

ARTICLE 11

SPECIAL LAND USES AND SPECIAL USE PERMITS

11.1 AUTHORITY

The Township Planning Commission shall have the authority to deny, approve, or approve with conditions, an application for a Special Use Permit in accordance with the provisions set forth in this Article. If approved by the Planning Commission, the Zoning Administrator shall issue the Special Use Permit.

11.2 CONSTRUCTION CODE PERMIT

A Special Use Permit shall be required prior to the issuance of a Michigan State Construction Code Permit, issued pursuant to the State Construction Code Act.

11.3 APPLICATION PROCEDURE

11.3.1 Application

If a use is listed as a special use in any Zoning District, anyone with an interest in a parcel within such Zoning District may apply for a Special Use Permit for such parcel. A Special Use Permit application shall be made on the form provided by the Zoning Administrator.

11.3.2 Application Contents

- A.** Every application for a Special Use Permit shall be accompanied by the following information and materials:
 - 1.** The Special Use Permit application form, filled out in full by the applicant, including the following:
 - a. The applicant's name and address;
 - b. An affidavit signed by the applicant stating that he or she is the owner or has a possessor interest in the parcel, or is acting as the authorized agent of one of the foregoing;
 - c. The street address and legal description of the property;
 - d. A specific and concise statement of the special use proposed, together with information supporting compliance with the standards required for the Special Use Permit, as stated in Sections 9.4 and 9.5;
 - 2.** A detailed site plan as specified in Section 14.6;
 - 3.** A complete description of the proposed development including:
 - a. Areas of the site which are proposed to be developed;
 - b. The number of parcels and/or units;
 - c. The number and characteristics of the population impact such as density, elderly persons, school children, tourists, family size, and related material as applicable.

- d. Expected increased demands on community services, and how these services are to be provided, including without limitation, expected number of elementary, middle and high school students, volume of sewage for treatment, volume of water consumption related to groundwater reserves, change in traffic volume on nearby streets, road and highways, together with other factors that may apply to the proposed special use;
 - e. Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, ground and surface water pollution, noise and the scale of development in terms of each surrounding environment;
 - f. Evidence that any other necessary permits required prior to issuance of a Construction Code Permit have been received from, or committed to by, the issuing governmental entity.
- B.** At the discretion of the Planning Commission and where necessary to assess the impacts and merits of an application for special land use approval, the applicant may be required to furnish:
1. Front, side and rear elevations of each building proposed for construction or alteration;
 2. An environmental impact statement if the initial environmental review statements reveal a likelihood that the proposed development will pollute, degrade, impair, or destroy any environmentally sensitive resource and no mitigation is proposed. The environmental impact statement must be prepared by a qualified environmental engineer or other professional acceptable to the Township. The statement shall include a description of those measures that will be undertaken to minimize soil erosion, improve shoreline protection, avoid excessive noise, and other adverse physical impacts of the proposed special use on nearby properties, and a presentation of alternative development configurations, densities, uses, or construction methods. The impact statement shall also include an evaluation of likely short and long term effects upon the following:
 - i. Soils, geology and topography
 - ii. Adjacent parcels
 - iii. Historic and cultural resources
 - iv. Land use patterns
 - v. Waterways and hydrologic systems and wetlands
 - vi. Vegetation, wildlife, and fisheries
 - vii. Recreational resources
 - viii. Infrastructure and utility requirements.
- C.** The applicant shall certify in writing that the information included is correct to the best of his knowledge and that the efforts proposed to mitigate any adverse physical impacts will be completed in a timely fashion, should the Special Use Permit be approved.

11.3.3 Review for Completeness

- A. All Special Use applications shall be reviewed for completeness by the Zoning Administrator and/or the Township’s Planning Consultant.
- B. If the application is determined to be incomplete, the Zoning Administrator shall return the submittal to the applicant with a written list of items needed to make the submittal complete.
- C. If the application is determined to be complete, the Zoning Administrator shall place the request on the next available Planning Commission agenda.

11.3.4 Public Hearing

- A. The Planning Commission shall hold a public hearing to receive input on the Special Use Permit application from the applicant and other interested persons.
- B. All persons shall be afforded an opportunity to provide input on the Special Use Permit application at the public hearing before the Planning Commission.

11.3.5 Notice of Public Hearing

- A. The Zoning Administrator shall provide notice of the public hearing as required under the Michigan Zoning Enabling Act.
- B. The notice of public hearing shall include all information required by the Michigan Zoning Enabling Act.

11.3.6 Review and Approval

All applications for a Special Use Permit shall be reviewed against the standards and requirements of this Article, including all discretionary and non-discretionary standards. Only when satisfied that the application meets all such standards and requirements shall the Planning Commission approve, or approve with conditions, such application for Special Use Permit.

11.3.7 Length of Review Period

- A. The Planning Commission shall hear and consider all Special Use Permit applications within sixty (60) days following the receipt of a completed application.
- B. Where a decision is not made on the Special Use Permit application within the sixty (60) day period described in B above, the Planning Commission shall advise the applicant of the reasons, in writing, and shall set a date for further consideration of the application.

11.3.8 Decision

The Planning Commission may deny, approve, or approve with conditions, any application for a Special Use Permit. The decision shall be incorporated in a written statement containing, at a minimum, the following:

1. A summary of public comments made at the hearing;
2. The conclusions that specify the basis for the decision;
3. The conclusions that specify the basis for any conditions imposed;
4. The decision.

11.3.9 Conditions

Special Use Permits can be granted with conditions, limitations, or additional requirements imposed by the Planning Commission. Any conditions, limitations or requirements upon which approval is based shall be:

- a) Reasonable and designed to protect natural resources and/or the health, safety and welfare of the public;
- b) Relevant to the social and economic well-being of the owners and occupants of the parcel in question, of adjacent parcels and the community as a whole;
- c) A valid exercise of the Township police power;
- d) Related to the purposes which are affected by the proposed use or activity;
- e) Consistent with the intent and purpose of this Ordinance, generally, and specifically for the District where such special use is to be permitted;
- f) Designed to insure compatibility with adjacent uses of land and the natural environment;
- g) Designed to insure 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 such special use.
- h) Designed to be compatible with spirit of the goals and policies outlined in the Township Master Plan.

11.3.10 Record of Special Use Permit

The Special Use Permit shall be placed in the Township files by the Zoning Administrator. The Zoning Administrator shall file the application and all other information relating to the Special Use Permit with the Township.

11.3.11 Recording of Special Use Permit

A notice of the Special Use Permit, in recordable form as provided for by law, shall be filed with the County Register of Deeds. This filing and any associated fees shall be the responsibility of the applicant.

11.4 GENERAL REQUIREMENTS AND STANDARDS

Every application for a Special Use Permit shall be evaluated by the Planning Commission to ensure that the special use meets the following general requirements and standards:

- a) The use conforms to all regulations of the Zoning District in which it is located.
- b) The use is designed, and will be constructed, operated, and maintained so as to be harmonious, compatible, and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area in which it is proposed.
- c) Hours of operation shall be set in consideration of adjacent land uses.
- d) The use will not be hazardous or disturbing to existing or future uses in the general vicinity.
- e) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- f) The use will be adequately served by essential facilities and services such as highways, streets, police, fire and other emergency services, storm drainage, refuse disposal, water and sewage facilities, and schools.
- g) The use will not create excessive additional requirements at public cost for public facilities and services.
- h) The use will not generate traffic levels beyond that normally anticipated for the area in which it is proposed or that will exceed the capabilities of the street system.
- i) The use meets the standards of other governmental agencies, where applicable, and that the approval of these agencies has been obtained or is assured.
- j) Natural resources are protected to the extent feasible, including floodways and flood plains.
- k) The use does not involve activities, processes, materials, equipment, or conditions of operations that will be detrimental to any persons, property, or the general welfare by reason of dust, fumes, odors, glare or other objectionable impact.

11.5 SPECIFIC REQUIREMENTS AND STANDARDS

Every application for a Special Use Permit shall be evaluated by the Planning Commission to ensure that the special use meets the following specific requirements and standards:

11.5.1 Automotive Uses

- A.** Automotive repair shall be conducted within an enclosed building.
- B.** Any automotive washing facility shall not discharge untreated water onto the ground. A water recycling system or other means of containing and treating used water shall be employed.
- C.** Any automotive washing facility shall be located a minimum of twenty (20) feet from a property line. If adjacent to a residential use, a landscaped buffer shall be planted to provide an effective screen. A detailed planting plan shall be provided by the owner and approved by the Planning Commission. At the discretion of the Planning Commission, a fence may also be required, or may be substituted for the required

landscaping, where landscaping alone will be insufficient to mitigate the impacts of the proposed washing facility.

- D.** Convenience commercial use accessory to an automobile service station shall be permitted.
- E.** Automobile sales establishments shall provide sufficient off-street parking to accommodate patrons. Such parking areas shall not be used for the display and sale of automobiles.
- F.** Display areas for the sale of automobiles shall not be located closer than ten (10) feet to any public street.
- G.** Any glare from site lighting shall not extend past the property line or otherwise interfere with the normal use and enjoyment of adjacent uses.
- H.** Permitted hours for site lighting may be determined by the Planning Commission.

11.5.2 Campgrounds

- A.** The campground shall conform to all applicable regulations of any rules promulgated by the Michigan Department of Health under authority of the Michigan Health Code.
- B.** Management offices and storage facilities, recreation facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to the operation of a campground are permitted as accessory uses provided:
 - 1. Such facilities and the parking area primarily related to their operations shall not occupy more than ten percent (10%) of the campground;
 - 2. Such facilities shall be restricted to use only by occupants of the campground and their guests and management; and
 - 3. Such facilities shall present no visible evidence of their commercial character that would attract customers other than occupants of the campground and their guests.
- C.** No individual campsite shall be located within one-hundred (100) feet of the right-of-way line of any street. This setback distance may be reduced by the Planning Commission if occupied by plant material and/or a berm but, in no case, shall the setback be less than forty (40) feet. The forty (40) foot setback shall only be permitted where the screening is an opaque fence or berm sufficient to provide full screening of the campground from adjacent roads and properties. In all cases, plant materials shall be of sufficient size when installed to assure immediate and effective screening of the campground from adjacent roads and properties. The plans and specifications for a campground shall include the proposed specifications and arrangement of such plantings.
- D.** Impervious surface area shall be limited to the extent possible.
- E.** Existing vegetation shall be maintained to the extent possible.

11.5.3 Drive-Through Facilities

Any use having a drive-through facility shall comply with the following:

- A.** No drive-through lane or stacking area shall be located within ten (10) feet of a property line.

- A. Where a drive-through lane or stacking area is adjacent to a residential use, a landscaped buffer shall be planted to screen the residential use from noise and headlight glare associated with the use. A detailed planting plan shall be provided by the owner and approved by the Planning Commission. At the discretion of the Planning Commission, a fence may also be required, or may be substituted for the required landscaping, where landscaping alone will be insufficient to mitigate the impacts of the proposed drive-through facility.
- B. Drive-through lanes and stacking areas shall be defined by landscaped islands and/or curbing, as determined by the Planning Commission.
- C. Sufficient stacking space shall be provided to service the proposed use without interfering with parking areas or driveway access.
- D. Outdoor speakers shall not interfere with the normal use and enjoyment of adjacent properties.

11.5.4 Golf Courses

- A. A turf management plan, detailing fertilizer and pesticide use, including amounts and types, frequency of application, and impact on ground water, shall be provided.
- B. Normal accessory uses, including but not necessarily limited to, driving ranges, pro shops, and restaurants, may be approved by the Planning Commission.

11.5.5 Kennels

- A. All kennels shall provide indoor containment areas within which all animals shall be kept overnight.
- B. Specific hours for outdoor containment shall be set by the Planning Commission.
- C. All noise shall be contained within the property limits.
- D. Landscaping and fencing around the perimeter of the kennel area shall be provided to the satisfaction of the Planning Commission.

11.5.6 Motels, Hotels

- A. Normal accessory uses, including but not limited to restaurants, banquet rooms and meeting facilities, may be approved by the Planning Commission.

11.5.7 Museums

- A. Museums may be permitted in the Agricultural Districts only if it can be demonstrated to the Planning Commission that the proposed location is related to the purpose of the museum or is necessary to demonstrate principles which are central to the function of the museum.
- B. Pedestrian access shall be provided between the parking area and the main building, and to any existing or proposed sidewalks along the primary road.
- C. Building orientation shall be reviewed and approved by the Planning Commission. Unless specifically waived by the Planning Commission, the main building shall face and be parallel to the primary road.

11.5.8 Place of Worship

- A. Pedestrian access shall be provided between the parking area and the main building, and to any existing or proposed sidewalks along the primary road.
- B. Building orientation shall be reviewed and approved by the Planning Commission. Unless specifically waived by the Planning Commission, the main building shall face and be parallel to the primary road.

11.5.9 Public Administration

- A. Pedestrian access shall be provided between the parking area and the main building, and to any existing or proposed sidewalks along the primary road.
- B. Building orientation shall be reviewed and approved by the Planning Commission. Unless specifically waived by the Planning Commission, the main building shall face and be parallel to the primary road.

11.5.10 Recreation Facilities

- A. Parking shall be screened from adjacent residential uses.
- B. Pedestrian access shall be provided between the parking area and the main building, and to any existing or proposed sidewalks along the primary road.
- C. All noise shall be contained within the property limits and not interfere with the normal use and enjoyment of adjacent properties.
- D. Building orientation shall be reviewed and approved by the Planning Commission. Unless specifically waived by the Planning Commission, the main building shall face and be parallel to the primary road.

11.5.11 Retail Nurseries, Lawn and Garden Supply Stores

- A. Outdoor storage of nursery materials shall not be permitted closer than ten (10) feet to any public street.
- B. Any glare from site lighting shall not extend past the property line or otherwise interfere with the normal use and enjoyment of adjacent uses.

11.5.12 Schools

- A. Location outside of the Residential Districts shall only be permitted when the location is proximate to an existing or future residential area.
- B. Location on a paved or black top surface county road, state trunk-line, or county primary road shall be encouraged.
- C. Parking shall be screened from adjacent residential uses.
- D. Pedestrian access shall be provided between the main building and any areas such as parking areas, bus loading areas, and parent drop-off areas, so as to minimize pedestrian and vehicular interaction.
- E. Pedestrian access shall be provided between the main building and any existing or proposed sidewalks on the primary road.
- F. Building orientation shall be reviewed and approved by the Planning Commission. Unless specifically waived by the Planning Commission, the main building shall face and be parallel to the primary road.

11.5.13 Scrap and Waste Materials, Junk Yards

- A. Shall have a Michigan Sales Tax license.
- B. Shall have records of sales and other transactions which are required by, and whose business falls under the jurisdiction of the Second Hand Junk Dealers Act.
- C. Shall be designed to comply with all of the following:
 - 1. Be setback from the property line at least one-hundred (100) feet. Shall be set back one-hundred (100) feet from a road right-of-way or one-hundred thirty-three (133) feet from the centerline of a road, whichever is greater, or
 - 2. Have a buffer area to screen it from view from a road and from adjacent parcels by means of an opaque fence, vegetation, earth berm, or another form of screening, or a combination of the above; or
 - 3. Not be visible from a road or from adjacent parcels.
- C. Shall comply with the Control of Junk Yards Adjacent to Highways Act; the Second Hand Junk Dealers Act; the Solid Waste Management Act; and if applicable, Township licensing of junk yards.
- D. Shall not operate a landfill, as defined in the Solid Waste Management Act.

11.5.14 Storage

- A. Uses requiring open storage shall be encouraged to locate in the Industrial District, to the extent feasible.
- B. Enclosed storage shall be encouraged over open storage, to the extent feasible.
- C. Open storage shall be fully fenced and screened as required by the Planning Commission.
- D. Open storage shall be screened from the view of any adjacent residential parcels and from all road right of ways.
- E. The storage of hazardous or flammable materials shall not be permitted unless specifically authorized by the Planning Commission.

11.5.15 Wireless Communication Facilities

Wireless communication facilities shall be subject to the provisions of Section 6.32.

11.6 Relationship to Site Plan

- A. A detailed site plan required in Section 11.3.2 above shall form part of the Special Use Permit application. Any approval of a Special Use Permit shall include reference to the site plan. Such plan shall be incorporated into and made a part of the Special Use Permit as if fully included therein. All representations, depictions and notations included on the site plan shall be considered conditions of approval, as if set out fully in writing by the Planning Commission.
- B. Any change to an approved site plan referenced in a Special Use Permit shall require a new or amended Special Use Permit.

11.7 Required Compliance

The Special Use Permit and the site plan referenced in the Special Use Permit approval shall be fully complied with at the time of development and from that time forward. Any changes to the approved site plan shall require written approval in accordance with Article 14 of this Ordinance. Failure to maintain compliance with the approved site plan shall constitute a material violation of the Special Use Permit and shall be cause for revocation or suspension of such permit, pursuant to Section 11.8 below.

11.8 Violation of Special Use Permit

Any violation of the terms, conditions or limitations of a Special Use Permit shall be cause for revocation or suspension of such permit. The Planning Commission may either revoke or suspend the permit pending correction of any violation of a Special Use Permit after the notice and hearing provided for below. An action to revoke or suspend the permit shall occur only after giving written notice to the permit holder, specifying the violation(s) alleged to exist and the time and place for a hearing on the matter. The notice shall be delivered by certified mail, return receipt requested. Any interested party may appear in person or by attorney at the hearing. An action to revoke or suspend the permit shall occur only after the hearing on the matter. Before revoking or suspending the permit, the Planning Commission shall make a finding that a material violation of the Special Use Permit exists. The permit holder shall be given a reasonable opportunity to correct the violation(s) before a permit may be revoked.

11.9 Amendments

Amendments to Special Use Permits shall be handled in the same manner as the initial Special Use Permit application. Minor non-substantive changes may, however, be made to an existing Special Use Permit by mutual agreement between the Township and applicant without further public hearing, if done prior to the issuance of an occupancy permit.

11.10 Transfer of Special Use Permit

A Special Use Permit, with any and all associated benefits, conditions and required security, may be transferred to a new owner. The responsibility for effecting the transfer shall be with the original owner. If not transferred, the original owner shall continue to be held responsible for any conditions, security, etc., required by the Special Use Permit. The original owner, upon transferring the Special Use Permit, shall advise the Zoning Administrator within thirty (30) days, in writing, acknowledged by the new owner of said transfer, in order to insure the continued validity of the permit, compliance with security, and other conditions.

11.11 Expiration of Special Use Permit

- A. A Special Use Permit shall be valid for a period of one (1) year from the date of Planning Commission approval. If construction or the permitted use has not commenced and proceeded meaningfully toward completion by the end of this one (1) year, the Special Use Permit shall expire. The Planning Commission may, at its discretion, extend the Special Use Permit for one (1) additional year if requested to do so in writing by the applicant and if there is good reason to believe that the applicant will in fact commence construction or the permitted use and proceed meaningfully toward completion by the end of the second year. Such extension must be requested in writing by the applicant and granted by the Planning Commission prior to the Special Use Permit expiring pursuant to this section. No extension of approval shall be granted to a Special Use Permit that has expired.
- B. Once construction has been completed and the special use has been established, a Special Use Permit shall be valid for as long as the approved special use continues in accordance with the terms and conditions of the approved permit. The Special Use Permit will expire on the occurrence of any one of the following conditions:
1. If replaced or superseded by a subsequent Special Use Permit;
 2. If replaced or superseded by a permitted use;
 3. If the applicant requests that the Special Use Permit be rescinded;
 4. If the use is moved, is not used, or is vacated for a period of twelve (12) continuous months.

11.12 Reapplication

No application for a Special Use Permit which has been denied wholly or in part shall be re-submitted for a period of one (1) year after such denial. The Planning Commission may, on the grounds of newly discovered evidence or proof of substantially changed conditions, waive this one (1) year period. The determination of the Planning Commission shall be final.

11.13 Appeals

No decision or condition related to an application for a Special Use Permit shall be taken to the Zoning Board of Appeals. An appeal of a Special Use Permit or condition shall only be taken to the Circuit Court.

11.14 Pre-existing Special Use

- A. There are uses that were permitted as a special use under the Clark Township Zoning Ordinance in effect immediately prior to the effective date of this Ordinance that are not permitted uses under this Ordinance. Those that are listed as potential special uses in this Ordinance shall be designated as "Pre-existing Special Uses" and shall not be considered nonconforming uses.

- B. A Pre-existing Special Use shall be considered to be an approved, existing, special use and its configuration shall be shown on a site plan drawn to reflect how such use existed on the effective date of this Ordinance. Parts of uses that are nonconforming immediately prior to the adoption of this Ordinance shall continue to be nonconforming under this Ordinance. A permit issued pursuant to this subsection shall be known as a Pre-existing Special Use Permit.
- C. An owner or operator of a Pre-existing Special Use may obtain from the Planning Commission, without charge, certification of a site plan reflecting how the use existed on the effective date of this Ordinance and identifying any nonconforming parts. In the case of a dispute regarding improvements to parcels which existed on the effective date of this Ordinance, aerial photographs flown by the County or other aerial photographs, having the same or greater resolution and taken after the County photos but prior to the adoption of this Ordinance, shall be given greater weight as evidence in order to establish which improvements shall be included on the certified site plan and their location. For purposes of this section, the above-mentioned photo(s) may be used as the site plan for the Pre-existing Special Use Permit.
- D. When a special use owner or operator applies to amend a Pre-existing Special Use Permit for expansion or change, a written Special Use Permit shall be prepared for the entire use and parcel. The review of a Pre-existing Special Use Permit amendment application for expansion or change by the Planning Commission shall include only a review and action upon the expansion or changed portion of the Pre-existing Special Use Permit requested by the applicant. Any action by the Planning Commission on such application shall not change or alter those parts of the Pre-existing Special Use that are shown on the Pre-existing Special Use Permit.

11.15 Burden of Proof

The applicant for a special land use shall have the burden of proof, which shall include the burden of presenting all evidence to the Zoning Enforcement Officer and the Planning Commission, and the burden of persuasion on all questions of fact, which are to be determined by the Planning Commission.