

# Code of Ordinances Borough of Manheim

## Chapter 20 Zoning Article VII

### § 220-122 Conditional uses.

[Amended 1-30-1996 by Ord. No. 539]

#### **A.**

Filing of conditional use. For any use permitted by conditional use, a conditional use must be obtained from the Borough Council. In addition to the information required on the building permit application, the conditional use application must show:

##### **(1)**

Ground floor plans and elevations of proposed structures.

##### **(2)**

Names and addresses of adjoining property owners, including properties directly across a public right-of-way.

##### **(3)**

A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this chapter.

##### **(4)**

A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this chapter.

#### **B.**

General standards for Borough Council review of conditional use applications. In the consideration of a conditional use application, each the applicant must shall demonstrate to Borough Council, by credible evidence, compliance with the following:

[Amended 7-12-2011 by Ord. No. 622]

##### **(1)**

That the proposed use shall comply with those criteria specifically attached to it. In addition, the proposed use must comply with all other applicable regulations. Applicant shall provide the Borough Council sufficient plans, studies or other data to demonstrate compliance with all applicable regulations.

##### **(2)**

The suitability of the property for the use desired and that the proposed use is consistent with the spirit, purpose and intent of the Zoning Ordinance, the Comprehensive Plan, and other relevant plans adopted by the Borough Council.

##### **(3)**

That the proposed use will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood, and that the use of the adjacent property is adequately safeguarded.

##### **(4)**

Adequate public facilities are available to serve the proposed use, including, but not limited to, public water, sewers, other utilities, police and fire protection, parks, recreation and public schools, and that there is no substantial adverse effect on these public facilities.

##### **(5)**

That the proposed use will not have a substantial adverse effect on the congestion of streets and highways or upon traffic levels of service or any hazards arising therefrom. The Borough Council may require the applicant to submit a traffic study, prepared by a qualified traffic engineer, to satisfy this requirement. The Traffic Report should contain the probable effects upon traffic and pedestrian movements and assure adequate access and circulation arrangements in order to protect major roads from undue congestion and hazard.<sup>[1]</sup>

[1]

*Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

**(6)**

That the proposed conditional use shall be in and of itself properly designed with regard to internal vehicular and pedestrian circulation, parking, buffering, and all other elements of proper design as specified in the Zoning Ordinance and any other governing law or regulation, study, review and recommendation by sound standards of zoning and land development practice, where applicable.

**(7)**

That the proposed use shall be in the best interest of the Borough and for the convenience of the community and shall not adversely affect the general welfare of the community.

**C.**

Conditions. The Borough Council, in approving conditional use applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zone. These conditions shall be enforceable by the Codes Compliance Officer, and failure to comply with such conditions shall constitute a violation of this chapter and be subject to the penalties described in this article.

**D.**

Site plan approval. Any site plan presented in support of the conditional use pursuant to § 220-122A shall become an official part of the record for said conditional use. Approval of any conditional use will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a building permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan shall require the obtainment of another conditional use approval.

**E.**

Hearing procedures.

**(1)**

Before voting on the approval of a conditional use, the Borough Council shall hold a public hearing thereon, pursuant to public notice. The Borough Council shall submit each such application to the Borough Planning Commission to provide the Borough Planning Commission with an opportunity to submit recommendations.

**(2)**

Public notice, as defined herein, and written notice shall be given to the applicant, the Codes Compliance Officer, such other persons as the Borough Council shall designate by ordinance, and to any person who has made timely request for the same. Written

notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the Borough Council.

**(3)**

The Borough Council may prescribe reasonable fees with respect to hearings.

**(4)**

The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Borough Council, and any other person, including civic or community organizations, permitted to appear by the Borough Council. The Borough Council shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Borough Council for that purpose.

**(5)**

The President or Acting President of the Borough Council shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

**(6)**

The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

**(7)**

Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.

**(8)**

The Borough Council may keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be paid by the applicant. The cost of the original transcript shall be paid by the Borough Council if the transcript is ordered by the Borough Council, or shall be paid by the person appealing the decision of the Borough Council if such appeal is made and, in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.

**F.**

Time limitation.

**(1)**

If a conditional use is granted, the necessary permit shall be secured within six months. Then the applicant shall commence construction or some other authorized action within six months of permit issuance. All construction or other authorized actions shall be completed within 12 months of permit issuance; however, the Board may, upon written application for good cause, grant an additional six-month extension from the date of permit issuance.

**(2)**

Should the appellant or applicant fail to obtain the necessary permits within said six-month period or having obtained the permit should he fail to commence work thereunder within such six-month period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn or abandoned his application, and all

approvals and permits granted to him shall be deemed automatically rescinded by the Borough Council.

**(3)**

Should the appellant commence construction or alteration within said six-month period but should he fail to complete such construction or alteration within said twelve-month period, the Borough Council may, upon 10 days' notice, in writing, rescind or revoke the granted conditional use if the Borough Council finds that no good cause appears for the failure to complete within such twelve-month period and if the Borough Council further finds that conditions have so altered or changed in the interval since the granting of the conditional use that revocation or rescission of the action is justified.<sup>[2]</sup>

[2]

*Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*