

Chapter 7 ■ Special Use Permits

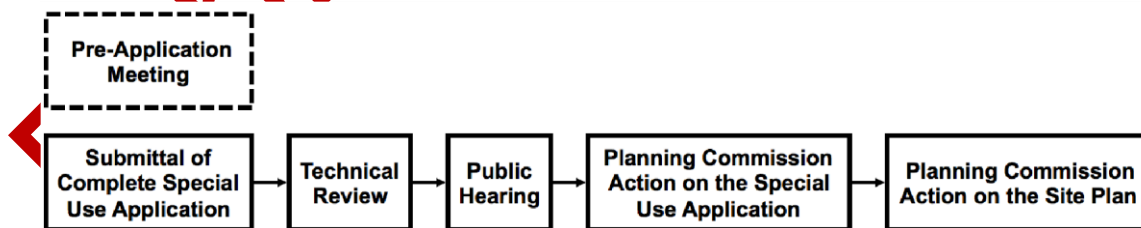
SECTION 7.1 PURPOSE AND AUTHORITY.

The formulation and enactment of this Zoning Ordinance is based upon the division of the Township into zoning districts, each of which include permitted uses that are mutually compatible. In addition, it is recognized that there are certain special land uses that may be necessary or desirable to allow in definable locations within certain districts, but on account of anticipated impacts on neighboring uses or public facilities, may not be appropriate in all areas of the district. Special use permit approval shall be required for all land uses listed in Section 3.6 (District Regulation Tables) as a special land use.

- a. **PURPOSE.** The purpose of this Chapter is to establish procedures and standards for review and approval of special land uses that, because of their unique characteristics, require additional consideration in relation to the welfare of adjacent land, uses, residents, and the Township as a whole. This Chapter is intended to provide a consistent and uniform method for review of special use applications; ensure full compliance with the standards of this Ordinance; achieve efficient use of land; prevent adverse impacts on neighboring uses or public facilities; and facilitate development in accordance with the Master Plan.
- b. **AUTHORITY TO GRANT PERMITS.** The Planning Commission shall have the authority to grant, to deny, or to grant with conditions special use permits, subject to such conditions of design and operations, safeguards and time limitations as it may determine for all land uses listed in Section 3.6 (District Regulation Tables) as a special land use.

SECTION 7.2 PRE-APPLICATION MEETING.

An applicant may request a pre-application meeting with the Planning Commission, Township Planner or Zoning Administrator for the purpose of discussing the proposal, submittal requirements, review procedures, and approval standards. Any required fee for this meeting shall be paid to the Township at the time of the meeting.



Special Use Review Process

SECTION 7.3 SPECIAL USE REVIEW PROCEDURE.

All special use permit applications shall be submitted and reviewed as follows:

- a. **ELIGIBILITY.** The application shall be submitted by the operator of the use or owner of an interest in the land or structure(s) for which special use permit approval is sought, or by the owner's designated agent. If the applicant is not the owner of the property, the applicant shall submit a notarized statement signed by the owner(s) consenting to the application for special use approval. Applications that are found by the Township Planner or Planning Commission to be incomplete or inaccurate shall be returned to the applicant without further consideration.
- b. **REQUIRED FEES AND ESCROW DEPOSITS.** The Township Board shall establish, by resolution, fees and escrow deposits for review of special use permit applications. Required fees and escrow deposits shall be paid to the Township at the time of the filing of the application. No fee or escrow deposit shall be required for a special use permit application submitted by the Township.
- c. **FILING OF APPLICATION.** A special use permit request shall be made by filing at least ten (10) paper copies and two (2) digital copies (in a format compatible with Township systems) of a complete and accurate application with the Township Clerk, along with the required review fee and escrow deposit. The application shall be filed at least 30 calendar days prior to a regularly scheduled Planning Commission meeting, and shall include the following minimum information:
 - 1) Name, address, and other contact information for the applicant and owners of record, along with proof of ownership.
 - 2) The applicant's interest in the property, and if the applicant is not the property owner of record, a signed authorization of the owner(s) for the application.
 - 3) Legal description, address, and tax parcel number of the property.
 - 4) A scaled and accurate survey drawing, correlated with the legal description and showing all existing buildings, drives and other improvements.
 - 5) A detailed description of the proposed use.
 - 6) A site plan meeting the requirements of Chapter 8.0 (Site Plan Review).
- d. **REVIEW PROCEDURE.** Special use permit applications shall be reviewed in accordance with following:
 - 1) **TECHNICAL REVIEW.** Prior to Planning Commission consideration, the will conduct a review of the application material and may request comments from other designated Township consultants, local agencies or departments with jurisdiction.
 - 2) **COORDINATION WITH SITE PLAN REVIEW.** A site plan associated with a special land use shall not be approved unless the special use permit has first been

approved. The Planning Commission may, at its discretion, consider special use and site plan applications at the same meeting.

- 3) PUBLIC HEARING. A public hearing shall be held for all special uses held, subject to the requirements of Section 9.5 (Notice Requirements for Public Hearings).
- 4) PLANNING COMMISSION CONSIDERATION. Subsequent to the hearing, the Planning Commission shall review the application for special use permit approval, together with reports and recommendations from Township officials, the Township Planner, other designated Township consultants, and local agencies or departments with jurisdiction, along with any public comments. The Planning Commission shall then make a determination based on the requirements of this Ordinance and standards contained in Section 12.5 (Standards for Special Use Approval).
- 5) PLANNING COMMISSION ACTION. The Planning Commission is authorized to approve, approve subject to conditions, postpone action or deny the special use as follows:
 - a) APPROVAL. The special use shall be approved upon determination that it is in compliance with the provisions of this Ordinance, including Section 12.5 (Standards for Special Use Approval). Upon approval, the special 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 lot or area thereof upon which the use is located.
 - b) APPROVAL SUBJECT TO CONDITIONS. The special use may be approved subject to reasonable conditions established in accordance with Section 12.4 (Conditions of Approval).
 - c) POSTPONEMENT. The Planning Commission may postpone action on the special use application until a later meeting upon determination that a special use application is incomplete or additional information is needed, upon failure of the applicant to attend the meeting, or upon request by the applicant.
 - d) DENIAL. Upon determination that a special use application is not in compliance with the provisions of this Ordinance, including Section 12.5 (Standards for Special Use Approval), or would require extensive modifications to comply with said standards and regulations, the special use shall be denied. If a special use is denied, a written record shall be provided to the applicant listing the findings of fact and conclusions or reasons for such denial. Failure of the applicant to attend two (2) or more meetings shall be grounds for denial of the special use permit.
- e. RECORDING OF PLANNING COMMISSION ACTION. Planning Commission action on the special use application shall be recorded in the Planning Commission meeting minutes, stating the name, description, and location of the proposed use, address and parcel tax identification number, grounds for the Commission's action, and any conditions of approval. One (1) copy of the written record shall be placed on file at

the Township offices per State of Michigan retention guidelines, and one (1) copy shall be forwarded to the applicant as evidence of the Commission's action.

SECTION 7.4 CONDITIONS OF APPROVAL.

In granting a special use permit, the Planning Commission shall impose any conditions it deems necessary to achieve the objectives and standards of this Ordinance, the Township's Master Plan, and the public health, safety, and welfare.

- a. The conditions shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the proposed land use or activity, residents and landowners immediately adjacent to the proposed special land use, and the community as a whole.
- b. The conditions shall be related to the valid exercise of the police power of the Township, and purposes that are affected by the proposed special land use.
- c. The conditions imposed shall be necessary to meet the intent and purpose of the Ordinance, shall be related to the standards established in the Ordinance for special uses, and shall be necessary to ensure compliance with those standards.
- d. Conditions imposed with respect to the approval of a special use permit shall remain unchanged except upon the mutual consent of the Township and the landowner as approved in accordance with this Chapter. Such conditions shall be continuing obligations and are binding on any heirs and assigns, and upon any persons taking title to the subject property.

SECTION 7.5 STANDARDS FOR SPECIAL USE APPROVAL.

Approval of a special 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:

- a. **COMPATIBILITY WITH ADJACENT USES.** The special use is compatible with adjacent uses and the existing or intended character of the zoning district and area. The use will not be detrimental, hazardous or disturbing to existing or future neighboring uses, persons, property or the public welfare.
- b. **COMPATIBILITY WITH THE MASTER PLAN.** The special use location and character is consistent with the general principles, goals, objectives, and policies of the adopted Master Plan.
- c. **COMPLIANCE WITH APPLICABLE REGULATIONS.** The proposed special use is in compliance with all applicable Ordinance requirements.
- d. **IMPACT UPON PUBLIC AND UTILITY SERVICES.** The impact of the special use upon public services will not exceed the existing or planned capacity of such services; including utilities, roads, police and fire protection services, area drinking water wells, and drainage structures. The proposed use will not create additional requirements at

public cost for public facilities and services that will be detrimental to the economic welfare of the community.

- e. ENVIRONMENTAL AND PUBLIC HEALTH, SAFETY, WELFARE IMPACTS. The location, design, activities, processes, materials, equipment, and operational conditions of the special 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, pollution or other adverse impacts.
- f. ISOLATION OF EXISTING USES. Approval of the special use location will not result in a small residential or non-residential area being substantially surrounded by incompatible uses.

SECTION 7.6 COMPLIANCE WITH SPECIAL LAND USE APPROVAL.

It shall be the responsibility of the property owner and operator of the use for which special use permit approval has been granted to develop, 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 approval until the use is discontinued. Failure to comply with Ordinance requirements or conditions of approval shall be considered a violation of this Ordinance and may be punished in accordance with the provisions of Section 9.3 (Enforcement); and shall constitute grounds for rescinding special land use permit approval in accordance with Section 12.9 (Rescinding Special Land Use Approval).

- a. Approval of a special use permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by any subsequent owner(s).
- b. Compliance with special use permit terms and conditions shall be evaluated periodically by the Zoning Administrator, or as otherwise directed by the Planning Commission.

SECTION 7.7 ALTERATION AND EXPANSION.

An approved special use permit, including all attached conditions, shall run with the parcel in the approval and shall remain unchanged except upon mutual consent of the Planning Commission and the landowner. Any alteration or expansion of an existing special land use shall require approval of a special land use permit in accordance with this Chapter.

Any use lawfully existing on the date of adoption of this Ordinance or an amendment thereof that is considered or permitted as a special land use under this Ordinance or amendment may continue as a nonconforming use subject to Section 4.6 (Nonconformities) until such time as a special use permit application is submitted and approved in accordance with this Chapter.

SECTION 7.8 RE-APPLICATION.

No re-application, re-consideration, or re-hearing of a special land use request that has been denied by the Planning Commission shall be considered until the expiration of 6 months from the date of denial, unless based upon proof of materially changed conditions or new information sufficient to warrant consideration by the Planning Commission. Review of a reapplication shall follow the same process as for a new application under this Chapter.

SECTION 7.9 RESCINDING SPECIAL LAND USE APPROVAL.

Approval of a special use permit 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 use permit approval. Such action shall be subject to the following:

- a. **PUBLIC HEARING.** Such action may be taken only after a public hearing has been held, subject to the requirements of Section 9.5 (Notice Requirements for Public Hearings), at which time the operator of the use or owner of an interest in the land or structure(s) for which special use permit approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
- b. **DETERMINATION.** Subsequent to the hearing, the decision of the Planning Commission with regard to the rescission shall be made and written notification provided to said owner, operator or designated agent.

SECTION 7.10 APPEALS.

The decision of the Planning Commission under this Chapter is final. The Zoning Board of Appeals shall have no authority to consider any appeal of a special use permit decision by the Planning Commission.

SECTION 7.11 PHOTOVOLTAIC SOLAR FARM FACILITIES

A. INTENT & PURPOSE

A photovoltaic solar farm facility, also known as a photovoltaic power station, solar farm, solar park, or solar power plant, is a commercial facility with a grid-connected photovoltaic power system designed for the supply of merchant power. Specifically, the purpose of this section is to promote the use of Solar Energy within Lee Township as a clean alternative energy source and to provide for the land development, installation and construction regulations for photovoltaic solar farm facilities subject to reasonable conditions that will protect the public health, safety and welfare. These regulations establish minimum requirements and standards for the placement, construction and modification of photovoltaic solar farm facilities, while promoting a renewable energy source for our community in a safe, effective and efficient manner. Section 7.11 is subject to the requirements of Public Act 233 of 2023.

B. MINIMUM LOT SIZE

Photovoltaic solar farm facilities shall not be constructed on parcels less than twenty (20) acres in size.

C. HEIGHT RESTRICTIONS

Photovoltaic panels located in a solar farm shall be restricted to a height of fourteen (14) feet.

D. SETBACKS

All photovoltaic solar panels and support structures associated with such facilities (excluding perimeter security fencing) shall be a minimum of twenty (20) feet from a side or rear property line and a minimum of fifty (50) feet from any road or highway right-of-way.

E. MAXIMUM LOT COVERAGE

Maximum lot coverage restrictions shall not apply to photovoltaic solar panels. Any other regulated structures on the parcel are subject to maximum lot coverage restrictions.

F. SAFETY/ACCESS

A security fence (height and material to be established through the special use permit process) shall be placed around the perimeter of the solar power plant and electrical equipment shall be locked. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.

G. NOISE

No photovoltaic solar farm facilities shall exceed sixty-five (65) decibels as measured at the property line.

H. LANDSCAPING

Photovoltaic solar farm facilities shall be required to install perimeter landscaping equal to one (1) tree for each twenty-five (25) feet of road or highway frontage. The equivalent of one (1) tree shall be required along the sides and rear of such developments equal to one (1) tree every twenty-five (25) feet of property line when abutting existing homes or developed parcels. The Planning Commission may alter the landscaping requirement depending upon the location and existing plant material on the site. Trees shall be a minimum of four (4) feet tall when planted and remain in good condition for the life of the photovoltaic solar farm.



I. LOCAL, STATE AND FEDERAL PERMITS

Photovoltaic solar farm facilities shall be required to obtain all necessary permits from the U.S. Government, State of Michigan, and Lee Township, and comply with standards of the State of Michigan adopted codes.

J. ELECTRICAL INTERCONNECTIONS

All electrical interconnection or distribution lines shall comply with all applicable codes and standard commercial large-scale utility requirements. Use of above ground transmission lines shall be prohibited within the site.

K. ADDITIONAL SPECIAL USE CRITERIA

The following topics shall be addressed in a Special Use application for such photovoltaic solar farm facilities in addition to the Special Use Review Criteria:

- 1) Project description and rationale: Identify the type, size, rated power output, performance, safety and noise characteristics of the system, including the name and address of the manufacturer, and model. Identify time frame, project life, development phases, likely markets for the generated energy, and possible future expansions;
- 2) Analysis of onsite traffic: Estimated construction jobs, estimated permanent jobs associated with the development;
- 3) Visual impacts: Review and demonstrate the visual impact using photos or renditions of the project or similar projects with consideration given to tree plantings and setback requirements;
- 4) Wildlife: Review potential impact on wildlife on the site;
- 5) Environmental analysis: Identify impact analysis on the water quality and water supply in the area, and dust from project activities;
- 6) Waste: Identify solid waste or hazardous waste generated by the project;
- 7) Lighting: Provide lighting plans showing all lighting within the facility. No light may adversely affect adjacent parcels. All lighting must be shielded from adjoining parcels, and light poles are restricted to eighteen (18) feet in height;
- 8) Transportation plan: Provide access plan during construction and operation phases. Show proposed project service road ingress and egress access onto primary and secondary routes, layout of the plant service road system. Due to infrequent access to such facilities after construction is completed, it is not required to pave or curb solar panel access drives. It will be necessary to pave and curb any driveway and parking lots used for occupied offices that are located on site;
- 9) Public safety: Identify emergency and normal shutdown procedures. Identify potential hazards to adjacent properties, public roadways, and to the community in general that may be created;
- 10) Sound limitations and review: Identify noise levels at the property line of the project boundary when completed;
- 11) Telecommunications interference: Identify electromagnetic fields and communications interference generated by the project;
- 12) Decommission Plan: A decommissioning plan is required at the time of application.
 - a. The decommission plan shall include:

- i. The anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed, retained (e.g. access drive, fencing), or restored for viable reuse of the property consistent with the zoning district,
 - ii. The projected decommissioning costs for removal of the solar farm (net of salvage value in current dollars) and soil stabilization, less the amount of the surety bond posted with the State of Michigan for decommissioning of panels installed on PA 116 lands,
 - iii. The method of ensuring that funds will be available for site decommissioning and stabilization (in the form of surety bond, irrevocable letter of credit, or cash deposit), and
- b. A review of the amount of the performance guarantee based on inflation, salvage value, and current removal costs shall be completed every 3 years, for the life of the project, and approved by the Township Board. A Solar Farm owner may at any time:
 - i. Proceed with the decommissioning plan approved by the Planning Commission and remove the system as indicated in the most recent approved plan; or
 - ii. Amend the decommissioning plan with the Planning Commission approval and proceed according to the revised plan.
- c. Decommissioning a Solar Farm must commence when the soil is dry to prevent soil compaction and must be complete within 18 months after abandonment. A Solar Farm that has not produced electrical energy for 12 consecutive months shall prompt an abandonment hearing.

L. PLANNING COMMISSION REVIEW

Because of the ever-changing technical capabilities of photovoltaic solar panels and of new technology in general, the Planning Commission shall have the authority to review and consider alternatives in both dimensional requirements as well as physical development requirements found in this section. The Planning Commission shall not have the authority to review or to allow photovoltaic solar farm facilities within any other zoning district.