

ARTICLE 19
SPECIAL LAND USES

Sec 19.01 STATEMENT OF PURPOSE

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. Approval of any Special Land Use requires a Special Land Use Permit.

Sec 19.02 APPLICATION AND REVIEW PROCEDURES

19.02.01 **Applicant.** Any person owning or having an interest in the subject property may file an application for one or more special land use permits as provided in this Ordinance.

19.02.02 **Application.** The following materials shall be submitted to the Zoning Administrator in accordance with the review schedule and procedures adopted by the Planning Commission:

- (a) Payment of the required fee.
- (b) Copy of completed application forms.
- (c) Copies of a site or sketch plan and Impact Assessment that meet the requirements of Article 18.

19.02.03 **Technical Review.** The special land use application shall be reviewed by township staff and consultants for completeness and compliance with appropriate sections of this Ordinance. Technical reviews may be submitted to the Planning Commission.

19.02.04 **Review.** The request for special land use approval shall be reviewed as follows:

- (a) The special land use request and related documents shall be forwarded to the Planning Commission.
- (b) The Planning Commission shall review the Special Land Use application, the Impact Assessment, and the Site or Sketch Plan in terms of the requirements of the Special Land Use General Review Standards Section 19.03, any specific conditions required for the use and the site plan review standards of Section 18.08.
- (c) 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 21.05. (as amended 12/31/06)
- (d) The Planning Commission shall recommend approval, approval with conditions or denial of the Special Land Use Request, Site/Sketch Plan and Impact Assessment to the Township Board.

If the application is determined to be incomplete or more information is required, then the Planning Commission may either: 1) table the request and direct the applicant to prepare additional information or revise the plan; 2) return the request for additional staff review or analysis; or 3) recommend denial of the request. If the plan revisions are determined to be significant by the Planning Commission, they may elect to conduct another public hearing.

- (e) For any use requiring special land use approval, the site or sketch plan for such use shall require Township Board approval, based upon a recommendation of the Planning Commission.
- (f) Township Board Action: Following receipt of the Planning Commission's recommendation, the Township Board shall take one of the following actions on the Special Land Use, Site/Sketch Plan and Impact Assessment.
 - (1) Table: If the application is determined to be insufficient, does not fully respond to Planning Commission conditions or more information is required, then the request may be tabled. The Township Board shall direct the applicant to prepare additional information, revise the plan or direct the Township staff or consultant's to conduct additional analysis.
 - (2) Reconsideration: If the Township Board believes there is new information which might modify the recommendation of the Planning Commission, the Board may return the application with the new information to the Planning Commission for reconsideration.
 - (3) Approval: Upon determination that a special land use and plan proposal is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the Township Board shall approve the application.
 - (4) Conditional Approval: The Township Board may impose reasonable conditions with the approval of a special land use, to mitigate impacts associated with the proposed use or activity to ensure that public services and facilities affected by a proposed special land use or activity will be capable of accommodating increased service and facility loads generated by the new development; protect the natural environment; ensure reasonable compatibility with adjacent uses of land and the overall character of the Township, to the extent practical for the use; ensure the standards of this Article and the Zoning Ordinance are met.
 - (5) Denial of Special Land Use and Site/Sketch Plan Application: Upon determination that a special land use or site/sketch plan proposal does not comply with standards and regulations set forth in this Ordinance, or requires extensive revision in order to comply with said standards and regulations, the Township Board shall deny the application. Resubmittal of an application which was denied shall be considered a new application.
- (g) For Special Land Uses which are temporary by nature, such as sand and gravel mining or carnivals, the Planning Commission shall also recommend time limits for the operation to the Township Board. The Township Board shall specify time limits

with any approval and state procedures for renewal of the Special Use Permit, if applicable.

- (h) **Compliance with conditions:** The applicant shall submit information and plans which demonstrate compliance with the conditions for administrative approval by the Zoning Administrator within sixty (60) days of the date of conditional approval and prior to issuance of a special land use or land use permit, or the submission shall be considered null and void. The Zoning Administrator may submit the revised plan to the Planning Commission for comments or approval.
- (i) **Recording of decision:** Records of the reasons for the actions of the Planning Commission and the Township Board, and any conditions attached approvals, shall be kept and made a part of the minutes of the Planning Commission and the Township Board. A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the special land use permit is approved by the body which approved the original special land use permit.
- (j) **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.
- (k) **Inspections:** The Zoning Administrator shall make periodic investigations of developments authorized by special land use permit to determine continued compliance with all requirements imposed by the Planning Commission or Township Board and this Ordinance. Non-compliance with the requirements and conditions approved for the special land use shall constitute grounds for the Township Board to terminate said approval following a public hearing. The hearing shall be as required by section 19.02.04(c). (as amended 3/5/10)

Sec 19.03 REVIEW AND APPROVAL OF SPECIAL LAND USES: GENERAL REVIEW STANDARDS

Prior to approving a special land use application the Planning Commission shall require the following general standards shall be satisfied for the use at the proposed location, in addition to specific standards for individual special land uses listed in the districts. The proposed special land use shall:

- 19.03.01 **Master Plan.** Be compatible and in accordance with the goals, objectives and policies of the Genoa Township Master Plan and promote the Statement of Purpose of the zoning district in which the use is proposed;
- 19.03.02 **Compatibility.** Be designed, constructed, operated and maintained to be compatible with, and not significantly alter, the existing or intended character of the general vicinity;
- 19.03.03 **Public Facilities and Services.** Be served adequately by essential public facilities and services such as: highways, streets, police and fire protection, drainage structures, water and sewage facilities, refuse disposal and schools;
- 19.03.04 **Impacts.** Not involve uses, activities, processes, or materials detrimental to the natural environment, public health, safety or welfare by reason of excessive production of traffic, noise, vibration, smoke, fumes, odors, glare or other such nuisance; and

19.03.05 **Mitigation.** Provide mitigation necessary to minimize or prevent negative impacts.

Sec. 19.04 **VARIANCES**

The Zoning Board of Appeals shall not have the authority to grant a variance to allow a special land use which was denied by the Township Board. If dimensional or site design variances are requested for a special land use, the request shall first be reviewed by the Planning Commission which shall provide a recommendation to the Zoning Board of Appeals. Any variances shall be approved by the Zoning Board of Appeals prior to Township Board action on the site plan and special land use

Sec. 19.05 **VALIDITY OF PERMIT**

19.05.02 **Start of Construction.** Where actual physical construction of a substantial nature of structures authorized by a special land use permit has not commenced within one (1) year of issuance, and a written application for extension of the approval has not been filed as provided below, the permit shall become null and void and all rights there under shall terminate.

19.05.04 **Extensions.** Upon written application filed prior to the termination of the one (1) year period as provided above, the Township may authorize extensions to the special land use and site plan following the procedures in Section 18.09.02. (as amended 8/24/07)

19.05.05 **Conforming Use.** Any use for which a special land use permit may be granted shall be deemed a use permitted in the district in which it is located and is not to be considered a non-conforming use.

19.05.08 **Abandonment.** Any use for which a special land use permit has been granted and which ceases to continuously operate for a twelve (12) month period shall be considered abandoned, and the special land use permit shall become null and void.

Sec. 19.06. **AMENDMENTS, EXPANSIONS OR CHANGE IN USE**

19.06.01 **Major Amendments:** Any person or agency who has been granted a special land use permit shall notify the Zoning Administrator 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 Article. The Zoning Administrator shall determine whether the proposed amendment constitutes a minor or major amendment based on the following standards:

- (a) Changes increase the buildings usable floor area by more than twenty five percent (25%);
- (b) Parking lots are expanded by more than twenty five percent (25%);
- (c) The occupancy, capacity or membership of the use is increased by more than twenty five percent (25%);
- (d) The use is expanded to occupy an additional twenty five percent (25%) or more land area;

- (e) The expansion will result in a twenty five percent (25%) or more increase in traffic generation based upon the traffic impact assessment standards contained in Article 18;
- (f) The expansion will result in a twenty five percent (25%) or more increase in the demand for public water or sewer; or,
- (g) Other similar types of changes deemed by the Zoning Administrator to be “major.”

19.06.02 **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 18.

19.06.03 **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.

19.06.04 **Separate Approval.** A separate Special Land Use Permit shall be required for each use which requires special Land Use review on a lot.

Sec. 19.07. **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 Township Board. A resubmitted application shall be considered a new application.