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**SPECIAL LAND USES**

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## ARTICLE 17: SPECIAL LAND USES

### SECTION 17.01: PURPOSE

Special Land Uses are those which have some impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. Prior to approval, a review of the location, design, configuration, and impact is conducted by comparing the proposed use to fixed standards. This review determines whether the proposed use should be permitted by weighing the public need for, and the benefit to be derived from the proposed use, against any local impact which it may cause. The review considers the proposal in terms of existing zoning and land use in the vicinity of the proposed use, the effects of the proposed use on planned and proposed public and private developments, whether and to what extent the proposed use at that particular location for which it is suggested is a necessary or desirable development in the interest of the public convenience or general welfare of the area or Township. It is important to provide control and reasonable flexibility in requirements for certain kinds of uses to not only allow practical latitude for the investor, but to also maintain adequate provision for the security of the health, safety, convenience, and general welfare of the community's inhabitants. In order to accomplish this dual objective, provisions have been made in this Ordinance for flexibility within individual district regulations. Detailed consideration of certain specified activities as each may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic and traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors must be considered. Land and structure uses possessing unique characteristics are designated as SPECIAL USES and may be authorized by the issuance of a SPECIAL USE PERMIT with such conditions and safeguards attached as deemed necessary for the protection of the public welfare. The following sections, together with previous references in other articles, designate what uses require a Special Use Permit.

### SECTION 17.02: APPLICABILITY

Any use which is permitted as Special Land Use denoted by the letter "S" in *Article 15, Principal Uses Permitted in Districts, Section 15.05, Use vs. District Nomograph*, of this Ordinance shall comply with this Article.

### SECTION 17.03: APPLICATION PROCEDURE

- A. **APPLICANT** - Any person owning or having an interest in the subject property may file an application for one or more Special Use Permits provided for in this Ordinance.
- B. **APPLICATION** – Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be signed by both the property owner and the applicant and be accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover costs of processing the application. No part of any fee shall be refundable.

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### SECTION 17.03: APPLICATION PROCEDURE – (Cont.)

#### C. INFORMATION REQUIRED IN APPLICATION.

Applications provided by the Zoning Administrator shall be fully executed and accompanied by a minimum of two (2) copies of the following information. Certain specific items of required information may be waived at the discretion of the Zoning Administrator if deemed appropriate. However all of the following information shall not be waived for all Trails (snowmobile) and Trails (all terrain vehicles).

1. Applicant's name and address in full.
2. Statement identifying the landowner, if not the applicant, and the applicant's relationship to the landowner (i.e., land contract vendee, purchaser, optionee, designated delegated agent, etc.)
3. Property boundary survey/map and legal description with the seal of the registered surveyor who prepared them.
4. Uses and structures existing on the land.
5. Existing zoning of the parcel in question along with zoning district classifications of all adjacent properties.
6. For non-residential developments proposed to contain 50,000 square feet or more of gross floor area in one or more buildings in one or more development phases, a traffic analysis which relates the trip generation likely from the proposed development to existing street volume capacities.
7. For residential developments proposed to contain 50,000 square feet or more of gross floor area in one or more development phases, the following:
  - a. A traffic analysis which relates the trip generation likely from the proposed development to existing street volume capacities.
  - b. An analysis of the impacts of the proposed developments upon schools and parks.
8. Site plan or plot drawn to scale, and containing information specified in *Article XVII, Site Plan Review, Section 17.03, Required Plan Approvals and Section 17.06, Required Information.*
9. Preliminary plans and outline specifications identifying the Proposed Special Land Use as listed in *Article 15, Principal Uses Permitted in Districts, Section 15.05, the Use vs. District Nomograph,* and in accordance with the performance criteria specified in *Article 19, Performance Requirements.*
10. Supporting documents from relevant public agencies.

**SECTION 17.03: APPLICATION PROCEDURE – (Cont.)**

**D. ZONING ADMINISTRATOR**

To help assure full disclosure of relevant information to all potentially impacted review and/or approval agencies having jurisdiction within the proposed site development or special use area, the Zoning Administrator shall direct one (1) copy of the complete plot plan or site plan to be transmitted to each of the following agencies determined necessary for their review and comment.

1. Marquette County Road Commission.
2. Marquette County Health Department.
3. Marquette County Drain Commissioner.
4. Michigan Department of Transportation.
5. School district – Superintendent of Schools.
6. Marquette Township Fire Chief.
7. Chief of the local law enforcement agency.
8. Affected utility companies.
9. Nearby operating railroads which may be affected by the Special Land Use.
10. Charter Township of Marquette Department of Public Works.
11. Other federal, state, county, or local agencies which may be impacted by the proposed development.

The Zoning Administrator shall transmit the remaining copies of the application and supporting documentation to the Planning Commission for their review. The Planning Commission shall proceed with scheduling a public hearing regarding the request.

**SECTION 17.04: REVIEW AND FINDING PROCESS**

**A. PLANNING COMMISSION PUBLIC HEARING**

The Planning Commission shall review the complete application for a Special Use Permit at its next regular scheduled meeting following filing by the Zoning Administrator and, if required, shall set a date for the public hearing within forty-five (45) days thereafter. A public hearing shall be required for a Special Land Use to be located in the Development District (DD), if the proposed Special Land Use is located adjacent with existing Residential Land Use and/ or adjacent with a designated Residential Zoning District; i.e. Scenic Resource (SR), Rural Residential (RR), or Urban Residential (UR). The Township Clerk shall publish one (1) notice of public hearing, not less than fifteen (15) days in advance of such hearing and shall notify by regular mail or personal delivery the parties of interest and all property owners and occupants of all structures within three hundred (300) feet of the boundaries of the subject property.

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### **SECTION 17.04: REVIEW AND FINDING PROCESS – (Cont.)**

In situations where a single structure contains four (4) or more dwelling units, businesses, or organizations, notice must be given to the manager or owner of the structure who shall be requested to post notice at the primary entrance of the structure. The notice shall describe the special nature of the land use request; the legal description, and a location map of the property; specify the date, time, and place of the hearing; indicate when and where written comments will be received concerning the request.

### **B. PLANNING COMMISSION DECISION**

The Planning Commission may deny, approve, or approve with conditions, a request for a Special Land Use approval. The decision on a Special Land Use shall be incorporated in a statement containing the conclusions relative to the Special Land Use under consideration which specifies the basis for the decision, and any conditions imposed.

### **SECTION 17.05: CONDITIONS ON SPECIAL LAND USE APPROVALS**

Every special land use permit shall be conditioned upon the proposed development fully complying with all requirements of this Ordinance and, where applicable, the Township Subdivisions Regulations and any other pertinent federal, state, county, or local statutes or ordinances. The violation of any condition contained in a special land use permit shall be a violation of this Ordinance.

### **SECTION 17.06: GENERAL USE STANDARDS**

An application for a Special Land Use permit shall not be approved unless the Planning Commission specifically finds the proposed Special Land Use to be appropriate in the location for which it is proposed. This finding shall be based on the following criteria:

- A. The proposed use shall be in harmony with the general purpose, goals, objectives, and standards of the Comprehensive Plan of the Charter Township of Marquette, this Ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the Township.
- B. There shall be a community need for the proposed use at the proposed location; in the light of existing and proposed uses of a similar nature in the area and of the need to provide or maintain a proper mix of uses both within the Township and also within the immediate area of the proposed use:
  - 1. The proposed use in the proposed location shall not result in either a detrimental over concentration of a particular use within the Township or within the immediate area of the proposed use.

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### **SECTION 17.06: GENERAL USE STANDARDS – (Cont.)**

2. The area for which the use is proposed is not better suited for or likely to be needed for uses which are permitted as a matter of right within that district, in light of policies or provisions of the Comprehensive Plan, this Ordinance, or other plans or programs of the Township.
- C. The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters of welfare, either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of the Comprehensive Plan, this Ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the Township to guide growth and development.
- D. The proposed use in the area under consideration shall be adequately serviced by and will not impose an undue burden on any of the improvements, facilities, utilities, and services specified in this subsection. Where improvements, facilities, utilities, or services are not available or adequate to service the proposed use in the proposed location, the applicant shall, as part of the application and as a condition to approval of the proposed Special Land Use permit, be responsible for establishing the ability, willingness, and a binding commitment to provide the improvements, facilities, utilities, and services in sufficient time and in a manner consistent with the Comprehensive Plan, this Ordinance, and other plans, programs, maps, and ordinances adopted by the Township to guide its growth and development. The approval of the Special Land Use permit shall be conditional upon the improvements, facilities, utilities, and services being provided and guaranteed by the applicant.
- E. The proposed use in the proposed location shall fully comply with the requirements set forth in this Ordinance and shall be consistent with the intent and purpose of *Article 15, Principal Uses Permitted in Districts*, and *Article XVIII, Performance Requirements*.

### **SECTION 17.07: CONDITIONS AND SAFEGUARDS**

- A. Prior to granting any Special Use Permit, the Planning Commission may impose any additional conditions or limitations upon the establishment, location, construction, maintenance, or operation of the use authorized by the Special Use Permit which may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well being of those who will utilize 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. The conditions shall be consistent with the general standards as established in this Ordinance.

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### **SECTION 17.07: CONDITIONS AND SAFEGUARDS – (Cont.)**

- B. Conditions and requirements stated as part of the Special Use Permit authorization shall be a continuing obligation of Special Use Permit holders. The Zoning Administrator shall make periodic investigations of developments authorized by Special Use Permit to determine compliance with all requirements.
- C. Special Use Permits may be issued for time periods as determined by the Planning Commission. Special Use Permits may be renewed in the same manner as originally applied for.
- D. In authorizing a Special Use Permit, the Planning Commission may require that a cash deposit, certified check, bond, letter of credit, or other financial guarantee acceptable to the Township, of adequate sum be provided by the developer prior to the issuance of the Special Use Permit to ensure installation of such necessary improvements including but not limited to drives, walks, utilities, parking, landscaping, etc. The financial guarantee shall be deposited with the Township Clerk at the time of issuance of the permit authorizing the use or activity. Upon completion of significant phases of the scheduled improvements, the Planning Commission shall authorize a proportional rebate of the financial guarantee.
- E. Continuance of a Special Use Permit shall be withheld by the Planning Commission only upon its determination that:
  - 1. The required conditions, as prescribed in conjunction with the issuance of the original permit, required the use to be discontinued after a specified time period.
  - 2. Violations of the conditions pertaining to the granting of the Special Use Permit continue to exist more than thirty (30) days after written order to correct the violation has been issued by the Zoning Administrator.
- F. All plans, specifications, and statements submitted with the application for a Special Use Permit shall become, along with any changes ordered by the Planning Commission, a part of the conditions of any Special Use Permit issued.
- G. An application for a Special Use Permit which has been denied wholly or in part by the Planning Commission shall not be resubmitted until one (1) year or more has expired from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions sufficient to justify reconsideration by the Township.

### **SECTION 17.08: DECISION RECORD**

#### **A. WRITTEN RECORD**

The Zoning Administrator shall maintain a written record of Special Use Permits issued in accordance with the requirements of this Ordinance. The record shall contain:

- 1. All written materials produced as a result of the proceedings.
- 2. All written statements received regarding the proposed special use.

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### **SECTION 17.08: DECISION RECORD – (Cont.)**

3. A written statement of findings of fact together with the final decision and supporting reasons. The decision must include a statement of facts, the decision, the basis for the decision, and any conditions imposed on the Special Land Use.

### **SECTION 17.09: AMENDMENTS TO PERMITS FOR SPECIAL LAND USES**

Following the issuance of a Special Land Use permit pursuant to the provisions of this Ordinance, such permit may be amended, varied, or altered only in accordance with the standards and procedures established by this Article for its original approval.