

## **Chapter 19**

### **Special Land Uses**

#### **Section 19.1 Intent and Purpose**

This Chapter provides a set of standards for special uses of land or structures that, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the investor or developer, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the community. These standards are in addition to the standard regulations of the zone districts within which the use is proposed.

#### **Section 19.2 Application Procedure**

The following procedures shall be followed in making application for a Special Use Permit:

- A. A written application for a Special Use Permit is submitted to the Planning Commission indicating the section of this Ordinance under which the special use is sought and stating the grounds on which it is requested.
- B. Required fees shall be paid at the time of application in accordance with the fee schedule established by the Township Board.
- C. A site plan, as defined and specified in Chapter 25 of this Ordinance, for the total property involved in the special use request shall be submitted with each application.

#### **Section 19.3 Public Hearing**

The Planning Commission shall hold a public hearing on all applications for Special Use Permits. The Planning Commission will give notice and conduct public hearings as required in Chapter 24 of this Ordinance.

#### **Section 19.4 Issuance of a Special Use Permit**

The Planning Commission shall grant a Special Use Permit upon the finding that all of the requirements of this Ordinance pertaining to the special use are fulfilled in each case; provided that the Planning Commission may stipulate additional conditions and guarantees that all conditions will be complied with when, in order to fully comply with the intent of this Ordinance, such additional conditions and guarantees may be deemed necessary. In rendering a decision on whether to deny, approve, or approve with conditions a Special Use Permit, the Planning Commission shall incorporate their decision in a statement containing the conclusions relative to the special use which specifies the basis for the decision and any additional conditions imposed for full compliance with this Ordinance. Such a statement shall be recorded in a record of the approval action together with the special use application and Site Plan. All conditions of

the special use approval shall remain unchanged except upon mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of all conditions which are changed. The breach of any conditions shall automatically invalidate the Special Use Permit.

### **Section 19.5 Reapplication**

No application for a Special Use Permit which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) calendar year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify reconsideration by the Planning Commission. If the Planning Commission determines that the request can be resubmitted, the Planning Commission will give notice and conduct public hearings as required in Chapter 24 of this Ordinance.

### **Section 19.6 Expiration**

Any Special Use Permit authorized pursuant to the terms of this Chapter shall expire one (1) year from the date of such authorization unless the authorized use, activity or construction has commenced prior to such expiration.

### **Section 19.7 Amendments**

An amendment to an approved Special Use Permit shall be processed as a new Special Use Permit.

### **Section 19.8 General Standards for All Special Land Uses**

The Planning Commission shall review the particular circumstances and facts of each proposed special use and in addition to the specific standards of consideration stated for each special use type within this Ordinance, shall be guided in rendering a decision by the following general standards:

- A. The proposed special use shall be sufficiently designed to maintain adequate provision for the protection of the health, safety, conveniences, and social and economic welfare of those who will use the special use, residents and landowners adjacent to the special use, and the community as a whole.
- B. The proposed special use shall be consistent with the intent of this Ordinance and the intent of the Master Plan.
- C. The special use shall not create or substantially add to traffic hazards in the area.
- D. Public services and facilities such as roads, police and fire protection, drainage structures, water and sewage facilities or schools, shall be sufficiently extended to the proposed special use such that load capacities are not exceeded.

- E. The proposed special use shall not set precedents for development which could adversely affect the long term plans or policies of the Township.
- F. The proposed special use shall not have significant adverse environmental, ecological or natural resource impacts.
- G. The proposed special use shall not have significant adverse impacts upon adjoining properties or uses.

## **Section 19.9 List of Uses with Additional Specific Standards**

The special land use general standards of Section 19.8 are basic to all uses authorized by special land use approval in this Ordinance. The following sections identify specific requirements that shall be met for individual special land uses which may or may not be listed elsewhere in this Ordinance, in addition to the general standards of Section 19.8. The special land uses with specific site and/or use standards described on the following pages are as follows:

- A. **Agriculture and Agricultural Buildings that include slaughtering and livestock operations exceeding the animal confinement densities listed in Section 5.2**
  - 1. **Buffers:** The location of animal enclosures shall be buffered from adjacent Non-farm residential Dwellings by a Type II Buffer.
  - 2. **Health Department Approval:** Processes used in all animal operations shall be as approved by the Kent County Department of Public Health.
  - 3. **Odors and Waste:** Appropriate measures shall be observed for controlling odors and animal waste production. The Planning Commission shall consider whether other agencies' requirements are met, such as those of the Michigan Department of Environmental Quality and the U.S. Department of Agriculture.
- B. **Agricultural Rural Enterprises**
  - 1. **Design:** All Buildings and Structures shall be designed and constructed to follow a "rural," "country" or "farm" character or architectural scheme.
  - 2. **Location and Layout:** The location and layout of Buildings, Structures, screening, fencing, buffering, signs, lighting and other structural features of the Agricultural Marketing Business or Rural Enterprises shall be designed or so located as to create the least amount of conflict with agricultural uses and the prevailing "rural" character. The site shall be laid out, to the greatest extent feasible, to achieve the following design objectives (listed in order of priority, since some conflict between design objectives is expected):
    - a. On the most suitable soils for on-site sewage disposal.
    - b. To minimize the permanent loss of soils in Capability Class I or II as identified by the Soil Conservation Service and to maximize the area remaining for agricultural use in such areas.

- c. Within any woodland contained in the parcel, or along the far edges of the open fields adjacent to any woodland.
    - d. In locations least likely to block or interrupt scenic vistas as seen from the public roadway.
  3. **Buffers:** A Type II Buffer shall be provided where an Agricultural Rural Enterprise is adjacent to any Dwelling Units existing at the time the business is approved as a Special Use.
  4. **Required Permits:** Driveway and on-site sewage disposal permits shall be obtained from the respective County agencies.
  5. **Parking:** Parking shall be provided entirely within the boundaries of the Agricultural Rural Enterprise and shall be in an amount similar to that required by this Zoning Ordinance for other similar businesses. Such spaces, however, are not required to be paved or improved as specified elsewhere in this Zoning Ordinance.
  6. **Retail or Customer Service:** Gross Floor Area attributed to new construction for the purpose of retail trade or on-site customer service shall not exceed 2000 square feet. Incidental sales of products other than Agricultural or Rural-Area Products may be stocked and sold, but shall not exceed 25% of total product inventory.
  7. **Minimum Setbacks:**
    - a. Front Yard: 60 feet
    - b. Side Yard: 60 feet
    - c. Rear Yard: 100 feet

**C. Agricultural Service Business**

1. **Design:** The location and layout of Buildings, Structures, curbs, parking areas, sidewalks, Signs, Fences, and similar site features shall be designed to create the least amount of conflict with adjacent Agricultural or Residential use.
2. **Location:** Properties for such uses shall meet one of the following criteria:
  - a. Be a Corner Lot adjacent to 2 existing public streets.
  - b. Be immediately adjacent to a “C” or “I” designated zoning district.
  - c. Be located more than 300 feet from any Dwelling Unit existing at the time the Special Use is approved.
3. **Site Design Objectives:** The site shall be laid out, to the greatest extent feasible, to achieve the following design objectives (listed herein below in order of priority, since some conflict between design objectives is expected):
  - a. On the most suitable soils for on-site sewage disposal.
  - b. To minimize the permanent loss of soils in Capability Class I or II as identified by the Soil Conservation Service and to maximize the area remaining for agricultural use in such areas.

- c. Within any woodland contained in the parcel, or along the far edges of the open fields adjacent to any woodland.
  - d. In locations least likely to block or interrupt scenic vistas as seen from the public roadway.
4. **Parking:** Parking shall be provided entirely within the boundaries of the Agricultural Service Business and shall be constructed in a manner similar to that required by this Zoning Ordinance for other similar businesses.
5. **Minimum Setbacks:**
- a. Front Yard: 60 feet.
  - b. Side Yard: 60 feet.
  - c. Rear Yard: 100 feet.

D. **Attached Accessory Dwelling**

- 1. **Location:** The proposed accessory dwelling must be located either within or attached to a single-family dwelling. Free-standing units are not permitted. The accessory dwelling must have a common wall, floor, or ceiling with the single-family dwelling or garage.
- 2. **Access to dwelling:** The accessory dwelling and the principal dwelling shall have at least one common interior door.
- 3. **Limit on Number:** Only one accessory dwelling may be created attached to or within a single-family detached dwelling unit.
- 4. **Occupation:** If constructed at the same time as the principal dwelling, an accessory dwelling may be occupied no sooner than the principal dwelling.
- 5. **Exterior Appearance:** The accessory dwelling may not result in any new door entrances on an exterior wall facing a front yard property line. The property shall retain a single-family appearance from the street and an exterior addition shall be otherwise architecturally compatible with the primary dwelling. Compatibility includes coordination of architectural style, exterior building materials and colors, roofing form and materials, and other architectural features.
- 6. **Setback and Height Requirements:** Accessory dwellings shall maintain all applicable setback and height standards set forth for the principal dwelling in the subject zoning district.
- 7. **Separate Unit:** The accessory dwelling shall be designed as a separate and complete housekeeping unit with living, sleeping, cooking, and bathroom areas that can be isolated from the remaining original dwelling unit. It shall have a minimum floor area of 500 square feet but shall not exceed a maximum 800 square feet or 30% of the floor area of the primary dwelling.
- 8. **Parking:** If the proposed accessory dwelling is created by the conversion of a garage, additional off-street parking spaces may be required.

9. **Owner Residence:** The owner of the property shall occupy the primary dwelling and the principal dwelling shall serve as the owner's principal place of residence.
10. **Ownership:** As a condition of special use approval, the owner shall execute and record at the Kent County Register of Deeds, deed restrictions or other legal documentation that states, “The principal structure and the attached accessory dwelling shall remain in the same ownership”.

**E. Bed & Breakfast**

1. **Accessory Use:** The Bed and Breakfast Establishment use shall be subordinate to the principal use of the establishment as a single-family dwelling. The establishment shall also be the residence of the operator.
2. **Access:** All Bed and Breakfast Establishments shall be located on parcels that have frontage along a Primary Arterial Street.
3. **Design:** All buildings and structures shall be designed and constructed as follows:
  - a. In the A-B and A-R zoning districts all buildings and structures shall follow a “rural,” “country” or “farm” character or architectural scheme.
  - b. In the O-S, C-1, C-2, RL-14, RL-10, and R-3 zoning districts all buildings and structures shall follow the “residential” character and architectural scheme.
  - c. In all zoning districts the principal dwelling used for the bed and breakfast must be a minimum of 2,000 square feet.
4. **Restaurant Use:** Meals may be served but only to overnight guests. The establishment shall not be used for public restaurant purposes.
5. **Parking:** Two off-street parking spaces for the owner operator and one off-street parking space per room to be rented shall be provided.
6. **Length of Stays:** A guest may not exceed 14 days of executive stay, or exceed a total of 30 days of stay per calendar year.
7. **Area of Use:** The bedrooms and bathrooms utilized in the Bed and Breakfast Establishment may not exceed 50% of the dwelling’s total square footage.
8. **Occupancy:** The bedrooms shall be limited to a maximum of two adults per room.

**F. Private Cemeteries and Burial Grounds**

1. The total land area available for the proposed cemetery,
2. The financial resources and financial solvency of the cemetery owner,
3. The need in the Township for additional cemetery,

4. The arrangements proposed by the owner of the proposed cemetery for development of the cemetery and insurance of its continuity and continued upkeep and maintenance,
5. Any traffic congestion which would be caused by the proposed cemetery, and
6. The effect of the proposed cemetery on adjoining lands and the surrounding neighborhood.

**G. Churches and Schools**

1. **Access:** Lots must directly abut or have direct access to a Primary Arterial.
2. **Minimum Lot and Setback dimensions:**
  - a. Front Yard: 60 feet.
  - b. Side Yards: 60 feet.
  - c. Rear Yards: 100 feet
  - d. Minimum Lot Width: 330 feet
  - e. Minimum Lot Area: 5 acres

**H. Fuel Depot**

1. Automated Dispense Systems with quantity restrictions are required.
2. Limited to privately owned commercial/industrial fleet sales.
3. Product sales are restricted to only fuels and motor oils.
4. No washing, maintenance, or service facilities are permitted
5. On-site containment around fueling area is required.
6. The State Fire Marshal must approve overfill and wash down procedures.
7. The applicant shall submit a Pollution Incidence Protection Plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins and automatic shut off valves.
8. The applicant must provide plans to the appropriate Fire Chief for review.

**I. Junkyard**

1. Outdoor storage of any materials related to any salvage operation shall not exceed 30% of the Lot Area. Materials shall be completely screened in an attractive manner compatible with the surrounding area. Screening must be by a solid fence or wall of not more than 10 feet in height erected in such a manner that an average person standing at existing ground level anywhere within 660 feet of the proposed use cannot view the salvaged materials.
2. Materials stored outdoors shall not be placed or piled against the required screening and shall be organized and stacked in such a manner that any person

entering the yard will be reasonably safe from falling materials, rodents, electrical shock, or other potential hazards.

3. No part of any junkyard operation, except for offices and employee or customer parking, shall be conducted within 150 feet of any existing or proposed Street.
4. No part of any junkyard operation shall be conducted within 660 feet of any “R” residential district or within 660 feet of any residential dwelling.

**J. Kennels**

1. The size, nature and character of the Kennel.
2. The proximity of the Kennel to adjoining lands.
3. The possibility of noise or other disturbances for adjoining lands and the surrounding neighborhood on account of the operation of the Kennel.
4. Potential traffic congestion on account of the Kennel.
5. The nature and character of the Buildings and Structures to be utilized for the Kennel operation.

**K. Landscaping Business**

1. **Retail and Wholesale Sales:** The Planning Commission must specifically approve on-site retail and wholesale activities. The retail and wholesale activities are limited to products used by the operator in carrying out the trade.
2. **Lighting:** No freestanding light poles shall be erected or lights placed on buildings unless specifically approved by the Planning Commission. Light poles shall not exceed 20 feet in height. Light shall be directed downward and shall not reflect off the premises. The Planning Commission may prescribe time limits for lighting.
3. **Buffers:** The Planning Commission may require complete or partial screening of buildings and outside storage, activity and display areas. Required screening can include fencing, berming, a landscape buffer, or a combination of these elements.
4. **Equipment Storage:** All machinery and equipment, except for motor vehicles and trailers used in the conduct of the business, shall be stored within a completely enclosed building unless expressly approved by the Planning Commission.
5. **Refuse:** Exterior refuse storage facilities shall be screened from view on all sides by a solid decorative fence or landscaping.
6. **Outdoor Storage and Activity:** The applicant must clearly indicate all outdoor storage, display, or activity areas on a site plan. These areas must meet the following requirements:
  - a. Motor Vehicles, trailers, and stockpiled materials shall be stored a minimum of 100 feet from the front property line and 60 feet from any



side or rear property line, in locations that minimize visual impacts of such materials on adjoining properties and public roads. The only activities that can occur within the required setback are employee/customer parking and growing of plants.

- b. Surface areas on which the outdoor storage or activity is to take place shall be reviewed for adequacy of drainage and dust control measures. The Planning Commission may require that areas be paved depending on the level of activity and or type of material or product involved.
- c. The storage of any fertilizer, chemical or loosely packed material shall be maintained and contained so as to prevent adverse effects upon adjacent properties. The Planning Commission shall consider whether other agencies' requirements are met, such as those of the Michigan Department of Environmental Quality and the U.S. Department of Agriculture.

7. **Minimum Lot and Setback dimensions:**

- a. Front yard: 100 feet
- b. Side Yards: 60 feet
- c. Rear Yards: 100 feet
- d. Lot Width: 300 feet
- e. Lot Area: 3 acres

L. **Outdoor Recreational Facilities**

- 1. **Access:** Lots must directly abut or have direct access to a Primary Arterial.
- 2. **Retail Sales:** Only on-site customer sales and service related to the applicable recreational use are allowed.
- 3. **Buffers:** Where recreational activities are to be conducted within any required setback, a Type II Buffer shall be located between such activity and any adjacent occupied property.
- 4. **Lighting:** Lighting shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from all residential lands that adjoin the site.
- 5. **Hours of Operation:** No daily operations, including outdoor lighting, shall take place beyond the hours of operation prescribed by the Planning Commission. The Planning Commission shall take into account residential and business interests in the surrounding area to determine such hours of operation.
- 6. **Vehicular and Pedestrian Traffic:** Vehicular and pedestrian traffic shall be handled so as to minimize conflict both on-site and off.
- 7. **Utilities:** Potable water and sanitary on-site waste disposal shall be provided per the requirements of Kent County Health Department.
- 8. **Refuse:** Removal of rubbish shall be provided in screened receptacles located for both easy access and minimal visibility.

9. **Minimum Lot and Setback Dimensions:**
  - a. Front yard: 60 feet.
  - b. Side Yards: 60 feet.
  - c. Rear Yards: 100 feet
  - d. Lot Width: 660 feet
  - e. Lot Area: 10 acres or appropriate size for use.

M. **Recreational Vehicle Storage Business**

1. **Location of Storage:** The storage shall be carried out only in fully enclosed buildings lawfully existing as of March 23, 2006.
2. **Repairs/Sales:** No repairs or maintenance of vehicles can occur on site and no sales of vehicles, merchandise, or equipment can occur on site.
3. **Parking:** There must be adequate on-site parking to accommodate the customers dropping off recreational vehicles.
4. **Hours of Operation:** The hours of operation for the picking up and dropping off of vehicles and other dealings with customers are limited to daylight hours only.
5. **Safety:** The storage permitted by the terms of this section shall be carried out only in a safe and non-hazardous manner. The application shall include information on whether gasoline or other fuel will be kept in the tanks of any stored boats or other vehicles. The Township Fire Inspector is to review the application to ensure that proper safety measures are taken.
6. **Outside Appearance:** Except for normal maintenance, no changes shall be made to the outside appearance of any building and there shall be no other visible evidence of such rental storage business upon the rental storage area.
7. **Signs:** No outdoor signage is allowed for the recreational vehicle storage business.
8. **Minimum lot area:** 10 acres.
9. No provision of this section shall be deemed to prohibit storage of personal recreational vehicles as permitted elsewhere in this Ordinance.

N. **Recycling Facility**

Applicants must submit information to the Township about the types of materials that are being recycled upon application and whenever there are changes in the materials recycled.

O. **Temporary Amusement Event**

1. Must be operated and supervised by a charitable organization which have been found to be tax exempt under Section 501(c) of the Internal Revenue Code, as amended, or a substantially similar successor statute.
2. **Minimum lot area:** 1 acre.

3. **Access:** Lots must directly abut or have direct access to a Primary Arterial Street.
4. **Proximity:** Lots must be located a minimum of 300 feet from any occupied residential dwelling.
5. **Residential Character:** The proposed use shall not cause any Alterations which remove or diminish residential characteristics of the site.
6. **Parking:** On-site parking shall be provided such that there is at least one (1) parking space for each four (4) projected users-customers; provided, however, that the Planning Commission may authorize parking on other Lots or parcels of land upon the written consent of the person owning the Lot or parcel of land upon which the parking has been proposed.
7. **Attendance:** The attendance of the proposed use shall not exceed one thousand (1,000) persons at one time.
8. **Length of Event:** The use shall be operated for no more than thirty (30) days in any twelve (12) month period.
9. **Additional Approvals:** The applicants shall submit written statements showing:
  - a. That the Township Building and Electrical Inspectors approve of the proposed use of any Buildings or Structures involved in the request,
  - b. That the Fire Chief of the jurisdiction in which the use is proposed has approved the use for fire safety and emergency vehicle access, and
  - c. That the Kent County Sheriff and Director of the Kent County Road Commission approve the applicant’s plan for access and traffic control.
10. **Performance Bond:** The applicants shall submit a corporate surety bond from a corporate bonding company authorized to do business in the State of Michigan, the amount of which shall be determined by the Zoning Administrator. The bond shall be in a form approved by the Township Attorney and shall be conditioned upon the applicant’s faithful compliance with all the terms and provisions of the Special Use Permit and other applicable provisions of this Ordinance, other local ordinances and state and federal statutes, and proper clean-up and restoration.
11. **Insurance:** The applicants shall submit a policy for public liability insurance, co-insuring the Township with a minimum coverage of one million (\$1,000,000.00) dollars bodily injury coverage and five hundred thousand (\$500,000.00) property damage coverage.

**P. Adult-Oriented Businesses**

1. Please see the standards contained in Section 4.16 of this Ordinance.
2. Such uses must also comply with Division 2 of Chapter 28 of the Gaines Charter Township Code.