

**CHAPTER 19**

**SPECIAL LAND USE PERMIT REVIEW PROCEDURES**

**SECTION 19.01 SPECIAL LAND USE REVIEW**

The Planning Commission shall have the following specific powers and duties concerning special use approvals.

- A. **Statement of Intent.** The procedures and standards set forth in this Chapter are intended to provide a consistent and uniform method for review of proposed plans for special land uses.

In hearing and deciding upon special use permit requests, the Planning Commission shall base its actions on the theory that the development and execution of a comprehensive zoning ordinance is founded upon the division of the Township into districts, within each district the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are variations in the nature of special uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

- B. **Application.** The application for special land use review shall be made on the forms and according to the guidelines provided by the Zoning Administrator. Each application shall be accompanied by the following:

1. The Chapter of this Ordinance under which the special land use is sought.
2. A site plan which shall include all the information required by this Ordinance in Chapter 12.
3. A letter describing the proposed use of the property.
4. Other information which the Planning Commission may reasonably deem necessary for adequate review.

The application shall be submitted by the owner having an interest in land for which the special land use approval is sought, or by the owner's designated agent. The applicant or a designated representative shall be present at all scheduled review meetings or consideration of the proposal may be tabled due to lack of representation.

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- C. **Notice of Public Hearing.** Upon receipt of a complete application, site plan, and attachments, if any, the Township shall schedule a public hearing on the request. The notice shall be given not less than fifteen (15) days prior to the date of the public hearing. The notice shall be published in a newspaper that circulates in the Township; and such notice shall be sent by mail 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, and to occupants of all structures within three hundred (300) feet of the property boundary regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. The notice is considered to be given when personally delivered or when deposited during normal business hours for delivery by the United States Postal Service or other public or private delivery service. The notice shall contain:
1. A description of the nature of the special land use request under the specific section of this Ordinance.
  2. A legal description or address and/or an approximate sketch of the property which is the subject of the request.
  3. A statement of when and where the public hearing will be held to consider the request.
  4. A statement as to when and where comments will be received concerning the request.

- D. **Planning Commission Determination.** Following the public hearing, the Planning Commission shall review the application for the special land use permit, together with the public hearing findings and reports and recommendations of Township staff, consultants and other reviewing agencies. The Planning Commission is authorized to deny, approve, or approve with conditions, requests for special land use approval. Such decision shall include the standards relied upon, finding of fact, conclusions, approval or denial, and conditions, if any, attached to the approval.

Performance guarantees may be required by the Planning Commission, in accordance with Chapter 19, to insure compliance with special approval conditions.

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- E. **Standards for Granting Special Use Approval.** Approval of a special land use permit shall be based on the determination that the proposed use will comply with all requirements of this ordinance, including site plan review criteria set forth in Chapter 12. In addition, the following standards shall be met:
1. The location, scale, and intensity of the proposed use shall be compatible with adjacent uses and zoning of land.
  2. The proposed use shall promote the use of land in a socially and economically desirable manner. The proposed use shall not adversely impact the social and economic well-being of those who will use the proposed land use or activity; residents, businesses, and landowners immediately adjacent; or the Township as a whole.
  3. The proposed special land use shall be compatible with and in accordance with the general principles and future land use configuration of the Township Master Plan and shall promote the intent and purpose of this Ordinance.
  4. The Planning Commission shall find that a need for the proposed use exists in the community at the time the special land use application is considered.
  5. The proposed use shall be designed, constructed, operated and maintained so as to assure long-term compatibility with surrounding land uses. Consideration shall be given to:
    - The size, placement, and materials of construction of the proposed use in relation to surrounding uses.
    - The location and screening of vehicular circulation and parking areas in relation to surrounding development.
    - The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping.
    - The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
    - The hours of operation of the proposed use. Approval of a special land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.

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6. The location of the proposed special land use within the zoning district shall minimize the impact of the traffic generated by the proposed use. Consideration shall be given to the following:
    - Proximity and access to major thoroughfares.
    - Estimated traffic generated by the proposed use.
    - Proximity and relation to intersections.
    - Location of and access to off-street parking.
    - Required vehicular turning movements.
    - Provision for pedestrian traffic.
  7. The proposed special land use shall be consistent with existing and future capabilities of public services and facilities affected by the proposed use.
  8. The proposed use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental to public health, safety, and welfare. Site layout shall be such that operations will not be objectionable to nearby dwellings by reason of noise, fumes, glare or flashing lights.
  9. The proposed use shall be compatible with the natural environment.
- F. **Recording of Planning Commission Action.** Each action taken with reference to a special land use proposal shall be duly recorded in the minutes of the Planning Commission. The minutes shall record the findings of fact relative to each special land use proposal, the grounds for action taken, and any conditions imposed in conjunction with approval. All records of proceedings shall be kept on file and made available to the public.
- G. **Effective Duration of Special Use Approval.** Special use approvals shall run with the owner/operator granted permission and may be issued for specified periods based upon the impacts of the proposed use to surrounding property. The sale, transfer or conveyance of the property on which the special land use is located shall nullify the special use approval. Any new proposed owner or operator shall be required to submit and be approved by the Township Planning Commission for a new special use permit in order to continue said operation or activity.
- H. **Amendments to Special Land Uses.** When an application is received to expand or change the use, traffic pattern, or other elements of a special land use, the application shall be subject to the same procedures followed for an original special approval of land use. The denial of an application to amend an existing Special Use Permit shall not nullify or cause to prohibit the applicant from continuing to operate

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in compliance/conformance within the specifications of the original (existing) Special Use Permit approval.

- I. **Revocation of Special Land Use Approval.** Approval of a special land use permit and site plan may be revoked by the Planning Commission if construction is not in conformance with the approved plans. In such a case, the Zoning Administrator shall place the special land use on the agenda of the Planning Commission for consideration, and give written notice to the applicant at least five (5) days prior to the meeting. The applicant shall be given the opportunity to present information to the Planning Commission and answer questions. The Planning Commission may revoke approval if it finds that a violation exists and has not been remedied prior to the hearing.

### **SECTION 19.02 PERFORMANCE GUARANTEES**

- A. **Purpose.** To insure compliance with the provisions of this Ordinance and any conditions imposed there under, the Planning Commission or Zoning Board of Appeals may require that a performance guarantee be deposited with the Township to insure the faithful completion of improvements, in accordance with the provisions of the Township Zoning Act, Public Act 184 of 1943, as amended. Improvements for which the Township may require a performance guarantee include, but are not limited to, landscaping, berms, walls, lighting, surfacing of drives, parking, and acceleration/deceleration lanes, traffic control devices, sewer or water line expansion, storm water retention areas and land reclamation activities.
- B. **Scope of Requirement.** The performance guarantee can apply only to those specific features and actions which the Planning Commission or Zoning Board of Appeals considers necessary to protect natural resources or the health, safety, or welfare of residents, project users, or the general public. A performance guarantee may not be required for the entire project. The guarantee is limited to those project components specifically designated by the Planning Commission or Zoning Board of Appeals.
- C. **General Requirements.** A performance guarantee shall be required by the Planning Commission on the applicable portion(s) of a site plan under any of the following circumstances:
  1. To meet the costs of improvements required to be made by the applicant to public facilities owned by the Township as a condition of site plan approval.
  2. To ensure the completion of the common elements of site plan affecting two or more parties.
  3. To ensure the completion of those portions of a site plan which will not be completed by the applicant prior to a request for occupancy.

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The Planning Commission or Zoning Board of Appeals may require a performance guarantee on any other specific improvement when determined by resolution that the guarantee is necessary to protect the natural resources of the Township or the health, safety, or welfare of residents, project users, or the general public.

### **D. General Conditions:**

1. The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity or project. No building permit or related Township permit shall be issued unless the Zoning Administrator is satisfied that the guarantee is in full compliance with this Article.
2. The performance guarantee shall be in the form of:
  - A cash deposit or deposit by certified check drawn on a bank authorized to do business in the State of Michigan, or
  - An irrevocable letter of credit issued on behalf of the Township by a bank authorized to do business in the State of Michigan, or
  - A surety bond in a form and manner acceptable to the Township Attorney. The costs of the review of a surety bond by the Township Attorney shall be paid by the applicant as part of the issuance of a permit.
3. The amount of the performance guarantee shall be sufficient to cover the estimated cost of the improvements associated with a project for which site plan approval or zoning variance has been obtained. Accordingly, the applicant shall provide an itemized listing of estimated costs and a proposed time schedule to complete all of the improvements determined to require a performance guarantee. The Zoning Administrator shall review the submitted costs for reasonableness and shall determine an accurate amount for the performance guarantee. In determining the amount, the Zoning Administrator may consider signed contracts or sub-contracts supplied by the applicant or the Zoning Administrator may secure or require that the applicant secure a sealed statement from a licensed architect or engineer verifying the estimates.
4. Cash funds or a certified check made payable to the Township shall be deposited by the Township into an account in a financial institution with which the Township regularly conducts business.
5. In the case of a guarantee exceeding \$2000, and by request of the applicant,

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the guarantee may be released to the applicant in an amount proportional to the work completed on various elements, provided that a minimum of ten percent (10%) shall be retained on each element until the satisfactory completion of the entire project. The amount of work completed shall be based upon an inspection and determination by the Zoning Administrator.

6. An amount not to exceed the actual cost of the installation of landscape materials may be retained by the Township for at least one (1) year following the installation of said materials to insure proper maintenance and, if necessary, replacement. This amount shall be released to the applicant upon certification by the Zoning Administrator that all landscape materials are being maintained in good condition.
7. The unexpended balance of a performance guarantee, including any interest, shall be returned to the applicant following inspections by the appropriate Township officials and a positive determination by the Zoning Administrator that the required improvements have been satisfactorily completed and that all other requirements of this Article are met.

- E. **Unsatisfactory Completion of Improvements.** When required improvements are not installed or maintained within the time stipulated or are not completed in accordance with the standards set forth within this Ordinance or as agreed upon between the applicant and the Planning Commission or Zoning Board of Appeals, the Zoning Administrator may order the improvements completed by the Township or by an independent contractor, or may order that the site be returned to its original condition.

The Zoning Administrator shall order the completion of the improvements and so notify the applicant by certified mail at least thirty (30) calendar days prior to the undertaking of completion. During this time period, the applicant may seek an order from a court of competent jurisdiction to prevent the action by the Township.

All costs incurred by the Township for the completion of the improvements or the restoration of the site, including direct administrative costs, shall be assessed against the performance guarantee.

- F. **Subdivision Improvements.** This Chapter shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited with the Township by the applicant pursuant to the Land Division Act (P.A. 288 of 1967, as amended).