

Article 7.19 Special Land Use Review

7.19.01 Intent

This article is intended to provide regulations for special land uses, which may be compatible with permitted uses in zoning district, under specific locational and site criteria. This article provides standards for the Planning Commission to determine the appropriateness of a given special land use covering factors such as: compatibility with adjacent zoning, location, design, size, intensity of use, impact on traffic operations, potential impact on groundwater, demand on public facilities and services, equipment used and processes employed. Establishment or major expansion of any special land use requires a special land use approval under this Article.

7.19.02 Procedures

- (a) **Application.** A public hearing shall be scheduled before the Planning Commission upon submission and review of a special land use application and either a site plan meeting the requirements of *Article 7.18 Site Plan Review*, or if a full site plan is determined to be unnecessary by the Planning Department, a plot plan with all information needed to determine compliance with ordinance requirements.
- (b) **Optional Preliminary Review.** At the option of the applicant, a preliminary sketch plan may be submitted to the Planning Department for circulation to Planning Commission for review prior to final special land use and site plan review. This option is recommended for special land uses that are anticipated to be controversial, on large sites, on sites that are adjacent to residential uses, and complex mixed-use or commercial developments. The purpose of this meeting is to allow the applicant to introduce the plan concept, and receive comments or direction from the Planning Commission on the sketch plan and special land use or the need for additional material to evaluate the impacts of the use, such as a traffic or environmental study. No formal action shall be taken.
- (c) **Impact Assessment.** An impact assessment may be required by the City; the analysis shall be carried out by qualified individuals and may include, but need not be limited to, the impact on: natural features, storm water management, surrounding land uses, public facilities/services, public utilities and traffic.
- (d) **Planning Commission Review**
 - (1) **Review.** The Planning Commission shall review the special land use application and related documents, any specific conditions required for the use in *Article 7.13 Use Requirements*, and the site plan review standards of *Section 7.18.04 Standards for Site Plan Approval*.
 - (2) **Public Hearing.** The Planning Commission shall hold a public hearing on the special land use application in accordance with the Michigan Zoning Enabling Act (Public Act 110 of 2006). Notice of public hearing shall be provided for in accordance with *Section 7.21.07 Public Hearings*.

- (3) **Decision.** The Planning Commission shall approve, approve with conditions or deny the special land use request and site plan. If the application is determined to be incomplete or more information is required, then the Planning Commission may either:
- a. Table the request and direct the applicant to prepare additional information or revise the plan.
 - b. Return the request for additional staff review or analysis.
 - c. Deny the request.

If the plan revisions are determined to be significant by the Planning Commission, they may elect to conduct another public hearing.

- (e) **Conditions.** In considering the special land use, the Planning Commission may impose conditions or limitations that it deems necessary to fulfill the spirit and/or purpose of this Ordinance. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged unless the original process is followed. Conditions imposed shall do all the following:
- (1) Be designed to protect natural resources, the health, safety, and welfare as well as the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - (2) Be related to the valid exercise of the police power and purposes that are affected by the proposed use or activity.
 - (3) Be necessary to meet the intent and purpose of the Zoning Ordinance; be related to the standards established in this Ordinance for the land use or activity under consideration; and be necessary to ensure compliance with those standards.

Conditions of any approval are attached to the land and will remain through subsequent owners, except an expiration date for the special land use may be specified if the special land use is considered to be temporary in nature.

7.19.03 Appeals and Waivers

The Zoning Board of Appeals shall not have the authority to hear appeals of the Planning Commission's decision to approve or deny a special land use, nor to grant variances to any conditions imposed on special land use approval. The Zoning Board of Appeals may hear requests for variances to dimensional or site design requirements.

7.19.04 Review Standards

Prior to approving a special land use application the Planning Commission shall require that the following general standards, in addition to the specific standards noted for individual uses in *Article 7.13 Use Requirements* be satisfied. The proposed use or activity shall:

- (a) Be compatible and in accordance with the goals, objectives and policies of the Lapeer City Master Plan.
- (b) Promote the intent of this Ordinance and the zoning district in which the use is proposed.
- (c) Be constructed, operated and maintained so as to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed.
- (d) Be served adequately by public facilities and services, such as traffic operations along roads, police and fire protection, drainage structures, water and sewage facilities and primary and secondary schools.
- (e) Not involve uses, activities, processes, materials and equipment or conditions of operation that, in comparison to permitted uses in the district, will be detrimental to the natural environment, public health, safety or welfare by reason of excessive production of traffic, noise, smoke, odors or other such nuisance.

7.19.05 Amendments, Expansions and Change in Use

- (a) **Major Amendments.** Any person or agency who has been granted a special land use permit shall notify the Planning Department of any proposed amendment to the approved site plan of the special land use permit. A major amendment to a special land use permit shall require submittal of a new application for special land use and follow the review procedures contained in this Chapter. The Planning Department shall determine whether the proposed amendment constitutes a minor or major amendment based on the following standards:
 - (1) Changes that increase the building's usable floor area, occupancy load or capacity by more than twenty-five percent (25%).
 - (2) Parking lots are expanded by more than twenty-five percent (25%).
 - (3) The use is expanded to occupy an additional twenty-five percent (25%) or more land area.
 - (4) The change will result in a twenty-five percent (25%) or more increase in traffic generation based upon the latest edition of the Institute of Transportation Engineers Trip Generation Manual.
 - (5) The change will result in a twenty-five percent (25%) or more increase in the demand for public water or sewer.
 - (6) The standards set forth in *Section 7.18.07 Amendment to Approved Plans*.
 - (7) Other similar types of changes deemed by the Planning Department to be "major."
- (b) **Minor Amendment.** Minor amendment to an approved special land use does not require

submittal of a new application for a special land use, but may require submittal of a site plan or sketch plan following the requirements of *Article 7.18 Site Plan Review*.

- (c) **Change in Use.** Change to another special land use shall require submittal of a new application for special land use and follow the review procedures contained in this article.
- (d) **Separate Approval.** A separate special land use permit shall be required for each use which requires special land use review on a lot.

7.19.06 Restrictions on Resubmittal of a Special Land Use Request

No application for a special land use permit which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of denial, except on the grounds of new evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the Planning Commission. A resubmitted application shall be considered a new application.

7.19.07 Validity of Permit

- (a) **Start of Construction.** Special land use approval is valid for a period of one (1) year from the date of Planning Commission approval. A building permit must be issued and physical construction on structures must commence within that period.
- (b) **Expiration of Special Land Use Permit.** Where actual construction of a substantial nature of structures authorized by a special land use permit has not commenced within one (1) years of issuance, and a written application for extension of the approval has not been filed as provided below, the special land use permit shall become null and void and all rights there under shall terminate.
- (c) **Extensions.** Upon written application filed prior to the termination of the one (1) year period as provided above, the Planning Commission may authorize a single extension of the time limit for a further period of not more than one (1) year. Such extension shall be granted only based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the one (1) year extension. The Planning Commission may require compliance with any amendments to the Zoning Ordinance since the special land use was originally approved.

7.19.08 Revocation of an Approved Special Land Use

The Planning Commission shall have the authority to revoke any special land use approval after the applicant has failed to comply with any of the applicable requirements of this article, other applicable sections of this Ordinance, or conditions of the special land use approval. Prior to any action, the Planning Commission shall conduct a public hearing following the notification process for the original approval. The applicant shall be provided an opportunity to present information and to answer questions. The Planning Commission may revoke any previous approval if it finds that a violation exists and has not been remedied.