

**CHAPTER 730
Conditional Zoning Certificates**

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Sec. 730.1 INTENT.

When a proposed use is permitted in a zoning district as a conditional use, as set forth in the district regulations, a conditional zoning certificate is required and the application for such conditional zoning certificate shall be submitted and reviewed according to the guidelines outlined in this chapter.

Sec. 730.2 SUBMISSION OF APPLICATION.

The owner, or agent thereof, of property for which such conditional use is proposed shall file with the Zoning Inspector an application for a conditional zoning certificate accompanied by payment of the required nonrefundable fee established by the Trustees. The application for a conditional zoning certificate shall disclose all uses proposed for the development, their location, extent and characteristics and shall include the following:

- A. The application form completed by the applicant.
- B. A development plan and associated documentation as required in Chapter 720 unless specific items are determined by the Zoning Inspector to be inapplicable or unnecessary and are waived in writing by the Zoning Inspector.
- C. Additional plans, where appropriate, for reclamation.
- D. A statement supported by substantiating evidence regarding the requirements enumerated in Chapter 450.
- E. A list of the names and addresses of the owners of all properties within and contiguous to and directly across the street from the subject parcel, as appearing on the County Auditor's current tax list or the Treasurer's mailing list and such other list or lists as may be required. (Effective June 22, 2006)

Sec. 730.3 REVIEW FOR COMPLETENESS.

The Zoning Inspector shall review each submitted application for completeness according to Sec. 710.4. Once an application is officially accepted as being complete, it shall be placed on the agenda of the Board of Zoning Appeals.

Sec. 730.4 DISTRIBUTION OF APPLICATION.

The Zoning Inspector shall forward the application to the following for their review and comment. All reports, comments, or expert opinions shall be returned to the Zoning Inspector.

- A. The application may be transmitted to appropriate Township and County administrative departments or officials and qualified professional consultants for review and comment. The cost of the review by a consultant shall be paid by the applicant.
- B. The application and any department reports, comments or expert opinions shall be compiled by the Zoning Inspector and transmitted to the Board of Zoning Appeals for review at their next regularly scheduled meeting.

Sec. 730.5 NOTICE TO ZONING COMMISSION.

Simultaneously to transmission of the application to the Board of Zoning Appeals, the Zoning Inspector shall send notice of the application for conditional zoning certificate to the Zoning Commission.

Sec. 730.6 PUBLIC HEARING AND NOTICE BY BOARD OF ZONING APPEALS.

After adequate review and study of an application, the Board of Zoning Appeals shall set a date for a public hearing on the application and hold a public hearing. At least 10 days prior to the date of the public hearing, notice of such public hearing shall be given by first class mail to the owners of property within and contiguous to and directly across the street from the property on which the use is proposed, including property that is located in an adjoining community. Failure of delivery of such notice shall not invalidate action taken on such application. Further notice shall be given in one or more newspapers of general circulation in the Township at least 10 days before the date of said public hearing. All notices shall set forth the time and place of the public hearing and the nature of the proposed conditional use.

The Board may recess such hearing and, if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice shall be required. Any person may appear before the Board at the public hearing on the application and state their reasons for or against the proposal.

Sec. 730.7 REVIEW CRITERIA. (Revised 01/12/17)

The Board of Zoning Appeals shall review the proposed conditional use, as presented on the submitted plans and specifications, to determine whether or not the proposed use is appropriate and in keeping with the purpose and intent of this Zoning Resolution. In making such a determination, the Board of Zoning Appeals shall find that both the general criteria established for all conditional uses and the specific requirements established for that particular

use, as set forth in Chapter 450 of this Resolution, are satisfied by the establishment and operation of the proposed use. The Board of Zoning Appeals:

- A. Shall review any request for variance of any regulation set forth in this Zoning Resolution pertaining to the proposed conditional use, provided the request for variance has been submitted in compliance with the procedures set forth in the Zoning Resolution
- B. May require the applicant to submit such additional information as deemed necessary including the carrying out of special studies and the provisions of expert advice. The cost of such additional information shall be borne by the applicant, as stated in the schedule of fees. (Effective June 22, 2006)

Sec. 730.8 ACTION BY BOARD OF ZONING APPEALS.

After the conclusion of the public hearing, the Board of Zoning Appeals shall take one of the following actions:

- A. If the proposed conditional use is determined by the Board of Zoning Appeals to be appropriate, the Board of Zoning Appeals shall approve the application for a conditional zoning certificate.
- B. If the proposed use is found not to be in compliance with the specifications of this Zoning Resolution, or not appropriate to or in keeping with the purpose, policies and intent of the Montville Township Development Plan, the Board of Zoning Appeals shall reject the application.

Sec. 730.9 MANDATORY REVIEW OF CONDITIONAL USE OPERATIONS.
(Revised 4/21/11)

- A. Whenever the operation of the approved conditional use is regulated either by conditions set forth in this Chapter or by conditions, stipulations, safeguards and limitations prescribed by the Board of Zoning Appeals, (Effective June 22, 2006) the Zoning Inspector shall review the operation of the conditional use not more than three years from the date of issuance to determine if the use has been and is being operated in compliance with the conditions of the conditional zoning certificate.
- B. Subdivision/Developments: Every three years, the conditional zoning certificate for a development/subdivision shall be reviewed for compliance by the Board of Zoning Appeals to determine that the said use has been and is being operated according to the specifications of the Zoning Resolution and the conditional zoning certificate. The three-year compliance review shall be removed when the approved development/subdivision plan has been completed and turned over to the homeowners' association if applicable.

Sec. 730.10 TERMS AND DURATION OF CONDITIONAL ZONING CERTIFICATE.

A conditional zoning certificate shall be deemed to authorize a particular conditional use on a specific parcel for which it was approved.

- A. A conditional zoning certificate shall become void at the expiration of one year from the date of approval unless, prior thereto, construction is begun, or an extension has been granted by the Zoning Inspector. The date of expiration shall be noted on the zoning certificate.
 - 1. Upon showing valid cause, the Zoning Inspector may grant an extension of the conditional zoning certificate for a period not to exceed 6 months.
 - 2. If no construction has begun within one year from the date of approval and an extension has not been granted, a new application and certificate shall be required. Construction is deemed to have begun when all necessary excavation and piers or footers of the structure included in the application have been completed.
- B. The breach of any condition, safeguard or requirement shall constitute a violation of the Zoning Resolution and may invalidate the conditional zoning certificate granted. Such violation shall be punishable as permitted by the Ohio Revised Code. A conditional zoning certificate issued pursuant to this Chapter shall be valid only for the use and the operation of such use as specified on the certificate.

Sec. 730.11 REAPPLICATION.

No re-application for a conditional zoning certificate shall be accepted by the Zoning Inspector until the expiration of one year after the denial or revocation, unless the re-application is based on a change in circumstances from the time of the previous public hearing, sufficient to justify another hearing as determined by the Board of Zoning Appeals. A re-application shall comply with all the requirements of this Chapter, including payment of the required fee.

Sec. 730.12 CHANGE TO AN EXISTING CONDITIONALLY PERMITTED USE.

Any change to a use that was existing at the time of passage of this Zoning Resolution Update and which is conditionally permitted in the respective zoning district, shall require review and approval by the Board of Zoning Appeals according to the procedures set forth in this Chapter.