

## CONDITIONAL USE PERMITS

### Subd. 1. Procedure.

- 1) Requests for conditional use permits, as provided for within this ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by the application fee and complimentary copies of detailed written and graphic materials fully explaining the proposed development or use.
- 2) The application shall be accompanied by a site plan of the proposed use showing such information as may be necessary or desirable, including, but not limited to, the following:
  - A. Site plan drawn to scale showing parcel and building dimensions.
  - B. Location of all buildings and their square footage.
  - C. Streets, curb cuts, driveways, access roads, parking spaces and off-street loading areas, and estimated traffic generation.
  - D. Existing topography.
  - E. Finished grading and drainage plan.
  - F. Type of business or activity and proposed number of employees.
  - G. Proposed floor plan of any building and use indicated.
  - H. Sanitary sewer and water plan with estimated use per day and stormwater management plan.
  - I. Proposed sidewalks and landscaping and lighting plans.
  - J. Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices and/or engineering to be used to overcome said limitation shall be made part of the permit application.
  - K. A location map showing the general location of the proposed conditional use within the Township.
  - L. A map showing all principal land use within three hundred fifty (350) feet of the parcel for which application is being made.
  - M. Any other information deemed necessary by the Zoning Administrator or Planning Commission.

- 3) After determining that the application has been properly filed and is complete, The Zoning Administrator shall refer said application, along with all related information, to the Township Planning Commission for consideration and a report at least fifteen (15) days before the next regular meeting.
- 4) The Planning Commission or its authorized agent shall schedule a public hearing to consider the request at a meeting following proper notification. Notice of such hearing shall be published in the official newspaper of the Township at least ten (10) days prior to the date of the hearing. An individual notice shall be sent to all property owners of record within one quarter (1/4) mile or the ten (10) properties nearest to which the request relates, whichever would provide notice to the greatest number of owners. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be attested to by the Zoning Administrator or Township Clerk and made part of official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bonafide attempt to comply with this subdivision has been made.
- 5) The Planning Commission shall consider the request and hold a public hearing at its next regular meeting unless the filing date falls within fifteen (15) days of said meeting, in which case the request would be placed on the agenda and considered at the regular meeting following the next regular meeting. The Zoning Administrator shall refer said application, along with all related information, to the Township Planning Commission for consideration. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed use.
- 6) The Planning Commission and Township staff shall have the authority to request additional information from the applicant concerning planned use of the property, operational factors, or to retain expert testimony at the expense of the applicant if determined to be necessary to establish performance conditions in relation to all pertinent sections of this ordinance.
- 7) Within sixty (60) days from the date of the public hearing, the Planning Commission shall make a finding of fact and recommend such actions or conditions to the Township Board.
  - A. The Planning Commission shall consider possible adverse affects of the proposed conditional use. Its judgement shall be based upon, but not limited to, the following general factors:

B. General Requirements.

1. Relationship to Township's Comprehensive Plan.
  2. The use will not create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
  3. The use will be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development will not be depreciated in value or otherwise adversely impacted and there will not be a deterrence to development of vacant land.
  4. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
  5. The use, in the opinion of the Township, is reasonably related to the overall needs of the Township and to the existing land use.
  6. The use is consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
  7. The use will not cause traffic hazard or congestion.
- C. Specific Requirements. In considering conditional use requests, the Planning Commission shall evaluate the use, utilizing from the requirements "a" through "p" below, those which are specific to the designated uses as indicated in Paragraph 4 below:
1. The land area and setback requirements of the property containing such a use or activity shall be the minimum established for the district.
  2. When abutting a residential use in a district permitting residences, the use shall be appropriately screened and landscaped.
  3. Where applicable, all Township, County, State and Federal laws, regulations and ordinances shall be complied with and all necessary permits secured.
  4. Signs shall not adversely impact adjacent or surrounding conforming uses.
  5. Adequate off-road parking and loading shall be provided. Such

parking and loading shall be screened and landscaped from abutting residential uses located in a district permitting residences.

6. The road serving the use or activity is of sufficient design to accommodate the proposed use or activity; and such use or activity shall not generate such traffic to create a nuisance or hazard to existing traffic or to surrounding land uses, or result in the need for excessive road improvements or maintenance.
7. All access roads, driveways, parking areas, and outside storage, service, or sales areas shall be surfaced to control dust.
8. All open and outdoor storage, sales and service areas shall be screened from view from abutting residential uses located in a district permitting residences.
9. All lighting shall be designed with shrouds or lenses to direct or diffuse light as to not have a glaring, direct source of light visible from adjacent residential areas or from the public streets.
10. The site shall be properly drained to control surface water runoff and prevent erosion.
11. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.
12. Where structures combine residential and nonresidential uses, such uses shall be separated and provided with individual outside access, and the uses shall not conflict in any manner.
13. Proximity of the tower to residential structures and residential district boundaries.
14. Location of tower and antennas to minimize the visual obtrusiveness.
15. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
16. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.

D. The conditional use permit application shall comply with the minimum specific requirements pertaining to each designated conditional use as stated below:

<u>CONDITIONAL USE</u>	<u>REQUIREMENTS</u>
Residential uses – residences, state licensed daycare and state-licensed residential.	a,c,d,e,f,g,i,j,k
Commercial uses – retail, wholesale, services	a,b,c,d,e,f,g,h,i,j,k,l
Manufacturing uses – solid waste facilities, salvage operations	a,b,c,d,e,f,g,h,i,j,k,l
Places of worship, government buildings	a,b,c,d,e,f,g,i,j
Commercial extraction of sand, gravel, minerals, rock	a,b,c,d,e,f,g,j
Home occupations	a,b,c,d,f,g,h,i,j,k

E. The Planning Commission may impose such additional restrictions or conditions as deemed necessary to protect the public interest. When appropriate, restrictive covenants may be entered into regarding such matters. These conditions, in addition to those specific requirements set forth in this section may include, but are not limited to the following:

1. Matters relating to the architecture or appearance.
2. Establishing hours of operation.
3. Increasing the required lot size or yard dimension.
4. Limiting the height, size or location of buildings.
5. Controlling the location and number of vehicle access points.
6. Increasing the street width and load capacity.
7. Increasing the number of required off-street parking spaces.
8. Limiting the number, size, location or lighting of signs.
9. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
10. Designating sites for open spaces.
11. All conditions pertaining to a specific site are subject to change when the Planning Commission or Township Board, upon investigation, finds the community safety, health, welfare, and

public betterment can be served as well or better by modifying the conditions.

- 8) Following the conclusion of the public hearing, the Planning Commission shall make a finding of fact and recommend approval, with or without conditions, or denial of the application to the Township Board.
- 9) Upon receiving the report and recommendation of the Planning Commission, such report and recommendation shall be entered in and made part of the permanent written record of the Township Board meeting. The Township Board, based on findings of fact, shall either:
  - A. Approve or disapprove the request as recommended by the Planning Commission, based upon whether the application meets the requirements stated in the ordinance.
  - B. Approve or disapprove the recommendation of the Planning Commission with modifications, alterations, or differing conditions. Such modifications, alterations or differing conditions shall be in writing and made part of the Board's records, or
  - C. Refer the recommendation back to the Planning Commission for further consideration. This procedure shall be followed only one time on a singular action.
- 10) The Zoning Administrator shall notify the applicant of the Board's action.
- 11) A certified copy of every conditional use permit shall be filed by the Zoning Administrator with the County Recorder.
- 12) The decision of the Township Board shall be final, subject to judicial review.
- 13) In the case of denial of the application, the applicant cannot reapply for the same project within six (6) months of the Board's action.

**Subd. 2.** Expiration of Conditional Use Permit by Non-Use. Whenever within one (1) year after granting a conditional use permit, the work as permitted by the permit shall not have been completed, such permit shall expire unless an extension of time in which to complete the work has been granted by the Township Board. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such a petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation

and to the Township Board for a decision and shall be requested only one time on a singular action. Upon expiration of a conditional use permit, the County Recorder shall be notified of the termination of the permit.

**Subd. 3.** Amended Conditional Use Permit. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued.

**Subd. 4.** Performance Bond. The Township Board shall have the authority to require a performance bond or other security when it is deemed necessary and appropriate.

- 1) Except in the case of non-income producing residential property, upon approval of a conditional use permit the Board may require a surety bond, cash escrow, certificate of deposit, securities, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the Township.
- 2) The security may be in the amount of the Township Board's estimated costs of labor and materials for the proposed improvements or development. Said project can be handled in stages upon the discretion of the Board.
- 3) The Township Board may hold the security until completion of the proposed improvements or development and a certificate indicating compliance with the conditions and ordinances of the Township has been issued by the Zoning Administrator.
- 4) Failure to comply with the conditions of the conditional use permit and/or ordinances of the Board may result in forfeiture of the security.

## INFORMATION TO BE INCLUDED WITH CONDITIONAL USE APPLICATION

- A. Site plan drawn to scale showing parcel and building dimensions.
- B. Location of all buildings and their square footage.
- C. Streets, curb cuts, driveways, access roads, parking spaces and off-street loading areas, and estimated traffic generation.
- D. Existing topography.
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