

ARTICLE VI: CONDITIONAL USE PERMITS

SECTION 6.01: INTENT

The functions and characteristics of an increasing number of new kinds of land uses combined with some of the older, more familiar kinds of uses call for more flexibility and equitable procedure for properly accommodating these activities in the community. The forces that influence decisions regarding the nature, magnitude and location of such types of land use activities are many and varied depending upon functional characteristics, competitive situations and the availability of land. Rather than assign all uses to special, individual, and limited zoning districts, it is important to provide the necessary control and reasonable flexibility in establishing the requirements for certain kinds of uses. And, at the same time, to ensure that adequate provisions have been made for the health, safety, convenience and general welfare of the community's inhabitants.

To accomplish such a dual objective, provision is made in this Ordinance not only for flexibility in individual district regulations, but also for a more detailed consideration of certain specified activities as each may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as Conditional Uses and may be authorized by the issuance of a Conditional Use Permit with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare.

The following Sections together with previous references in other Sections designate what uses require a Conditional Use Permit.

SECTION 6.02: APPLICATION PROCEDURE

- A. Any person having an interest in a property may file an application for a Conditional Use Permit for the zoning district in which the land is situated.
- B. Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be signed by the property owner and accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover costs of processing the application. No part of any fee shall be refundable.
- C. Every application shall be accompanied by the following information and data:
 - 1. Conditional Use Form supplied by the Zoning Administrator and filled out by the applicant.
 - 2. A minimum of twelve (12) copies of a Site Plan drawn to a readable scale and containing that information specified in Article V, Section 5.06.
 - 3. A statement with supporting evidence regarding the required findings specified in Section 6.04.

- D. Upon receipt of such materials, the Zoning Administrator shall transmit one copy to the road commission, drain commissioner, health department, school district, fire chief, local law enforcement authority, affected utility companies and other Federal, State, County or local agencies impacted by the proposal, and the Planning Commission for their review and comment. Each agency will be requested to review the document and forward any comments to the Zoning Administrator. The Zoning Administrator shall transmit a copy of the Site Plan along with any agency response to the Planning Commission for their review.
- E. Approval of a Conditional Use Permit shall be valid regardless of change of ownership, provided that all term and conditions of the permit are met by subsequent owners.
- F. In instances where development authorized by a Conditional Use Permit has essentially changed in nature, extent or character, the Planning Commission shall review the permit in relation to the applicable standards and requirements of this Ordinance. Upon finding that there has been a violation in the conditions of the Conditional Use Permit granted under the provisions of this Ordinance, the Planning Commission may declare the permit null and void.
- G. If on-site activities relative to the development of a Conditional Use Permit have not commenced within one (1) year from the date of issuance, said permit shall expire automatically. The Planning Commission can approve an extension for one additional year upon request by the applicant. Where differences and/or conflicts may arise with the time constraints, as set forth in Section 6.02 of this Ordinance, with the time schedules as outlined in Rule 905(6), of the Mobile Home Commission General Rules based upon Public Act 96 of 1987, as amended, then the State Statute and Rule shall prevail. However, all other requirements as set forth within Section 6.02 of this Article shall be accommodated.

SECTION 6.03: REVIEW AND FINDINGS

- A. **Planning Commission Public Hearing** The Planning Commission shall review the application within thirty (30) days of the date of the application. The Zoning Administrator shall cause to be published one (1) notice of public hearing, not less than five (5) days nor more than fifteen (15) days in advance of such hearing and shall notify by regular mail or personal delivery the parties of interest and all property owners within three hundred (300) feet of subject property. Such notice shall describe the nature of the request, indicate the property involved, state the time and place of the hearing, and indicate when and where written comments will be received concerning the request, pursuant to Section 16 b (2) of Act 184 of 1943, as amended.
- B. **Planning Commission Action:** The Planning Commission shall approve, approve with conditions, or reject the application within thirty (30) days of the hearing based upon materials received and testimony recorded at the public hearing. The Planning Commission shall set forth the reasons in writing for approval, denial, or modification of the conditional use permit application. Following favorable action by the Planning Commission, the Zoning Administrator shall issue a Conditional Use Permit, in

accordance with the Site Plan and any conditions placed on such permit by the Planning Commission. All conditions shall be clearly specified in writing and the petitioner has one year from date of hearing to comply with all specified conditions except as provided for in Section 6.02 G. Compliance shall occur prior to the commencement of the use, unless a specified time is set in the motion granting the Conditional Use Permit.

SECTION 6.04: GENERAL STANDARDS

The Planning Commission shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use

- A. Will be harmonious with and in accordance with the general policies or with any specific objectives of the Comprehensive Plan;
- B. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;
- C. Will not be hazardous or disturbing to existing or future neighboring uses;
- D. Will not diminish the value of land, buildings, or structures in the District;
- E. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools, and that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
- F. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- G. Will not involve uses, activities, processes, materials and equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of noise, traffic, smoke, fumes, glare or odors;
- H. Will protect the public health, safety and general welfare of the community;
- I. Will be consistent with the intent and purpose of the specific zoning district in which it is located.

SECTION 6.05: CHILD OR DAY CARE CENTERS

The following standards shall be used by the Planning Commission when considering child care centers:

- A. That the proposed site is located not closer than 1,500 feet to any of the following.
 - 1. A licensed family or group day-care home.
 - 2. An adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, Act No. 218 of the Public Acts of 1979, being Sections 400 71 to 400 737 of the Michigan Compiled Laws.
 - 3. A facility offering substance abuse treatment and rehabilitation service to seven or more people licensed under Article 6 of the Public Health Code, Act No. 368 of the Public Acts of 1978, being Sections 333 6101 to 333 6523 of the Michigan Compiled Laws.
 - 4. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
- B. That there will be appropriate fencing for the safety of the children in the group day-care home as determined by the Planning Commission.
- C. That maintenance of the property will be consistent with the visible characteristics of the neighborhood.
- D. That the proposed use does not exceed 16 hours of use during a 24 hour period. The Township may limit but not prohibit the operation of a group day-care home between the hours of 10 p.m. and 6 a.m.
- E. That the proposed use meets regulations of this Ordinance governing signs used by a group day-care home to identify itself.
- F. A group day-care home operator shall provide off-street parking accommodations for all employees as required by this Ordinance.

SECTION 6.06: CONDITIONS AND SAFEGUARDS

- A. Prior to granting any Conditional Use Permit, the Planning Commission may impose conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the Conditional Use Permit as in its judgement may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those benefitting from 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; and be consistent with the general standards listed in Section 6.04 of this Ordinance.
- B. Conditions and requirements stated as part of Conditional Use Permit authorization shall be a continuing obligation of land holders. The Zoning Administrator shall make periodic investigations of developments authorized by Conditional Use Permit to

determine compliance with all requirements.

- C. Conditional Use Permits may be issued for time periods as determined by the Planning Commission. Conditional Use Permits may be renewed in the same manner as originally applied for.
- D. In authorizing a Conditional Use Permit, the Planning Commission may require that a cash deposit, certified check, bond, irrevocable bank letter of credit or other financial guarantee acceptable to the Township, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the Township Treasurer at the time of issuance of the permit authorizing the use or activity. As work progresses, the Planning Commission may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.
- E. Revocation of a Conditional Use Permit by the Planning Commission shall be made at a public hearing following the same procedure as original approval to the effect that:
 - 1. Such conditions as may have been prescribed in the conjunction of the issuance of the original permit included the requirement that the use be discontinued after a specified time period; or
 - 2. Violations of conditions pertaining to the granting of the permit continue to exist more than thirty (30) days after a written order to correct has been issued. Violations of any conditions set by the Planning Commission are violations of this Zoning Ordinance.
- F. All plans, specifications and statements submitted with the application for a Conditional Use Permit shall become, along with any changes ordered by the Planning Commission, a part of the conditions of any Conditional Use Permit issued.
- G. No application for a Conditional Use Permit which had been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of six (6) months or more from the date of such denial, except on appeal or on grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify reconsideration by the Planning Commission.
- H. The foregoing general standards are basic to all conditional uses, and the specific requirements accompanying the following sections relating to particular uses are in addition to and shall be required in all applicable situations.

SECTION 6.07: APPEALS

Any appeal relative to the final decision of the Planning Commission shall be to the Marquette County Circuit Court, as provided by law.