

ARTICLE 19. SPECIAL USE PERMITS

Section 19.01 — Authority: The Planning Commission, as hereinafter provided, shall have the authority to grant Special Use Permits subject to such conditions of design and operation, safeguards and time limitations as it may determine for special uses in any district. Application for any Special Use Permit permissible under the provisions of this Ordinance shall be subject to fee as may be set by the Township Board from time-to-time.

Section 19.02 — Purpose: Uses requiring Special Use Permits are those that are essentially incompatible with the uses permitted in a zoning district, but possess characteristics or location qualities that require individual review and the placement of restrictions, in order to avoid incompatibility with the character of the surrounding area and adjacent land uses. The purpose of this Article is to establish equitable procedures and criteria that shall be applied in the determination of requests to establish special land uses.

Special uses may be permitted only in those districts where they are designated by this Ordinance and are permitted only when specifically approved by the Planning Commission in accordance with the provisions of this Ordinance.

Prior to approval of a Special Use Permit, the Planning Commission shall ensure that all standards specified in this Article, as well as all standards established elsewhere in this Ordinance, shall be satisfied.

Section 19.03 — Application: An application for permission to establish a special use shall be submitted and acted upon in accordance with the following procedures:

1. An application and site plan, filled out in triplicate, shall be submitted to the Planning Commission. Each application shall be accompanied by a fee in accordance with the township schedule of fees established by the Township Board.
2. In addition to any established application fee, the Planning Commission Chair shall establish an amount to be deposited by the applicant with the Township Clerk as an escrow deposit. The escrow deposit shall defray anticipated costs to be incurred by the Township for attorneys, planners, engineers, or other experts in the review of the application. The Planning Commission shall not commence consideration of the merits of the application(s) until the escrow deposit is received by the Township Clerk. Any unused portions of the escrow deposit remaining after consideration and processing of the application(s) shall be returned to the applicant(s).
3. The Planning Commission may impose conditions with permit approval that it deems necessary to ensure compliance with the standards contained in this Ordinance. Said conditions shall be considered an integral part of the Special Use Permit and shall be enforced by the Zoning Enforcement Officer.
4. Any additions to or expansions of an existing establishment or land use listed under Special Uses, shall also require a Special Use Permit issued by the Planning Commission.

Section 19.04 — Public Hearing: If properly requested by the applicant, the Planning Commission shall hold a public hearing, or hearings, within 90 days of the receipt of the application for a Special Use Permit. Such hearing(s) and the notice(s) of hearing shall comply with the Michigan Zoning Enabling Act (Act 110 of 2006).

Section 19.05 — Standards: In deciding a request for a Special Use Permit, the Planning Commission shall be governed by the following principles and standards:

1. The applicant(s) shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact.
2. In considering an application for a Special Use Permit, the following shall be considered:
 - a. Whether all required information has been provided and fees paid.
 - b. Whether the proposed use is specifically provided as a use by special permit in the district in which the property is zoned.
 - c. Whether the proposed use at the location is consistent with the objectives and goals of the Master Plan and this Ordinance.
 - d. Whether the proposed use will adversely affect neighboring lands, including whether the proposed use will produce, create, or result in more traffic, noise, vibrations, dust, fumes, odor, smoke, glare, lights, or disposal of waste than permitted uses in the district or increase hazards to the subject property or neighboring lands.
 - e. Whether the proposed use will change the essential character of the surrounding area, disrupt the orderly and proper development of the District as a whole, or conflict with or discourage the permitted uses of the adjacent lands or buildings.
 - f. Whether the proposed use is compatible with and will not adversely affect the natural environment.
 - g. The capacity of local utilities and public services sufficient to accommodate all the uses permitted in the requested district without compromising the health, safety, and welfare of the Township including the capacity of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
 - h. The special use shall comply with soil erosion and sedimentation control requirements and groundwater protection management provisions of local, state, and federal laws.
 - i. The proposed use shall comply with all relevant provisions of this Ordinance, including supplementary provisions for buildings, structures, uses, lots, yards, and premises, as well as those specific requirements in the district in which the property is zoned.

Section 19.06 — Conditions: The Planning Commission may impose reasonable conditions including duration and review periods in granting a special permit. The Planning Commission may enter into a development agreement to meet the purposes of this Article. Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. 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;
3. Promote the use of land in a socially and economically desirable manner;
4. Be related to the valid exercise of the police power and purposes that are affected by the proposed use or activity;
5. Be necessary to ensure compliance with the standards set forth in this Article.
6. The conditions shall remain unchanged except upon the mutual consent of the Planning Commission and the titleholder of the subject property.

Section 19.07 — Decision: After the hearing, the Planning Commission shall:

- a. Approve the special use permit application and direct the Zoning Enforcement Officer to issue the special use permit; or
- b. Grant the special use permit application subject to conditions that are imposed in order to ensure the special land use complies with standards stated in this Ordinance; or
- c. Deny the special use permit application.

All decisions shall be accompanied with a concluding statement citing the reasons for decision under Section 19.05 or other applicable requirements and any condition imposed under Section 19.06. The written decision of the Planning Commission shall be sent to the applicant signed by the chairperson or secretary of the Planning Commission with a copy to the Township Board.

Section 19.08 — Issuance; Compliance and Violation: Upon approval, the Planning Commission shall issue a Special Use Permit to the applicant. It shall be the responsibility of the Zoning Enforcement Officer to monitor compliance with the terms, conditions, and restrictions of any Special Use Permit and take any enforcement action necessary in the event of violation of the Special Use Permit.

Special Use Permits shall be reviewed annually by the Zoning Enforcement Officer to ensure compliance with this Ordinance. Any violation of the Special Use Permit or the conditions placed upon the Special Use Permit shall automatically void the entire permit. Violation of the Special Use Permit or conditions placed thereon is a violation of this Ordinance.

Section 19.09 — Appeals: The decision of the Planning Commission may be appealed to the Midland County Circuit Court as permitted by law.