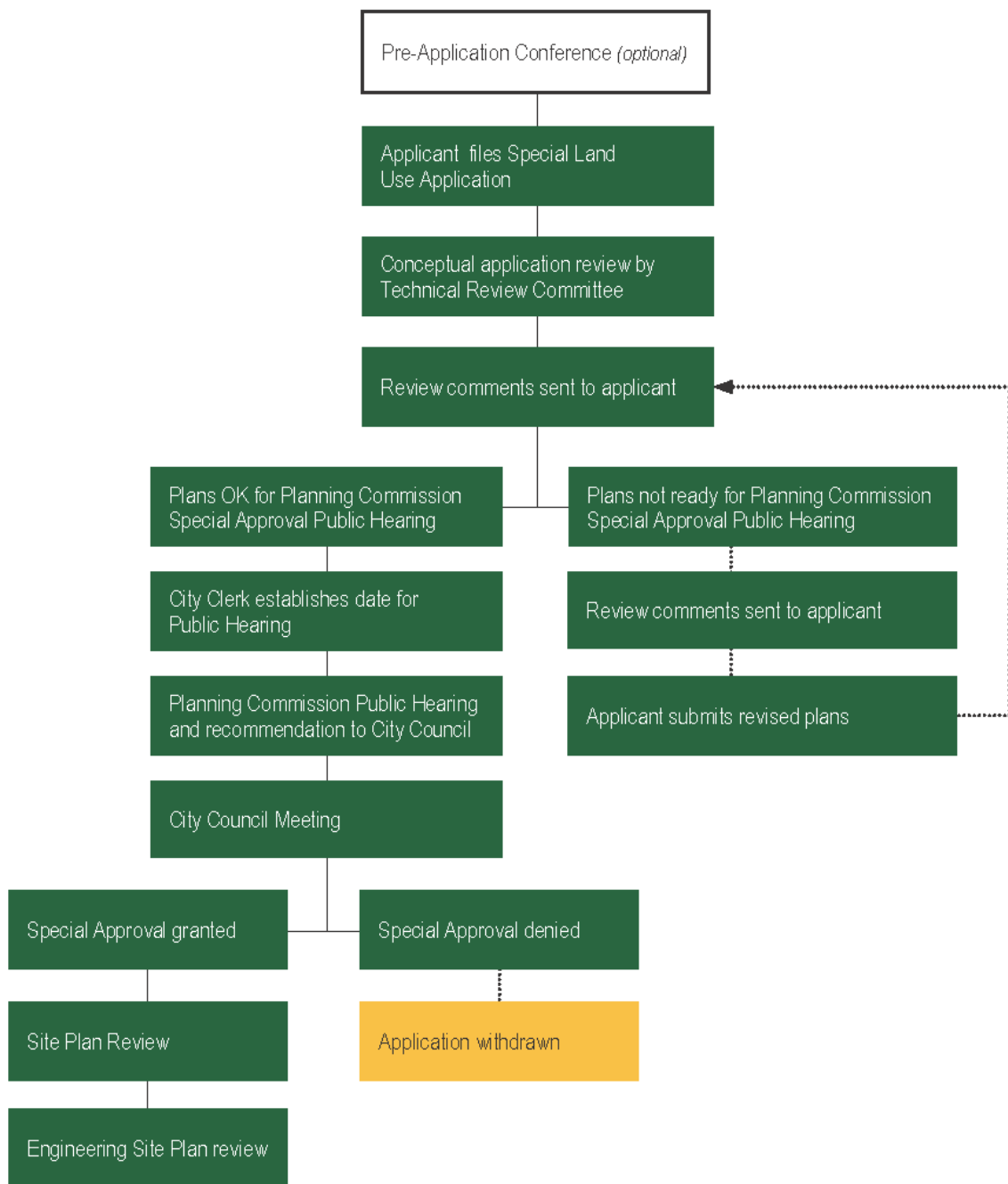


- E. The guarantee or portion thereof, shall be promptly released upon the inspection and approval of all improvements in compliance with the approved final site plan or conditional use permit and all applicable city standards and specifications. Portions of the guarantee may be released, in not more than three installments, provided:
  - (1) The project or approved phase of a project has been completed for six months and the improvements for which the release is requested have been inspected and approved in accordance with the above standards, and the remaining balance is sufficient to cover the remaining improvements, including administrative and contingency expenses.
  - (2) The guarantee shall not be reduced below the minimum amount required above.
- F. **Types of Completion Guarantees.** The applicant may provide a guarantee in the form of a cash deposit, certified check, surety bond or letter of credit in a form acceptable to the city. Surety bonds and letters of credit shall be valid for a period of one year past the anticipated request for the last Certificate of Occupancy for the entire project and, if required, shall be renewed by the applicant not less than 30 days prior to expiration.

## Section 15.05 Special Land Use Review

1. **Purpose.** The purpose of this section shall be to:
  - A. Require Special Land Use approval for certain uses in all zoning districts that are listed as Special Land Uses.
  - B. Establish review procedures for all Special Land Uses.
  - C. Establish review standards for all Special Land Uses.
  - D. Establish the Planning Commission as the advisory board and City Council as the final review and approval authority for Special Land Uses.
  - E. Establish authority to impose conditions upon Special Land Uses.
2. **Submission and Review Process.** All Special Land Uses in all zoning districts shall be reviewed in accordance with the following procedures:
  - A. Applicant may request a preliminary meeting with Community and Economic Development Department staff to discuss the proposal, design elements, ordinance requirements, etc. The applicant may further request a preliminary discussion at the Planning Commission for informal input. The city's comments during a pre-application conference shall be advisory in nature only.
  - B. Applicant submits application, fee, two (2) copies of the proposed conceptual site plan, and a digital version of the conceptual site plan, to the Community and Economic Development Department (site plan must be reduced to 11" x 17"). A separate site plan application is not required at the time of special land use review. A conceptual site plan shall include at a minimum:
    - (1) Location map showing the proposed site location, zoning classifications and major roads.
    - (2) Property identification number(s) and the dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties.
    - (3) Location of all existing and proposed structures, uses, number of stories, gross building area, required and proposed setback lines, and distances between structures on the subject property.
    - (4) The percentage of land area devoted to building, paved, and open space.
    - (5) All existing and proposed structures, roadways, drives, landscaping, trees, parking areas, and pedestrian paths.
    - (6) Number of parking spaces and location of loading areas and handicap parking spaces and access routes on the subject property.
    - (7) Location and height of all walls, fences, and landscaping, including a conceptual landscaping plan.
    - (8) Location and widths of all abutting streets, existing and proposed rights-of-way, easements, and pavement.

- (9) Type of existing and proposed surfacing of all drives, parking areas, loading areas and roads.
  - (10) All utilities located on or serving the site, including sizes of water and sewer lines, wells, proposed hydrants, and proposed fire suppression line into building. Proposed sanitary leads and sanitary sewers must also be shown, as applicable.
  - (11) Preliminary storm system layout and flow arrows demonstrating that storm flow connections and disposal methods are feasible.
  - (12) Existing and proposed ground contours at intervals of two feet, or spot elevations sufficient to review the proposed grading and drainage plan, as determined by the city's consulting engineer.
- C. The Planning and Zoning Administrator may waive particular submittal items, as listed above, upon a determination that such items are not necessary for making a determination on the requested Special Land Use.
  - D. The Technical Review Committee reviews the Special Land Use application for general conformance with Ordinance requirements and transmits review comments to the applicant for revision, if necessary. Applicant submits revised materials to Planning and Zoning Administrator, if necessary, for re-consideration by Technical Review Committee. Comments made by the Technical Review Committee shall be forwarded onto Planning Commission for consideration.
  - E. The Planning and Zoning Administrator notifies the City Clerk when Special Land Use applications are adequate for consideration by The Planning Commission. The Planning and Zoning Administrator and City Clerk establish a public hearing date and post/send public notices in accordance with [Section 15.01](#).
  - F. The Planning Commission shall hold a public hearing. Following the public hearing, the Planning Commission shall review the request and make a recommendation to the City Council in the form of a motion. The recommendation may be subject to certain conditions or changes being made.  
  
If the Planning Commission requires additional information, the application may be postponed to a date certain until such information has been received.
  - G. Following the review and recommendation of the Planning Commission, the application shall be forwarded to the City Council at its next scheduled meeting. The City Council shall consider the request, along with the Planning Commission recommendation, and approve, approve with conditions, or deny the application for special use approval. If City Council requires additional information, the application may be postponed to a date certain until such information has been received.
  - H. Each action taken with reference to special land use approval shall be duly recorded in the minutes of the Planning Commission and City Council and shall state the grounds for the action taken upon each special use submitted for its approval.
  - I. Special land use approval shall be obtained from the City Council before issuance of a Certificate of Occupancy for any special land use, and prior to the submittal and approval of a site plan, engineering plan, and building permit, if required.
  - J. The Planning and Zoning Administrator, in coordination with the City Clerk, sends the applicant a Notice of Action and a copy of the City Council minutes from the meeting in which the case was acted upon. If Site Plan approval is required for the project, the applicant may apply for Site Plan review in accordance with [Section 15.04](#)



3. **Review Standards and Criteria.** In approving a special land use, the Planning Commission and City Council shall make a finding that the proposed Special Land Use is in compliance with all of the following standards:
  - A. The use is so designed, located and proposed to be operated in a way that protects the public health, safety and welfare.
  - B. The use is designed in a way that considers the natural environment and helps conserve natural resources and energy.
  - C. The special land use will not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
  - D. The use shall be designed and located so that it is compatible with the surrounding properties, neighborhood, and vicinity. At a minimum, this shall include:
    - (1) Location of use(s) on site;
    - (2) Height of all improvements and structures;
    - (3) Adjacent conforming land uses;
    - (4) Conformance with the Master Plan and future land use map for the area as adopted by the planning commission; and
    - (5) Compatibility with the permitted principal uses allowed in the zoning district where the Special Land Use is requested, and consistency with the intent of the zoning district.
  - E. Ingress/egress to the use shall be controlled to assure maximum vehicular, pedestrian and non-motorized safety, convenience and minimum traffic impact on adjacent roads, drives and uses including, but not limited to:
    - (1) Reduction in the number of ingress/egress points through elimination, minimization and/or consolidation of drives and/or curb cuts;
    - (2) Proximity and relation to intersections, specifically with regard to distance from drive(s) to intersection(s);
    - (3) Reduction/elimination of pedestrian/vehicular traffic conflicts;
    - (4) Adequacy of sight distances;
    - (5) Location and access of off-street parking;
    - (6) Location and/or potential use of service drives to access multiple parcels, reducing the number of access points necessary to serve the parcels.
  - F. The use is consistent with the intent and purpose of the zoning district in which it is proposed.
  - G. In granting Special Land Use approval, City Council may impose conditions that it deems necessary to fulfill the spirit and purpose of this Ordinance. The conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.
4. **General Stipulations.**
  - A. The breach of any condition, safeguard or requirement, and the failure to correct such breach within 30 days after an order to correct is issued by the city shall be reason for immediate revocation of the Special Land Use Approval. Conditions and requirements stated as a part of special use permit authorizations shall be continuing obligations of the holders of such permits and are binding upon their heirs and assigns and upon any persons taking title to the affected property while such special use permit is in effect.
  - B. The discontinuance of a special land use after a specified time may be a condition to the issuance of the permit. Renewal of a special land use permit may be granted after a review and determination by the city council that

continuing private need and public benefit will be served by such renewal. Renewal applications shall be in accord with standards and requirements in effect at the time that the renewal is requested.

- C. Application for Special Land Use Approval shall be made with the full consent of all persons having an ownership interest in the land on which the Special Land Use is requested. All persons having ownership interest in the property shall sign the application prior to its acceptance by the city.
  - D. Special Land Use Approval is valid for a period of one year. When required, site plan approval and commencement of construction of approved improvements must occur within one year of the city council's Special Land Use Approval or the Special Land Use Approval shall be automatically null and void. The City Council may grant an extension for good cause for a period not to exceed six months from the date of expiration of the original approval provided for extension is made during the period of effectiveness.
  - E. When an established use approved under the special land use approval procedure ceases to function or is abandoned for a period of six months, the special use approval shall lapse and shall no longer be in effect.
  - F. The record of the city council shall be the approved minutes for Special Land Use cases. Said record shall be made available to the applicant whether the Special Land Use Approval request is approved, approved with conditions, or denied and shall constitute notice of the city council's decision regarding the Special Land Use Approval request.
  - G. The Planning Commission shall give notice of the time and place of the required public hearing as required by state law.
  - H. All construction, improvement or use of a parcel or parcels of land shall be in complete accord with the Special Land Use Approval, any conditions imposed by the city council and the approved site plan.
  - I. A special land use permit may be terminated by subsequent rezoning of the affected site as a part of an appropriate zoning district, subject to any vested nonconforming use rights. Such termination may be initiated only after determination by the city council that the development status of the site is in accordance with requirements of the zoning district in which it is to be placed. There shall be no waiver of standards or procedures, including publication, hearings, planning commission and city council action, in regard to the rezoning of a site which is occupied or used under a special use permit.
  - J. No reapplication, reconsideration and/or rehearing for a special use permit which has been denied by the city council shall be resubmitted until the expiration of one year from the date of such denial, except on grounds of newly discovered evidence or proof of materially changed conditions, sufficient to justify reconsideration by the city council. Each reapplication will be treated as a new application.
  - K. Appeals: No decision or condition related to a special land use application shall be appealed to the Zoning Board of Appeals. An appeal of a special land use decision or condition may be taken to Circuit Court.
5. **Amendments, Expansions or Change of Special Land Use.** The following provisions apply when there is an amendment or a proposed expansion to an approved special land use, an amendment or proposed modification to a condition previously applied to a special land use, or when there is a proposed change from one special land use to another.
- A. **Amendments.** Any applicant who has been granted special land use approval shall notify the Planning and Zoning Administrator of any proposed amendment to the approved Special Land Use. The Planning and Zoning Administrator shall determine whether a proposed amendment requires new special land use approval. New special land use approval may be required when such amendment is a departure from the operation or use described in the approved application or causes external impacts such as additional traffic, hours of operation, noise, additional outdoor storage, or display. Any alteration of previously approved conditions pertaining to a special land use approval shall require resubmittal and new Special Land Use consideration by Planning Commission and City Council in the manner described in this Section.
  - B. **Expansions.** An expansion of any use requiring a special use approval that results in an increase of 10% or more of the building, parking, paved areas, or site area shall require resubmittal and new Special Land Use consideration in the manner described in this Section.
  - C. **Change in Use.** The applicant shall be responsible for informing the Planning and Zoning Administrator of any significant change in an approved special land use, operations, or activities prior to any such change. The Planning and Zoning Administrator shall determine if a new special land use approval is required. A significant change shall

mean any departure from the operation or use described in the approved application or any change that may cause external impacts such as additional traffic, hours of operation, noise, additional outdoor storage, or display.

## Section 15.06 Variances and Appeals

1. **Administrative Appeals.** The Zoning Board of Appeals shall have the power to hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, permit, decision, or interpretation made by the Planning and Zoning Administrator, zoning enforcement officer, or any other administrative official, board or commission in carrying out or enforcing any provision of this Ordinance, except where this Ordinance prohibits Zoning Board of Appeal Action (e.g. direct appeal to Circuit Court).
  - A. An appeal to the Zoning Board of Appeals based in whole or in part on the provisions of this Ordinance may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, board or bureau affected by the decision of the building inspector aggrieved by the decision, order, requirement, or determination made by the Planning and Zoning Administrator, Technical Review Committee, Planning Commission, zoning enforcement officer, or other administrative official or board or commission tasked with administering or enforcing the provisions of this Ordinance. Such appeal shall be taken by filing a notice of appeal with the Planning and Zoning Administrator on appropriate forms provided by the Community and Economic Development Department. The Planning and Zoning Administrator shall transmit all papers constituting the records of such appeal to the board. The board may require the applicant to furnish such surveys, plans or other information as may be required for the proper consideration of the matter. Upon a hearing before the board, any person or party may appear in person, or by agent, or by attorney.
  - B. **Time for Appeal.** An appeal shall be filed to the Planning and Zoning Administrator within thirty (30) days from the date listed on the Notice of Action referring to the order, requirement, decision, or determination which is the subject of the appeal.
  - C. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to in accordance with the procedures set forth in the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended) and [Section 15.01](#).
  - D. The board may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination as, in its opinion, ought to be made in the premises and, to that end, shall have all the powers of the officer from whom the appeal is taken. The concurring decision of a majority of the members of the board shall be necessary to reverse an order, requirement, decision or determination of an administrative officer or body, or to decide in favor of the applicant a matter upon which they are required to pass under an ordinance, or to effect a variation in an ordinance. An appeal shall stay all proceedings in furtherance of the action appealed from unless the building inspector certifies to the Zoning Board of appeals after notice of appeal shall have been filed with him that by reason of facts stated in the certificates a stay would cause imminent peril to life and property, in which case the proceedings shall not be stayed otherwise than by a restraining order which shall be granted by the Zoning Board of Appeals or by the Circuit Court on application, on notice of the building inspector and on due cause shown.
2. **Variances.** The ZBA shall have the power to authorize, upon application, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations; such requirements as off-street parking and loading space, requirements, sign regulations and other similar requirements as specified in the Ordinance, provided such modifications will not be inconsistent with the purpose and intent of such requirements. In granting a variance, the Zoning Board of Appeals shall make findings that a "practical difficulty" has been shown by the applicant by finding that all of the following requirements have been met by the applicant's petition:
  - A. That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, and would thereby render the conformity unnecessarily burdensome for other than financial reasons; and
  - B. That a variance will provide and preserve a substantial property right similar to that possessed by other properties within the same zoning district and in the neighboring area, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance; and