



SPECIAL REVIEW USE

User's Guide

**NOTE: FOR DETAILED PROCEDURES,
REFER TO CHAPTER 7 OF THE
UNIFIED DEVELOPMENT CODE**

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SPECIAL REVIEW USE

Purpose

Special Review Use is a discretionary review process for uses which have unique or widely varying operating characteristics or unusual site development features. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is intended to ensure that proposed Special Review Uses will not have a significant adverse impact on surrounding uses or on the community-at-large. This review process is intended to provide assurance to the community that such uses will be compatible with their locations and surrounding land uses and will further the purposes of the Unified Development Code (Municipal Code Title 10 -UDC).

Relationship to Site Plan Requirements

Coordination with Review of Site Plans

If a Site Plan is necessary for the proposed Special Review Use, then the Site Plan and the Special Review Use applications shall be processed concurrently, see Chapter 7 of the Municipal Code Title 10 - UDC for the Site Plan review requirements. In such cases, the Board of Trustees shall be the final decision-making entity for both the Site Plan and the Special Review Use. The Board shall render separate decisions on the applications based on the applicable approval criteria in the Municipal Code Title 10 -UDC.

Lapse of Special Review Use Approval Upon Site Plan Expiration

If a Site Plan is necessary for the proposed Special Review Use, the approval of the Special Review Use shall be conditioned on the approval of the Site Plan. Accordingly, the approval of any Special Review Use shall lapse and become null and void upon the expiration of the approved Site Plan, unless otherwise restricted by the Town.

Optional Planning Commission Conference:

At the Applicant's request, the Community Development Department will schedule at the next available Planning Commission meeting an application conference with the Planning Commission, which shall be in addition to the required pre-application conference. The pre-application conference provides an opportunity for an informal evaluation of the Applicant's proposal by the Planning Commission. Noticing of the Planning Commission Conference is not required.

The applicant is required to submit one paper copy and one PDF file of the Applicant's presentation materials to the Community Development Department 16 days before the scheduled Planning Commission meeting. The presentation materials should contain at a minimum a written description of the character, location and magnitude of the proposed development that is supported by documents such as maps, drawings or models.

The Planning Commission conference will be conducted by the Town of Erie Planning Commission. The order of the proceedings at the conference shall be as follows:

1. The Planning Commission shall announce the agenda item to be heard.
2. The Project Planner will present a brief summary of the property location and current zoning.
3. The Applicant will present any relevant information the Applicant deems appropriate for the hearing.
4. The Planning Commission may ask questions of the Applicant and Staff.
5. The Planning Commission will make comments on the Applicant's proposal for development. No decision or consensus is made at the Planning Commission conference and the comments made are not binding upon the applicant or the Town, but are intended to serve as a guide to the applicant in making the application.

Development Application Submittal:

The applicant shall submit to the Community Development Department one copy of the application submittal packet that includes a completed application form, fees and support documents as specified in the **Submittal Requirements** section below.

Determination of Application Completeness:

The assigned Community Development Project Planner will review the application submittal packet for completeness. The Project Planner will determine whether an application submittal packet is complete and can continue forward to **Applicant Submits Referral Packets** or is not complete and moves back in the process to **Application Returned to Applicant**.

Application Returned to Applicant - "Not Complete":

An application submittal packet that is not complete in terms of submitting the documents required or adequacy of the information provided or fees required will not be accepted by the Town for further review. The Project Planner will return the application submittal packet to the Applicant, so the Applicant can address the elements of the application submittal packet that are not complete. Once the Project Planner's review for completeness items are addressed, the Applicant resubmits the application submittal materials as described in **Development Application Submittal**.

Applicant Submits Referral Packets - "Complete":

An application submittal packet that is deemed to be complete by the Project Planner will continue on into the review process. The first step of the application review process is for the Applicant to submit to the Community Development Department copies of the application submittal packet for review by Town staff, Town consultants and outside referral agencies. The Project Planner will give the Applicant a list of the referral agencies in which to make referral packets for. Referral packets shall be submitted in unsealed Tyvek envelopes, addressed to the referral agencies identified by the Project Planner, containing all submittal information properly folded and compiled.

Referral Packets Distributed:

Once the Community Development Department has received the referral packets from the Applicant, the Community Development Department will distribute the referral packets to the appropriate Town staff, Town consultants and outside referral agencies.

Referral Agency Review:

Referral agencies will have approximately three weeks to review the application submittal packets. Referral agency written comments will be due to the Community Development Department before the **Development Review Team Meeting (DRT)** is held so that any issues a referral agency may have can be discussed at the DRT meeting. The Project Planner will collect and coordinate all referral comments. The applicant is required to pay fees assessed by referral agencies for their review.

Notice/Conduct Neighborhood Meeting:

The Applicant is required to conduct a neighborhood meeting to provide an informal opportunity to inform residents and landowners surrounding the application area about the details of the proposed application. The applicant should engage the public to comment on the proposal during the meeting. The neighborhood meeting should be held after the Project Planner determines the application is complete and before the Town holds the **Development Review Team Meeting (DRT)**. The Applicant is required to submit a written summary of the neighborhood meeting to the Project Planner before the **Development Review Team Meeting (DRT)**.

The applicant is required to mail notice of the neighborhood meeting to landowners within 300 feet of the application area and to post the property. The letters must be sent and the property must be posted at least 15 days before the meeting is held.

The Applicant is responsible for providing the list of property owners within 300 feet, for mailing the letters and for composing the letter to include all of the required notice content identified in Municipal Code Title 10 Section 7.2 F.1. that includes:

1. Identify the date, time, and place of the meeting.
2. Describe the property involved in the application by street address or by legal description and nearest cross street.
3. Describe the nature, scope, and purpose of the meeting.
4. Indicate that interested parties can come to the meeting and speak on the matter.
5. Indicate where additional information on the matter can be obtained.

The Town will provide the signs to be posted on the property. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the meeting. Before the Planning Commission public hearing the applicant shall submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

Development Review Team Meeting (DRT):

The Project Planner will schedule a Development Review Team Meeting (DRT) after the referral agency review period is over. At the DRT meeting the Project Planner discusses the review comments from all review agencies and discusses the neighborhood meeting comments with the DRT attendees. The DRT meeting typically includes Community Development staff, Public Works staff, the Building Official, Town consultants, and the Fire Marshall. The DRT Meeting does not include the Applicant. If the applicant would like to explain the application to the Project Planner before the DRT meeting they should contact the Project Planner to set up a separate meeting before the DRT meeting is held. After the DRT meeting, the Project Planner will compile all of the staff and referral comments for distribution to the applicant.

Applicant Receives DRT/Referral Comments:

The Project Planner will provide the Applicant with a copy of all the staff and referral comments from the review of the application submittal packet. A meeting between staff and the applicant may be held to review the staff and referral comments. The applicant may also meet directly with the agency(ies) that have expressed concerns with the application. The Project Planner should be included in meeting or correspondence with referral agencies.

Applicant Revisions Submitted/Resolution of Issues Complete:

The Applicant shall address, in writing, all issues and deficiencies identified in the staff and referral comments. To continue the process in a timely fashion, the applicant must complete the requested revisions and resubmit the revised application submittal packet for a second review by the Project Manager and any applicable referral agencies as quickly as possible. If an Applicant fails to submit required information for a period of more than six months from the initial request, the applicant shall become void and the resubmittal of a new application and fees will be required.

The revised application submittal packet will be reviewed by Project Planner at a DRT meeting after any further referral agency comments are received on the revised application submittal packet. The Project Planner shall provide the Applicant with a copy of the staff and referral comments from the second review and will indicate whether or not the application has resolved all of the issues raised in the comments. If the issues have not been resolved then the application goes back to the **Applicant Submits Referral Packets** portion of the process for another round of reviews. Additional fees may be charged for resubmittals that do not address comments. If the issues have been resolved then the application goes forward to the **Schedule/Notice Public Hearing for PC and BOT** portion of the process.

Schedule/Notice Public Hearing for PC and BOT:

The Project Planner shall notify the Applicant when the application is ready for public hearing with the Planning Commission and Board of Trustees. The Project Planner will schedule the first available Planning Commission hearing date based on public hearing notification requirements and room on the PC agenda. The Board of Trustees public hearing date will be scheduled by the Project Planner for the first available hearing date that is a minimum of 20 days after the PC hearing.

Both the PC and BOT public hearings require public hearing notification in the form of notice published in the newspaper, notice mailed, and notice posted on the property by sign. Full detail of the notice process can be found in Municipal Code Title 10 Unified Development Code Section 7.2 F.

The Community Development Department shall have the public notice published in the newspaper at least 15 days before the public hearing. The Applicant is responsible for providing the correct legal description of the property to the Town before the notice is sent to the newspaper for publication.

The Applicant shall provide the Community Development Department with a current (prepared within 30 days of the scheduled public hearing) list of property owners within 300 feet of the application property area and any associated homeowners associations. Additionally, the Applicant shall provide a stamped and addressed envelopes for each entity identified on the list for each public hearing. The Community Development Department shall mail the public notice at least 15 days prior to the public hearing.

The Community Development Department shall provide the Applicant with signs to be posted on the property for public hearing notice. The applicant is responsible for posting the signs at least 15 days before the public hearing, checking on the signs to make sure they remain in place, and to remove the signs within two days after the meeting. Before the public hearing the applicant shall submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

Planning Commission (PC) Public Hearing:

The Applicant is required to submit all required public hearing documents at least 3 weeks before the public hearing so that the Project Planner has adequate time to write the staff report and draft resolutions for the Planning Commission. The Project Planner shall identify the items the Applicant is to include in the public hearing documents. The public hearing documents shall be submitted as one paper copy for public review and a full copy of the public hearing documents in a PDF format for the Planning Commission review. The staff report and draft resolution shall be forwarded to the Applicant by the Project Planner when the PC agenda packets are sent to the Planning Commission for review. A copy of all public hearing documents are available in the Community Development Department for public review at this time as well.

The public hearing will be conducted by the Town of Erie Planning Commission. The order of the proceedings at the public hearing shall be as follows:

6. The Planning Commission shall open the public hearing.
7. The Project Planner will present the staff report and draft resolution.
8. The Applicant will present any relevant information the Applicant deems appropriate for the hearing.
9. Public testimony is heard by the Planning Commission.
10. The Planning Commission will ask questions of the Applicant and Staff, and for clarification on any issues raised during public testimony.
11. The Planning Commission will close the public hearing.
12. The Planning Commission will make a recommendation to the Board of Trustees on the application by resolution. The recommendation will recommend either approval, approval with modifications and/or conditions, or denial of the application, based on the approval criteria below.

Board of Trustees (BOT) Public Hearing:

If the Planning Commission requires any changes to the application, the Applicant shall submit all revised public hearing documents at least 13 days before the public hearing so that the Project Planner has adequate time to write the staff report and draft resolutions for the Board of Trustees. The revised public hearing documents shall be submitted as one paper copy for public review and a full copy of the public hearing documents in a PDF format for the Board of Trustees review. The staff report and draft resolution shall be forwarded to the Applicant by the Project Planner when the BOT agenda packets are sent to the Board of Trustees for review. A copy of all public hearing documents are available in the Community Development Department for public review at this time as well.

The public hearing will be conducted by the Town of Board of Trustees. The order of the proceedings at the public hearing shall be as follows:

13. The Board of Trustees shall open the public hearing.
14. The Project Planner will present the staff report and draft resolution.
15. The Applicant will present any relevant information the Applicant deems appropriate for the hearing.
16. Public testimony is heard by the Board of Trustees.
17. The Board of Trustees will ask questions of the Applicant and Staff, and for clarification on any issues raised during public testimony.
18. The Board of Trustees will close the public hearing.
19. The Board of Trustees will make a final decision on the application by resolution. The decision will be to approve, approve with modifications and/or conditions, or deny the application, based on the criteria listed below, or request that the application be further reviewed by the Planning Commission. If the application is denied you move to **End of Process**. If the application is approved you move to **Submit Documents**.

End of Process:

The applicant is at the end of the process when the special review use application is denied.

Issuance of Special Review Use Permit:

The Special Review Use may be established by the Applicant after the Community Development Department issues the Special Review Use Permit. The permit shall cite specific modifications and/or conditions of the approval, if any.

If a Special Review Use is not in operation within one year after the date of its approval, its approval shall be revoked and its permit shall be revoked by the Community Development Director. The owner shall be notified of the revocation in writing.

Approval Criteria

The Board of Trustees may approve Special Review Uses, and the Planning Commission may recommend approval, if the Special Review Use meets all of the following criteria:

1. The proposed use is consistent with the Town's Comprehensive Master Plan and all applicable provisions of the Municipal Code Title 10 -UDC and applicable State and Federal regulations;
2. The proposed use is consistent with the purpose and intent of the zoning district in which it is located;
3. The proposed use is consistent with any applicable use-specific standards set forth in Section 3.2 of the Municipal Code Title 10 -UDC;
4. The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);
5. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent practicable;
6. Facilities and services (including sewage and waste disposal, water, gas, election, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development;
7. Adequate assurances of continuing maintenance have been provided; and
8. Any significant adverse impacts on the natural environment will be mitigated to the maximum extent practicable.

Submittal Requirements

One copy of the following information shall be submitted to the Community Development Department – Planning Division, unless waived by the Community Development Director in order to perform a completeness review. All information shall be submitted in a three ring binder with dividers and all 24" x 36" exhibits shall be folded to fit into pockets within the binder. All 24" x 36" exhibits shall be reduced to 11" x 17" in size and included with the submission. **Applications will not be accepted for review unless all information is present.**

1. **Completed application.**
2. **Application fee.**
3. **Proof of ownership** that includes a warranty deed or current title insurance policy or title commitment issued no more than thirty days prior to the date of application, for all of the property within the request.
4. **A notarized letter of authorization** from the landowner(s) permitting a representative to process the application, when the landowner is not the applicant.
5. **Copies of any special agreements**, oil/gas surface use agreements, conveyances, restrictions, or covenants that will govern the use and/or maintenance of the site.
6. **Written narrative**, describing the proposed development which at a minimum provides the following information:
 - a. General project concept and purpose of the request;
 - b. Proposed development time-line;
 - c. How the proposal relates to the existing land-use of the subject property and the zoning and land-use of adjacent properties, including statements describing areas of compatibility and conflict and the mitigation measures utilized;
 - d. How the proposal complies with the Town's Comprehensive Master Plan and approval criteria of the Municipal Code Title 10 -UDC; and
 - e. A description regarding the status of mineral rights and the substance of any existing or proposed covenants, special conditions, grants of easements, or other restrictions applying to the proposed subdivision.
7. **A Management/Operational Plan** shall be provided that addresses all aspects of the day-to-day operation of the Special Review Use. The degree of detail will depend upon the specific use. At a minimum the plan shall include:
 - a. The number of clients, boarders, parishioners, animals etc.;
 - b. The hours of operation, whether the use is seasonal and the number of days per week;
 - c. Number of employees;
 - d. The required outside storage, parking and loading area; and
 - e. The permit requirements from County, State or Federal agencies.

8. If applicable, **Site Plan exhibits** and other Site Plan submittal requirements shall be prepared in accordance with the Site Plan User's Guide.
9. **Development Reports/Studies:** The following development reports, studies and plans shall be prepared to adequately portray the physical characteristics of the property unless waived by the Community Development Director:
 - a. An Assessment of Impact Report, detailing the impact the proposed development may have on Town, County, Special District, and utility facilities and services, including but not limited too: water and wastewater; open space and recreation; law enforcement and fire protection; schools; and general utilities (electric, gas, telephone).
 - b. A Phase III Drainage Report and Plan prepared by a registered professional engineer showing the final proposed drainage system, design details and calculations.
 - c. A Traffic Impact Study or narrative detailing the transportation network and establishing the availability and adequacy of the system consistent with the Town of Erie's *Comprehensive Master Plan* and *Transportation Plan*.
10. Any additional information, as requested by the Community Development Director, in order to thoroughly review the impacts of the proposed development.