

# **Chapter 11 – Conditional Use**

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## **SECTION 11.01 INTENT**

The Conditional Use Permit review procedures are instituted to provide an opportunity for the Township Planning Commission to review a proposed use that due to its characteristics may, or may not be appropriate for a given site within a zoning district. The procedure is intended to analyze the proposed uses potential impact on surrounding land uses, traffic patterns, environmental features and other community characteristics to determine its suitability for the site and any necessary conditions required to mitigate the impacts.

## **SECTION 11.02 WHEN A CONDITIONAL USE PERMIT IS REQUIRED**

The establishment of use listed under the district regulations, as requiring a conditional use permit, or any expansion of such a use requires review and approval as outlined in this chapter.

## **SECTION 11.03 REQUIRED INFORMATION**

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

- A. A completed Tuscola Township Conditional Use Permit application form, signed by the applicant.
- B. Six copies of a complete site plan\* meeting the requirements of Chapter 10 Section 10.03.
- C. All necessary fees, as established by the Township Board\*.

## **SECTION 11.04 WHO APPROVES CONDITIONAL USE PERMITS**

Conditional Use Permit applications are reviewed and approved by the Township Planning Commission.

## **SECTION 11.05 CONDITIONAL USE PERMIT REVIEW PROCESS**

- A. Planning Commission Conditional Use Permit

The applicant shall submit the Conditional Use Permit Application to the Zoning Administrator, Planning Commission chairperson, or in person at a regular meeting of the Planning Commission. Prior to the Planning Commission making a determination on an application, the liaison officer shall within 5 working days of receiving the conditional use permit application at a Planning Commission meeting submit copies to the County Sheriff's department, fire department, County

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Road Commission, County Planning Commission and County Drain Commission who shall review and submit their comments to the Planning Commission within 10 working days.

### B. Public Hearing

Upon receipt of an application for a Conditional Use Permit, 6 copies of the site plan\* and payment of applicable fees, the Planning Commission or Planning Commission Chairperson will schedule a public hearing for a Planning Commission meeting at which the Conditional Use Permit Application will be reviewed. Public notice of the hearing will be given as required by Section 3.01 of this ordinance.

### C. Consultant Review

In those instances where the Planning Commission determines it necessary, the township may submit a site plan for review by a professional consultant. The cost of this consultant review shall be paid by the applicant, provided an estimate of the review cost is obtained from the consultant and provided to the applicant in advance. Upon receiving estimate of the consultant review cost, the applicant may withdraw the application if he/she wishes.

### D. Planning Commission Decision

Following a public hearing, the Planning Commission shall do one of the following:

1. Approve the Conditional Use Permit.
2. Approve the Conditional Use Permit with conditions.
3. Table the Conditional Use Permit pending required additional information.
4. Disapprove the Conditional Use Permit.

### E. Statement of Findings

Following a determination of approval or denial of a Conditional Use Permit application, the Planning Commission Chairperson shall indicate the decision in writing on two copies of the site plan. This statement of findings and conclusions shall specify the basis for the conclusion and identify any conditions attached to approval, reasons for denial shall be listed on the two site plans. Both copies of the site plan with the Planning Commission decision documented will be signed by 2 members of the Planning Commission. The applicant, or the applicant's representative if the applicant is not present, will also sign both copies of the site plan with the statement of findings to indicate that he/she has received a copy of the Planning Commission's decision. One copy of the signed and dated site plan will be given to the applicant as the official notice of the Planning Commission's decision.

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A record of the decision shall be filed with the township clerk, including:

1. A copy of the submitted application.
2. The second copy of the site plan\* indicating the Planning Commission's determination.
3. A copy of any meeting minutes related to the application.
4. A copy of any other relevant records related to the application.

The Planning Commission shall approve or disapprove a Conditional Use Permit within 70 days following the date of the public hearing.

### F. Appeal of Site Plan Decision

Any person\* aggrieved by the decision of the Planning Commission in granting or denying a Conditional Use Permit may appeal the decision to the Zoning Board of Appeals\*. The appeal must be filed within twenty-one days of the decision and state the basis for the appeal.

### **SECTION 11.06 CONDITIONS**

Conditions may be placed on the conditional use permit necessary to ensure the proposed use's compatibility with surrounding land uses. These conditions must be directly related to the impacts expected from the proposed use and reasonably proportional to those impacts.

### **SECTION 11.07 CHANGES TO APPROVED SITE PLANS**

All work conducted in relation to a project with an approved Conditional Use Permit and related site plan shall be in conformance to that permit and site plan. All changes to an approved conditional use permit must be reviewed and approved following the same procedures, as its original approval.

### **SECTION 11.08 EXPIRATION OF SITE PLAN APPROVAL**

Approval of a Conditional Use Permit shall expire within one year of approval if a building permit has not been applied for and construction begun based on the permit.

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### SECTION 11.09 BASIS OF DETERMINATION

Prior to approval of a conditional use application and required site plan\*, the Planning Commission shall insure that the standards specified in this sub-section, as well as applicable standards established elsewhere in this ordinance, shall be satisfied by the completion and operation of the conditional use under consideration.

#### A. General Standards

The Planning Commission shall review the particular circumstances of the conditional use request under consideration in terms of the following standards, and shall approve a conditional use request only upon a finding of compliance with each of the standards, as well as applicable standards established elsewhere in this ordinance:

1. The proposed conditional use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.
2. The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle interfacing.
3. The proposed use shall be designed as to the location, size intensity, site layout and periods of operation of any such proposed use to eliminate any possible nuisance emanating there from which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.
4. The proposed use shall be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
5. The conditional use shall not place demands on public services and facilities in excess of current capacity.
6. The proposed use shall be so designed, located, planned and operated that the public health, safety and welfare will be protected.

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7. The proposed use shall not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or permitted land uses in the zoning district.