

Chapter 11
SPECIAL USES

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5A-11-1 **Purpose**

The purpose of this classification is to establish standards for those uses which, because of their unique characteristics, cannot be properly classified in all districts without considering, in each case, the impact of those uses upon neighboring land and the public need for the particular use at that particular location. Such uses shall be designated as special uses.

5A-11-2 **Procedures**

5A-11-2.1 **Application**

Any person having freehold interest in the land, or a possessory interest entitled to exclusive possession, or a beneficial interest under a trust, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable, may file a petition with the Village Clerk for a public hearing before the Planning and Zoning Commission, as provided in Chapter 14 of this Code, for a permit to use the subject property for one or more of the special uses as hereunder set forth. All petitions must be in conformance to the rules of procedure of the Village.

5A-11-2.2 **Hearing**

Upon receipt of such petition, notice shall be given of a public hearing in accordance with the rules and procedures of the Village. A record of pertinent information presented at the public hearing shall be made and maintained by the Planning and Zoning Commission as part of the permanent record relative to the petition.

5A-11-2.3 **Recommendation**

Within 30 days from the conclusion of the public hearing the Planning and Zoning Commission shall submit to the Board of Trustees all findings of fact and recommendations pertaining to the petition.

5A-11-2.4 **Hearing Fees**

All hearing fees and related costs shall be paid by the applicant prior to consideration of the special use by the Board of Trustees. Fee schedules shall be established by the Board of Trustees

pursuant to Section 5C-1-1 of the Municipal Code.

5A-11-2.5 **Standards**

After the Board of Trustees has received the recommendation(s) of the Planning and Zoning Commission the special use permit shall not be granted unless the Board of Trustees find:

1. That the establishment, maintenance or operation of the special use will not be unreasonably detrimental to or endanger the public health, safety, morals, comfort or general welfare, or on private property values.
2. That the special use will not be injurious to the use and enjoyment of the property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. That the establishment of the special use will not impede the orderly development and improvement of surrounding property for uses permitted in the zoning district.
4. That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided.
5. That the special use shall, in all other respects, conform to the applicable regulations of the zoning district in which it is located, except that such regulations may, in each instance, be modified by the Board of Trustees.

5A-11-2.6 **Conditions**

The Planning and Zoning Commission may recommend and the Board of Trustees may impose such restrictions upon the height, bulk and area of occupancy of any approved special uses as may be reasonable under the particular circumstances, provided that such restrictions and stipulations shall not be more restrictive than the requirements established for the zoning district in which such structure is proposed to be located, or as may be required in this Title or the Municipal Code. Off-street parking facilities, as well as off-street loading and unloading spaces, may also be stipulated in the order permitting the special use.

5A-11-2.7 **Discontinuance of Special Use**

The discontinuation of an approved special use of a building, structure or land for any reason for a period of more than 180 days shall be considered an automatic abandonment of said special use. Any subsequent use of the land or structure shall conform to the regulations of the zoning district in which it is located, unless another special use permit is requested and approved.

5A-11-2.8 **Revocation of Special Use Permits**

The Board of Trustees may revoke a special use permit at any time if the special use does not comply with the standards as set forth in this Chapter 11. Notification of revocation shall be

given by certified mail, return receipt requested, to the person or persons who last paid taxes on the subject property, followed by a 60-day grace period, after which time the special use permit shall be revoked.

5A-11-3 **Planned Developments**

5A-11-3.1 **Purpose**

The regulations contained in this Section 5A-11-3 are established to encourage imaginative design of coordinated land uses and to provide relief from the subdivision and zoning requirements which are for conventional developments, but which may inhibit innovation and cause undue hardship with regard to the use of parcels having technical development problems.

5A-11-3.2 **Location**

A planned development may be located in any zoning district, subject to the procedures and standards set forth herein and subsequent to the issuing of the special use permit.

5A-11-3.3 **Regulations**

For any planned development, the regulations and standards in this Section 5A-11-3 may be substituted for the general regulations set forth elsewhere in this Chapter 11.

5A-11-3.4 **Sewer and Water Required**

Any planned development shall be served by a sanitary sewer system and a public water supply system.

5A-11-3.5 **Principal Permitted Uses**

The following uses are principal, but not exclusive, uses permitted in a planned development, subject to the regulations of this Section 5A-11-3:

1. Single family detached dwelling.
2. Duplex, triplex and quadruplex dwellings
3. Townhouse and condominium dwellings
4. Apartment dwellings.
5. Convenience shopping centers, retail shopping centers.
6. Any office use.
7. Any public facility use.

8. Church or other place of worship.
9. Any manufacturing use.

5A-11-3.6 **Density**

Density should be based on whether or not the planned development is acceptable. Density should not be predetermined

5A-11-3.7 **Design Standards**

The required general development plan shall be prepared by licensed design professionals such as architects, engineers, landscape architects and surveyors. The benefits of the planned development and the improved design of the development must justify any variation from the normal requirements of this Title. In preparing the development plan, particular consideration shall be given to the following:

1. The provision of open spaces for recreational and other outdoor benefits and activities. Recreation open space shall be landscaped and improved with recreational facilities appropriate to the proposed development. Adequate play areas for children shall be provided in all planned developments containing single family dwellings. At minimum, 20 percent of the gross site shall be developed for active or passive recreation or open space.
2. The conservation of significant natural features of the site, such as flood plains, wetlands, forests, scenic areas and vistas. All such areas shall be considered recreation open space whether or not they are developed for active recreation use or left in a natural state.
3. Maximum separation of vehicular traffic from pedestrian way, play areas and open space.
4. A unified design based upon significant architectural features, compatible building materials and a distinctive arrangement of structures and open spaces.
5. The provision of adequate sites for retail shopping and service areas, schools and other community services where the development is large enough to support these services.
6. The relationship of the development to surrounding uses and property.
7. All public improvements shall be designed by a professional engineer registered in the state of Illinois. The width of street right-of-way and pavement and the design of the pavement and other structures shall be based upon their intended use and shall be related to the overall design of the planned development. All streets dedicated to the public shall be designed and constructed to the standards of the Subdivision Ordinance and shall be subject to the approval by the Village Engineer.
8. All structures located in the perimeter of a planned development shall be set back from

the property line or street right-of-way a distance equal to the required setback for the adjacent zoning district.

5A-11-3.8 Application for a Planned Development

Before submitting an application for a planned development, the developer is encouraged to present sketch plans to the Board of Trustees. The purpose of this presentation shall be to inform the Board of Trustees of the proposed development and the manner in which it has been planned to take advantage of the regulations of this Section 5A-11-3. Application for a planned development shall be made in writing.

5A-11-3.9 General Development Plan

The general development plan shall include the following:

1. A plat of survey of the site prepared by a registered Illinois land surveyor.
2. A topographic map of the site with contour intervals of not more than two feet.
3. Area to be conveyed, dedicated or reserved for parks, parkways, playgrounds, school sites, public buildings and similar uses, or for common areas for the use of the residents.
4. A site plan drawn to scale showing the approximate location of all buildings, structures and improvements, and indicating the open spaces around buildings and structures, as well as streets and lots.
5. A development schedule indicating:
 - a. The approximate date when construction of the project is expected to begin.
 - b. The stages in which the project will be built and the approximate dates when construction of each stage is expected to begin.
 - c. The anticipated rate of development.
 - d. The approximate date when the development of each stage will be completed.
 - e. The area and location of common open space that will be provided at each stage of development.
6. Names and addresses of the owner and applicant. If owned or a trust, the names and beneficiaries of said trust shall be listed.

5A-11-3.10 Supporting Information

The application and development plan shall be accompanied by the following supporting

information:

1. Elevation and perspective drawings in sketch form of all proposed structures and improvements except single family residences and their accessory buildings. The drawings need not be the result of final architectural decisions and need not be in detail.
2. An inventory and elevation of all significant environmental features of the site, including, but not limited to, lakes, streams, ponds, marshes, soil conditions, mineral deposits, including sand and gravel, floodplains and wooded areas. The evaluation shall include any limitation resulting from natural conditions on the site which would restrict the development of the site for urban purposes permitted under this Title generally, or this Section 5A-11-3 specifically.
3. A written statement containing a detailed explanation of the size and character of the planned development and the manner in which it:
 - a. Complies with the provisions of this Section 5A-11-3.
 - b. Conserves the significant natural features of the site.
 - c. Avoids, or otherwise overcomes, any natural limitations of the site.
4. Agreements, by-laws, provisions or covenants which govern the use, maintenance and continued protection of the planned development and any of its common open areas, streets, parking facilities or other facilities and improvements.

5A-11-3.11 **Procedures**

- A. The Commission shall conduct a public hearing on the proposed planned development after payment of the required fees. The public hearing procedure shall be pursuant to Sections 5A-11-2 and 5A-12-5 of this Title and the Illinois Municipal Code. A copy of the development plan and required supporting information shall be available at the public hearing and in the Village Hall subsequent to the publication of the hearing notice.
- B. The Commission shall recommend to the Board of Trustees approval or denial of the planned development, or approval of the planned development with modifications. In addition, the petitioner shall meet with the Plan Commission pursuant to Title 5B of the Municipal Code.
- C. If Board of Trustees approval is given it shall be by ordinance, which may include modifications or additional specific standards for the development plan. Approval of the development plan shall signify authorization to proceed with the preparation of a final plat of the planned development.
- D. It shall be the duty of the Plan Commission to review all final plans and plats for general conformity with the approved development plan. No plat shall be recorded and no build-

ing permit issued except in accordance with final plats and plans approved by the Board of Trustees

- E. **Minor Modifications of Final Plans:** The Board of Trustees may, from time to time, approve minor changes within the project, but such changes shall not affect the character and standard of the planned development.
- F. **Failure to Begin Planned Development:** If no substantial construction has begun or no use established within two years of the starting date established in the planned development schedule, the special use permit shall lapse.

At its discretion and for good cause, the Board of Trustees may extend for one additional year, the period for the beginning of construction of the first principal building in the planned development.

5A-11-4 **Adult Business**

5A-11-4.1 **Purpose and Intent**

It is the intent of this Section 5A-11-4 to protect and preserve the health, safety, welfare and morals of the citizens of the Village by regulating Adult Business within the Village.

5A-11-4.2 **General Standards**

- A. A separate special use permit must be issued for each Adult Business as defined in Chapter 2 herein.
- B. **Location Restrictions:** No Adult Business shall be operated within 1,000 feet of a residential zoning district or within 1,000 feet of the property boundaries of any school, day care center, cemetery, public park, public housing, nursing home, rest home, sheltered care facility and place of religious worship. The distance limitation shall be measured in a straight line from the lot lines of said Adult Business and applicable residential zoning district, school, day care center, cemetery, public park, public housing, nursing home, rest home, sheltered care facility and place of religious worship.
- C. Only one Adult Business shall be permitted per block face.
- D. **Sign Requirements:** The following sign requirements shall apply to any Adult Business:
 - 1. All signs shall be flat wall signs.
 - 2. The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, or as permitted by the Hebron Sign Control Ordinance, whichever is more restrictive.
 - 3. Window areas shall not be covered or made opaque in any way. No sign shall be

placed in any window. One one-square foot sign may be placed on the door to state hours of operation and admittance to adults only.

4. Advertising: No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building.
5. Alcoholic Liquor Prohibited: It shall be unlawful for any Adult Business to sell, distribute or permit beer or alcoholic beverages on the premises.

5A-11-5 **Kennel**

5A-11-5.1 **Purpose and Intent**

It is the intent of this Section 5A-11-5 to provide protection for Village residents, to ensure their health, safety and welfare, and provide harmonious relationships between people and animals by:

1. Providing security to residents from annoyance, intimidation and injury from dogs;
2. Protecting dogs from improper use, abuse, neglect, inhumane treatment and health hazards;
3. Encouraging responsible pet ownership;

5A-11-5.2 **General Standards**

- A. An application for a special use permit to establish or operate a kennel shall be accompanied by the basic information required in this Chapter and the following information:
 1. A map showing the surrounding areas within one-quarter mile of the subject property;
 2. A site plan that shows any existing or proposed plantings and landscape features which may serve as a noise buffer and visual screening element.
 3. A report from the McHenry County Department of Health certifying that the proposed location and operation will not create a public hazard or in any way cause pollution of any surface or groundwater supply and that the facility complies with the McHenry County Public Health Ordinance.
- B. The design and operation of the kennel shall be governed by the following:
 1. The owner and/or operator shall meet all applicable requirements of the McHenry County Public Health Ordinance.
 2. The owner and/or operator shall meet all applicable requirements of the Village

building codes.

3. The main kennel building used to house the dogs shall be insulated in such a manner that animal noises are minimized.
 4. Exercise yards, when provided for training and exercising, shall be restricted to use during daylight hours.
 5. Kennels shall be governed by the following standards:
 - a. The owner and/or operator or a responsible person shall be present at all times.
 - b. All points on the perimeter of the kennel structure shall be at least 100 feet from the nearest boundary line of the parcel on which the structure is located.
 - c. Additional conditions as appropriate for the specific site.
- C. No person shall allow dog feces to accumulate in any yard, pen or premises in or upon which a dog shall be confined or kept so that it becomes offensive to those residing in the vicinity or a health hazard to the residing dog.
- D. No owner or person in the possession, custody or control of a dog shall allow the dog to bark, whine or howl continuously for a period longer than 15 minutes, intermittently for a period in excess of two hours or between the hours of 10 p.m. and 6 a.m. so as to disturb the peace, quiet or repose, or be audible to another person of ordinary sensibility.
- E. Any person having a dead dog within their possession or control or upon any premises owned and occupied by such person shall dispose of said dead dog in compliance with the Illinois Dead Animal Disposal Act (225 ILCS 610/1.1 *et seq.*) within 24 hours.
- F. No owner and/or operator shall fail to provide any dog in their charge, or custody as the owner or otherwise, with the following:
1. Sufficient quantity of good quality, wholesome food and water; dogs kept outdoors shall have a constant supply of fresh water available;
 2. Adequate shelter and protection from the weather;
 3. Veterinary care when needed to prevent suffering; and
 4. Humane care and treatment.

5 A-11-6 **Age-Restricted Multi Family Housing**
Age Restricted Multi-Family Housing is a special use.

5 A-11-6.1 **General Standards**

- A. A separate Special Use Permit for Age-Restricted Multi Family Housing must meet all the standards set forth in 5 A-11-2.5 above;
- B. Location Restriction: No Age-Restricted Multi Family Housing shall occur other than on a parcel adjoining a State highway;
- C. That there be no more than 15 attached dwelling units per acre constructed on the subject property; and
- D. That the principal structure on the subject property, as well as any accessory structures thereon, be situated within the setbacks required for every property within the R-3 Residential zoning district; and
- E. That, prior to the issuance of any building permit and any construction of any structure on the subject property, the owner shall submit a general development plan incorporating the criteria in section 5A-11-3.9, General Development Plan, as well as 5A-11-3-10, Supporting Information, and in accordance with the design standards of section 5A-11-3.7, including but not limited to architectural plans for the proposed principal building, to the Village's Plan Commission and Zoning Board of Appeals, for a recommendation to the Village's Board of Trustees, and approval of same by the Village's Board of Trustees; and
- F. That the only individuals who may reside in the dwelling units on the subject property shall be 55 years of age or over, with the exception of any caregiver or the spouse of an individual who resides in the dwelling unit who is 55 years of age or over. To that end, the owner shall submit a declaration of covenants encompassing the subject property, incorporating this condition, consistent with and conforming to applicable law addressing occupancy by persons 55 years of age and older, to the Village's Plan Commission and Zoning Board of Appeals for a recommendation to the Village's Board of Trustees and approval of same by the Village's Board of Trustees. The recording of such declaration of covenants shall be a condition precedent to the issuance of a building permit for the subject property; and
- G. That, prior to construction of any structure on the subject property, the owner shall submit a landscape plan prepared by a professional landscaper or arborist for the subject property to the Village's Plan Commission and Zoning Board of Appeals, for a recommendation to the Village's Board of Trustees, and approval of same by the Village's Board of Trustees; and
- H. That there be a submission to the Village's Board of Trustees a recordable agreement or easement demonstrating that, to the extent that the general development plan for the subject property contemplates the storage or detention of stormwater offsite of the subject property, that the owner has the legal, enforceable right to store or detain such storm-

water from the subject property, as developed or improved, on such other property, and that as a condition precedent to the issuance of a building permit for the Subject property, the owner shall submit evidence of such instrument having been recorded against the encumbered property to the Village; and

- I. The height of the principal structure on the subject property shall not exceed 35 feet in height and shall not consist of more than two stories.