

Sec. 151.291. Approval of Special Uses and Site Plans.

- (A) Special uses shall be reviewed and approved by the City Commission, after recommendation by the Planning Commission, as provided in the “Provisions for Special Establishments and Operations” division of this chapter. (Zoning Ordinance § 151.338 et seq.).
- (B) Site plans shall be reviewed and approved by the Zoning Administrator or Planning Commission as provided “Site Plan Review” division of this chapter (Zoning Ordinance § 151.250 et seq.), or shall be City Commission as part of the special-use approval process, as applicable.

Sec. 151.309. Jurisdiction.

- (A) The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this Ordinance, but does have the power to act on those matters where this ordinance provides for an administrative review, interpretation, appeal, or variance approval process, and on any such other matters as are within the jurisdiction of the Zoning Board of Appeals pursuant to the Michigan Zoning Enabling Act, as amended.
- (B) The powers of the Zoning Board of Appeals include the following:
 - (1) *Administrative appeals.* To hear and decide appeals by an aggrieved party involving an alleged error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this ordinance.
 - (2) *Variance.* To consider a dimensional variance from the strict application of the provisions of this ordinance in accordance with the standards, requirements, and procedures of this Article. The Zoning Board of Appeals shall not have the authority to consider use variances.
 - (3) *Zoning ordinance interpretation.* To interpret the provisions of this ordinance to carry out the intent and purposes of this ordinance where the meaning of the provisions is uncertain.
 - (4) *Temporary use permits.* To issue temporary use permits pursuant to the standards and procedures in section 151.311.
 - (5) *Miscellaneous matters.* To hear and decide other matters referred to it or upon which the Zoning Board of Appeals is expressly required to decide under the terms of this ordinance.
- (C) In deciding administrative appeals, the Zoning Board of Board Appeals may reverse or affirm wholly or partly, or may modify the orders, requirements, decision, or determination appealed from and may make the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer or board from whom/which the appeal is taken.
- (D) In deciding a request for ordinance interpretation, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of the ordinance, the section in which the language in question is contained, and all other relevant provisions of the ordinance.
- (E) Notwithstanding any other provision of this ordinance, the Zoning Board of Appeals shall have no authority to hear appeals for special land uses, planned developments, zoning amendments, or any other decision of the Planning Commission or City Commission unless such authority is specifically granted by this ordinance.

Sec. 151.310. Variances.

- (A) *Dimensional (non-use) variances.* The Zoning Board of Appeals shall have the power to grant requests for variances from the provisions of this ordinance where it is demonstrated by the applicant that there exist practical difficulties in the way of carrying out the strict letter of this

ordinance. To grant a dimensional (non-use) variance, the Zoning Board of Appeals must find that all of the following factors exist:

- (1) There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
 - (a) Exceptional narrowness, shallowness, or shape of a specific property; or
 - (b) Exceptional topographic conditions or other extraordinary situation on the land, building, or structure; or
 - (c) A circumstance arising due to the use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this ordinance would involve practical difficulties.
 - (2) The condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
 - (3) The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity.
 - (4) Strict compliance with the requirements of this ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome or impractical.
 - (5) The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
 - (6) The variance will not impair the intent and purpose of this ordinance.
 - (7) The variance requested is the minimum amount necessary to overcome or mitigate the difficulty.
 - (8) The immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant or the applicant's predecessors in title.
- (B) *Use Variances.* The Zoning Board Appeals shall have no authority to grant requests to establish a use not otherwise permitted within a zoning district.
- (C) *Period of Validity.* A variance shall be valid for one year from the date of approval by the Zoning Board of Appeals. If the terms of the variance have not been exercised within that period, or if construction associated with the variance has not been commenced with completion being diligently pursued, then the variance shall be considered null and void.
- (D) *Extensions.* The applicant may request in writing an extension of the variance for up to six months. The Zoning Administrator may grant the extension if the original circumstances authorizing the variance have not changed and if the circumstances creating the need for the extension were beyond the control of the applicant. The Zoning Administrator may refer any request for an extension to the Zoning Board of Appeals for a decision.

Sec. 151.311. Temporary Use Permits.

Temporary uses of any size and temporary buildings and structures less than three hundred (300) square feet in area may be placed on a lot or parcel of record and occupied under the following conditions as authorized by a temporary zoning permit issued by the Zoning Board of Appeals, upon a finding that such uses, buildings, or structures will not unduly interfere with the use and enjoyment of abutting properties. Written notice shall be mailed to the owners of abutting properties at least 7 days before the meeting at which a temporary use permit is to be considered:

- (A) A temporary building or structure may be erected during the renovation of a permanent building. The temporary building or structure must be removed when repair of damage is complete, but in no case shall it be located on the lot or parcel for more than twelve months, except that the Zoning Board Appeals may extend the duration of the temporary use due to extenuating circumstances provided that work on the permanent building is proceeding diligently toward completion.
- (B) Temporary buildings and structures incidental to construction work may be permitted so long as such building or structure is not intended to be occupied as a dwelling. Said temporary buildings or structures shall be removed within fifteen (15) days after construction is complete, but in no case shall the building or structure be allowed more than twelve (12) months.
- (C) Temporary buildings incidental to a religious institution or school may be permitted for up to 12 months, provided that all wiring, plumbing, fire protection and exits are approved by the Fire Chief and Building Inspector, and by applicable state agencies.
- (D) Temporary sales uses:
 - (1) Upon application, the Zoning Board of Appeals may issue a zoning permit for the temporary sale of merchandise related to a temporary or periodic event. Such merchandise shall be limited to small seasonal items and merchandise including but not limited to Christmas trees, fireworks, and similar items. Temporary sale events of large items such as automobiles, boats, RVs, construction equipment items are prohibited, unless specifically authorized as a permanent principal land use.
 - (2) The display and sale of Christmas trees may also be permitted at a church or campground, provided it is incidental and accessory to the principal use.
 - (3) A zoning permit for the display and sale of merchandise shall be valid for a period not to exceed forty-five (45) days.
 - (4) All unsold trees must be removed from the property by December 31 of each calendar year.
 - (5) No temporary land use permit is necessary for Christmas tree sales where a nursery is permitted by right or as a special land use.
- (E) Temporary recreational uses such as archery ranges, golf driving ranges, ropes courses, etc. may be permitted for up to 12 months. Any temporary buildings or structures shall be removed within fifteen (15) days after the use ceases.

Section 2. Amendment of Subsections. Zoning subsections 151.136 (Q), 151.181(B), the definition of “Special Use” in section 151.4, and the opening paragraph of section 151.340 of the Hartford City Code are hereby amended as follows:

151.136(Q).

Outdoor automotive permanent race tracks are permitted only after a special use has been granted. The special use authorization may include restrictions on the use and operation of the facility so as to minimize the effects of the surrounding area and the community; and

151.181(B).

However, the City Commission may specify a height limit for the structure when the structure requires authorization as a special use.

Definition of “Special Use” in Section 151.4

A use that can be permitted by the City Commission only after a public hearing and recommendation by the Planning Commission and only upon compliance with the standards specified in this chapter to provide adequate protection to the neighborhood and to abutting properties.

Opening Paragraph of Section 151.340

In the district in which mobile home parks are permitted as a special use, the following minimum requirements shall apply:

Section 3. Addition. New zoning sections 151.337, 151.338 and 15.339 are added to the “Provisions for Special Establishments and Operations” division of chapter 151 of the Hartford City Code to read as follows:

Sec. 151.337. Purpose.

This ordinance contemplates the development of a variety of land uses within the City’s zoning districts. It is recognized that there are some land uses which, because of their unique characteristics, may only be appropriate in particular locations and under certain circumstances, which are deemed special land uses. Therefore, this division provides a set of procedures and standards for these special land uses that require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards in this division are designed to allow reasonable use of land while maintaining adequate protection of the health, safety, convenience, and general welfare of the City of Hartford. For purposes of this ordinance, all land uses or situations that are referred to as special land uses or are deemed to require special land use approval are subject to the standards of this division.

Sec. 151.338. Application Procedure.

A special land use permit is required prior to the commencement of any special land use in the City of Hartford. The application for a permit shall be processed under the following procedures:

- (A) *Application*. An application for a special land use permit shall be submitted to the Zoning Administrator not less than 45 days prior to the next scheduled Planning Commission meeting. Upon receipt of an application, the Zoning Administrator shall review the application for completeness, and when complete, transmit it to the Planning Commission.
- (B) *Required Information*. An application for special land use approval shall be accompanied by the following documents and information:
 - (1) An application form that has been completed in full by the applicant.
 - (2) The payment of any applicable application and escrow fees as established by resolution of the City Commission.
 - (3) A site plan meeting the requirements of this ordinance.
 - (4) A written narrative outlining compliance with Section 151.339 and any other requirements of this ordinance relating to the proposed special land use.
 - (5) Any additional information deemed necessary by the Zoning Administrator, Planning Commission, or City Commission that will enable the Planning Commission and City Commission to determine the impact of the proposed special land use on the adjacent properties, public infrastructure, and community as a whole. Such information may include, but is not limited to, traffic impact analysis or reports and/or testimony by officials representing

- state, county, or local departments of public safety (police and fire), health, highways or roads, and/or environment.
- (C) *Public Hearing Required.* Upon receipt of the materials required above, the Planning Commission shall hold a public hearing on the application, providing notice of such hearing in accordance with state law.
- (D) *Planning Commission Review.* After the public hearing, the Planning Commission shall review the application for special land use, comments received at the public hearing, the site plan, and any other materials submitted in relation to the application. Within a reasonable time following the receipt of all materials, the Planning Commission shall make a recommendation to the City Commission for the approval, approval with conditions, or denial of the special land use application. In arriving at its recommendation, the Planning Commission shall refer to and be guided by those standards set forth in this division and any other standards in this ordinance applicable to the proposed special land use.
- (E) *City Commission Review.* As soon as reasonably possible following the recommendation by the Planning Commission, the City Commission shall consider the recommendation and render a decision on the application. The City Commission shall not be bound to follow the recommendation of the Planning Commission. A special land use shall be approved if it meets all applicable requirements of this ordinance.
- (F) *Issuance of a Special Land Use Permit.* A special land use permit shall be issued by the Zoning Administrator upon the approval of the special land use by the City Commission and upon the fulfillment of any required conditions of approval. The special land use permit shall list all the conditions of approval stipulated by the City Commission. The Zoning Administrator shall forward copies of the special land use permit to the applicant and the City Clerk.
- (G) *Performance Guarantee.* In authorizing a special land use permit, the City Commission may require a performance guarantee.
- (H) *Appeals.* Appeals from any decision or condition related to a special land use application shall only be taken to Circuit Court; no decision related to a special land use application shall be appealed to the Zoning Board of Appeals.
- (I) *Amendments.* Amendments to special land use permits shall be handled in the same manner as the initial special land use application. Minor non-substantive changes to a special land use, as determined by the Zoning Administrator, may be made to an existing special land use permit with the approval of the Zoning Administrator.
- (J) *Transfers.* Unless specifically provided for in this Ordinance or by a condition of special land use approval, a special land use shall run with the land, and any and all associated benefits, conditions, and required security, shall transfer to a new owner upon the sale or transfer of the property in question, unless otherwise voluntarily withdrawn or abandoned by the new owner. Upon transfer, a special land use permit may continue to be exercised, provided that the new owner complies with the terms of the original permit, including all associated conditions of approval and applicable provisions of this ordinance.
- (K) *Re-Submission.* No petition for special land use approval which has been disapproved may be resubmitted for a period of one year from the date of disapproval, except as may be permitted by the Zoning Administrator after learning of new and significant facts or conditions that may result in favorable action upon resubmission.
- (L) *Construction.* A special land use approved pursuant to this division shall either be under substantial construction, or operations exercising the permit shall have commenced, within one year after the date of approval.

- (M) *Expiration.* A special land use permit shall run with the land and shall be valid for as long as the approved use continues in accordance with all terms and conditions of the permit. The special land use permit will expire on the occurrence of one or more of the following conditions:
- (1) If replaced or superseded by a subsequent permitted use or special land use.
 - (2) If the applicant or current owner of the property requests that the special land use permit be rescinded.
 - (3) If the special use is considered abandoned pursuant to subsection (M) below.
 - (4) If a building permit has not been obtained or if on-site development has not commenced within one year of approval of the special land use.
- (N) *Abandonment.* Any permitted special land use shall be considered abandoned, and such use shall not be resumed thereafter, if the use has ceased for at least 6 months and one or more of the following conditions exist. Such conditions are deemed to constitute an intent on the part of the property owner to abandon the use:
- (1) Utilities such as water, gas, or electricity to the property have been disconnected;
 - (2) The property, buildings, or grounds have fallen into disrepair or otherwise clearly indicate that the property is vacant; Signs or other indications of the existence of the nonconforming use have been removed;
 - (3) Removal of buildings, structures, equipment, or fixtures that are necessary for the continuation or operation of the use;
 - (4) Other actions that constitute an intention on the part of the property owner or lessee to abandon the use.
- (O) *Violations.* A violation of the terms, conditions, or limitations of a special land use permit shall be a violation of this ordinance and shall be cause for revocation or suspension of the permit.
- (1) Upon identifying a violation of the special land use permit, the Zoning Administrator shall inform the property owner and/or permit holder in writing of such violation. The permit holder shall be given a reasonable opportunity to correct the violation.
 - (2) If, after a reasonable time, the violation has not been cured, the Zoning Administrator shall refer the matter in writing to the Planning Commission.
 - (3) Upon referral, the Planning Commission shall review the matter and if it determines that a violation exists, it shall provide notice to the permit holder and all alleged violations shall be specified in such notice. Before recommending suspension or revocation of the permit, the Planning Commission shall hold a public hearing on the matter.
 - (4) Following a public hearing, and after providing a reasonable opportunity for the permit holder to cure the violation(s), the Planning Commission may recommend that the City Commission revoke or suspend, pending correction of the violation, any special land use permit. In revoking or suspending the permit, the City Commission shall make a finding that a material violation of the special land use permit exists.
 - (5) A special land use permit that has been revoked may not be reinstated until a new special land use permit is granted pursuant to this chapter. A special land use permit that has been suspended may be reinstated by the City Commission, after recommendation of the Planning Commission, upon finding that all violations have been cured.
- (P) *Previously Approved Special Land Uses.* Land uses that were granted zoning approval by the City prior to the adoption of this ordinance may continue and shall be considered permitted uses,

provided that the requirements and conditions of the original permit are met. If changes are proposed to a previously-approved use that is considered to be a special land use by this Ordinance, the application shall be processed according to the procedures and standards of this Chapter.

Sec. 151.339. Special Land Use Review Standards.

(A) In addition to standards for specific special land uses contained in the sections that follow, the City Commission must find that the following general standards are met in order to approve a special land use:

- (1) The proposed special land use shall be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and the use will not change the essential character of the area in which it is proposed.
- (2) The proposed special land use shall not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental or hazardous to existing or future uses, or to any persons, property, or the general welfare by reason of excessive production of traffic, lighting, noise, smoke, vibration, water runoff, fumes, glare, or odors.
- (3) The proposed special land use shall be consistent with the policies of the City's master plan.
- (4) The proposed special land use shall be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, stormwater drainage, refuse disposal, water, and sewage facilities, and schools; or persons or agencies responsible for the establishment of the proposed use shall provide adequately for such services.
- (5) The proposed special land use shall ensure that the environment shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal and minimizing topographic modifications.
- (6) The proposed special land use shall comply with all applicable local, state, and federal regulations and requirements.

(B) In approving a special land use, the City Commission may require additional conditions and safeguards. Failure to comply with such conditions may result in the revocation of the special land use approval. Conditions imposed on a special land use shall be designed to:

- (1) Meet the intent and purpose of this ordinance;
- (2) Relate to the standards established in the ordinance for the land use or activity under consideration with the subject application;
- (3) Ensure compliance with those standards;
- (4) Protect the general welfare; and
- (5) Protect individual property rights.