



Michigan State University Extension
Land Use Series

How to Participate in the Zoning Process

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Special Use Permits (and Planned Unit Developments)

This flyer provides tips and suggestions for effective public participation in a zoning decision, such as a special use permit (SUP) or Planned Unit Development (PUD). Your participation in a public hearing is an important element of the decision-making process.

With just a little prior knowledge of zoning and zoning decisions, you can increase your effectiveness in providing verbal and written comments. This flyer will help you prepare for a planning commission hearing or meeting on a special use permit or PUD application.

Educate yourself on the application, zoning standards, and facts

Before the public hearing, consider requesting a full copy of the special use permit application and a copy of all the standards in the zoning ordinance applicable to the special use. You might consider obtaining a copy of the entire zoning ordinance, as standards are located in more than one area of the ordinance. Some communities may have their zoning ordinance or application materials available online.

Next, review the application against the standards in the zoning ordinance to see if those standards have been met. Standards are found in up to four places in a zoning ordinance, (1) in the article on special uses; (2) in the article on the respective zoning district (the subject parcel will fall within a zoning district specified on the zoning map, each district has unique development standards); (3) in the article on general provisions; (4) and specific standards for the type of special use permit.

The Planning Commission *must* follow the ordinance as written and cannot disregard a standard or exceed a standard because it is unpopular. The ability to vary (or a variance) from the ordinance is under the purview of the zoning board of appeals (ZBA). If you do not like the standards in the zoning ordinance, because they are too strict or not strict enough, seek to amend the zoning ordinance to change the standards for future cases.

Prepare your submission

After reviewing the application against the ordinance standards, prepare a submission for the hearing/meeting, which can be oral or written. Focus on facts that either support or detract from the application's ability to meet ordinance standards. In your oral or written testimony, answer the questions:

- Does the proposed special use meet the standards?
- Does the proposed special use fail to meet one or more standards?

For example, many zoning ordinances have a standard about compatibility with the neighborhood. This is a discretionary standard and testimony from residents in the area may have a considerable influence. Another example is a standard addressing infrastructure capacity (water, sewer, public roads, etc.). This is also a discretionary standard and people in a neighborhood and government agencies can provide facts to help decide how the application does or does not meet the standard.

The material you present should focus on facts and their relation to the zoning standards. These zoning standards, found in the zoning ordinance, *are the basis of a Planning Commission's decision* to approve or deny a permit. When an application meets all the standards, the planning commission *must* approve the permit.

Attend the public hearing/meeting

Provide each member of the planning commission/zoning board, recording secretary, and planning staff, a copy of your submission in writing. The public notice for the hearing/meeting may include directions on how to submit your comments. Everyone who wishes to speak about the application will be given a chance to do so. Some communities limit public comments, such as to 3 or 5 minutes per person. It may be helpful to call the local unit of government to ask if comments are time limited and prepare your testimony accordingly.

When at the hearing/meeting, always wait for the chair to acknowledge you before speaking. Always speak to, or address, the chair. Begin by stating your name for the record. The chair may direct you to provide additional details about your address or place of residence (such as the city or township). Orally summarize the major points in your written submission. A written testimony can be longer, or more detailed, than an oral testimony.

After everyone who wishes to speak has had the opportunity to do so, the public body will move onto their deliberation on the matter. This is the time for the appointed officials to discuss the application and go through their own review of the application against the standards. During this part of the meeting, the role of the public is to observe the proceedings and any decisions made.

The option to appeal

If you are not happy with the outcome of the decision, an option exists to file an appeal. Some communities do not allow for an appeal of a special use permit decision with the local zoning appeals board. In those communities, the appeal is to circuit court. There are specific timelines to file an appeal to circuit court. An attorney must represent an individual or group with a circuit court appeal. That individual or group would pay for attorney fees.

If an appeal of the special use permit decision can be made to the local zoning appeals board, it must be filed on forms designated for this purpose. Ask the zoning administrator about fees, forms, and deadlines to file the appeal. Although the ordinance may not allow for an appeal of a special land use decision to the ZBA, an appeal could be made on issues concerning the site plan review, finding of facts, and any decision made by the zoning administrator. These types of decision are often referred to as administrative decisions.

Additional considerations

Protect your credibility

Your credibility is one of your most important resources. Make sure statements made are true and can be verified. Focus on the facts. Do not make this personal with specific board members, audience members, the applicant, or staff. Cite your sources (use footnotes or attach a copy or summary).

When doing research, it is important to make sure you are using quality information and sources. There are good and bad research/studies. The [University of California Berkeley Library guide to evaluating resources](#) can help you determine the quality of a resource. Michigan State University library also has [this video](#) on evaluating information sources.

Government staff

Planning staff working for government should remain professional and unbiased. That means it is okay to seek help from the zoning administrator and/or staff planner and/or consulting planner. However, keep in mind that what these people say or do should reflect their legal obligation to follow the ordinance from a place of neutrality. The ordinance standards or a board's decision may not necessarily reflect their personal view. You should not criticize staff at a personal level. Focus your comments on the issue, not the person.

Zoning regulates the use of land

Zoning is supposed to be about regulating the *use of land*. Zoning is designed to weigh and consider the impact of a proposed land use on the subject property and adjacent land uses. Zoning is **not meant**:

- to promote/oppose economic, racial, or religious views,
- to enforce private deed restrictions,
- as a solution for neighborhood feuds or personal quarrels,
- as a development promoter (it merely permits it),
- as a political tool to reward some and punish others, or
- as a public popularity contest – zoning decisions are designed to be based on facts, not majority votes of the audience present, petitions, or social media.

Local zoning does not (and cannot) regulate every land use

The State of Michigan and the federal government can take away (or preempt) local control of certain land uses. Several examples below illustrate various levels of zoning preemption. Refer to the article [Restrictions on Zoning Authority](#) for more information.

Zoning cannot regulate: Local zoning is preempted by state and federal government from regulating hazardous waste, solid waste facilities (landfills), utility lines, certain pipelines, prisons, oil and gas wells, surface coal mining, water pollution, fertilizer application, certain trails, Michigan State Police radio communication system, nuclear power facilities, military facilities, Native American (Indian) tribe activity on tribal land, public schools, certain colleges and universities, county buildings, commercial farming activities such as caring for animals or the use of pesticides.

Limited zoning authority (partial preemption): design of mobile home parks, open space/cluster development, state licensed residential facilities, craft/fine art home occupations, certain daycare facilities, sand and gravel mining, farm markets.

Zoning can regulate, but not prohibit: religious activities/land uses; adult entertainment/sexually oriented businesses; cellular telephone towers.

For marijuana, it depends on the details: Michigan law regulating marijuana include the Michigan Medical Marihuana Act (MMMA, Initiated Law 1 of [2008](#)), Medical Marihuana Facilities Licensing Act (MMFLA, Act 281 of [2016](#)), and Michigan Regulation and Taxation of Marihuana Act (MRTMA, Initiated Law 1 of [2018](#)). Zoning regulation of marijuana-related facilities depends on the licensure type, the extent of local control specified in the Act, and local legislative decisions to allow or prohibit certain marijuana licenses. For more information, visit the [Michigan Cannabis Regulatory Agency](#).

More Information

To find more information on citizen participation in the zoning process visit the MSU Extension Planning- Citizen Education web page: https://www.canr.msu.edu/planning/citizen_education

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