

## **ARTICLE 19**

### **SPECIAL LAND USES**

#### **19.01        PURPOSE**

Special land uses are those uses of land that are not essentially incompatible with the uses permitted in a zoning district but that possess characteristics or locational qualities that require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this article is to establish equitable procedures and criteria that shall be met before the following special land uses are permitted:

- A.     Adult day-care centers.
- B.     Adult day-care homes.
- C.     Adult entertainment businesses.
- D.     Bed and breakfasts.
- E.     Boarding rooms
- F.     Child-care centers.
- G.     Commercial recreation (outdoor).
- H.     Drive-through or drive-in restaurants (accessory).
- I.     Floodplain Overlay District uses.
- J.     Group day-care homes.
- K.     Motels or hotels.
- L.     Multi-family dwellings (C-1 District).
- M.     Outdoor sales.
- N.     Public or institutional uses.
- O.     Salvage yards.
- P.     Second floor apartments (C-1 District).
- Q.     State-licensed residential facilities.

- R. Two-family dwellings.
- S. Vehicle repair (major or minor).

## 19.02

### APPLICATION PROCEDURES

- A. An application for a special land use shall be submitted through the ordinance enforcement officer to the planning commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the city council to cover the costs of processing the application. No part of this fee shall be refundable.
- B. An application for a special land use shall be accompanied by the following documents and information:
  - 1. A special and use application form that has been completed in full by the applicant and submitted to the ordinance enforcement officer.
  - 2. A site plan as required in Article 20.
- C. Upon receipt of an application for a special land use, the planning commission shall publish notice of a public hearing for a special land use in a newspaper that circulates in the city. In addition, said notice shall be sent by mail or personal delivery to the owners of the property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary in question, and to the occupants of all structures with one through four units within 300 feet of the boundary of the property in question. Notice shall also be given to the owner or manager of all structures with five or more dwelling units with 300 feet of the property in question who shall be requested to post the notice at the primary entrance to the structure. The notice shall be given not less than 5 days nor more than 15 days before the application will be considered. The notice shall:
  - 1. Describe the nature of the special land use request.
  - 2. Indicate the property that is subject to the special land use request.
  - 3. State when and where the special land use request will be considered.

4. Indicate when and where written comments concerning the request will be received.
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- D. The planning commission shall hold a public hearing to receive public comment on the request. The planning commission, based upon its review of the application for a special land use, comments received at the public hearing, and other material submitted in relation to the request, shall make a determination on the special land use application. Such determination shall be in accordance with the criteria for approval stated in Section 19.03 and such other standards contained in this ordinance that relate to the special land use under consideration.
  - E. The decision of the planning commission on a special land use shall be incorporated in a statement that sets forth the findings, determinations, and conclusion relative to the special land use under consideration. Said statement shall specify the basis for the decision of the planning commission and any conditions imposed.

## **19.03**

### **BASIS OF DETERMINATION**

Prior to the approval of a special land use application, the planning commission shall ensure that the standards specified in this section, as well as applicable standards established elsewhere in this ordinance, shall be satisfied by the completion and operation of the special land use under consideration.

- A. The planning commission shall review the particular circumstances of the special land use request under consideration in terms of the following general standards and shall approve a special land use only upon finding that the proposed use complies with each of the following standards as well as all applicable standards established elsewhere in this ordinance:
  1. The special land use shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property.
  2. The special land use shall impair the essential character of the surrounding area.
  3. The special land use shall not be hazardous to the adjacent property or involve uses, activities, materials, or equipment that will be detrimental to the general health, safety, and welfare.

4. The special land use shall not place demands on public services and facilities in excess of current capacities.
  5. The special land use complies with the city's master plan.
- B. Reasonable conditions may be required by the planning commission in conjunction with the approval of a special land use for ensuring that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity; for protecting the natural environment and conserving natural resources and energy; for ensuring compatibility with adjacent uses of land; for promoting the use of land in a socially and economically desirable manner, and for protecting natural resources and the public health, safety, and welfare of individuals who will use the land, those immediately adjacent, and the community as a whole. Conditions imposed shall be necessary to meet the intent and purpose of this ordinance and shall be related to the objective of ensuring compliance with applicable standards. All conditions imposed shall be made a part of the approved special land use and shall be enforced by the ordinance enforcement officer.

#### **19.04**

#### **PERFORMANCE GUARANTEES**

Performance guarantees to assure compliance with the provisions of this ordinance and any conditions imposed under this ordinance may be required by the planning commission at the time of approval of a special land use as authorized under Section 4e of Act No. 207 of the Public Acts of 1921, as amended.

#### **19.05**

#### **DESIGN STANDARDS**

All special land uses shall be subject to the following design standards in addition to the requirements of the district in which they are located:

##### **A. Adult Day-Care Centers:**

1. If the adult day-care center is located on a major arterial street, an off-street drop-off/pick-up area must be provided, including an on-site vehicle turnaround or separate entrance and exit points. Other facilities, design elements, and operational requirements shall be provided or complied with, as determined necessary by the planning commission, for the safety of the persons attending the adult day-care center.



2. Based upon the established capacity of the facility, a minimum of 150 square feet of outdoor open space area per adult receiving care, with not less than 5,000 square feet of outdoor area per facility, shall be provided and maintained on the lot. For purposes of this section, "outdoor open space area" means the area located on the lot behind the established front yard setback of the facility that is available or devoted to outdoor activities, exclusive of any area occupied by a swimming pool. The outdoor open space area shall be free from sharp gravel, glass, or cinder and shall be well-drained. The outdoor open space area shall be completely enclosed by a chain-link or solid fence of at least 4 feet in height and shall be screened from any abutting residential use by vegetation having a height, when planted, of at least 5 feet.

**B. Adult-Day-Care Homes:**

1. Based upon the established capacity of the facility, a minimum of 150 square feet of outdoor open space area per adult receiving care, with not less than 5,000 square feet of outdoor area per facility shall be provided and maintained on the lot. For purposes of this section, "outdoor open space area" means the area located on the lot behind the established front yard setback of the facility that is available or devoted to outdoor activities, exclusive of any area occupied by a swimming pool. The outdoor open space area shall be free from sharp gravel, glass, or cinder and shall be well-drained. The outdoor open space area shall be completely enclosed by a chain-link or solid fence of at least 4 feet in height and shall be screened from any abutting residential use by vegetation having a height, when planted, of at least 5 feet.
2. Drop-off and pick-up areas for adults receiving care and other facilities, design elements, and operational requirements shall be provided or complied with, as determined necessary by the planning commission, for the safety of the adults attending the facility.
3. An adult day-care home shall not be located closer than 1,500 feet (measured along a road, street, or other public thoroughfare) to any other adult day-care home (i.e., another facility of the same type); to any group day-care home; to any an adult foster-care small-group facility offering substance abuse treatment and rehabilitation

service to 7 or more people, licensed by the State of Michigan; or to any community correctional center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the State Department of Corrections.

4. Operating hours of the adult day-care home shall not exceed 16 hours during any 24-hour period and, unless specifically approved by the planning commission based upon a finding under the particular circumstances of no detriment to the surrounding area, shall be limited from 6 a.m. to 10 p.m. daily.
5. The property shall be maintained consistent with the visible characteristics of the neighborhood.

C. **Adult Entertainment Businesses:** The need for special regulation of certain business uses that, by their very nature, are deemed to have unique characteristics and effects on surrounding properties, is recognized as a legitimate objective. Special regulation is needed to ensure these uses are not concentrated in any one area, thus, preventing adverse effects upon the surrounding neighborhood, such as blight and urban deterioration, negative effects on economic development potential, social disorder and crime, negative effects on community standards for aesthetics, the reduction of property values, and the subsequent negative impact on the community tax base. The primary objective is to prevent a concentration of these uses by establishing spacing standards and, thus, ensuring disbursement of these uses throughout the community.

1. Adult entertainment businesses shall not be approved if there is, already in existence, one or more adult entertainment businesses within 1,500 feet of the boundaries of the site of the proposed business.
2. Adult entertainment businesses shall not be approved if the proposed location is within 1,000 feet of any residential district; 1,500 feet of any licensed day-care facility, adult foster-care home, senior citizens' center, park, or church; or 2,650 feet from any K-12 school.

D. **Bed and Breakfasts:**

1. Such uses shall only be established in single-family dwellings.

2. One parking space per room to be rented shall be provided on site in addition to the parking required for a single-family dwelling. Parking shall be arranged so as not to pose negative impacts on adjacent properties or necessitate on-street parking.
3. Kitchen facilities are allowed, as approved by the appropriate city, county, and state agencies.
4. Additions to a structure for the purpose of accommodating additional guests shall be prohibited. Physical modifications to the structure may be permitted, including but not limited to the provision of barrier-free access in order to meet building code requirements.
5. Exterior solid waste facilities beyond what might normally be expected for a single-family dwelling shall be prohibited.
6. Only one sign shall be allowed for identification purposes with approval of the planning commission. Such sign shall be mounted flat against the wall of the principal building, and shall not exceed 4 square feet in area.
7. The dwelling unit in which the bed and breakfast operation takes place shall be the principal residence of the homeowner, who shall live on the premises while the operation is active.
8. Accessory retail or service uses to a bed and breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, or bakeries.
9. Meals may be served only to residents, employees, family members, and overnight guests.

**E. Boarding Rooms:**

1. Such uses shall only be established in single-family dwellings.
2. One parking space per room to be rented shall be provided on site in addition to the parking required for a single-family dwelling. Parking shall be arranged so as not to pose negative impacts on adjacent properties or necessitate on-street parking.

3. Kitchen facilities are allowed, as approved by the appropriate city, county, and state agencies.
4. Additions to a structure for the purpose of accommodating additional guests shall be prohibited. Physical modifications to the structure may be permitted, including but not limited to the provision of barrier-free access in order to meet building code requirements.
5. Exterior solid waste facilities beyond what might normally be expected for a single-family dwelling shall be prohibited.

**F. Child-Care Centers:**

1. If the child-care center is located on a major arterial street, an off-street drop-off/pick-up area must be provided, including an on-site vehicle turnaround or separate entrance and exit points. Other facilities, design elements, and operational requirements shall be provided or complied with, as determined necessary by the planning commission, for the safety of the children attending the child-care center.
2. Based upon the established capacity of the child-care center, a minimum of 150 square feet of outdoor play area per child, with not less than 5,000 square feet of outdoor play area per facility, shall be provided and maintained on the lot. For purposes of this section, "outdoor play area" means the area located on the lot behind the established front yard setback of the facility that is available or devoted to outdoor activities, exclusive of any area occupied by a swimming pool or required parking areas. The outdoor play area shall be free from sharp gravel, glass, or cinder and shall be well-drained. The outdoor play area shall be completely enclosed by a chain-link or solid fence of at least 4 feet in height and shall be screened from any abutting residential use by vegetation having a height, when planted, or at least 5 feet.
3. The child-care center shall be registered and licensed as required for child-care centers or day-care centers under the Child Care Organizations Act (Act No. 116 of the Public Acts of 1973, as amended).

**G. Commercial Recreation (Outdoor)**

1. All activities shall be set back a minimum of 50 feet from any lot line in a residential district.
2. The planning commission may require a fence, wall, or planted material to screen the use of adjacent residential districts.

**H. Drive-Through or Drive-In Restaurants (Accessory):**

Drive-through or drive-in restaurants accessory to a sit-down restaurant shall require special land use approval in the C-1 District.

1. A minimum of three off-street, stacking spaces shall be provided for drive-through service.
2. Service windows shall be set back at least 100 feet from any lot line in a residential district.

**I. Floodplain Overlay District Uses:**

1. In reviewing an application and the standards for approval of a special land use permitted under this section, the planning commission shall consider the following factors before rendering a decision on the request for approval:
  - a) Any possible danger to life and property due to increased flood heights or velocities caused by encroachments on the floodplain.
  - b) The danger that materials may be swept onto other lands or downstream to the injury of others.
  - c) The susceptibility of the proposed development and its contents to flood damage and the effect of such damage on the individual owner.
  - d) The importance of the services provided by the development to the community.
  - e) The requirement of the proposed development for a waterfront location.

- f) The availability of alternative locations for the proposed use that are not subject to flooding.
  - g) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - h) The relationship of the proposed use to the city's master plan and floodplain management program for the area.
  - i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - j) The expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
  - k) The location, elevation, and construction of all public utilities and facilities for sewer, gas, electrical, and water systems designed relative to minimizing or eliminating flood damage.
  - l) The measures taken to assure adequate drainage so as to reduce exposure to flood hazards.
  - m) Such other factors that are, in the opinion of the planning commission, relevant to the purposes of this district.
  - n) If, in the opinion of the planning commission, topographic data, engineering studies, or other studies are needed to determine the effects of flooding on a proposed use and/or the effects of the use of the floodway, the planning commission may require the applicant to submit such data and/or studies prepared by competent engineers or other technical people.
2. To the extent not otherwise provided pursuant to the site plan requirements under Article 20, the planning commission shall require, as applicable, submission of the following materials in connection with a request for approval of any special land use under this section:
- a) Plans drawn to a scale of 1 inch = 100 feet, the nature, location, dimensions, and elevation of the lot; existing or proposed structures; fill; storage of materials; and the relationship of the above to the

location of the channel floodway and regulatory flood protection level.

- b) A plan (surface view) showing elevations or contours of the ground at 5-foot intervals: pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing buildings on the site; location and elevations of streets; photographs or maps showing existing land uses and vegetation; upstream and downstream soil types; and other pertinent information that may be required by the planning commission.
- 3. As with other special land uses, the planning commission may impose reasonable conditions to the granting of approval of a special land use under this section, including, without limitation, limitations on period of use and operation; imposition of operational controls, sureties, deed restrictions, and covenants; and requirements for construction of channel modifications, dikes, levees, and other protective measures.

**J. Group Day-Care Homes:**

- 1. Child drop-off and pick-up areas and other facilities, design elements, and operational requirements shall be provided or compiled with, as determined necessary by the planning commission, for the safety of the children attending the group day-care home.
- 2. Based upon the established capacity of the group day-care home, a minimum of 150 square feet of outdoor play area per child, with not less than 5,000 square feet of outdoor play area per facility shall be provided and maintained on the lot. For purposes of this section, "outdoor play area" means the area located on the lot behind the established front yard setback of the facility that is available or devoted to outdoor activities, exclusive of any area occupied by a swimming pool or required parking areas. The outdoor play area shall be free from sharp gravel, glass, or cinder and shall be well-drained. The outdoor play area shall be completely enclosed by a chain-link or solid fence of at least 4 feet in height and shall be screened from any abutting residential use by vegetation having a height, when planted, of at least 5 feet.

3. A group day-care home shall not be located closer than 1,500 feet (measured along a road, street, or other public thoroughfare) to any other group day-care home (i.e., another facility of the same type); to any adult foster-care small-group home or large-group home, licensed by the State of Michigan; to any facility offering substance abuse treatment and rehabilitation service to 7 or more people, licensed by the State of Michigan' or to any community correctional center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the State Department of Corrections.
4. Operating hours of the group day-care home shall not exceed 16 hours during any 24-hour period and, unless specifically approved by the planning commission based upon a finding under the particular circumstances of no detriment to the surrounding area, shall be limited from 6 a.m. to 10 p.m. daily.
5. The property shall be maintained consistent with the visible characteristics of the neighborhood.
6. The group day-care home shall be registered and licensed as required for group day-care homes under the Child Care Organizations Act (Act No. 116 of the Public Acts of 1973, as amended).

**K. Motels or Hotels:** Motels or hotels shall require special land use approval in the I-2 District.

1. Traffic circulation shall not conflict with neighboring business uses.
2. The centerline of all ingress and egress areas (curb cuts) shall be at least 50 feet from the right-of-way of any intersecting street.

**L. Multi-Family Dwellings:** Multi-family dwellings shall require special and use approval in the C-1 District.

1. All off-street parking requirements of Article 18 shall be met.



2. All off-street parking areas and refuse disposal containers shall be screened from adjacent residential districts in accordance with Article 17.

**M. Outdoor Sales**

1. No merchandise shall be located in the road right-of-way or within 5 feet of any adjacent lot line.
2. All structures shall be set back a minimum of 30 feet from any lot line in a residential district.
3. The planning commission may require a fence, wall, or planted material to screen the use from adjacent residential districts.

**N. Public or Institutional Uses**

1. Such use shall be in conformance with the character of the adjacent neighborhood and shall be essential to service the neighborhood or community.
2. The planning commission shall establish requirements for setback, lot size, side yard, parking, screening, and other conditions necessary for the use to conform with the character of the adjacent neighborhood and to protect adjacent property owners.

**O. Salvage Yards**

1. Minimum lot size shall be 3 acres.
2. All salvage materials must be screened from outside view by a solid fence or wall. (See Article 17 for all required screening.)
3. All uses shall be established and maintained in accordance with all applicable state and county laws.
4. All storage areas shall be set back at least 75 feet from any street right-of-way or property line and 500 feet from any residential district. Such setbacks shall be landscaped to minimize the appearance and impact of the operation. The spacing and type of plant materials shall be approved by the planning commission. (See Article 17 for required screening.)
5. No open burning shall be permitted.

6. All industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
7. All performance standards in Article 10 shall be met.

**P. Second Floor Apartments (C-1 District)**

1. All off-street parking requirements shall be met.
2. All off-street parking areas and refuse disposal containers shall be screened from adjacent residential districts in accordance with Article 17.
3. All second floor apartments shall have their own access independent of the first floor business.
4. All applicable city ordinances designed to protect the public health, safety, and welfare, such as but not limited to building codes and health codes, shall be met.

**Q. State-Licensed Residential Facilities (More Than 6 Persons)**

1. The proposed facility shall be consistent with and shall promote the intent and purpose of this ordinance and shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed facility. In making its determination regarding a proposed facility, the planning commission shall consider the following factors:
  - a) The design and location of the proposed facility; the density of population; the adequacy of educational, recreational, and other public support facilities; traffic volumes and circulation; compatibility with existing development; adequate provision for light and air; adequate provision of parking; and accessibility of fire and police protection.
  - b) The density of similar uses in the area; the cumulative effects of allowing the proposed facility (including effects upon the capacities of existing community recreation, social service, and other support facilities); and whether the proposed facility will alter the character of the neighborhood. In order to prevent an excessive

concentration of facilities and consequent alteration of a neighborhood's character and protect existing facilities from overdevelopment that could result in an institutional atmosphere, no facility shall be located within a 1,500-foot radius of another facility unless the planning commission finds that a lesser distance is compatible with the goals of this ordinance and that the facility would not contribute to an excessive concentration of such facilities within a particular neighborhood.

- c) The accessibility of the proposed facility to convenience services, such as shopping, banking, health care, and public transportation; to employment opportunities; and to community resources and agencies, including medical and social services, that might be used by the facility's residents.
- 2. The planning commission shall establish requirements for setback, lot size, side yard, parking, screening, and other conditions as necessary for the facility to conform with the character of the adjacent neighborhood and to protect adjacent property from adverse impacts.

**R. Two-Family Dwellings:**

- 1. The dwellings shall not alter the character of the neighborhood in which they are located.
- 2. The dwellings shall be located along major roads and entranceways to the residential developments or shall act as buffers between residential and higher-intensity uses whenever practical.

**S. Vehicle Repair (Major or Minor):**

- 1. Minimum lot size shall be 20,000 square feet to provide adequate space for vehicle storage.
- 2. All activities and storage related to this use shall be set back a minimum of 50 feet from all side and rear lot lines.
- 3. All tire, parts, and bodies must be kept within a fully enclosed building or fenced on all sides with a screening fence that is 6 feet in height.

4. No outdoor storage or use shall be permitted within the required front yard.
5. Appropriate screening in accordance with Article 17 may be required by the planning commission to protect adjoining parcels.