

**8-4-7: CONDITIONAL USE PERMITS:**

- A. **Application:** An application for a conditional use permit shall be filed with the Planning Director thirty (30) days prior to the regularly scheduled meeting of the Planning Commission.

- B. Notice to Commission or Natural Resources:** The Commissioner of Natural Resources shall receive at least ten (10) days' notice of hearings for conditional uses for flood plain or shoreland areas.
- C. Findings and General Review Standards:** No conditional use permit shall be approved by the Planning Commission unless the following general standards have been considered and written findings have been made:
1. **Effect of Use:** In granting a conditional use, the Planning Commission shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands, existing and anticipated land uses, traffic conditions including parking facilities on adjacent streets and land, and the effect on agricultural usage and values of property and scenic views in the surrounding areas, and the effect of the proposed use on existing comprehensive plans.
  2. **Use and Enjoyment of Other Property:** The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, and not substantially diminish or impair property values within the immediate vicinity.
  3. **Development of Surrounding Property:** The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
  4. **Utilities, Access Roads, Drainage, Off-Street Parking and Loading Spaces:** Adequate measures have been or will be taken to provide utilities, access roads, drainage and off-street parking and loading spaces.
  5. **Nuisance Conditions:** Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, water pollution and soil erosion, so that none of these will constitute a nuisance, and to control lighted signs or other lights in such manner that no disturbance to neighboring properties will result.
  6. **Burden on Current and Anticipated Public Services:** The use will not create an excessive burden on current or anticipated parks, schools, public safety services, streets, water supply, sanitary sewers and storm sewers and other public facilities or utilities which serve or are proposed to serve the area.
  7. **Compatibility:** The use will be sufficiently compatible or separated by distance or screening from adjacent agriculturally zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to agricultural use of said land.
  8. **Appearance of Structure and Site:** The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
  9. **Relationship to Overall Needs:** The use is, in the opinion of the Planning Commission, reasonably related to the overall needs of the district and to the existing land use. In the case of flood plain areas, the proof that the location is necessary for facility operation and that alternative sites not susceptible to flooding are not available.
  10. **Consistency with Ordinance:** The use is consistent with the purposes of this Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
  11. **Conflict with Comprehensive Plans:** The use is not in conflict with the comprehensive plan, if any, of the township or city or County.
  12. **Traffic Hazards, Congestion in Flood Plain Areas:** The use will not cause traffic hazards or

congestion and in flood plain areas has access during flooding for ordinary and emergency vehicles.

13. **Existing Businesses:** Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.

**D. Authorization and Conditions for Authorization:**

**1. Action by Planning Commission:**

- a. **Time Limitation:** Following the closing of the public hearing, the Planning Commission shall take action on the conditional use permit application within sixty (60) days.
- b. **Official Submission Date:** For the purpose of this provision, the date of the public hearing shall constitute the official submission date.
- c. **Forwarding to Commissioner of Natural Resources:** Copies of all decisions granting conditional use permits in flood plain or shoreland areas shall be forwarded to the Commissioner of Natural Resources within ten (10) days of that decision.

2. **General Conditions and Requirements:** In permitting a new conditional use, or the alteration of a conditional use, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which they consider necessary to protect the best interest of the surrounding area and County as a whole. These conditions may include, but are not limited to, the following:

- a. Increase the required lot size or yard dimension.
- b. Limiting the height, size or location of buildings.
- c. Controlling the location and number of vehicle access points.
- d. Increasing the street width.
- e. Increasing the number of required off-street parking spaces.
- f. Limiting the number, size, location or lighting of signs.
- g. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- h. Designating sites for open space.

3. **Specific Conditions:** Additional development conditions and requirements for specific conditional uses in Article \_\_ of this Ordinance shall be met in addition to the general review standards in this section.

**E. Standards for Shoreland Conditional Uses:** Conditional uses in shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established communitywide. A thorough evaluation of the water body and the topographic, vegetation, and soils condition on the site must be made to ensure:

1. **Susceptibility to Flood Damage:** That the facility, its contents, and its water supply and sanitary system are not susceptible to flood damage and during flooding will not contribute to the creation of disease, contamination, and other unsanitary conditions.
2. **Increased Flood Heights or Velocities:** Life and property will not be endangered due to increased flood heights or velocities caused by encroachment into the floodway.

3. **Dangerous Materials:** During flooding dangerous materials will not be swept downstream and cause injury to others.
  4. **Soil Erosion:** The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
  5. **Visibility of Structures:** The visibility of structures and other facilities as viewed from public waters is limited;
  6. **Water Supply; Sewage Treatment:** The site is adequate for water supply and on-site sewage treatment; and
  7. **Watercraft:** The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
- F. **Conditions Attached to Conditional Use Permits in Shoreland Areas:** The Planning Commission, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
1. **Setbacks:** Increased setbacks from the ordinary high water level;
  2. **Vegetation:** Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
  3. **Special Provisions:** Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- G. *Reserved for future use*
- H. *Reserved for future use*
- I. **Conditional Use Procedures for All Flood Plain Zoning Districts:**
1. **Information Required:** Require the applicant to furnish such of the following information and additional information as deemed necessary by the County Planning Commission for determining the suitability of the particular site for the proposed use:
    - a. **Plans:** Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the stream channel.
    - b. **Specifications:** Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
    - c. **Transmittal to Engineer:** Transmit one copy of the information described in subsection I. 1. a. of this Section to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
    - d. **Determination of Flood Hazard:** Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
  2. **Considerations:** In passing upon conditional use applications, the Planning Commission shall consider all relevant factors specified in other sections of this Ordinance; and:

- a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- b. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- e. The importance of the services provided by the proposed facility to the community.
- f. The requirements of the facility for a waterfront location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- l. Such other factors which are relevant to the purposes of this Ordinance.

**3. Conditions Attached in Flood Plain Districts:**

- a. **Duty to Prescribe:** In granting a conditional use permit the County Planning Commission shall prescribe appropriate conditions and safeguards, in addition to those specified below, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Ordinance punishable under Section 8-4-9 of this Chapter. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- b. **Conditions Applied:** Conditions applied to a permit may include, but are not limited to, the following:
  - (1) Modification of waste treatment and water supply facilities.
  - (2) Limitations on period of use, occupancy, and operation.
  - (3) Imposition of operational controls, sureties, and deed restrictions.
  - (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
  - (5) Floodproofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.