

## **ARTICLE 34**

# **Special Land Uses**

### **SECTION 34.01. Purpose**

Special land uses include those uses that serve an area, interest or purpose that extends beyond the borders of the Township, create particular problems of control in relation to adjoining uses, form or districts, may have detrimental effects upon public health, safety or welfare, or possess other unique characteristics that prevent such uses from being classified as principal permitted uses in a particular district.

This Article sets forth review procedures and standards for Planning Commission review and approval of special land uses. These procedures are instituted to provide an opportunity to use a lot or structure for an activity that, under usual circumstances, could be detrimental to other permitted land uses. Such uses may be permitted under circumstances particular to the proposed location, subject to specific conditions or limitations that provide protection to adjacent land uses.

These procedures are adopted to provide a consistent and uniform method for review of special land use applications, ensure full compliance with the standards contained in this Ordinance, achieve efficient use of land, prevent adverse impacts on neighboring properties and districts, preserve the public health, safety, morals, and general welfare, and facilitate development in accordance with the land use objectives of the Master Plan and the purpose and intent of this Ordinance.

### **SECTION 34.02. Application Requirements**

Special land use applications shall be submitted in accordance with the following procedures and requirements, which provide for review and action by the Planning Commission:

#### **A. Eligibility**

The application shall be submitted by the owner of an interest in land for which special land use approval is sought, or by the owner's designated agent. The applicant or agent shall be present at all scheduled review meetings.

#### **B. Requirements**

Special land use applications shall be submitted to the Township and shall include the following information:

1. Contact information for the applicant and property owner, and proof of ownership. If the property is leased by the applicant, a copy of the lease shall be provided, along with the owner's signed authorization for the application.
2. Address, location and tax identification number of the property.

3. A detailed description of the proposed use.
4. A site plan, if requested by the Planning Commission or required by Article 35 (Site Plan Review).
5. Appropriate review fees, in accordance with the Charter Township of Commerce Fee Ordinance.
6. Any other information deemed necessary by the Planning Commission to determine compliance with this Ordinance.

**SECTION 34.03. Special Land Use Review**

After a complete and accurate application has been received and review fees paid, the application shall be reviewed in accordance with following procedures:

**A. Coordination with Site Plan Review**

The Planning Commission may, at its discretion, consider special land use and site plan applications at the same meeting, or may require the site plan to be submitted for review following approval of the special land use.

**B. Technical Review**

Prior to Planning Commission consideration, the application materials shall be distributed to appropriate Township officials and staff for review and comment. The Planning Director may also submit the application materials to applicable outside agencies and designated Township consultants for review.

**C. Public Hearing**

Upon receipt by the Planning Department of an application for a special land use or activity, public notice shall be given that a request for special land use approval has been received and that a public hearing on the request will be heard. This notice shall be given as follows:

1. Notice shall be published in a newspaper of general circulation in the Charter Township of Commerce not less than fifteen (15) days prior to the scheduled public hearing.
2. Notice shall also be sent by mail or personal delivery to the owners of all property for which approval is being considered, to the owners of all real property within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the boundary of the property in question, regardless whether the property or occupant is located within the Township. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or

spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. This notice shall be sent not less than fifteen (15) days prior to the date of the public hearing scheduled.

- 3. The notice shall contain:
  - a. A description of the nature of the request to be heard.
  - b. A description of the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. If there are no street addresses, other means of identification may be used.
  - c. A statement of when and where the request will be considered.
  - d. An indication of when and where written comments will be received concerning the request.

**D. Special Land Use Sign Requirements**

At least fifteen (15) days prior to the public hearing before the Planning Commission, the applicant must, at his own expense, install special land use signage on the property proposed for rezoning, in full public view along street or road frontages.

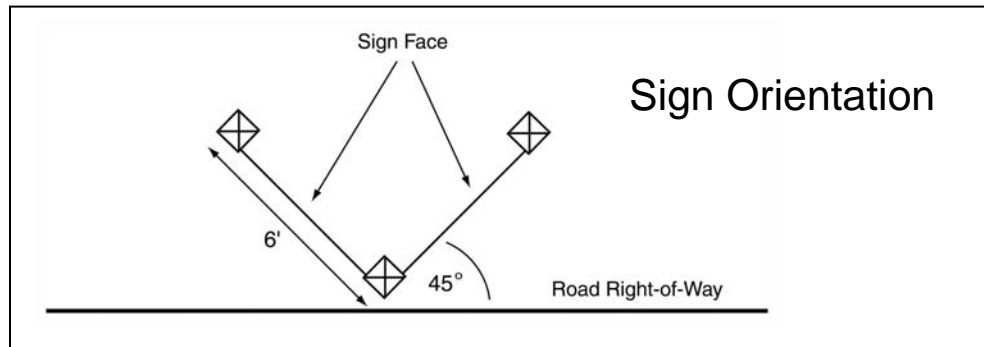
- 1. **Location.** The signs must be prominently placed at 700 foot intervals along the property frontage, adjacent to the public right-of-way. For parcels with less than 700 feet of road frontage, signs shall be placed at the midpoint of the property width. A corner lot will require a minimum of one (1) sign per road frontage. The location, number and content of such signs must be approved by the Building Department prior to installation.
- 2. **Sign Orientation.** Rezoning signs shall be displayed at forty-five degree angles (45°) to the road right-of-way, to maximize visibility to drivers approaching from both sides of the road (see illustration).
- 3. **Notice Requirements.** Sign lettering shall be black on a white background. Wording on the signage shall be as follows:

**PROPOSED SPECIAL LAND USE** .....(minimum 8” high letters)

**Proposed Use: (*Identify Use*)** .....(minimum 4” high letters)

**Information (*Commerce Telephone #*)**.....(minimum 4” high letters)

**Commerce Charter Township** .....(minimum 3” high letters)



4. **Structure**

- a. Size: minimum 4 ft. (vertical) by minimum 6 ft. (horizontal)
- b. Height: 6 ft. above grade (including posts)
- c. Sign facing must be exterior plywood, aluminum, or similar durable material
- d. Sign support system must be structurally sound.

Rezoning signage must be removed within seven (7) days of final action on the petition by the Township Board, or within seven (7) days of withdrawal of the petition by the applicant. Failure to remove signage within this period may result in such removal by the Township at the applicant's expense.

**E. Planning Commission Consideration**

Subsequent to the hearing, the Planning Commission shall review the application for special land use approval, together with any reports and recommendations from staff, consultants and other reviewing agencies, and any public comments. The Planning Commission shall make the final determination on the application, based on the requirements and standards of this Ordinance, including Article 34 (Standards for Special Land Use Approval). The Planning Commission is authorized to postpone, approve, approve subject to conditions or deny the special condition use as follows:

- 1. Postponement. Upon determination by the Planning Commission that a special land use application is not sufficiently complete for approval or denial, or upon a request by the applicant, the Planning Commission may postpone consideration until a later meeting.
- 2. Denial. Upon determination that a special land use application is not in compliance with the provisions of this Ordinance, including Article 34 (Standards for Special Land Use Approval), or would require extensive modifications to comply with said standards and regulations, the special land use may be denied. If a special land use is denied, a written record shall be provided to the applicant listing the reasons for such denial.

3. Approval. The special land use may be approved by the Planning Commission upon determination that it is in compliance with the provisions of this Ordinance, including Article 34 (Standards for Special Land Use Approval). Upon approval, the special land use shall be deemed a conforming use permitted in the district in which it is proposed, subject to site plan approval, and any conditions imposed on the use. Such approval shall affect only the zoning lot, lot of record or portion thereof upon which the use is located.
  
4. Approval subject to conditions. The Planning Commission may approve a special land use subject to conditions provided that the special land use is:
  - a. Designed to protect natural resources, the health, safety, welfare, and social and economic well-being of users or patrons of the use under consideration, residents and landowners immediately adjacent to the proposed use, or the community as a whole; and
  - b. Related to the valid exercise of the police power, and the impacts of the proposed use; and
  - c. Necessary to meet the intent and purpose of this Ordinance, related to the standards established in this Ordinance for the special land use under consideration, and necessary for compliance with those standards.
  
5. Recording of special land use action. Planning Commission action on the special land use shall be recorded in the Planning Commission meeting minutes, stating the name, description and location of the proposed use, and the grounds for the Planning Commission’s action. At least one (1) copy of the written record shall be kept on file in the Township, and one (1) copy shall be forwarded to the applicant as evidence of special land use action by the Planning Commission.

**SECTION 34.04. Special Land Use Resubmission**

A special land use application that has been denied shall not be resubmitted for a minimum period of 365 days from the date of denial, except that the Planning Director may allow an earlier submittal upon finding new evidence or proof of changed conditions.

**SECTION 34.05. 34.05 Appeals**

The Zoning Board of Appeals shall not have the authority to consider appeals of special land use determinations by the Planning Commission. The decision on a special land use activity by the Planning Commission may be appealed to the Oakland County Circuit Court.

**SECTION 34.06. Special Land Use Expiration**

Special land use approval shall expire 365 days after the date of approval, unless the use has been established on the site, or the construction plan associated with the special land use has

been submitted for review. Special land use approval shall also expire upon expiration of the approved construction plan associated with a special land use.

Upon written request received by the Township prior to the expiration date, the Planning Commission may grant one (1) extension of up to 365 days, provided that the approved special land use conforms to current Zoning Ordinance standards.

**SECTION 34.07. Rescinding Approval of Special Land Uses**

Approval of a special land use may be rescinded by the Planning Commission upon determination that the use has not been improved, constructed or maintained in compliance with this Ordinance, approved permits, site plans, or conditions of site plan or special land use approval. Such action shall be subject to the following:

1. **Public hearing.** Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in Article 34, at which time the owner of an interest in land for which special land use approval was sought, or the owner’s designated agent, shall be given an opportunity to present evidence in opposition to rescission.
2. **Determination.** Subsequent to the hearing, the decision of the Planning Commission with regard to the rescission shall be made and written notification provided to the owner or designated agent.

**SECTION 34.08. Standards for Special Land Use Approval**

Approval of a special land use shall be based upon the determination that the proposed use complies with all applicable requirements of this Ordinance, and all of the following standards as deemed applicable to the use by the Planning Commission:

1. **A documented need exists for the proposed use.** A documented and immediate need exists for the proposed use within the community.
2. **Compatibility with adjacent uses.** The special land use is compatible with adjacent uses and the existing or intended character of the surrounding neighborhood, and will not have an adverse impact upon or interfere with the development, use or enjoyment of adjacent properties, or the orderly development of the neighborhood.
3. **Compatibility with the Master Plan.** The special land use location and character is consistent with the general principles, goals, objectives and policies of the adopted Master Plan.
4. **Compliance with applicable regulations.** The proposed special land use is in compliance with all applicable provisions of this Ordinance other county, state, and federal requirements, and conditions imposed by the Planning Commission.

5. **Impact upon public services.** The special land use’s impact upon public services will be served adequately by essential public facilities and services, and will not exceed the existing or planned capacity of such services. For purposes of this Section, such services shall include, but are not limited to police and fire protection, drainage and stormwater management facilities, municipal water and sanitary sewer facilities, refuse disposal, recreational facilities, and educational services.
6. **Traffic impacts.** The special land use is designed and located in a manner that minimizes any adverse traffic impacts caused or exacerbated by the use.
7. **Environmental and public health, safety, welfare impacts.** The location, design, activities, processes, materials, equipment, and operational conditions of the special land use will not be detrimental or injurious to the environment or the public health, safety, and welfare by reason of traffic, noise, vibration, smoke, fumes, odors, dust, glare, light, drainage, topographic changes or other adverse impacts.
8. **Isolation of existing uses and/or form of development.** Approval of the special land use location will not result in a small residential or non-residential area being substantially surrounded by incompatible uses or form of development.

**SECTION 34.09. Compliance Required**

It shall be the responsibility of the owner of the property and the operator of the use for which special land use approval has been granted to develop, improve, operate and maintain the use, including the site, structures and all site elements, in accordance with the provisions of this Ordinance and all conditions of special land use approval until the use is discontinued. Failure to comply with the provisions of this Article shall be a violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.

The Building Director may make periodic investigations of developments for which a special land use has been approved. Noncompliance with Ordinance requirements or conditions of approval shall constitute grounds for the Planning Commission to rescind special land use approval.