

CHARTER TOWNSHIP OF BREITUNG

ARTICLE VII CONDITIONAL USE PERMITS

Section 701 Intent

Until recent years, the regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more districts. However, 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. It should be recognized that 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 controllable and reasonable flexibility in requirements for certain kinds of uses, but that will, at the same time, maintain adequate provision for the security of the health, safety, convenience and general welfare of the community's inhabitants.

In order 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, 702 through 705, together with previous Sections, 308 through 316, designate what uses require a Conditional Use Permit. With any exception noted, the procedures for obtaining such a permit apply to all Conditional Uses indicated.

Section 702 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) Data Required in Application: Every application shall be accompanied by one copy of the following information and data:
 1. Conditional Use form supplied by the Zoning Administrator filled out by the applicant.
 2. Site Plan drawn to a readable scale and containing that information specified in Section 603 and or Section 604.
 3. A statement with supporting evidence regarding the required findings specified in Section 704.

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- (D) Upon receipt of such materials by the Zoning Administrator, the Township shall transmit one copy to the Road Commission, Drain Commissioner, Health Department, and School District, as deemed appropriate, for their review and comment. Each agency shall review the document and forward any comments to the Zoning Administrator. The Zoning Administrator shall transmit a copy of the Site Plan 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 terms and conditions of the permit are met by all 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 the 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 development of a Conditional Use Permit has 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.

Section 703 Review and Findings

- (A) ***Planning Commission Public Hearing: The Planning Commission shall conduct a public hearing on the application at a regular or special meeting. The Zoning Administrator shall cause to be published one (1) notice of the public hearing, in accordance of the provisions set forth in Section 1002.***
- (B) **Planning Commission Action:** The Planning Commission shall approve, approve with conditions, or reject the application within sixty (60) days of the hearing based upon materials received and testimony recorded at the public hearing. The Planning Commission shall set forth the reasons 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 as have been 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. Compliance shall occur prior to the commencement of the use, unless a specified time is set in the motion granting the Conditional Use Permit.
- (C) **Appeals:** Any appeals concerning an unfavorable action by the Planning Commission shall be made by filing a notice of appeal with the Zoning Administrator pursuant to Section 1106.

Section 704 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;

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- (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 result in a decline or erosion of land values, or the value of buildings or structures within 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; and
- (I) Will be consistent with the intent and purpose of the specific zoning district in which it is located.

Section 705 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 judgment 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 who will utilize 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 704 of this Ordinance and therefore be necessary to meet the intent and purpose of the regulations contained therein.
- (B) Conditions and requirements stated as part of a 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 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

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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 procedures as original approval to the effect that:
 - 1. Such conditions as may have been prescribed in conjunction with 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 an 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 thereto.
- (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 one year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify consideration by the Planning Commission.
- (H) The foregoing general standards are basic to all Conditional Uses; and the specific requirements accompanying sections relating to particular uses are in addition to and shall be required in all applicable situations.