

## **ARTICLE 11**

### **CONDITIONAL USES**

#### **Section 11.01 Intent.**

The formulation and enactment of this Ordinance is based upon the division of the Township into various zoning districts where certain mutually compatible uses are permitted by right. In addition to such permitted principal uses, there are certain other uses that may be essential or desirable for the welfare of the community and its citizenry or substantial parts of it. Such conditional uses are appropriate and not essentially incompatible with the uses permitted by right in a zoning district, but not at every or any location therein, or without restrictions or conditions being imposed by reason of special problems or issues presented by the use or its particular location in relation to neighboring properties.

This Article is intended to provide a consistent and uniform method for review of Conditional Use Permit 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 Growth Management Plan.

#### **Section 11.02 Scope.**

This Ordinance, therefore, requires approval of a Conditional Use Permit for every use listed in the several zoning districts as conditional uses. This Article specifies the procedures and standards to be followed in granting such permits. If the Conditional Use Permit application is in compliance with all applicable procedures and standards of this Article and Ordinance, the right to a Conditional Use Permit shall exist, subject to such conditions as may be imposed. No conditional use shall commence until a Conditional Use Permit is issued in accordance with this Article.

#### **Section 11.03 Application Procedure.**

Conditional Use Permit applications shall be submitted in accordance with the following:

##### **A. Filing of Application.**

Application for a Conditional Use Permit shall be made by filing a complete and accurate application form, required information, and required review fee and escrow deposit with the Township Clerk. The Clerk shall transmit a copy of the application materials to designated Township officials and consultants and the Planning Commission.

##### **B. 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 Conditional Use Permit approval is sought, or by the

owner's designated agent. 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.

**C. Information Required.**

An application for a Conditional Use Permit shall contain the following information:

1. The applicant's name, address, and telephone number.
2. The names, addresses, and telephone numbers of all record owners and proof of ownership.
3. The applicant's interest in the property, and if the applicant is not the fee simple owner, the signed authorization of the owner(s) for the application.
4. Legal description, address, and tax parcel number of the property.
5. A scaled and accurate survey drawing, correlated with the legal description and showing all existing buildings, drives and other improvements.
6. A detailed description of the proposed use.
7. A site plan meeting the requirements of Article 10.0 (Site Plan Review).

**D. Required Fees and Escrow Deposits.**

The Township Board shall establish, by resolution or ordinance, fees and escrow deposits for review of Conditional Use Permit applications. Required fees and escrow deposits shall be paid to the Township Treasurer at the time of the filing of the application. No fee or escrow deposit shall be required for Conditional Use Permit applications proposed or requested by the Township. No action shall be taken on any petition or appeal for which required fees have not been paid in full.

**E. Technical Review.**

Prior to Planning Commission consideration, the application materials shall be distributed to designated Township officials and consultants for review and comment.

**F. Planning Commission Review and Public Hearing.**

Upon receipt of a complete and accurate application for a Conditional Use Permit from the Clerk, the Planning Commission shall undertake a study of the application. A public hearing shall be held on the petition and notice shall be given in accordance with Section 1.14 (Public Hearing Procedures).

### **Section 11.04 Authority to Grant Permits.**

The Planning Commission shall have the authority to grant Conditional Use Permits and to attach conditions to a permit. Only those uses listed in each zoning district as conditional uses shall be considered for Conditional Use Permit review and approval.

### **Section 11.05 Planning Commission Action.**

Subsequent to the public hearing, the Planning Commission shall, at a public meeting, review the application for a Conditional Use Permit and the information provided at the public hearing, together with any reports and recommendations from Township officials, the Township Planner, other designated Township consultants, and any outside agencies with jurisdiction.

#### **A. Postponing.**

Upon determination by the Planning Commission that the Conditional Use Permit 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 further consideration of the application to a date certain. Action on a Conditional Use Permit application may be postponed for a maximum of 65 calendar days, after which final action shall be taken by the Planning Commission.

#### **B. Approval or Denial.**

The Planning Commission shall approve, approve with conditions, or deny a Conditional Use Permit application.

1. The Planning Commission's decision, all findings of fact and conclusions forming the basis for the decision, and all conditions imposed shall be described in a written statement, which shall be made a part of the record of the meeting.
2. Upon determination that the Conditional Use Permit application conforms to all applicable standards of this Ordinance, other applicable ordinances, and state and federal statutes, the Conditional Use Permit shall be approved.

#### **C. Standards for Conditional Use Permit Approval.**

The Planning Commission approval of a Conditional Use Permit shall be based upon determinations that the proposed use complies with all of the following:

1. No Conditional Use Permit shall be granted unless the Planning Commission makes affirmative findings of fact and records adequate data, information, and evidence showing that:
  - a. The proposed use will be harmonious, and in accordance with the objectives, intent, and purposes of this Ordinance;
  - b. The proposed use will be compatible with the natural environment and existing and future land uses in the vicinity;

- c. The proposed use will be compatible with the Growth Management Plan;
  - d. The proposed use will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways and structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for any such services;
  - e. The proposed use will not be detrimental, hazardous, or disturbing to existing or future neighboring uses, persons, property, or the public welfare; and
  - f. 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.
2. No Conditional Use Permit shall be issued unless the Planning Commission makes affirmative findings of fact and records adequate data, information, and evidence showing that the proposed use complies with all applicable standards of this Ordinance, including Article 5.0 (Use Standards).
  3. No Conditional Use Permit shall be granted unless the Planning Commission makes affirmative findings of fact and records adequate data, information, and evidence showing that the proposed use complies with all applicable regulations of federal, state, regional, and county agencies with jurisdiction.

### **Section 11.06 Conditions of Approval.**

The Planning Commission may impose conditions or limitations upon a Conditional Use Permit approval in accordance with the following:

#### **A. Conditions.**

In granting a Conditional Use Permit, the Planning Commission shall impose any conditions it deems necessary to achieve the objectives and standards of this Ordinance and the Growth Management Plan, the standards of the Michigan Zoning Enabling Act, and the public health, safety, and welfare of Superior Township.

1. These conditions may include conditions necessary to ensure that:
  - a. Public services and facilities affected by a proposed conditional use will be capable of accommodating increased service and facility loads caused by the proposed conditional 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 conditional 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 conditional 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 conditional uses, and shall be necessary to ensure compliance with those standards.

**B. Violation of Conditions.**

Failure to comply with such conditions shall be considered a violation of this Ordinance and may be punished in accordance with the provisions of Section 1.13 (Violations and Penalties).

**C. Effect and Modification of Permit.**

An approved Conditional 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.

1. A public hearing shall be held on any proposed changes as required for an original application.
2. Any such approved changes shall be entered into Township records and recorded in the minutes of the Planning Commission meeting at which the action occurred.

**Section 11.07 Rescinding Conditional Use Permit Approval.**

Approval of a Conditional 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 Conditional 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 1.14 (Public Hearing Procedures), at which time the operator of the use or owner of an interest in the

land or structure(s) for which Conditional 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.

### **Section 11.08 Re-Application.**

An application for a Conditional Use Permit which has been denied wholly or in part by the Planning Commission shall not be resubmitted for a period of 365 calendar days from the date of denial, except on grounds of new evidence not available to the applicant at the time of the original application or proof of changed conditions found by the Planning Commission to be valid.

### **Section 11.09 Compliance with Conditional Use Permit Approval.**

It shall be the responsibility of the property owner and operator of the use for which Conditional 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 Conditional Use Permit approval until the use is discontinued.

1. Failure to comply with the provisions of this Section shall be a violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.
2. Noncompliance with Ordinance requirements or conditions of approval shall constitute grounds for rescinding Conditional Use Permit approval.
3. The Zoning Inspector, Township Planner or other Township designee may make periodic investigations of developments for which a Conditional Use Permit has been approved.