

# *article XVII*

## *Conditional Uses*

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### **SECTION 1700 APPLICABILITY**

Borough Council shall have the power to approve conditional uses when this Ordinance specifically requires the obtaining of such approval. Their decision shall be in accordance with the following provisions.

### **SECTION 1701 CONDITIONAL USE APPLICATION**

The following provisions shall govern conditional use applications:

- A. The applicant shall make a written request to Borough Council that it hold a hearing on the conditional use application. The request shall contain a statement reasonably informing Borough Council of the matters that are at issue and the proposed use of the building or land.
- B. The application for a conditional use permit shall be filed with Borough Council, through the Borough Secretary, and shall include the application form, required fee, and four (4) copies of the following information:
  1. General Information
    - a. Name and address of the owner and/or applicant;
    - b. Present zoning classification, present use, and existing improvements for the site in question;
    - c. Section of this Ordinance authorizing the proposed conditional use; and
    - d. The capacity and arrangement of all buildings used or intended to be used for dwelling purposes, including the proposed density in terms of number of dwelling units per acre of land.
  2. Site Plan Information
    - a. A site layout plan drawn to scale (1"=100' or larger) showing the location, dimensions, and height of proposed buildings in relation to property and street lines. If the application relates to property scheduled to be developed in successive stages, such plans shall show the relationship of the portion scheduled for initial development to the proposed layout of the property;
    - b. Natural resource information as required in Section 1402;

- c. The location, dimensions, and arrangements of all required open space, setbacks, and buffer yards, including methods employed for screening; and
  - d. The location, size, arrangement, and capacity of all areas to be used for motor vehicle access, off-street parking, off-street loading and unloading, and provisions to be made for lighting such areas.
3. Site Improvements
- a. The location, dimensions, and methods of illumination for signs, if applicable;
  - b. The location and dimensions of sidewalks and all other areas to be devoted to pedestrian use;
  - c. Provisions to be made for treatment and disposal of sewage and industrial wastes, water supply, and storm drainage. Provisions for stormwater management shall be made in compliance with the Spring City Subdivision and Land Development Ordinance;
  - d. Where commercial or industrial uses are proposed, a description of the proposed operations in sufficient detail to indicate effects of those operations in producing noise, glare, air pollution, fire hazards, traffic congestion, or other safety hazards; and
  - e. A description of methods to be employed in controlling any excess noise, air pollution, smoke, fumes, water pollution, fire hazards, or other safety hazards.
4. Any other data deemed necessary by the Code Enforcement Officer, Planning Commission, or Borough Council to enable them to determine the compliance of the proposed development with the terms of this Ordinance.

***SECTION 1702 REVIEW PROCEDURES FOR CONDITIONAL USES***

The following provisions shall govern the review provisions for conditional uses:

- A. Borough Council shall request an advisory opinion from the Planning Commission on any application for a conditional use; the Planning Commission is to submit a report of such advisory opinion prior to the date of the public hearing held by Borough Council on an application. The Planning Commission may request a report from the Borough Engineer.
- B. Borough Council shall hold a public hearing pursuant to public notice. The public hearing and review process shall conduct hearings and make decisions in accordance with the following procedures:

1. Notice of the public hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the date of the hearing;
  2. Borough Council shall conduct its first hearing on the application within sixty (60) days from the date the complete application was filed with the Borough Secretary unless the applicant waives this requirement or extends the time limit;
  3. The parties to the hearing shall be the Borough, any person affected by the application who has made a timely appearance on the record before Borough Council, and any other person, including civic or community organizations permitted to appear by Borough Council. Borough Council shall have the power to require that all persons who wish to be considered parties enter appearances in writing;
  4. The President or Acting President shall have power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents and papers;
  5. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded by Borough Council;
  6. Borough Council shall keep a stenographic record of the proceedings and a transcript of the proceedings and copies of the graphic or written material received in evidence shall be made available to any party at cost;
  7. Borough Council shall render a written decision within forty-five (45) days after the last hearing before Borough Council. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for the final decision;
  8. A copy of the final decision shall be delivered to the applicant and the parties before Borough Council personally or mailed to them not later than the day following the decision;
  9. Nothing in this Section shall be construed to relieve the applicant for a conditional use permit from obtaining other required approvals mandated by other Borough ordinances, County, State, or Federal legislation; and
  10. Appeals from a determination of Borough Council pursuant to any application for a conditional use shall be only as prescribed within such times permitted by the applicable provisions of Act 247, the Municipalities Planning Code, as amended.
- C. When a proposed conditional use also requires subdivision or land development review and approval, the applicant shall first secure conditional use approval prior to submitting the subdivision or land development application.

**SECTION 1703 GENERAL CONDITIONS FOR APPROVAL**

The following provisions shall govern the approval of conditional uses:

- A. In granting a conditional use, Borough Council shall make findings of fact consistent with the provisions of this Ordinance. Borough Council shall not approve a conditional use except in conformance with the conditions and standards outlined in this Ordinance.
  
- B. Borough Council shall grant a conditional use only where it finds adequate evidence that any proposed development submitted will meet specific requirements and standards listed herein for the proposed use, as well as the following general objectives. The applicant shall be responsible for demonstrating compliance with all applicable ordinance standards and objectives in narrative and plan form.
  - 1. The proposed use is consistent with the Objectives of Section 102, Community Development Objectives, of this Ordinance and the policies of the Spring City Borough Comprehensive Plan.
  - 2. The proposed use is suitable for the property in question and will be designed, constructed, operated, and maintained so as to be in harmony with and appropriate in appearance to the character of the neighborhood.
  - 3. The proposed use will serve the best interests of the Borough, the convenience of the community, and the public welfare.
  - 4. The proposed use is suitable in terms of its effect on highway traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.
  - 5. The interior traffic circulation shall provide safe and convenient circulation for all users, including pedestrian and vehicular modes of transit. In addition, all emergency access design considerations shall be addressed and incorporated into the proposed plan.
  - 6. The proposed use is in conformance with all applicable requirements of this Ordinance and all municipal ordinances.
  - 7. The proposed use is compatible with site conditions in accordance with sound standards of subdivision and land development practices, where applicable.
  - 8. There will be no adverse effect of the proposed conditional use upon the logical, efficient, and economical extension of public services and facilities, such as public water, sewers, police and fire protection, recreational opportunities, and public schools.

9. Where applicable, sanitation and public safety provisions shall be adequate and a certificate of adequacy of sewage and water facilities from a governmental health agency shall be provided where required or deemed necessary.
- C. In addition to the above criteria, Borough Council may also attach such reasonable conditions and safeguards as it may deem necessary to achieve the purposes of this Ordinance and the Spring City Borough Comprehensive Plan. Such conditions shall be applied to the specific use and site in question. The applicant shall be responsible for demonstrating compliance with the additional standards and criteria required for conditional use approval.