

ARTICLE XVIII

SPECIAL USES

SECTION 1. STATEMENT OF INTENT.

Subsection A. Many land use activities, while not inherently inconsistent with other permitted uses in a particular zoning District, may have significant impacts on the surrounding area. Special Use Permits for such uses allow special conditions to be "attached" to the development to address those impacts. The Special Use Permit process provides for flexibility in identifying the special conditions without making the Ordinance unreasonably complicated. The objective of the Special Use Permit process is to encourage compatibility of the proposed development with the environment, and with existing and future land uses in the area.

(1) Issuance of a Special Use Permit.

- a. A Special Use Permit may be issued only after review and approval of the submitted application, including any plans, by the Board of Adjustment. An application and plan shall only be approved upon a determination that the development, if completed as proposed, will comply with the provisions of this Article.
- b. A Special Use Permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, and shall incorporate by reference the approved application and plan. The permit shall contain any special conditions or requirements lawfully imposed by the Board of Adjustment. The Zoning Administrator shall cause the permit to be recorded by the applicant, or their agent, with the County Recorder and shall have a copy of the recorded permit on file in the Zoning Office.
- c. All development shall occur strictly in accordance with such approved application and plan.

(2) Application for Special Use Permits.

- a. The applicant for a Special Use Permit must be a person with the legal authority to take action in accordance with the permit. In general, this means that applications should be made by the owners or lessees of the subject property or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits, or their agents. Any application submitted for consideration by the Board of Adjustment must be signed by the title holder or it can not be accepted.
- b. The application must be submitted on an approved form and must be complete. An application shall be complete when it contains all of the information that is necessary for the Board of Adjustment to decide whether the development, if completed as proposed, will comply with all of the requirements of this Article. Unless the Board informs the applicant at the hearing in what way the application is incomplete, the application shall be presumed to be complete. If incomplete, the Board shall offer the applicant the opportunity to complete the application at a continuation hearing.
- c. To minimize planning costs to the developer, avoid misunderstandings or misinterpretations, and to ensure compliance with the requirements of this Article, a pre-application conference between the developer and the planning staff is encouraged.
- d. Upon receiving an application requesting approval of a Special Use Permit, notice of hearing by the Board of Adjustment shall be given to all property owners within seven hundred fifty (750) feet of the boundary of the property on which the special use is to be located by placing a notice in the United States

mail at least ten (10) days prior to the hearing. Notice shall contain the time and location of said hearing.

(3) Standards for Approval.

- a. The Board shall review the proposed development for conformance to the following development criteria:
 - i. **Compatibility.** The proposed buildings or use shall be constructed, arranged and operated so as to be compatible with the character of the Zoning District and immediate vicinity, and not to interfere with the development and use of adjacent property in accordance with the applicable District regulations. The proposed development shall not be unsightly, obnoxious or offensive in appearance to abutting or nearby properties.
 - ii. **Transition.** The development shall provide for a suitable transition, and if necessary, buffer between the proposed buildings or use and surrounding properties.
 - iii. **Traffic.** The development shall provide for adequate ingress and egress, with particular attention to vehicular and pedestrian safety and convenience, traffic flow and control and emergency access.
 - iv. **Parking and Loading.** The development shall provide all off-street parking and loading areas as required by this Ordinance, and adequate service entrances and areas. Appropriated screening shall be provided around parking and service areas to minimize visual impacts, glare from headlights, noise, fumes or other detrimental impacts.
 - v. **Signs and Lighting.** Permitted signage shall be in accordance with the applicable District regulations and shall be compatible with the immediate vicinity. Exterior lighting, if provided, shall be with consideration given to glare, traffic safety and compatibility with property in the immediate vicinity.
 - vi. **Environmental Protection.** The development shall be planned and operated in such a manner that will safeguard environmental and visual resources. The development shall not generate excessive noise, vibration, dust, smoke, fumes, odor, glare, groundwater pollution or other undesirable, hazardous or nuisance conditions, including weeds.
- b. If the Board concludes that all development criteria will be met by the development, it shall approve the application and plans unless it concludes, based on the information submitted at the hearing, that if completed as proposed there is a strong probability the development will:
 - i. Not adequately safeguard the health, safety and general welfare of persons residing or working in adjoining or surrounding property, or
 - ii. Impair an adequate supply (including quality) of light and air to surrounding property, or
 - iii. Unduly increase congestion in the roads, or hazard from fire, flood or similar dangers, or
 - iv. Diminish or impair established property values on adjoining or surrounding property, or
 - v. Not be in accord with the intent, purpose and spirit of the Zoning Ordinance or Land Use Policies.

(3.10) Supplemental Standards for Conditional Uses

(3.11) Communication Towers and Facilities. Communication towers/facilities existing and/or approved prior to the date of adoption of these standards may continue to be used, however, proposed modifications must be reviewed by the Administrator, and, depending on the nature of the proposed modifications, may be subject to review and approval by the Board of Adjustment.

- A. **Co-Location.** Prior to applying for a Special Use Permit for construction of a new tower/facility, the applicant shall exhaust all alternatives for co-location on

existing towers/facilities. As such, the applicant shall submit evidence demonstrating the following:

1. The planned equipment would exceed the structural capacity of the existing or approved antenna support structure, as documented by a qualified professional engineer licensed in the State of Iowa, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified engineer and the interference cannot be prevented at a reasonable cost.
3. Existing or approved antenna support structures cannot accommodate the planned equipment at the necessary height as documented by a professional engineer licensed in the State of Iowa.
4. Fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower/facility development are presumed to be unreasonable.
5. Frequency coverage maps demonstrate increased coverage due to the lack of any other nearby structure.
6. No new tower/facility shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Adjustment that no existing tower, structure, or alternative technology can accommodate the applicant's needs. Furthermore, no new tower/facility shall be approved that is not in compliance with all standards for approval set forth in Article XVIII, Section 1, Subsection A, (3) and those contained herein.

B. Separation. The following separation requirements shall apply to all proposed communication towers and facilities.

1. Separation from residential zoning districts or existing residential properties. Proposed towers/facilities shall be separated from neighboring properties either zoned or utilized for residential purposes as established herein. The minimum separation distance shall be measured from the center of the foundation of the proposed tower/facility to the nearest portion of a property line of a neighboring tax parcel used or zoned for residential purposes. For the purposes of this section, a property shall be considered to be used for a residential purpose, regardless of assessment type, if a dwelling or mobile home exists on the property. A property shall be considered to be zoned for residential purposes if it lies within a Residential (R-1), Residential (R-2), or Residential (R3) zoning district.
 - a. For towers/facilities of self-supporting monopole or lattice-type construction, the minimum separation distance shall be three hundred (300) feet or one hundred fifty (150%) percent of the height of the tower, whichever is greater.
 - b. For guyed towers/facilities the minimum separation distance shall be three hundred (300) feet or one hundred fifty (150%) percent of the height of the tower, whichever is greater, plus one hundred (100%) percent of the length of the longest supporting guy wire.

C. Height. The applicant must demonstrate the proposed height of the tower/facility is the minimum necessary to accommodate the proposal's requirements, as documented by a qualified engineer.

D. Required Setbacks. The center foundation of all towers/facilities are required to be setback in accordance with the following:

1. From any public right-of-way, the following apply:
 - a. for towers of monopole and lattice-type construction, a distance equal to one hundred fifty (150%) percent the height of the tower or two hundred (200) feet, whichever is greater; and for towers of guyed-type construction, a distance equal to one hundred fifty

- (150%) percent the height of the tower plus the length of guyed wire or two hundred (200) feet, whichever is greater.
- b. from any adjoining property zoned for, or existing in residential use, the distance of three hundred (300) feet or one hundred fifty (150%) percent of the height of the tower/facility for towers of lattice or monopole construction type; and three hundred (300) or one hundred fifty (150%) percent of the height of the tower/facility plus one hundred (100%) percent of the length of the longest supporting guy wire for towers of guyed type construction as measured the center foundation of the tower/facility to the nearest property line.
- c. from other property lines, a distance equal to at least fifty (50%) percent of the height of the tower/facility.
- d. Guys and accessory buildings must satisfy the minimum zoning district setback requirements for accessory buildings within the lease area.

E. Fencing and Screening.

- 1. **Security Fencing.** Towers/facilities shall be enclosed by fencing not less than six (6) feet in height and shall be equipped with appropriate anti-climbing devices.
- 2. **Screening.** The lowest six (6) feet of the tower/facility shall be visually screened by trees, large shrubs, solid walls, buildings, solid fencing, and/or any combination thereof, from all public right-of-ways and adjoining zoned, planned, and/or existing residential land uses.

F. Aesthetics. Towers/facilities shall meet the following general requirements.

- 1. **Color.** Towers/facilities shall maintain a galvanized steel finish. If required to be painted by the FAA, such required colored schemes must be submitted to the Board of Adjustment. All mandated FAA requirements must be provided in writing to the Board of Adjustment prior to any action on applications.
- 2. **Lighting.** Towers/facilities, including antennas, shall not be artificially lighted unless required by the FAA or applicable authority. Unless required as the only option by the FAA, strobe lighting is not permitted. If lighting is required, lighting alternatives and design chosen must cause the least disturbance to the surrounding views. All mandated FAA requirements must be provided in writing to the Board of Adjustment prior to any action on applications.
- 3. **Signs.** No signs shall be allowed on any tower/facility, other than safety or warning signs. If any signage is required consistent with this standard, such signage must comply with the requirements of Article XV.

G. General requirements.

- 1. The proposed tower/facility must comply with all other applicable local, state or federal regulations.
- 2. The proposed tower/facility will not unreasonably interfere with the view from any publicly-owned or managed areas. A Tower Site Evaluation Form will be completed for the property, and, if, at the determination of the Marshall County Conservation Board, view sheds are impacted to an unnecessary level as a result of a tower/facility, the Board of Adjustment will strongly consider such opinion in review and action on the application.

H. Removal of Abandoned Towers/Facilities. The owner of the tower/facility, with written authorization from the property owner, shall file annually a declaration with the Marshall County Planning and Zoning Department as to the continuing operation of every tower/facility installed subject to these regulations. Failure to do so may be construed to mean that the facility is no longer in use and may be considered abandoned subject to the provisions for removal. The owner of the tower/facility and property owner will be notified that the property is considered to be in a state of abandonment, and such person(s) shall remove the tower/facility, foundational supports, and associated appurtenances within ninety (90) days of receipt of notice from

Marshall County at the owner's expense. Adequate removal shall include the restoration of the site to a state in keeping with the character of the surrounding landscape and the elimination of all ground-level paving. Failure to remove such an abandoned tower/facility within said ninety (90) days shall be grounds to issue a Notice of Violation in accordance with the requirements of this Ordinance and undertake enforcement action upon the tower/facility owner and property owner.

1. Any person, firm or corporation not in compliance with these regulations may be deemed guilty of a County infraction.

I. Submittal Requirements. In addition to the submittal requirements defined for Conditional Use Permit applications, all applications for towers/facilities must submit the following information (as applicable). All plans shall be drawn at a scale of one (1) inch equals fifty (50) feet.

1. A scaled site plan clearly indicating the location, type and height of the proposed tower/facility, existing land uses, adjacent land uses and zoning classification for all properties within five hundred (500) feet.
2. Legal description of the parent parcel and leased parcel (if applicable).
3. The separation distance between the proposed tower/facility and nearest residentially zoned district and/or existing residential property.
4. The separation distance from other existing and approved towers. The applicant shall also identify the type of construction of the existing tower(s) and owner/operators of such facilities.
5. A landscape plan showing specific landscape materials, existing and those proposed, identifying type and size of materials.
6. Written statements from other applicable jurisdictions such as the FAA regarding coloring and potential lighting requirements. In addition, a copy of the FAA's response to the submitted "Notice of Proposed Construction or Alteration" must be submitted.
7. A statement by the applicant as to whether construction of the tower/facility will accommodate co-location of additional antennas for future users and documentation regarding the standards for co-location established in this Ordinance.
8. Identification of all other tower/facility sites owned and/or operated by the applicant within Marshall County.
9. Elevations showing all facades, indicating exterior materials and color of the tower/facility on the proposed site.
10. Copy of the signed lease agreement with the property owner.
11. Submittal of search rings established for the proposed communication tower and affidavit that the applicant made diligent, but unsuccessful efforts for permission to install or collocate the applicant's wireless communications facilities on all existing towers or other antenna support structures located within an area equal to one hundred percent (100%) of the search ring for the proposed site of the wireless communications facility.

J. Issuance of Zoning Permits. If approved by the Board of Adjustment, an Application for Zoning/Building Permit and required submittal materials may be submitted for review and approval to the Planning and Zoning Office at such time that the thirty-day (30) appeal period for all Board of Adjustment decisions has expired. All applications will be reviewed for completeness and conformance to zoning requirements. Preliminary Zoning/Building Permits will be issued in accordance with the provisions of this Ordinance.

(3.12) Commercial C-WECS (C-WECS). The requirements of this Ordinance shall apply to all C-WECS proposed after the effective date of this Ordinance. C-WECS for which a required permit has been properly issued prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided, that any such pre-existing C-WECS, which does not provide energy for a continuous period of twelve (12) months, shall meet the requirements of this Ordinance prior to recommencing production of energy. Also, no modification or alteration to an existing C-WECS shall be allowed without full compliance with this Ordinance.

A. General Requirements for C-WECS

1. **Color and Finish.** Wind Turbines shall be painted a non-reflective color. Blades may be black in order to facilitate de-icing. Finishes shall be matte or non-reflective. At C-WECS sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the C-WECS to the natural setting and existing environment.
2. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.
3. **Tower configuration.** All wind turbines, which are part of a commercial WECS, shall be installed with a tubular, monopole type tower. Meteorological towers may be guyed.
4. **Lighting.** C-WECS sites shall not be artificially lighted, except to the extent required by the FAA or other applicable authority. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.
5. **Signage.** All signage on site shall comply with Article XV, of the Marshall County Zoning Ordinance. The manufacturer's or owner's company name and/or logo may be placed upon the compartment containing the electrical generator, of the WECS. Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the C-WECS sites.
6. **Feeder Lines.** All communications and feeder lines, equal to or less than 34.5kV in capacity, installed as part of a WECS shall be buried.
7. **Waste Disposal.** Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site and disposed of in accordance with all applicable local, state and federal regulations.
8. **Minimum Ground Clearance.** The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.
9. **Signal Interference.** The applicant shall minimize and mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any C-WECS.
10. **Federal Aviation Administration.** All WECS shall comply with FAA standards and permits.
11. **Electrical Codes and Standards.** All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
12. **Setbacks.** The following setbacks and separation requirements shall apply to all wind turbines.
 - a. **Inhabited Structures.** Each wind turbine shall be set back from the nearest residence, school, hospital, church or public library, a distance no less than the greater of (a) two (2) times its total height or (b) one thousand (1,000) feet.
 - b. **Property Lines.** At no time shall any part of the turbine overhang an adjoining property without securing appropriate easements from adjoining property owners.
 - c. **Public Roads.** Setbacks from public road right-of-way, railroad right-of-way, powerlines and structures or any easement thereto shall be a minimum of 1.1 times the height of the tower and rotor.
 - d. **Communication and Electrical Lines.** Each wind turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 1.1 times its total height, determined from the existing power line or telephone line.

13. **Noise.** Audible noise due to C-WECS sites operations shall not exceed sixty (60) dBA for any period of time, when measured at any residence, school, hospital, church or public library existing on the date of approval of any special use permit from the property line.
- a. In the event audible noise due to C-WECS operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in subparagraph 13 of this subsection shall be reduced by five (5) dBA.
 - b. In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is succeeded for more than five (5) minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches and public libraries. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.
 - c. In the event the noise levels resulting from the C-WECS exceed the criteria listed above, a waiver to said levels may be granted by the Board of Adjustment provided that the following has been accomplished:
 - i. Written consent from the affected property owners has been obtained stating that they are aware of the C-WECS and the noise limitations imposed by this Ordinance, and that consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and
 - ii. If the applicant wishes the waiver to apply to succeeding owners of the property, a permanent noise impact easement shall be recorded in the Office of the Marshall County Recorder which describes the burdened properties and which advises all subsequent owners of the burdened property that noise levels in excess of those permitted by this Ordinance may exist on or at the burdened property.
14. **Aesthetic Impacts**
- a. The proposed C-WECS will not unreasonably interfere with the view from any publicly-owned or managed areas. A Tower Site Evaluation Form will be completed for the property, and, if, at the determination of the Marshall County Conservation Board, view sheds are impacted to an unnecessary level as a result of a C-WECS, the Board of Adjustment will strongly consider such opinion in review and action on the application.
15. **Safety.**
- a. All wiring between Wind Turbines and the C-WECS substation shall be underground. If the developer can demonstrate the need for an overhead line and the acceptance of landowners for this line, such option may be approved as a condition of the special use permit by the Board of Adjustment.
 - b. Wind Turbine towers shall not be climbable up to 15 feet above ground level.
 - c. All access doors to Wind Turbine towers and electrical equipment shall be locked when not being serviced.
 - d. Appropriate warning signage shall be placed on Wind Turbine towers, electrical equipment, and C-WECS entrances.

- e. For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
 - f. For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of 8 feet above the ground. Visible fencing shall be installed around anchor points of guy wires.
16. **Discontinuation and De-commissioning.** A WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Director outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four (4) feet below ground level within one hundred eighty (180) days of the discontinuation of use. Each Commercial WECS shall have a De-commissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a professional engineer licensed in the State of Iowa. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities. The County reserves the right to verify that adequate decommissioning terms are contained in the landowner easement.
17. **Avoidance and Mitigation of Damages to Public Infrastructure.**
- a. **Roads.** Applicants shall identify all roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.
 - b. Applicant shall conduct a pre-construction survey, in coordination with the impacted local road authority(ies) to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.
 - c. **Drainage System.** The Applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.
 - d. The applicant shall be responsible for restoring or paying damages as agreed to by the applicable road authority(ies) sufficient to restore the road(s) and bridges to preconstruction conditions. Financial security in a manner approved by the Marshall County Attorney's Office shall be submitted covering 130% the costs of all required improvements. This requirement may be waived by the Board of Adjustment by recommendation from the Marshall County Engineer.
18. **Submittal Requirements.** In addition to the submittal requirements defined for Special Use Permit applications, all applications for Commercial WECS must submit the following information (as applicable).
- a. The names of project applicant
 - b. The name of the project owner
 - c. The legal description and address of the project.
 - d. A description of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
 - e. Site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the

- electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.
- f. Engineer's certification(s) as required in these supplemental standards.
- g. Documentation of land ownership or legal control of the property
- h. The latitude and longitude of individual wind turbines.
- i. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within 10 rotor diameters of the proposed WECS.
- j. Location of wetlands, scenic, and natural areas [including bluffs] within 1,320 feet of the proposed WECS.
- k. An Acoustical analysis
- l. FAA Permit Application
- m. Location of all known communications towers/facilities within 2 miles of the proposed WECS.
- n. Decommissioning Plan
- o. Description of potential impacts on nearby WECS and wind resources on adjacent properties.
- p. Identification of significant migratory patterns and nesting areas for birds in the vicinity.

(4) Burden of Persuasion.

- a. The burden of persuasion as to whether the development, if completed as proposed, will comply with the requirements of this Article is at all times on the applicant.
- b. The burden of presenting evidence to the Board sufficient enough for it to conclude that the application does not comply with the requirements of this Article is upon the person or persons recommending such a conclusion, unless the information provided by the applicant warrants such a conclusion.

(5) Recommendations on Applications.

- a. Before being presented to the Board of Adjustment, an application for a Special Use Permit shall be referred to the Zoning Administrator for a recommendation. The Zoning Administrator, or the Zoning Department staff, shall prepare a report setting forth findings concerning the application's conformance to this Article, and any recommendations for requirements or conditions to be imposed on the proposed development by the Board of Adjustment.
- b. The Zoning Department's report shall be submitted along with the application and any other pertinent data to the Board of Adjustment prior to the hearing date for their review.

(6) Board of Adjustment Action on Applications.

- a. In considering whether to approve an application for a Special Use Permit, the Board shall proceed according to the following format:
 - i. The Board shall establish a finding of facts based upon information contained in the application, the staff report and any information obtained at the public hearing.
 - ii. The Board shall consider such reasonable requirements or conditions to the permit as will ensure the development will satisfy the requirements of this Article. A vote may be taken on such conditions before consideration of whether the permit should be approved or denied for any of the reasons set forth in **Subsection A., (6) (a) (iii)** or **Subsection A., (6) (a) (iv)** of this Article.
 - iii. The Board shall consider whether the application complies with all of the applicable development criteria set forth in **Subsection A., (3) (a)**. Separate votes may be taken with respect to each criterion. If the Board

concludes that the application fails to meet one or more of the criteria, the application shall be denied.

- iv. If the Board concludes that such criteria have been met, the application shall be approved unless it adopts a motion that the application fails to meet any of the approval standards set forth in **Subsection A., (3) (b)**. Separate votes may be taken with respect to each standard.
- b. Any such motion regarding compliance or non-compliance of the application to the development criteria or approval standards shall specify the supporting reasons for the motion. It shall be presumed the application complies with all criteria and standards not specifically found to be unsatisfied.
- c. Without limiting the foregoing, the Board may attach to the permit a condition limiting the duration of the permit.
- d. All conditions and requirements shall be entered on the permit.

(7) Expiration of Special Use Permits.

- a. A Special Use Permit shall expire automatically if 1) within five years after issuance, substantial action has not been taken to accomplish the purpose of the permit, or 2) after substantial action has been taken and subsequently such work is discontinued for a period of one (1) year, the permit shall immediately expire, or 3) if the special use has been established and subsequently is discontinued for a period of one (1) year, the permit shall immediately expire.
- b. The Board may extend for a period up to one (1) year the date when a permit would otherwise expire pursuant to **(7) (a)** if it concludes that 1) the permit has not expired, or 2) the permit recipient has proceeded in good faith and with due diligence, or 3) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to one (1) year upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for the original permit.
- c. For purposes of this Article, the Special Use Permit is issued when the Board votes to approve the application and plans. Substantial action shall include commencement of construction, erection, alteration, demolition or similar work required for the development authorized by the permit. With respect to phased development, this shall apply only to the first phase.

(8) Effect of Permit on Successors and Assigns.

- a. A Special Use Permit authorizes the permit holder the use of the land or structures in a particular way and subject to certain conditions. As such, it is transferable. However, no person, (including successors or assigns of the original permit holder) may make use of the land or structures covered under such permit except in accordance with all terms and requirements of the permit, so long as the permit remains in effect.

(9) Amendments and Modifications.

- a. Insignificant modifications to the approved permit are permissible upon authorization by the Administrator. A modification is insignificant if it has no discernible impact on neighboring properties, the general public or those intended to occupy the proposed development.
- b. Minor modifications to the approved permit are permissible with the approval of the Board of Adjustment. Such permission may be obtained without a formal application, public hearing or payment of fees. A modification is minor if it has no substantial impact on neighboring properties, the general public or those intended to use or occupy the proposed development.
- c. All other requests for modifications to the approved permit will be processed as new applications. New conditions may be imposed by the Board of Adjustment, but the applicant retains the right to reject such new conditions by withdrawing the request for modifications and proceeding under the terms and conditions of the original permit.

- d. The permit holder requesting approval of modifications shall submit a written request (including plans as necessary) for such approval to the Administrator, and the request shall specifically identify the modifications. The Administrator shall determine whether the proposed modification falls within the categories set forth above in parts (a), (b), and (c).
 - i. Approval of all modifications must be given in writing.

(10) Violations.

- a. Violations of any terms of the Special Use Permit shall be deemed a violation of this Ordinance and punishable under Article XXI of this Ordinance. In addition, Special Use Permits, in connection with which a violation occurs, shall be subject to revocation by the Board of Adjustment after holding a public hearing on the alleged violation.
- b. Violations of any conditions and safeguards, when made a part of the terms of a Special Use Permit granted under this Article, shall be deemed a violation of this Ordinance and shall be subject to the same procedures outlined in **(10) (a)**.
- c. A violation shall be deemed to have occurred when the permit holder fails to comply with any of the terms, conditions or safeguards of the permit, or allows the terms, conditions or safeguards of the permit to be violated.

(11) Fees.

- a. There shall be a fee of \$200.00 for a Special Use Permit.