures shall be setback at least 100 feet from the property line when abutting a residential district.
3. The County may restrict access to the facility, storage of vehicles or materials on the property, and hours of operation to ensure no adverse impacts on adjacent properties.

