

**ARTICLE 9
SPECIAL USE PERMIT REVIEW**

SECTION 9.01 Intent

The special use permit review procedures are instituted to provide an opportunity for the Township Planning Commission to review a proposed use that, due to its characteristics, may or may not be appropriate for a given site within a zoning district. The procedure is intended to analyze the proposed use's potential impact on surrounding land uses, traffic patterns, environmental features and other community characteristics to determine its suitability for the site and any necessary conditions required to mitigate the impacts.

SECTION 9.02 When a special use permit is required

The establishment of a use listed under the zoning district regulations as requiring a special use permit, or any expansion of such a use, requires review and approval as outlined in this article.

SECTION 9.03 Required information

An application for special use permit shall contain the following:

- A. A completed special use permit application on a form provided by the Township.
- B. Twelve (12) copies of a complete site plan meeting the requirements of Article 8 of this Ordinance.
- C. All necessary fees, as established by the Township Board.

SECTION 9.04 Who approves special use permits

Special use permits applications are reviewed and approved by the Township Planning Commission.

SECTION 9.05 Special use permit review process

- A. Planning Commission special use permit

The applicant shall submit the special use permit application to the Zoning Administrator at least thirty (30) days prior to the Planning Commission meeting at which it is to be reviewed for approval. The site plan may be submitted no less than fifteen (15) days prior to the meeting.

B. Public hearing

Upon receipt of an application for a special use permit, a public hearing shall be scheduled for a Planning Commission meeting at which the special use permit will be reviewed. This public hearing will coincide with the preliminary review of the project's site plan. One (1) notice of the public hearing shall be published in a newspaper of general circulation in the Township and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, as identified by the most recent tax roll and to the occupants of all structures within three hundred (300) feet and to the occupants of all structures within 300 feet of the property. If a portion of the general common area of a condominium falls within the three hundred (300) feet radius, notice will be sent to the condominium association. The notice shall be given not less than fifteen (15) days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnership, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwellings units or other distinct spatial areas owned or leased by different individuals, partnership, business, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at a primary entrance to the structure. The notice shall:

1. Describe the nature of the special use request.
2. Indicate the property which is the subject of the special use request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
3. State when and where the public hearing on the special use request will be held.
4. Indicate when and where written comments will be received concerning the special use request.

(Amended: Ord. No. 668, 7-24-06)

C. Planning Commission decision

Following a public hearing, the Planning Commission shall do one of the following:

1. Approve the special use permit.
2. Approve the special use permit with conditions.
3. Postpone the special use permit pending review of required additional information.
4. Deny the special use permit.

D. Record of review

A record of the decision shall be filed with the Township Zoning Administrator, including:

1. A copy of the submitted application.
2. A copy of any meeting minutes related to the application.
3. A copy of the special use permit signed by the Zoning Administrator and the applicant.
4. A copy of any other relevant records related to the application.

In approving or disapproving a special use permit application, the Planning Commission shall state the basis for their decision.

E. Appeal of special use permit decision

Any person aggrieved by the decision of the Planning Commission in granting or denying a special use permit may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within twenty one (21) days of the posting of the minutes of the meeting and state the basis for the appeal.

SECTION 9.06 Conditions

A. The Planning Commission may place conditions on approval of a special use permit including conditions that require conformance with the standards of another local, county or state agency such as, but not limited to, the County Drain Commissioner, County Health Department and the Michigan Department of Environmental Quality. They may do so when such conditions would achieve all of the following:

1. Would ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
2. Would protect the natural environment and conserve natural resources and energy.
3. Would ensure compatibility with adjacent uses of land.
4. Would promote the use of land in a socially and economically desirable manner.

B. In determining appropriate conditions, the Planning Commission shall ensure that:

1. There is a rough proportionality between the cost to the developer to provide an improvement in relationship to the impact to be mitigated.
2. There is a reasonable connection between the condition imposed and the impact it is mitigating.

SECTION 9.07 Performance guarantees

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of the Township and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission may require the applicant to deposit a performance guarantee as set forth herein. Performance guarantees shall be required in instances where an occupancy permit is requested prior to completion of all improvements on an approved site plan. The purpose of the performance guarantee is to ensure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

- A. Performance guarantee as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit, corporate surety or performance bond in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator.
- B. Where the Planning Commission requires a performance guarantee, said performance guarantee shall be deposited with the Township Treasurer prior to the issuance of a zoning permit. The Township shall deposit the performance guarantee, if in the form of a cash deposit, certified check or performance bond in an interest-bearing account.
- C. An approved special use permit shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date the special use permit is approved.
- D. In the event the performance guarantee deposited is a cash deposit or certified check, the Township shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposit funds when one hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee may be applied by said applicant to assure compliance with Zoning Ordinance standards and the specifications of the approved site plan.
- E. Upon the satisfactory completion of the improvements for which the performance guarantee was required, as determined by the Zoning Administrator, the Treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon.
- F. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically

the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the Township the amount by which the costs of completing the improvements exceeds the amount of the performance guarantee. Should the Township use the performance guarantee or a portion thereof, to complete the required improvements, any amount remaining after said completion shall be applied first to the Township's administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the Township to ensure completion of an improvement associated with the proposed project prior to the Township's approval, the applicant shall not be required to deposit with the Township a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the Township and prior to the issuance of a building permit, the applicant shall enter into an agreement incorporating the provisions hereof with the Township regarding the performance guarantee.

SECTION 9.08 Changes to approved special use permit

All work conducted in relation to a project with an approved special use permit and related site plan shall be in conformance to that permit and site plan. Changes to the type or scale of the use require amendment to the special use permit. All changes to an approved site plan must be approved following the procedures outlined in Section 8.10.

SECTION 9.09 Expiration of special use permit

Approval of a special use permit shall expire two (2) years after issuance, if a building permit has not been issued and construction begun pursuant to the special use permit, or if the use permitted by special use permit has not been established and maintained. If a use permitted by special use permit is inactive for twelve (12) consecutive months, the special use permit shall expire.

SECTION 9.10 Basis of determination

Prior to approval of the special use permit application and required site plan, the Planning Commission shall insure that the standards specified in this sub-section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special use under consideration.

A. General standards

The Planning Commission shall review the particular circumstances of the special use request under consideration in terms of the following standards, and shall approve a use request only upon a finding of compliance with each of the standards, as well as applicable standards established elsewhere in this Ordinance.

1. The proposed use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.
2. The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the zoning district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle interfacing.
3. The proposed use shall be designed as to the location, size, intensity, site layout and hours of operation so as to eliminate any nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.
4. The proposed use shall be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interface with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
5. The use shall not place demands on public services and facilities in excess of current capacity.
6. The proposed use shall be so designed, located, planned and operated that the public health, safety and welfare will be protected.
7. The proposed use shall not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or permitted land uses in the zoning district.

SECTION 9.11 Administratively approved special use permits

Certain uses are listed in the Article 3, District Regulations as administratively approved special use permits. These uses may be permitted by the Zoning Administrator following these procedures:

A. Submission of application

The applicant shall submit a plot plan meeting the requirements of Section 7.02.B of this Ordinance, a completed application form and the required fee to the Zoning Administrator. The Zoning Administrator may request additional information necessary for him/her to determine compliance with the standards for approval.

B. Standards for approval

The Zoning Administrator shall approve an application for an administratively approved special use permit if the application meets the submission requirements of this section and the following non-discretionary standards for approval:

1. The application shall comply with the district requirements in Article 3 of this Ordinance for the district it is located in.
2. The application shall comply with the applicable general provisions of Article 4 of this Ordinance.
3. The application shall comply with the specific standards for that use listed in Article 11 of this Ordinance.

C. Modifications to administratively approved special use permits

Requests for modifications to existing administratively approved special use permits shall be handled in the same manner as outlined above for approval the initial application for an administratively approved special use permit.

SECTION 9.12 Suspension, revocation or modification of the special use permit

A. The Planning Commission shall have the power to suspend, revoke or modify an approved special use permit if it finds that one or more of the following criteria are met:

1. The special use was not constructed in conformance with the approved plans, or the property is not being used in conformance with the special use permit.
2. Compliance with the special use permit and any conditions has not been consistently demonstrated and administrative attempts to secure compliance have been unsuccessful.
3. The special use permit is issued erroneously on the basis of incorrect or misleading information supplied by the applicant and/or his/her designee.
4. The operation of the use granted by special use permit has created a risk or danger to public health, safety and welfare.
5. The special use is a violation of any provision of this Ordinance or other Township, County, State or Federal regulations.

B. The Zoning Administrator or Planning Commission may initiate the suspension revocation or modification of the special use permit if the Planning Commission determines there is sufficient cause to hold a public hearing on suspension, revocation or modification of the permit.

- C. Notice of the public hearing shall be sent by both first class and certified mail return receipt to the owners of property for which the special use permit has been issued and to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, as identified by the most recent tax roll as required in the notice requirements of this Ordinance.
- D. If the Planning Commission determines there is sufficient cause to hold a public hearing a public hearing will be scheduled. Members of the Commission may request such additional information as is reasonably necessary to evaluate whether the permit should be suspended, revoked or modified.
- E. At the conclusion of the public hearing, the Planning Commission may choose not to take any action, postpone decision pending review of additional information, suspend, revoke or modify the permit based evidence presented at the hearing and the criteria set forth as the basis of determination described in this Ordinance.
- F. The Planning Commission shall state the basis for their decision.
- G. If the Planning Commission suspends, revokes or modifies the special use permit, the Commission may require improvements, restoration or reclamation of or to the property. The Commission may set time limits for the completion of improvements, restoration or reclamation and may require performance grantees in accordance with this Ordinance to insure compliance.
- H. If the Planning Commission suspends or revokes the special use permit, the use for which the permit was granted must cease immediately unless the Commission otherwise establishes a time frame cessation.
- I. The Planning Commission decision shall not be reconsidered, except as a new application or appealed to the Zoning Board of Appeals. The appeal must be filed within twenty one (21) days of the posting of the minutes of the meeting and state the basis for the appeal.
(Added: Ordinance No. 716, 12-21-09)

SECTION 9.13 Cancellation by surrender of a special use permit

Any special use permit, which has been previously approved, may be offered for surrender by the property owner or his/her designee by submitting request to the Zoning Administrator.
(Added: Ordinance No. 716, 12-21-09)