

takings or purchases upon extension. A barricade shall be constructed on the extension to prevent accidental passage into undeveloped areas.

(G) Driveway

Driveways on corner lots in multi-family developments shall be handed in the opposite side from the intersection of the street rights-of-way lines.

(H) Mailboxes

The subdivision covenants of a multi-family residential development shall establish a uniform design and specification for all mailboxes. The design and specifications shall be done in accordance with the U.S. Postal Service regulations. Further, all municipal regulations for the placement of mailboxes shall be adhered to.

(I) Landscaping

Refer to **Section 6.10**, Landscaping Standards, of this Ordinance.

Section 4.14 Home Occupation Standards

(A) Purpose and Intent

The purpose of these home occupation standards is to establish minimum requirements for home-based businesses in order to protect the residential character of the McCordsville Community, preserve property values, and prevent the hazards to persons and property that can result from residential-commercial land use conflicts.

(B) Applicability

A home occupation may be permitted, subject to Board of Zoning Appeals approval of a Special Exception Use, as an incidental use to any residential dwelling. In order to be considered a permitted home occupation, the use shall comply with the requirements of this Section.

(C) Activities

The face-to-face wholesale/retail sale of stocked inventories is not permitted, except for incidental sales that do not exceed 25 percent of total home occupation sales. Mail-order/telephone/internet sales, as well as distribution of sold merchandise, is hereby permitted. Manufacturing activities are hereby expressly prohibited.

(D) Effects of Operation

There shall be no equipment or process used in the home occupation that creates noise, vibration, glare, smoke, fumes, odors, or electrical interference that is detectable, without the aid of instruments, off the premises (as determined by the Administrative Officer, or his or her designee). There shall be no electrical or mechanical equipment utilized in the home occupation that will create any visual or audible interference with radio or television reception.

(E) Owner/Operator

At least one person residing within the dwelling must be the primary operator of the home occupation.

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(F) Employees

The home occupation may not involve the on-site employment or regular on-site gathering of any more than one person, other than those residing at the location of the home occupation.

(G) Outdoor Storage/Display

There shall be no exterior storage of products, equipment or materials that are related to the home occupation.

(H) Business Area

The home occupation may be located within the dwelling and/or an accessory structure, but shall not exceed a total area of 500 square feet. The home occupation must utilize no more than 25 percent of the total floor area of the dwelling.

(I) Structural Alterations

The home occupation must not require any structural or aesthetic alterations to the dwelling and/or accessory structure that changes its residential character as described below:

(1) Dwelling Appearance

The dwelling and/or accessory structure shall not be altered in its appearance and the home occupation shall not be conducted in such a manner as to differentiate the dwelling from the residential character of the area by the use of colors, materials, construction, or lighting.

(2) Entrances

The home occupation shall not require any additional entrances to the dwelling and/or accessory structure.

(3) Utility Service

The home occupation shall not require increasing or enhancing the size, capacity, or flow of the water, gas, waste treatment, or electrical systems beyond what is standard for a residence. Illegal discharge to the Town's sanitary or stormwater sewers is expressly prohibited.

(4) Interior Alterations

There shall be no alterations to the interior of the dwelling to accommodate the home occupation that would render the structure undesirable for residential use, as determined by the Administrative Officer, or his or her designee.

(J) Parking & Business Vehicles

The home occupation shall not involve on-site customers, employees, meetings, or other events that necessitate the installation of any off-street parking spaces in addition to those required of the dwelling unit by this Ordinance. In addition, the on-site storage of business vehicles shall meet the requirements of this Ordinance.

(K) Deliveries

The home occupation must not require the regular use of commercial vehicles for pickup and deliveries, other than those from the U.S. Postal Service or other small package

carriers. For the purposes of this ordinance a commercial vehicle is any vehicle in excess of 16,000 pounds.

(L) Signs

No signs of any type shall be used, other than those permitted in the applicable zoning district by **Article VII**, Sign Standards, of this Ordinance.

Section 4.15 Telecommunications Facility Standards

(A) Purpose and Intent

The purpose of these telecommunication facility standards is to provide for adequate, reliable public and private telecommunications service while maximizing the use of transmission towers and tower sites. These requirements also seek to minimize the adverse, undesirable visual impact of towers through minimizing needed towers and tower sites, careful design and siting, and screening.

(B) Required Approvals

The placement of telecommunications facilities shall meet the following approval requirements:

(1) Installation of New Antenna

The installation of new antenna(s) on existing towers, including legal non-conforming towers, and existing alternative structures (such as water towers, buildings, or church steeples) may be approved by the Administrative Officer subject to compliance with all applicable requirements of this Ordinance. New antenna(s) that will add any height to an existing tower, or extend over 10 feet above the highest point of any alternative structure shall be subject to the provisions of this Section for the installation of new towers as described.

(2) Installation of New Accessory Structures

The installation of new accessory structure(s), such as equipment buildings, to support the installation of antenna on existing towers or alternative structures may be approved by the Administrative Officer subject to compliance with the applicable requirements of this Ordinance.

(3) Installation of New Tower

The installation of any new tower(s) shall be reviewed either by the Administrative Officer in the case of a permitted use or by the Board of Zoning Appeals as a special exception use consistent with the provisions of this Ordinance.

(C) Abandonment

Abandoned or unused towers or portions of towers shall be removed. The owner of a wireless facility shall file annually a declaration with the Administrative Officer or his or her duly authorized designee as to the continuing operation of every facility installed subject to these regulations, and purchase an Improvement Location Permit under the guidelines of this Ordinance. In addition, the owner shall file annually a Certificate of Insurance from the owner's insurance carrier listing The Town of McCordsville and the McCordsville Town Council as additional insureds for the purposes of general liability with regard to bodily injury, personal injury and property damage from all possible risks

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c) Practical Difficulty

The strict application of the terms of this Ordinance will result in practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.

d) Unnecessary Hardship

The strict application of the terms of this Ordinance will constitute an unnecessary hardship as they are applied to the property for which the variance is sought.

e) Comprehensive Plan

The granting of the variance does not interfere substantially with the Comprehensive Plan.

(F) Conditions

The Board of Zoning Appeals may impose such reasonable conditions upon its approval as it deems necessary to find that the decision criteria for approval have been met.

(G) Commitments

The Board of Zoning Appeals may require the owner(s) of the property to make written commitments in recordable form concerning the use or development of the property as specified under IC 36-7-4-921. Such commitments shall be recorded in the Hancock County Recorder's Office. A copy of the recorded commitments shall be provided to the Administrative Officer for inclusion in the petition file at the time of application for an Improvement Location Permit. No Improvement Location Permit shall be issued for a permit application which does not comply with the recorded commitments.

(H) Limitation

A development standards variance granted by the Board of Zoning Appeals and executed in a timely manner as described in this Article shall run with the parcel until the property complies with this Ordinance as written.

(I) Successive Applications

No variance may be reviewed by the Board of Zoning Appeals for the same cause more than once in any one year period.

Section 10.04 Special Exception

In no case shall special exception uses be authorized without the approval of the Board of Zoning Appeals. Further, no decisions on previous applications shall serve to set a precedent for any other application before the Board. The following procedure applies to special exception applications:

(A) Application

The applicant shall submit a special exception application, affidavit and consent of property owner(s) (if the owner is someone other than the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to, the following:

(1) Site Plan

A site plan shall be signed and dated, and clearly show the entire layout of the property and all features relevant to the special exception request.

(2) Statement of Intent

A statement of intent to the Board of Zoning Appeals describing the details of the special exception request including, but not limited to:

- a) The ways in which the special exception shall comply with the applicable development standards of this Ordinance,
- b) The ways in which the special exception shall be consistent with the required determination described by this Ordinance, and
- c) Any written commitments in a recordable format being made by the applicant.

(3) Fiscal Impact Study

A Fiscal Impact Study may be required in accordance with the Town of McCordsville Code.

(B) Notification

Notification for the scheduled public hearing regarding the special exception request shall be completed consistent with this Ordinance and the Rules and Procedures of the Board of Zoning Appeals.

(C) Public Hearing

The Board of Zoning Appeals will then, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates, review the special exception application and required supporting information.

(1) Representation

The applicant, or a representative of the applicant, must be present at the public hearing to present the application and address the findings.

(2) Testimony

The Board shall consider a report from the Administrative Officer and testimony from the applicant, applicant's representative, remonstrators, members of the public, and interested parties at the hearing.

(3) Procedures

The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the Rules and Procedures of the Board.

(4) Possible Action

The Board of Zoning Appeals may approve, approve with conditions, deny, or continue the application.

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a) Approval

The application shall be approved if a determination is made consistent with the requirements of this Section.

b) Approval with Modifications

The application may be approved with modifications if the Board of Zoning Appeals determines that the required determination may be made only if certain conditions are applied to the application. The Board may make reasonable conditions related to the required determination, part of its approval and/or accept written commitments from the applicant.

c) Denial

The application shall be denied if a determination is made that any requirement of this Section has not been met. Applications that are denied shall not be eligible for consideration again by the Board for a period of 12 months from the date of denial.

d) Continued

The application may be continued by the Board based on a request by the Administrative Officer or applicant; an indecisive vote wherein the item is essentially tabled; or a determination by the Board that additional information is required prior to action being taken on the request.

i) Additional legal notice shall not be required unless specified by the Board of Zoning Appeals.

ii) The continuing of all applications shall be consistent with the adopted Rules and Procedures of the Board of Zoning Appeals.

(D) Decision Criteria

The Board of Zoning Appeals shall have the power to authorize special exceptions. In approving special exceptions, the Board of Zoning Appeals may attach any conditions to the special exception as it deems necessary to assure compliance with the purpose of this Ordinance. If the conditions of the special exception are not completely and continuously adhered to after the granting of the special exception, the special exception shall become null and void upon notice to the property owner from the Board of Zoning Appeals and completion of the termination process consistent with **Section 10.04(I)**, Termination on the following pages. The following requirements shall be met:

- (1) The special exception shall be permitted by this Ordinance;
- (2) The special exception can be served with adequate utilities, access roads, drainage, and other necessary facilities;
- (3) The special exception shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the development standards of this Ordinance;

- (4) The special exception shall be sorted, oriented, and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties;
- (5) The special exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood;
- (6) The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood;
- (7) The special exception shall preserve the purpose of this Article.

(E) Other Considerations

When considering a special exception the Board of Zoning Appeals may consider the following items as they relate to the proposed use:

- (1) Topography and other natural site features;
- (2) Zoning of the site and surrounding properties;
- (3) Driveway locations, street access and vehicular and pedestrian traffic;
- (4) Parking (including amount, location, and design);
- (5) Landscaping, screening, buffering;
- (6) Open space and other site amenities;
- (7) Noise production and hours of any business operation;
- (8) Design, placement, architecture, and building material of the structure;
- (9) Placement, design, intensity, height, and shielding of lights;
- (10) Traffic generation;
- (11) General site layout as it relates to its surroundings; and
- (12) Any other criteria deemed relevant by the Board.

(F) Conditions

The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in this Section have been satisfied.

(G) Commitments

The Board may require the owner(s) of the property to make written commitments in recordable form concerning the use or development of the property as specified under IC 36-7-4-921. Such commitments shall be recorded in the Hancock County Recorder's Office. A copy of the recorded commitments shall be provided to the Administrative Officer for inclusion in the petition file at the time an application is submitted and prior to the issuance of any Improvement Location Permit. No Improvement Location Permit

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shall be issued for a permit application which does not comply with the recorded commitments.

(H) Limitations

Unless otherwise specified by the Board, special exception approvals shall be limited to, and run with the applicant at the location specified in the application. The Board may also limit special exceptions to a specific time period and a specific use. Special Exceptions shall also be invalid if (1) the property is in compliance with the Ordinance as written, or (2) the special exception approval is terminated.

(I) Termination

A special exception use may be terminated by the Board of Zoning Appeals under the following procedures:

(1) Public Hearing

Upon determination by the Administrative Officer that possible grounds for termination exist, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing. The Administrative Officer, or his or her designee, shall notify the applicant and all adjacent properties previously noticed, of the hearing via Certified Mail a minimum of ten days prior to the hearing.

(2) Grounds for Termination

At the public hearing the special exception use shall be revoked if a finding is made by the Board that one or more of the following is true:

- a) The execution of the approval is not consistent with any requirement of this Ordinance;
- b) The execution of the approval is not consistent with any condition of approval;
- c) The execution of the approval is not consistent with any written commitment; or
- d) The approved was the result of fraud or the misrepresentation of facts.

(J) Special Exception Use Expansion

A use authorized as a special exception may not be expanded, extended, or enlarged unless reauthorized by the Board under the procedures set forth in this Article for granting a special exception.

(K) Successive Applications

No special exception use may be reviewed by the Board of Zoning Appeals for the same cause more than once in any one year period.

Section 10.05 Appeal Process and Procedures

(A) Administrative Appeal

The Board of Zoning Appeals may grant an appeal of any decision, interpretation, or determination made by the Administrative Officer, other Plan Commission staff members, or any other administrative official or board charged with the duty of enforcing