

Ordinance No.1004

An ordinance to amend Ordinance 571, being an ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights, by amending Section 10.201 - Special Approval - of the Zoning Ordinance in its entirety for the purpose of regulating the location, design, establishment and review of special approval uses within the City.

The City of Madison Heights ordains:

Section 1. The following section(s) of the Zoning Ordinance are amended as follows:

Section 10.201. Special approval use review procedures and requirements.

1. Purpose

The purpose of this section shall be to:

- A. Require Special Approval for all uses in all zoning districts that are listed as Uses Permitted after Special Approval.
- B. Establish review procedures for all Special Approval uses.
- C. Establish review standards for all Special Approval uses.
- D. Establish the City Council as the review and approval authority for Special Approval uses.
- E. Establish authority to impose conditions upon Special Approval uses.

2. Requirement Established

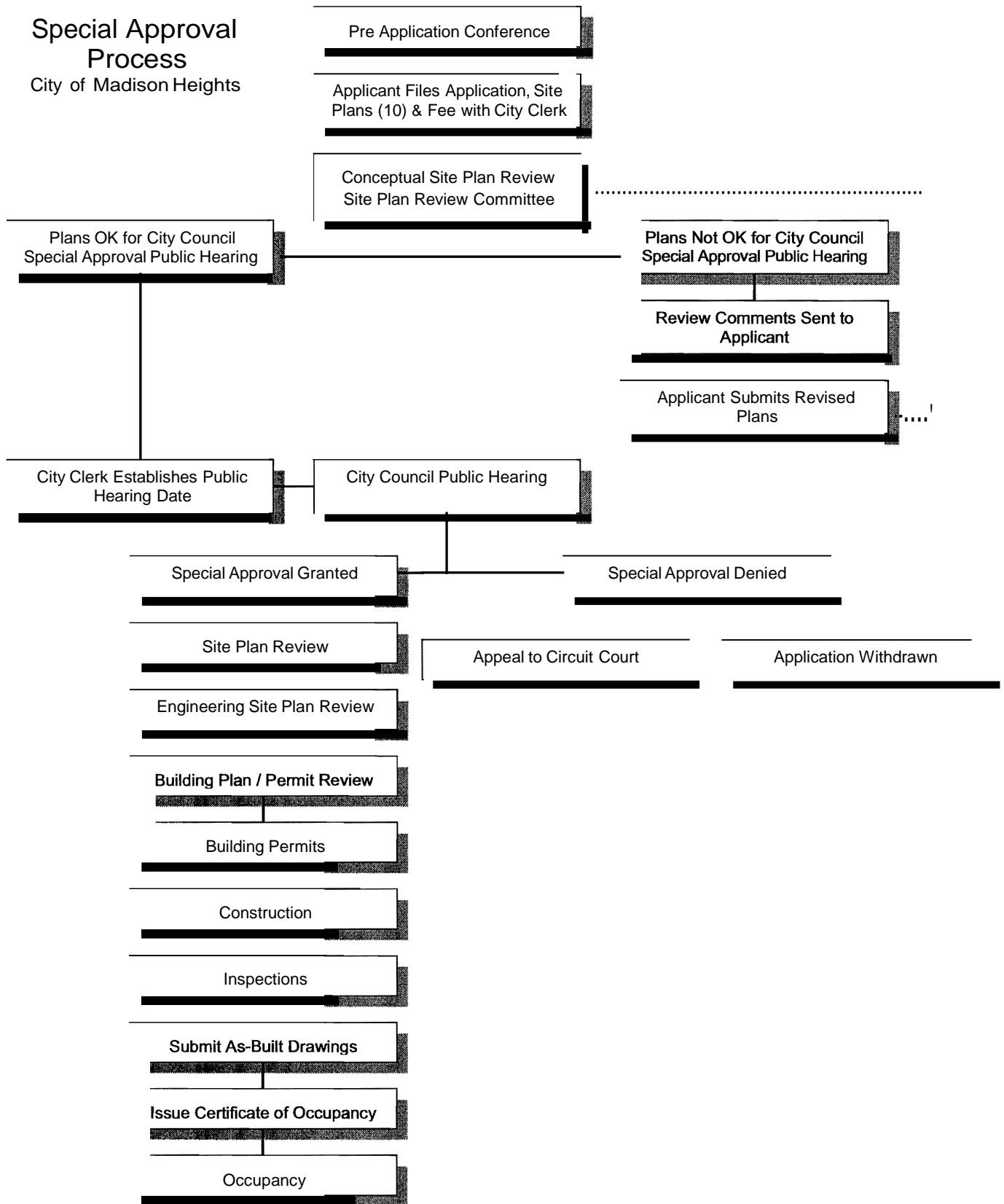
The City Council shall act as the Special Approval Board, and shall act on all special approval requests as provided in this ordinance. Special Approval shall be required for all uses in all zoning districts that are listed as uses permitted after Special Approval. All applications for special approval shall include a site plan prepared in conformance with the submission requirements outlined in Section 10.514- Site Plan Review. All Special Approval use requests shall be subject to a public hearing prior to a final City Council decision.

3. Submission and Review Process

All Special Approval uses in all zoning districts shall be reviewed in accord with the following procedural requirements and activity flow:

- A. Applicant requests preliminary meeting with Community Development Department staff to discuss proposal, design elements, ordinance requirements etc.
- B. Applicant submits application, fee and one (1) copy of the proposed site plan to the City Clerk's Office (Site plan must be reduced to 11" x 17") plus a PDF.
- C. Site Plan Review Committee reviews plan conceptually for general conformance with ordinance requirements and transmits conceptual review comments to applicant for revision.
- D. Applicant submits one (1) copy of revised site plan and (1) PDF to Community Development Department (Site plan must be reduced to 11" x 17").
- E. Community Development Department notifies City Clerk when site plans are adequate for consideration by City Council. City Clerk then establishes public hearing date and notifies all adjoining property owners within 500ft.
- F. City Council conducts public hearing on proposed Special Approval use.
- G. City Council approves, approves with conditions, or denies the Special Approval use request. The City Council may table a request to allow verification, compilation or submission of additional or supplemental information or to address other concerns or issues.
- H. If the City Council approves, or approves with conditions, the Special Approval use request, the City Clerk sends applicant a Special Approval Certificate and copy of the minutes of the meeting where the case was approved. The applicant then applies for site plan review in accordance with Section 10.514 of this ordinance.

**Special Approval Process**  
City of Madison Heights



#### 4. Review Standards **and** Criteria

The City Council shall consider the following standards and criteria in their review of all Special Approval use requests:

- A. Site plans submitted for Special Approval uses shall be prepared in conformance with and contain all information as outlined in Section 10.514-Site Plan Review.
- B. All design standards or criteria imposed on specific Special Approval uses elsewhere in this ordinance shall be met.
- C. 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. Need for proposed use in specified areas of the City;
  - 5. Conformance with future land use plans for the area as adopted by the Planning Commission.
  - 6. Compatibility with the permitted principal uses allowed in the zoning district where the Special Approval use is requested.
- D. Ingress/Egress to the use shall be controlled to assure maximum vehicular and pedestrian 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.
- E. Screening shall be provided along all property lines, where Council determines such screening is necessary to minimize impact of the use on adjacent properties or uses;
- F. The use shall be properly served by utilities;

- G. The use shall not have an adverse effect on the environment beyond the normal effects of permitted principal uses in the same zoning district and shall not result in an impairment, pollution, and/or destruction of the air, water, and natural resources;
- H. The use shall be specifically scrutinized for conformance with the performance standards outlined in Section 10.509 of this ordinance;
- I. The proposed use shall be designed as to location, size, intensity, site layout, and periods of operation to eliminate any possible nuisances which might be noxious to the occupants of any other nearby properties. The use shall not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive smoke, fumes, glare, noise, vibration, odors, and adverse environmental impacts.
- J. The proposed use does not impose an unreasonable burden upon public services and utilities in relation to the burden imposed by permitted principal uses in the same zoning district.
- K. The City Council may impose conditions in granting Special Approval 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. Conditions imposed shall:
  - 1. Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic wellbeing of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - 2. Be related to the valid exercise of the police power and purposes that are affected by the proposed use or activity.
  - 3. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this Ordinance for the land use or activity under consideration (if applicable); and be necessary to ensure compliance with those standards.

4. Provide adequate safeguards as deemed necessary for the protection of the general welfare and individual property rights, and for ensuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement, and the failure to correct such breach within thirty (30) days after an order to correct is issued by the City shall be reason for immediate revocation of the Special 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.
  - L. The discontinuance of a special use after a specified time may be a condition to the issuance of the permit. Renewal of a special 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.
5. General Stipulations
  - A. Application for Special Approval shall be made with the full consent of all persons having an ownership interest in the land on which the Special Approval use is requested. All persons having ownership interest in the property shall sign the application prior to its acceptance by the City.
  - B. Special Approval is valid for a period of one (1) year. Site plan approval and commencement of construction of approved improvements must occur within one (1) year of the City Council's Special Approval or the Special Approval shall be automatically null and void. The City Council may grant an extension for good cause for a period not to exceed six (6) months from the date of expiration of the original approval provided for extension is made during the period of effectiveness.
  - C. The record of the City Council shall be the approved minutes for Special Approval use cases. Said record shall be made available to the applicant whether the Special Approval request is approved, approved with conditions, or denied and shall constitute notice of the City Council's decision regarding the Special Approval request.
  - D. The City Council shall give notice of the time and place of the required public hearing as required by state law.
  - E. All construction, improvement or use of a parcel or parcels of land shall be in complete accord with the Special Approval, any conditions imposed by the City Council and the approved site plan.

- F. A special 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.
- G. 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 (1) 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 re-application will be treated as a new application.
- H. The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The City Clerk shall maintain a record of changes granted in conditions.

Section 2. Repealer.

All ordinances or parts of ordinances in connection with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

Section 3. Severability.

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Section 4. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

Section 5. Effective Date.

This ordinance as ordered shall take effect Ten (10) days after its adoption and upon publication.

Section 6. Enactment.

A copy of this ordinance may be inspected or purchased at the City Clerk's office between the hours of 8:00 a.m. and 4:30 p.m. on regular business days.



**CITY OF MADISON HEIGHTS  
COMMUNITY DEVELOPMENT DEPARTMENT  
PETITION FOR USE PERMITTED BY  
SPECIAL APPROVAL**

*FOR OFFICE USE ONLY*

Request \_\_\_\_\_ No: \_\_\_\_\_  
Date \_\_\_\_\_ Filed: \_\_\_\_\_  
Approved \_\_\_\_\_ by \_\_\_\_\_ CDD: \_\_\_\_\_  
Approved for Hearing: \_\_\_\_\_

I (we) the under signed, do hereby apply and petition the City of Madison Heights for a Special Approval Use Permit and provide the following information.

(Application must be typed)

Building Address: \_\_\_\_\_ Tax ID No.: 44 - 25 - - -

**APPLICANT INFORMATION**

Name: \_\_\_\_\_  
Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_  
(Notices will be mailed to this address)  
Driver's License No.: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Interest in Property: \_\_\_\_\_

**BUILDING & BUSINESS INFORMATION**

Zoning District: \_\_\_\_\_ Use Requested Pursuant to Section \_\_\_\_\_ of the Zoning Ordinance

Explain Requested Use in Detail: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The above referenced parcel is known as: (Lots(s) Acreage Parcel (s)) \_\_\_\_\_ of \_\_\_\_\_  
Subdivision (if platted lot(s)) and is located on the N S E W (Circle One) side of \_\_\_\_\_ Street/Road between  
\_\_\_\_\_ Street/Road and \_\_\_\_\_ Street / Road.

Hours of Operation: \_\_\_\_\_

Property Frontage: \_\_\_\_\_ Width/Depth: \_\_\_\_\_ No. of Parking Spaces: \_\_\_\_\_ Private Lot \_\_\_ Shared Lot\_\_

No. of Floors: \_\_\_\_\_ Max. No. of Employees: \_\_\_\_\_ Male \_\_\_\_\_ Female \_\_\_\_\_ No. on Largest Single Shift: \_\_\_\_\_

No. of Seats for Restaurant or Assembly Uses: \_\_\_\_\_ Capacity of Waiting Area: \_\_\_\_\_

Building: New \_\_\_\_\_ or Existing \_\_\_\_\_ Will Additions or Alterations to the Building be Required? \_\_\_\_\_

Explain: \_\_\_\_\_

Describe Any Other Site Improvements to be Made: \_\_\_\_\_  
\_\_\_\_\_

Building Owner Name: \_\_\_\_\_ Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_  
(Notices will be mailed to this address)

**Note: All blanks and boxes above must be completed. Use N/A where appropriate.  
CONTINUED ON REVERSE SIDE**





**PETITION FOR USE PERMITTED BY  
SPECIAL APPROVAL (Continued)**

Include one (1) copies of a site plan, no larger than 11 x 17 inches, which meets the requirements of Section 10.514 of the Zoning Ordinance of Madison Heights and the required seven hundred and fifty dollar fee (\$750.00) plus a site plan application.

This petition / application must be signed by both the Owner in Fee of the property and the Applicant prior to submittal. Applicant(s) and property owner(s) hereby consent to city staff, board and commission members, and contractors to access the property for purposes of evaluating the site for the requested action(s).

**FOR THE OWNER:**

Signature \_\_\_\_\_  
Printed \_\_\_\_\_ Name \_\_\_\_\_  
Date \_\_\_\_\_

**FOR THE APPLICANT IF NOT THE OWNER:**

Signature \_\_\_\_\_  
Printed \_\_\_\_\_ Name \_\_\_\_\_  
Date \_\_\_\_\_

**NOTARY:**

On this \_\_\_\_\_ day of \_\_\_\_\_

Before me personally appeared

\_\_\_\_\_ to me known to be the person who executed the forgoing instrument, and acknowledged that he executed the same as his free act and deed.

Notary's Signature \_\_\_\_\_

Notary's Printed Name \_\_\_\_\_

Notary public, State of Michigan,

County of \_\_\_\_\_.

My commission expires \_\_\_\_\_.

Acting in the County of \_\_\_\_\_.

**NOTARY:**

On this \_\_\_\_\_ day of \_\_\_\_\_

Before me personally appeared

\_\_\_\_\_ to me known to be the person who executed the forgoing instrument, and acknowledged that he executed the same as his free act and deed.

Notary's Signature \_\_\_\_\_

Notary's Printed Name \_\_\_\_\_

Notary public, State of Michigan,

County of \_\_\_\_\_.

My commission expires \_\_\_\_\_.

Acting in the County of \_\_\_\_\_.

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**OFFICE USE ONLY**

\$750.00 Fee Paid \_\_\_\_\_ Receipt Number \_\_\_\_\_ By \_\_\_\_\_ Date: \_\_\_\_\_

One Site Plan Attached no larger than 11 x 17 inches  Yes  No

Site Plan Application: \_\_\_\_\_ Date: \_\_\_\_\_

Copies to C.D.D. \_\_\_\_\_

Notices Mailed to Properties Within 500 Feet \_\_\_\_\_

Council Action \_\_\_\_\_

Meeting Date \_\_\_\_\_