

## ARTICLE 18.0 SPECIAL LAND USES

### Section 18.01 Purpose.

The purpose of this Article is to establish procedures and standards for review and approval of special land uses that, because of their unique characteristics, require additional consideration in relation to the welfare of adjacent land, uses, residents, and the Township as a whole. This Article is intended to provide a consistent and uniform method for review of special use applications; ensure full compliance with the standards contained in this Ordinance; achieve efficient use of land; prevent adverse impacts on neighboring properties and districts; and facilitate development in accordance with the objectives of the Master Plan. Special use permit approval shall be required for all land use listed in Article 6.0 (Land Use Table) as a special land use.

### Section 18.02 Pre-Application Meeting.

An applicant may request a pre-application meeting with the Zoning Administrator, Planning Commission Chair or designee, and/or Township Planner to discuss the proposal, submittal requirements, review procedures, and approval standards. Any required fee for this meeting shall be paid to the Township at the time of the meeting.

### Section 18.03 Special Use Review Procedure.

All special use permit applications shall be submitted and reviewed as follows:



## Special Use Review Process

### A. Eligibility.

The application shall be submitted by the operator of the use or owner of an interest in the land or structure(s) for which special use permit approval is sought, or by the owner's designated agent. If the applicant is not the owner of the property, the applicant shall submit a notarized statement signed by the owner(s) consenting to the application for special use approval. Applications that are found by the Township Planner or Planning Commission to be incomplete or inaccurate shall be returned to the applicant without further consideration.

### B. Required Fees and Escrow Deposits.

The Township Board shall establish, by resolution, fees and escrow deposits for review of special use permit applications. Required fees and escrow deposits shall be paid to the Township at the time of the filing of the application. No fee or escrow deposit shall be required for a special use permit application submitted by the Township.

**C. Filing of Application.**

A special use permit request shall be made by filing at least eleven (11) paper copies and two (2) digital copies (in a format compatible with Township systems) of a complete and accurate application with the Township Clerk, along with the required review fee and escrow deposit. The application shall include the following information:

1. Name, address, and other contact information for the applicant and owners of record, along with proof of ownership.
2. The applicant's interest in the property, and if the applicant is not the property owner of record, a signed authorization of the owner(s) for the application.
3. Legal description, address, and tax parcel number of the property.
4. A scaled and accurate survey drawing, correlated with the legal description and showing all existing buildings, drives and other improvements.
5. A detailed description of the proposed use.
6. A site plan meeting the requirements of Article 17.0 (Site Plan Review).

**D. Review Procedure.**

Special use permit applications shall be shall be reviewed in accordance with following:

1. **Technical review.** Prior to Planning Commission consideration, the application materials shall be distributed to designated Township officials and the Township Planner for review and comment. The Zoning Administrator or Planning Commission Chair may also request comments from other designated Township consultants, local agencies or departments with jurisdiction.
2. **Coordination with site plan review.** A site plan associated with a special land use shall not be approved unless the special use permit has first been approved. The Planning Commission may, at its discretion, consider special use and site plan applications at the same meeting.
3. **Public hearing.** A public hearing shall be held for all special uses in accordance with Section 2.10 (Public Hearing Procedures).
4. **Planning Commission consideration.** Subsequent to the hearing, the Planning Commission shall review the application for special use permit approval, together with any reports and recommendations from Township officials, the Township Planner, other designated Township consultants, and any local agencies or departments with jurisdiction, along with any public comments. The Planning Commission shall then make a determination based on the requirements of this Ordinance and the standards contained in Section 18.05 (Standards for Special Use Approval).
5. **Planning Commission action.** The Planning Commission is authorized to approve, approve subject to conditions, postpone action, or deny the special use as follows:

- a. **Approval.** The special use shall be approved by the Planning Commission upon determination that it is in compliance with the provisions of this Ordinance, including Section 18.05 (Standards for Special Use Approval). Upon approval, the special use shall be deemed a conforming use permitted in the district in which it is proposed, subject to site plan approval and any conditions imposed on the use. Such approval shall affect only the lot or area thereof upon which the use is located.
- b. **Approval subject to conditions.** The Planning Commission may approve a special use subject to reasonable conditions established in accordance with Section 18.04 (Conditions of Approval).
- c. **Postponement.** Upon determination by the Planning Commission that a special use application is not sufficiently complete for approval or denial, failure of the applicant to attend the meeting, or upon request by the applicant, the Planning Commission may postpone consideration until a later meeting.
- d. **Denial.** Upon determination that a special use application is not in compliance with the provisions of this Ordinance, including Section 18.05 (Standards for Special Use Approval), or would require extensive modifications to comply with said standards and regulations, the special use shall be denied. If a special use is denied, a written record shall be provided to the applicant listing the findings of fact and conclusions or reasons for such denial. Failure of the applicant to attend two (2) or more meetings shall be grounds for the Planning Commission to deny the special use permit.

**E. Recording of Planning Commission Action.**

Planning Commission action on the special land use shall be recorded in the Planning Commission meeting minutes, stating the name, description, and location of the proposed use; address and parcel tax identification number; the findings of fact and conclusions or grounds for the Commission's action, and any conditions of approval. One (1) copy of the written record shall be placed on file at the Township offices per State of Michigan retention guidelines, and one (1) copy shall be forwarded to the applicant as evidence of the Commission's action on the special use permit application.

**Section 18.04 Conditions of Approval.**

In granting a special land use permit, the Planning Commission shall impose any conditions it deems necessary to achieve the objectives and standards of this Ordinance, the Township's Master Plan, and the public health, safety, and welfare.

1. These may include conditions necessary to ensure that:
  - a. Public services and facilities affected by a proposed special land use will be capable of accommodating increased service and facility loads caused by the proposed special land use;

- b. The natural environment will be protected and natural resources and energy conserved;
  - c. The proposed use is compatible with adjacent land uses; and
  - d. The proposed use promotes the use of land in a socially and economically desirable manner.
2. Conditions imposed shall meet the following requirements:
- a. The conditions shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the proposed land use or activity, residents and landowners immediately adjacent to the proposed special land use, and the community as a whole.
  - b. The conditions shall be related to the valid exercise of the police power of the Township, and purposes that are affected by the proposed special land use.
  - c. The conditions imposed shall be necessary to meet the intent and purpose of the Ordinance, shall be related to the standards established in the Ordinance for special land uses, and shall be necessary to ensure compliance with those standards.
3. Conditions imposed with respect to the approval of a special use permit shall remain unchanged except upon the mutual consent of the Township and the landowner as approved in accordance with this Article. Such conditions shall be continuing obligations and are binding on any heirs and assigns, and upon any persons taking title to the subject property.

### **Section 18.05 Standards for Special Use Approval.**

Approval of a special use shall be based upon the determination that the proposed use complies with all applicable requirements of this Ordinance, and all of the following standards as deemed applicable to the use by the Planning Commission:

1. **Compatibility with adjacent uses.** The special use is compatible with adjacent uses and the existing or intended character of the zoning district and area. The use will not be detrimental, hazardous or disturbing to existing or future neighboring uses, persons, property or the public welfare.
2. **Compatibility with the Master Plan.** The special use location and character is consistent with the general principles, goals, objectives, and policies of the adopted Master Plan.
3. **Compliance with applicable regulations.** The proposed special use is in compliance with all applicable Ordinance provisions.
4. **Impact upon public and utility services.** The impact of the special use upon public services will not exceed the existing or planned capacity of such services;

including utilities, roads, police and fire protection services, area drinking water wells, and drainage structures. The proposed use will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

5. **Environmental and public health, safety, welfare impacts.** The location, design, activities, processes, materials, equipment, and operational conditions of the special use will not be detrimental or injurious to the environment or the public health, safety, and welfare by reason of traffic, noise, vibration, smoke, fumes, odors, dust, glare, light, drainage, pollution or other adverse impacts.
6. **A documented need exists for the proposed use.** A documented need exists for the proposed use within the community.
7. **Isolation of existing uses.** Approval of the special use location will not result in a small residential or non-residential area being substantially surrounded by incompatible uses.

### **Section 18.06 Compliance with Special Land Use Approval.**

It shall be the responsibility of the property owner and operator of the use for which special use permit approval has been granted to develop, operate, and maintain the use, including the site, structures and all site elements, in accordance with the provisions of this Ordinance and all conditions of approval until the use is discontinued. Failure to comply with Ordinance requirements or conditions of approval shall be considered a violation of this Ordinance and may be punished in accordance with the provisions of Section 2.09 (Violations and Penalties); and shall constitute grounds for rescinding special land use permit approval in accordance with Section 18.09 (Rescinding Special Land Use Approval).

The Zoning Administrator, Township Planner or other Township designee may make periodic investigations of developments for which a special land use permit has been approved.

### **Section 18.07 Alteration and Expansion.**

An approved special use permit, including all attached conditions, shall run with the parcel in the approval and shall remain unchanged except upon mutual consent of the Planning Commission and the landowner. Any alteration or expansion of an existing special land use shall require approval of a special land use permit in accordance with this Article.

Any use lawfully existing on the date of adoption of this Ordinance or an amendment thereof that is considered or permitted as a special land use under this Ordinance or amendment may continue as a nonconforming use subject to Article 21.0 (Nonconformities) without approvals required by this Article. This nonconforming status shall be deemed removed upon approval of a special use permit in accordance with this Article.

### **Section 18.08 Re-Application.**

No re-application, re-consideration, or re-hearing of a special land use request that has been denied by the Planning Commission shall be considered until the expiration of 365 calendar days from the date of denial, unless based upon proof of materially changed conditions or new

information sufficient to warrant consideration by the Planning Commission. All re-applications shall be considered a new application and shall be reviewed in accordance with the provisions of this Article.

### **Section 18.09 Rescinding Special Land Use Approval.**

Approval of a special use permit may be rescinded by the Planning Commission upon determination that the use has not been improved, constructed or maintained in compliance with this Ordinance, approved permits, site plans or conditions of site plan or special use permit approval. Such action shall be subject to the following:

1. **Public hearing.** Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in Section 2.10 (Public Hearing Procedures), at which time the operator of the use or owner of an interest in the land or structure(s) for which special use permit approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
2. **Determination.** Subsequent to the hearing, the decision of the Planning Commission with regard to the rescission shall be made and written notification provided to said owner, operator or designated agent.