

ARTICLE 18 - SPECIAL LAND USES

Section 18.1 - General Requirements for Allowance.

Because it may be proper to provide for the uses specified in this Article but because the uses specified in this Article possess characteristics of such unique and special forms that to grant a variance could seriously impair the intent of this Ordinance as these uses usually affect a greater surrounding land area than the normal variance, the special land uses permitted in this Article shall be granted only if, in addition to the specific requirements for each individual special land use, the following general requirements are also satisfied:

- (1) The Planning Commission, after review of the application, shall convene a public hearing thereon, following the procedures set forth in this Article and the Village Zoning Act, as amended, and
- (2) The Planning Commission, after public hearing, may approve of such use or conditionally approve the same if it shall find that authorizing such use will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of this Ordinance or the public interest, provided further that specific conditions hereinafter set forth in relation to certain special land uses are met and complied with, and provided further that the Planning Commission determines that the special land use will promote the intent and purpose of this Ordinance, be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by such special land use, and be consistent with the health, safety and welfare of the Village. In addition, whenever applicable, a proposed special land use shall comply with the requirements of this Ordinance set forth in Sections 15.2 paragraphs 1 through 6, 15.3, 15.4, 15.5, 15.10, 15.11 and 15.12 hereof.

Section 18.2 - Special Land Uses that may be Permitted.

Subject to the requirements and provisions of this Article, and notwithstanding the specific Special Land Uses subject to review in each District, the following special land uses may be permitted:

- (1) Cemeteries;
- (2) Crematories;
- (3) Mausoleums;
- (4) Radio, microwave or television antennas and towers (except satellite dish antennas) exceeding a height of 50 feet consistent with FAA & FCC regulations.
- (5) State licensed residential facilities;

- (6) Any use which the Village is required by law to permit in the Village Residential District but which is not specifically mentioned as an authorized use for that district in this Ordinance;
- (7) General or specialized hospitals to provide care for human beings provided the specific conditions herein set forth in relation to such use are met;
- (8) State-Licensed Homes for the elderly or retired, including an accessory child care facility to provide care primarily for the children of employees of the home, if the specific conditions and requirements provided by this Article for the use are met;
- (9) Public libraries, public museums and public art galleries and Village, Township, County, State or Federal office or service buildings.
- (10) Country clubs and golf courses, provided the property contains ten acres or more of land and provided further that any buildings shall be located at least 50 feet from any other lot;
- (11) Essential service buildings, and other major essential service installations (which may or may not involve buildings) including, without limitation, structures and facilities such as towers, electric substations, gas regulator stations and substations, provided that the Planning Commission shall give consideration to any existing laws or the architecture, landscaping, setback, enclosures and other features of the building or installation and may impose reasonable conditions as deemed necessary to protect the neighborhood;
- (12) Natural resources utilization, exploitation, mining of development, provided the specific conditions hereinafter set forth in relation to such special use are met and provided further that water wells shall be considered an accessory use and not a special use;
- (13) Solid waste landfill operations provided the specific conditions herein set forth in relation to such special use are met;
- (14) Radio, microwave, and television transmitters above 1,000 watts of output;
- (15) Removal of sod or removal or redistribution of top soil except as necessarily incident to normal farming operations or to the performance of work with respect to a building or structure under a permit issued pursuant to the Building Code of Emmet County.
- (16) State-Licensed Group day-care homes in any district except Industrial, if the specific conditions and requirements provided by this Article for the use are met.
- (17) State-Licensed Childcare centers in any district except Industrial, if the specific conditions and requirements provided by this Article for the use are met.

- (18) State-Licensed Adult day-care home in any district except Industrial, if the specific conditions and requirements provided by this Article for the use are met.
- (19) State-Licensed Adult day-care centers in any district except Industrial, if the specific conditions and requirements provided by this Article for the use are met.

Section 18.3 - Requirements for Hospitals.

The following shall be required in connection with any approval granted for a general or specialized hospital to provide care for human beings:

- (1) Such hospital shall be owned and operated by a non-profit corporation;
- (2) No building or buildings shall be erected or used for such purposes except on a parcel of ground containing a minimum of 10 acres;
- (3) The minimum size of any project must provide hospital beds for not less than 100 patients in the first phase of construction;
- (4) Off-street parking shall be provided for at a ratio of at least three spaces for each hospital bed plus one space for the maximum number of employees who might be on the premises at any one time;
- (5) No part of the hospital or of any building used for hospital purposes shall be closer than 100 feet to any adjacent lot.

Section 18.4 - Requirements for Homes for the Elderly or Retired.

The following shall be required in connection with any approval granted for convalescent homes or homes for the elderly or retired:

- (1) No building or buildings shall be erected, converted or used for such purposes except on a lot or parcel of ground containing a minimum of 10 acres of land, and
- (2) There is a minimum lot area for each tenant, elderly or retired person of 2,500 square feet, and
- (3) There is provided one off-street parking space for each two tenants, elderly or retired persons, and
- (4) No part of the building or buildings so used is closer than one hundred (100) feet to an adjacent lot line; except that the Planning Commission may reduce this setback requirement to not less than twenty-five (25) feet if it finds that such reduction in the set back will not be injurious to the use or enjoyment of nearby properties; will not result in traffic or other safety hazards; will not result in visual blight, distraction, or clutter; and will not materially impair the intent and purpose

of this Ordinance or the public's interest. In modifying such set back requirements, the Planning Commission may attach conditions regarding the location, character, landscaping, or treatment of the buildings or premises or other such matters as are reasonable necessary to the furtherance of the intent and spirit of this Ordinance and the public's interest.

- (5) There is provided for each tenant, elderly or retired person in the building or buildings so used a minimum floor area exclusive of basement or attic space of 400 square feet.
- (6) A child care facility may be permitted as an accessory use to a home for the elderly or retired ("home"), subject to review and approval by the Planning Commission as otherwise provided for special land uses by this Article, and subject to all of the following additional conditions and requirements:
 - (a) The child care facility may receive infants, preschool and elementary-school age children for care (including, without limitation, supervision, training or educational instruction) for periods of less than 24 hours a day.
 - (b) The child care facility shall provide care primarily to children of employees of the home while those employees are engaged in carrying out their employment with the home. The requirements of this paragraph shall be deemed satisfied so long as preference in admission to the facility shall be given to children of employees prior to the admission of any children of persons who are not employees of the home.
 - (c) The principal functions of the child care facility shall be to provide opportunities for the interaction of, and to foster an inter-generational relationship between, the elderly residents of the home and the children attending the child care facility, and to provide child care for the children of employees of the home.
 - (d) The child care facility shall be located on the same property as the home to which the facility is accessory.
 - (e) The child care facility shall provide appropriate fencing, child drop-off and pick-up areas, and other facilities, design elements or operational characteristics for the safety of the children attending the facility, as determined necessary by the Planning Commission.
 - (f) The child care facility shall be registered and licensed as required for "child care centers" or "day care centers" in accordance with the requirements of the Child Care Organizations Act (Act No. 116 of the Public Acts of 1973, as amended; MCL 722.111 et seq.).

Section 18.5 - Requirements for Gravel Removal or Solid Waste Landfill Operations.

The following shall be required in connection with any approval granted for the removal of sand, gravel, stone aggregate and other raw materials or minerals or in connection with any proposed solid waste landfill operations;

- (1) Application. In connection with any such application, the applicant shall furnish the following:
 - (a) Topographic survey map on a scale not less than one inch equaling 100 feet showing on a two foot contour interval existing grades of the land prior to any removal, grades of the proposed excavations, and the finished grades, said map to be prepared and sealed by a registered civil engineer or land surveyor.
 - (b) Detailed proposal as to method of operation and type of machinery or equipment which will be used and the estimated period of time the operation will cover.
 - (c) Detailed statement showing exactly what type of deposit it is proposed to extract or add.
 - (d) Such other information as would be reasonably required to appraise the character and nature of the proposed use.
- (2) Performance Bond. The Planning Commission shall require as a condition of its approval that the applicant file a surety bond executed by a reputable surety company authorized to do business in the State of Michigan and running to the Village in an amount established by the Planning Commission conditioned upon the prompt and complete compliance with all the provisions of this Ordinance and the requirements upon which the Planning Commission may condition its approval. The Planning Commission shall, in establishing the amount of the bond, consider the scale of the operations, the prevailing cost to rehabilitate the property upon default of the operator, court costs and other reasonable expenses. If the owner of the property and the operator of the proposed use shall be separate, each of them shall be required to execute the bond as principal.
- (3) Permits. After considering all available facts and after public hearing, the Planning Commission, if it shall determine that the proposed operation will not be injurious to the general public health, safety and welfare and after making the determinations aforesaid shall authorize the Zoning Administrator to issue a permit conditioned upon compliance with the requirements of this Article. Said permit shall be for a period of one year except that the Planning Commission may authorize a permit for removal of sand, gravel, stone aggregate, and other

raw materials or minerals for longer than one year, but not to exceed three years, if the Planning Commission finds that the removal for the additional period will not be injurious to the public health, safety, and welfare, considering the nature of the removal operation, the quantity of the raw materials or minerals to be removed, and the impact of the removal on adjacent property. Permits shall be non-transferable in whole or in part and if the property owner and the operator shall not be the same shall be issued jointly to the property owner and the operator.

- (4) Physical Requirements. In connection with any such operation the following physical requirements shall be satisfied:
- (a) No cut shall be made which creates a pit or depression in the earth closer than 50 feet measured from the nearest street, highway or alley right-of-way line nor nearer than ten feet to the nearest property line, provided, however, that the Planning Commission may prescribe more strict requirements in order to give lateral support to surrounding property where soil or geographic conditions warrant it.
 - (b) No soil, sand, clay, gravel, minerals or other materials shall be removed in such a manner as to cause water to stand or accumulate or to result in a place of danger or menace to the public health or safety. The premises shall at all times be graded so as not to interfere with proper surface water drainage.
 - (c) Where an excavation results in a temporary edge being formed which is in excess of a five-one slope, a fence shall be erected protecting that portion of the site where said edge extends, which fence shall be of wire mesh or other suitable material to afford protection to persons and property and be not less than five feet in height.
 - (d) The finished slopes of the banks of the excavation shall in no event exceed a ratio of five feet horizontal to one foot of vertical traverse.
 - (e) No roads may be used for the purpose of ingress or egress to said excavation, stripping or removal site which are located within 400 feet of occupied residences unless such roads be of a hard surface with concrete, bituminous substance, or chemically treated at sufficient intervals of time to insure that dust will be controlled.
 - (f) Wherever top soil exists suitable for growing turf or for other land use at the time the operations begin, a sufficient quantity of top soil shall be stockpiled on said site so that the entire site, when operations are completed may be covered with a minimum of four inches of top soil. Such replacement shall be in a manner suitable for growing turf or for other land uses.

- (g) When the filling and grading have been completed, the Planning Commission may require a topographic survey by a registered civil engineer or land surveyor under his seal to be submitted by the owner or operator covering the completed removal and filling operations which must be approved by the Building Inspector for compliance with the requirements of this Ordinance and the permit before release of the bond.
 - (h) Additional equipment or machinery for the operations on the premises shall not be permitted unless specifically applied for in the application and covered by the permit issued.
 - (i) The operations conducted under a permit issued as aforesaid shall be carried on only during such reasonable hours as shall be established by the Planning Commission.
 - (j) No stockpile of sand, gravel, stone aggregate or other raw materials shall remain on the site for a period longer than 30 days after the expiration of said permit.
- (5) The Planning Commission may establish such other reasonable requirements as are deemed necessary to properly protect the public health, safety and welfare and may waive or modify any of the above requirements which are not deemed requisite by the Planning Commission to protect the public health, safety and welfare.

Section 18.6 - Requirements for Group Day-Care Homes and Adult Foster Care.

The following shall be required in connection with any approval granted for a group day-care home:

- (1) The minimum lot size shall conform to the minimum lot size regulations applicable in the district in which the group day-care is located.
- (2) A group day-care home shall not be located closer than 1,500 feet (measured along a road, street or other public thoroughfare) to any of the following: another group day-care home (i.e., another facility of the same type); an adult day-care home; an adult foster care small group home or large group home, licensed by the State of Michigan; a facility offering substance abuse treatment and rehabilitation service to 7 or more people, licensed by the State of Michigan; or a community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the State Department of Corrections.
- (3) Parking shall conform to the parking regulations applicable in the district in which the group day-care home is located.

- (4) Setbacks and required yard areas shall conform to the setback and yard regulations applicable in the district in which the group day-care home is located.
- (5) Based upon the established capacity of the group day-care home, there shall be provided and maintained on the lot a minimum of 150 square feet of outdoor play area per child, with not less than 5,000 square feet of outdoor play area per facility. For purposes of this Section, outdoor play area means the area located on the lot behind the established front yard set-back of the facility which is available or devoted to outdoor activities, exclusive of any area occupied by a swimming pool. The outdoor play area shall be free from sharp gravel, glass or cinder, and shall be well-drained. The outdoor play area shall be completely enclosed by a chain link or solid fence of at least 4 feet in height, and shall be screened from any abutting residential use by vegetation having a height when planted of at least 5 feet.
- (6) Operating hours of the group day-care home shall not exceed 16 hours during any 24-hour period, and, unless specifically approved by the Planning Commission based upon a finding under the particular circumstances of no detriment to the surrounding area, shall be limited from 6 am. to 10 pm. daily.
- (7) Dormitory facilities shall not be permitted.
- (8) Signs shall conform to the sign regulations applicable in the district in which the group day-care home is located.
- (9) The property shall be maintained consistent with the visible characteristics of the neighborhood.
- (10) Child drop-off and pick-up areas, and other facilities, design elements and operational requirements shall be provided or complied with as determined necessary by the Planning Commission for the safety of the children attending the group day-care home.
- (11) The group day-care home shall be registered and licensed as required for group day-care homes in accordance with the Child Care Organizations Act, Act No. 116 of the Public Acts of 1973, MCL 722.111 et seq., as amended).

Section 18.6.1 - Requirements for Child Care Centers.

Any approval granted for a child care center shall be subject to all of the standards and requirements applicable to group day-care homes as provided by Section 18.6, except for Sections 18.6 (2), 18.6 (3) and 18.6 (11), and shall also be subject to the following standards and requirements:

- (1) Parking shall conform to the parking regulations applicable in the district in which the child care center is located, except that additional off-street parking for the facility shall be provided according to the following schedule:

Additional Children	Off-Street Parking Spaces
1-12	1
13-18	2
19-26	3
27-30	4

In addition, at least 1 off-street parking space shall be provided for each on-duty employee of the child care center.

- (2) If the child care center is located on U.S. 31, an off-street drop-off/pick-up area must be provided, including an on-site vehicle turn-around or separate entrance and exit points.
- (3) The child care center shall be registered and licensed as required for "child care centers", or "day care centers" under the Child Care Organizations Act (Act No. 116 of the Public Acts of 1973, MCL 722.11 et seq., as amended).

Section 18.6.2 - Requirements for Adult Day-Care Homes.

Any approval granted for an adult day-care home shall be subject to all of the standards and requirements applicable to group day-care homes as provided by Section 18.6, except for Sections 18.6(5), 18.6(10) and 18.6(11), and shall also be subject to the following standards and requirements.

- (1) Based upon the established capacity of the facility, there shall be provided and maintained on the lot a minimum of 150 square feet of outdoor open space area per adult receiving care, with not less than 5,000 square feet of outdoor area per facility. For purposes of this Section, outdoor open space area means the area located on the lot behind the established front yard set-back of the facility which is available or devoted to outdoor activities, exclusive of any area occupied by a swimming pool. The outdoor open space area shall be free from sharp gravel, glass or cinder, and shall be well-drained. The outdoor open space area shall be completely enclosed by a chain link or solid fence of at least 4 feet in height, and shall be screened from any abutting residential use by vegetation having a height when planted of at least 5 feet.
- (2) Drop-off and pick-up areas for adults receiving care, and other facilities, design elements and operational requirements shall be provided or complied with as determined necessary by the Planning Commission for the safety of the adults attending the facility.

Section 18.6.3 - Requirements for Adult Day-Care Centers.

Any approval granted for an adult day-care center shall be subject to all of the standards and requirements applicable to group day-care homes as provided by Section 18.6, except for Sections 18.6(2), 18.6(3), 18.6(5), 18.6(10) and 18.6(11);

Section 18.6.2(1) and 18.6.2 (2); and shall also be subject to the following standards and requirements:

- (1) Parking shall conform to the parking regulations applicable in the district in which the adult day-care center is located, except that additional off-street parking for the facility shall be provided according to the following schedule:

Additional Adults	Off-Street Parking Spaces
1-12	1
13-18	2
19-26	3
27-30	4

In addition, at least 1 off-street parking space shall be provided for each on-duty employee of the adult day-care center.

- (2) The adult day-care center is located on a major arterial street, an off-street drop-off/pick-up area must be provided, including an on-site vehicle turn-around or separate entrance and exit points.
- (3) The Adult Day care center shall be registered and licensed as required for "child care centers", or "day care centers" under the Child Care Organizations Act (Act No. 116 of the Public Acts of 1973, MCL 722.11 et seq., as amended).

Section 18.7 - Conditions of Approval.

In granting a permit for any of these special land uses, the Planning Commission may require such land area, such parking, and such greenbelt or other landscaping as, in the opinion of the Planning Commission, is adequate to protect adjacent property from any undue adverse effect and, in addition, may impose such conditions upon its approval as are stated in Article 23.5 hereof.

Section 18.8 - Performance Bonds.

Whenever, in the opinion of the Planning Commission, a performance bond is necessary to insure compliance with the terms of this Ordinance and conditions of approval, if any, an applicant for a special land use shall file a surety bond as set forth in Section 18.5 (2) and Article 3.5 hereof.

Section 18.9 - Applicability of other Requirements to Special Land Uses.

Except as otherwise provided by this Ordinance, special land uses shall be subject to the requirements of this Ordinance that are applicable in the district in which the special land use is located.

Section 18.10 - Procedure.

The following procedure shall be required for a special land use;

- (1) An application for a special land use authorized by this Ordinance may be filed by any person or governmental department having a legal interest in the property involved;
- (2) The application for a special land use shall be filed with the Village Clerk and shall include a site plan and such information as may be required to establish that the proposed use is an authorized special land use and that the requirements and conditions of this Ordinance in regard to such special land use are met. The Village Clerk shall thereupon submit such application to the Village Planning Commission.
- (3) Upon receipt of an application for a special land use, one notice that a request for special land use approval has been received shall be published in a newspaper which circulates in the Village, and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. The notice shall be given not less than 5 nor more than 15 days before the date the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different individuals, partnerships, business, or organizations, 1 occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 4 dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:
 - (a) Describe the nature of the special land use request.
 - (b) Indicate the property which is the subject of the special land use request.
 - (c) State when and where the special land use request will be considered.
 - (d) Indicate when and where written comments will be received concerning the request.
 - (e) Indicate that a public hearing on the special land use request may be requested by any property owner or the occupant of any structure located within 300 feet of the boundary of the property being considered for a special use.

- (4) At the initiative of the Planning Commission, or upon the request of the applicant for special land use authorization or a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special land use, a public hearing with notification as required for a notice of a request for special land use approval, as provided in subsection (3), shall be held before a decision is made on the special land use request. If the applicant or the Planning Commission requests a public hearing, only notification of the public hearing need be made. A decision on a special land use shall not be made unless notification of the request for special land use approval, or notification of a public hearing on a special land use request has been made as required by this Section.
- (5) The Planning Commission may deny, approve, or approve with conditions, a request for special land use approval. The decision on a special land use shall be incorporated in a statement containing the conclusions relative to the special land use under consideration which specifies the basis for the decision, and any conditions imposed.