

ARTICLE XX

SPECIAL LAND USES

§ ##.05 - INTENT & PURPOSE

It is the intent and purpose of this Article to:

- (A) Recognize that there are certain uses that may be necessary or desirable to allow in certain locations within districts but which, due to their actual or potential impact on neighboring uses or public facilities, need to be more carefully reviewed with respect to their location, design, and operation;
- (B) Establish the procedures for review of special land uses;
- (C) Establish standards for review of special land uses;
- (D) Provide a mechanism for public input on decisions involving more-intense land uses;
- (E) Promote a planned and orderly development pattern that can be adequately be served by public facilities and services in a cost-effective manner;
- (F) Provide greater flexibility to integrate land uses within the Township; and
- (G) Ensure that more-intense land uses can be accommodated by the environmental condition of their location.

§ ##.10 - AUTHORITY

The authority to approve, approve with conditions, or deny a special land use shall be with the Planning Commission. Its decision shall be final and may not be appealed to the Zoning Board of Appeals.

§ ##.15 - GENERAL PROVISIONS

- (A) **Site Plan Required:** A site plan shall be required for all special land uses. The special land use approval shall be before or at the same meeting as the preliminary, administrative, or amended site plan review.
- (B) **Special Land Uses Requiring a Variance:** The applicant shall obtain any necessary variance(s) before special land use approval.
- (C) **Separate Approval:** A separate special land use approval shall be required for each use that requires special land use approval.
- (D) **Right to Enter Property:** Submission of a special land use application shall constitute permission for the Township to access the property to complete onsite investigations for the purpose of administering this Article.
- (E) **Performance Guarantee:** The applicant shall provide a performance guarantee, in a form acceptable to the Township, before issuance of a Zoning Permit/Preliminary Certificate of Zoning Compliance.
 - (1) **Amount:** The amount of the performance guarantee shall be adequate to complete the improvements or restore the site and maintain the site.

- (2) *Form:* The performance guarantee shall be a cash deposit or irrevocable (evergreen) letter of credit.
- (3) *Waiver of Performance Guarantee:* The Township Board may waive the performance guarantee if it finds all of the following to be true:
 - a. *Minor Project:* The scope of the project is of a such limited nature that a development agreement is not necessary to ensure completion; and
 - b. *Other Guarantees:* There are other guarantees that will ensure that the project will be developed according to the approved site plan and any conditions of that approval.

(F) **Conditions of Approval:** The Planning Commission may impose reasonable conditions in granting an approval related to the following:

- (1) *Health, Safety, and Welfare:* Conditions shall be designed to protect the health, safety, and welfare of those who will use the site under consideration, residents and landowners immediately adjacent to the site, and the community as a whole;
- (2) *Public Services and Facilities:* Conditions shall be designed to ensure that public services and facilities affected by a proposed special land use will be capable of accommodating the resulting increased service and facility loads;
- (3) *Police Power:* Conditions shall be related to the valid exercise of the police power and purposes that are affected by the proposed special land use;
- (4) *Compliance:* Conditions shall be necessary to ensure compliance with the standards and provisions of this Ordinance, other Township Ordinances, or state and federal law;

(G) **Contact with Planning Commissioners (Ex-parte Contact):** No person shall communicate directly with any member of the Planning Commission outside of a public hearing with the intent of influencing the member's action or decision. Written comments may be submitted to the Director of Planning and Zoning for distribution to the Planning Commission. This shall not prohibit the Director of Planning and Zoning from promulgating staff reports and other related materials to the Planning Commission.

(H) **Public Hearing:** Special land uses shall be reviewed by the Planning Commission at a public hearing.

(I) **Zoning Permit:** A zoning permit shall be required prior to establishment of a special land use that has been approved by the Planning Commission.

§ ##.20 - REVIEW PROCESS

Special land uses shall be reviewed as described below and in this Article.

(A) **Preapplication Meeting:** The applicant shall meet with Township Officials, other agencies, and other interested parties prior to submission of a special land use application.

- (1) *Intent:* The intent of the preapplication meeting is to inform Township Officials and other interested parties of the general concept of the proposed special land use and to provide the applicant with feedback and guidance concerning the application. Statements made in the course of a preapplication meeting shall not be legally-binding on any party nor construed as representing approval or actions the Planning Commission may make during special land use review.

- (2) *Township Attendance:* The Director of Planning and Zoning shall invite the following individuals to attend the preapplication meeting:
- a. Other Township Officials, including, but not limited to: the Planning Commission Chair, the Township Engineer, and the Township Attorney; and
 - b. Officials from other agencies, including, but not limited to: the Washtenaw County Road Commission, the Washtenaw County Environmental Health Department, the Washtenaw County Water Resources Commissioner, the Dexter Area Fire Department, and local schools.
- (3) *Applicant Attendance:* The applicant, or an agent, shall attend and shall be responsible for inviting individuals responsible for preparing the associated site plan.
- (B) Application:** A special land use application shall include the following:
- (1) *Application Form:* A signed and completed application form;
 - (2) *Fee:* An application fee, as outlined in the adopted fee schedule. No fee shall be required if the applicant is acting on behalf of the Township;
 - (3) *Site Plans:* At least fifteen (15) hard copies of the associated site plan and a digital copy of the site plan, in a format acceptable to the Township. The applicant may submit one (1) copy with the application and submit the remaining copies following the review of completeness;
 - (4) *Additional Materials:* Any additional information determined necessary by the Director of Planning and Zoning; and
 - (5) *Complete and Accurate:* Submission of an application constitutes a representation that all the information is complete and accurate.
- (C) Review of Completeness:** A special land use application shall be reviewed by the Director of Planning and Zoning for completeness.
- (1) *Review Letter:* The Director of Planning and Zoning shall issue a review letter within fourteen (14) business days of receiving the application stating whether the application is complete or, if not, what additional materials or information is necessary for it to be considered complete. This period may be extended at the applicant's request in writing. If the review letter is not issued within the above period, the special land use application shall be placed on the next available Planning Commission agenda.
 - (2) *Administratively Complete:* The date on which the Director of Planning and Zoning declares an application complete or the expiration of the fourteen (14) day period described above, unless the application has been declared incomplete, shall be considered the date the application is administratively complete.
- (D) Scheduling:** Upon declaration of an administratively complete special land use application by the Director of Planning and Zoning, the application shall be placed on the next available agenda for the Planning Commission. The applicant may request it be placed on a later meeting agenda or may request a special meeting, with payment of an additional special meeting fee
- (E) Transmission of Materials:** The Director of Planning and Zoning or appropriate official or body shall transmit all relevant records and other materials to the Planning Commission.
- (F) Applicant's Responsibilities:** The applicant shall post a public notice sign or signs, provided by the Township for that purpose, on the site, clearly visible from each adjacent street and mark the property, at least fifteen (15) days before the public hearing. The public notice sign(s) and marking shall be maintained in good condition until a decision is made.

(G) **Notice of Hearing:** The Township shall give public notice of the special land use public hearing, as outlined in Section XX of this Ordinance and STATE REFERENCE HERE.

(H) **Hearing Appearance:** Any party may appear in person or by duly-authorized agent at public hearings.

(I) **Public Hearing:** Special land uses shall be reviewed by the Planning Commission at a public hearing.

(J) **Hearing Recess:** The Planning Commission may recess public hearings for a special land use from time to time with notice conforming to the requirements of the Open Meetings Act.

(K) **Planning Commission Review:** The Planning Commission, following a public hearing, shall approve, approve with conditions, deny, or postpone a special land use using the standards in this Article.

(1) **Approval:** If a special land use is approved, the Planning Commission shall cite its reasons for approval and any conditions necessary for approval. The concurring vote of at least four (4) members of the Planning Commission shall be necessary for approval.

(2) **Denial:** If a special land use is denied, the Planning Commission shall cite its reasons for denial.

(3) **Postpone:** If the Planning Commission determines that the special land use does not contain enough information necessary to conduct a review, additional information is necessary, or significant changes are necessary to receive approval, it may postpone review until a later date and shall cite the reasons for postponement.

(L) **Timely Decisions:** The Planning Commission shall render its decision within sixty (60) days of the date the application is administratively complete, unless a delay is agreed to by the applicant and the Planning Commission. The decision shall be final upon adoption of meeting minutes or signing of a resolution by the Township, whichever occurs first.

(M) **Acceptance of Conditions:** The approval of any special land use shall only be effective upon acceptance of the approval and any conditions of the approval by the applicant.

(N) **Expiration:** Special land use shall run with the land but shall expire as outlined below:

(1) **Establishment:** An approved special land use shall be established within two (2) years of the approval date, or the approval shall become null and void.

(2) **Discontinuation:** An approved special land use that is inactive for a period of two (2) consecutive years, whether or not there is an intent to abandon the use, shall become null and void.

(3) **Notice:** Upon finding that an approved special land use has expired, the Director of Planning and Zoning shall send notice to the property owner.

(4) **Effect:** Special land uses that have expired shall be resubmitted for review as a new application.

(O) **Rehearing:** A rehearing shall be processed in the same manner as the original application, including a new fee, unless initiated by the Planning Commission or Township Board. A request for rehearing shall be made within thirty (30) days of the decision becoming final. The only grounds upon which a rehearing of a previously-denied special shall be granted is if the approving authority, upon inspection, finds one (1) or more of the following to be true:

(1) **New Evidence:** Newly-discovered evidence is available;

(2) **Inaccurate Evidence:** Evidence previously relied upon is found to be inaccurate; or

(3) **Procedures:** Proper procedures were not followed.

(P) Reapplication: A special land use application that has been denied shall not be resubmitted for reconsideration for a period of one (1) year from the date the decision became final, unless:

- (1) *Changed Conditions:* The Planning Commission, upon inspection, finds proof of changed conditions that contributed to the denial; or
- (2) *Changes to Site Plan:* Substantial changes have been made to the special land use that addresses the reasons for denial.

(Q) Revocation: An approved special land use may be revoked by the Planning Commission as outlined below.

- (1) *Notice:* Notice shall be sent to the applicant of the possible revocation, including the time and place the revocation will be considered and the reason for the revocation.
- (2) *Public Hearing:* The revocation shall be heard at a public hearing.
- (3) *Decision Criteria:* In order to revoke an approved special land use, the Planning Commission shall find any one (1) of the following to be true:
 - a. *Ordinance Standard:* The execution or use of a Zoning Permit/ Preliminary Certificate of Zoning Compliance related to the approved special land use is not consistent with a standard of this Ordinance as it existed at the time of approval;
 - b. *Special Land Use and Conditions:* The execution or use of the special land use or a Zoning Permit/Preliminary Certificate of Zoning Compliance related to the approved special land use is not consistent with the approved special land use, any condition of approval, or any written commitment; or
 - c. *Fraud:* The approval was a result of fraud or misrepresentation of facts.
- (4) *Effect:* Upon revocation of a special land use, all activity shall cease immediately, except for work directly related to securing the site or correcting a violation.

(R) Suspension: An approved special land use may be suspended temporarily and immediately by the Planning Commission as outlined below.

- (1) *Notice:* The applicant shall receive notice of the possible suspension, including the time and place the suspension will be considered and the reason for the suspension.
- (2) *Public Hearing:* A public hearing shall not be necessary for suspension of an approved special land use.
- (3) *Decision Criteria:* In order to suspend an approved special land use, the Planning Commission shall find all of the following to be true:
 - a. *Threat:* A severe and imminent threat exists to the health, safety, and welfare of neighboring persons or properties; and
 - b. *Delay:* The delay required for noticing would be detrimental to efforts to mitigate or respond to the threat.
- (4) *Effect:* Upon suspension of a special land use, all activity shall cease immediately, except for work directly related to securing the site or addressing the threat.

§ ##.25 - DECISION CRITERIA

Special land uses shall be approved, or approved with conditions, if the Planning Commission finds all of the following applicable criteria to be true:

- (A) **Master Plan:** The special land use shall be compatible with the goals, objectives, and future land use map of the Master Plan;
- (B) **Zoning District:** The special land use shall be consistent with the intent of the zoning district
- (C) **Compatibility:** The special land use shall be designed, constructed, operated, and maintained to be compatible with and not significantly alter the existing or intended character of the general vicinity;
- (D) **Applicable Ordinances and Laws:** The special land use shall meet the provisions of this Ordinance, other Township Ordinances, and state and federal laws;
- (E) **Existing and Planned Uses:** The special land use shall not be detrimental or disturbing to existing or reasonably anticipated future uses in the general vicinity;
- (F) **Services:** The special land use shall be adequately served by essential public facilities and services, including, but not limited to: streets, police, fire protection, drainage, solid waste disposal, water and sewage, and schools;
- (G) **Natural Environment:** The special land use shall not have a significantly-negative impact on the natural environment;
- (H) **Traffic:** The special land use shall not have a significantly-negative impact on vehicular and non-motorized traffic;
- (I) **Health, Safety, and Welfare Impacts:** The special land use shall not involve any activities, processes, or materials that are detrimental to the natural environment or public health, safety, or welfare because of an excessive increase of traffic, noise, vibration, smoke, fumes, odors, glare, or other such nuisances;
- (J) **Mitigation:** The special land use shall provide mitigation to minimize or prevent negative impacts; and
- (K) **County, State, and Federal Laws:** The special land use shall comply with all applicable county, state, and federal laws.

§ ##.30 - REHEARING & REAPPLICATION

- (A) **Rehearing:** A rehearing shall be processed in the same manner as the original application, including a new fee, unless initiated by the Planning Commission or Township Board. A request for rehearing shall be made within thirty (30) days of the decision becoming final. The only grounds upon which a rehearing of a previously-denied special shall be granted is if the approving authority, upon inspection, finds one (1) or more of the following to be true:
 - (1) **New Evidence:** Newly-discovered evidence is available;
 - (2) **Inaccurate Evidence:** Evidence previously relied upon is found to be inaccurate; or
 - (3) **Procedures:** Proper procedures were not followed.
- (B) **Reapplication:** A special land use application that has been denied shall not be resubmitted for reconsideration for a period of one (1) year from the date the decision became final, unless:

- (1) *Changed Conditions:* The Planning Commission, upon inspection, finds proof of changed conditions that contributed to the denial; or
- (2) *Changes to Site Plan:* Substantial changes have been made to the special land use that addresses the reasons for denial.

§ ##.35 - REVOCATION & SUSPENSION

An approved special land use may be revoked or suspended as outlined in this Section.

(A) Revocation: An approved special land use may be revoked by the Planning Commission as outlined below.

- (1) *Notice:* Notice shall be sent to the applicant of the possible revocation, including the time and place the revocation will be considered and the reason for the revocation.
- (2) *Public Hearing:* The revocation shall be heard at a public hearing.
- (3) *Decision Criteria:* In order to revoke an approved special land use, the Planning Commission shall find any one (1) of the following to be true:
 - a. *Ordinance Standard:* The execution or use of a **Zoning Permit/ Preliminary Certificate of Zoning Compliance** related to the approved special land use is not consistent with a standard of this Ordinance as it existed at the time of approval;
 - b. *Special Land Use and Conditions:* The execution or use of the special land use or a **Zoning Permit/Preliminary Certificate of Zoning Compliance** related to the approved special land use is not consistent with the approved special land use, any condition of approval, or any written commitment; or
 - c. *Fraud:* The approval was a result of fraud or misrepresentation of facts.
- (4) *Effect:* Upon revocation of a special land use, all activity shall cease immediately, except for work directly related to securing the site or correcting a violation.

(B) Suspension: An approved special land use may be suspended temporarily and immediately by the Planning Commission as outlined below.

- (1) *Notice:* The applicant shall receive notice of the possible suspension, including the time and place the suspension will be considered and the reason for the suspension.
- (2) *Public Hearing:* A public hearing shall not be necessary for suspension of an approved special land use.
- (3) *Decision Criteria:* In order to suspend an approved special land use, the Planning Commission shall find all of the following to be true:
 - a. *Threat:* A severe and imminent threat exists to the health, safety, and welfare of neighboring persons or properties; and
 - b. *Delay:* The delay required for noticing would be detrimental to efforts to mitigate or respond to the threat.
- (4) *Effect:* Upon suspension of a special land use, all activity shall cease immediately, except for work directly related to securing the site or addressing the threat.

§ ##.35 - AMENDMENTS, EXPANSIONS, or CHANGE OF USE

An approved special land use may be amended or expanded as outlined in this Section.

(A) **Major Amendment or Expansion:** A major amendment or expansion of an approved special land use shall be reviewed by the Planning Commission at a public hearing.

(1) **Types:** Major amendments or expansions of an approved special land use are likely to have an impact on the general vicinity, including, but not limited to the following:

- a. **Floor Area:** An increase of the useable floor area used by the special land use by more than twenty (20) percent from the originally-approved useable floor area;
- b. **Parking Lot:** An expansion of the off-street parking lot area or number of parking spaces by more than twenty (20) percent from the originally-approval off-street parking lot area or number of parking spaces;
- c. **Occupancy:** An increase of capacity or membership of the special land use by more than twenty (20) percent from the originally-approved capacity or membership;
- d. **Land:** An increase in the land area dedicated to the special land use by more than twenty (20) percent from the originally-approved land area;
- e. **Location:** Something about a change of location.

(2) **Public Hearing:** Major amendments or expansions of an approved site plan shall be reviewed by the Planning Commission at a public hearing, as outlined in this Article.

(B) **Minor Amendment or Expansion:** A minor amendment or expansion of an approved special land use shall be reviewed and approved by the Director of Planning and Zoning. PROCESS??

(C) **Change in Use:** Change to another special land use shall require review of that special land use.