

ORDINANCE NUMBER 217

ZONING ORDINANCE ARTICLE 17: SPECIAL LAND USES

SECTION 17-3 APPLICATION PROCEDURE and;

SECTION 17-4 DESIGNATED REVIEW AUTHORITY AND APPROVAL PROCEDURE and;

Section 17-6 VALIDITY OF SPECIAL USE PERMIT APPROVAL

AN ORDINANCE TO AMEND THE CITY OF NEW BUFFALO ZONING ORDINANCE ARTICLE 17 "SPECIAL LAND USES," SECTION 17-3 "APPLICATION PROCEDURE" and; SECTION 17-4 "DESIGNATED REVIEW AUTHORITY AND APPROVAL PROCEDURE" and; SECTION 17-6 "VALIDITY OF SPECIAL USE PERMIT APPROVAL."

THE CITY OF NEW BUFFALO ORDAINS:

SECTION 17-3 APPLICATION PROCEDURE

- A. Applicant. Any person owning or having an interest in the subject property may file a written application for one or more special land use permits as provided for in this Ordinance.
- B. Application and Fee. The following materials shall be submitted to the Zoning Administrator at least twenty-one (21) days prior to the meeting at which the Planning Commission first considers the special land use application. Sufficient copies of the application, site plan, and other written and graphic instruments shall be provided in accordance with the requirements set forth by the Planning Commission:
 - 1. Payment of the required fee.
 - 2. Copies of a site plan meeting the requirements of Article 19.
 - 3. Completed and signed application form. A notarized, written statement from the property owner indicating his/her permission to submit such application, if the applicant is not the owner.

SECTION 17-4 DESIGNATED REVIEW AUTHORITY AND APPROVAL PROCEDURE

- A. Recommendation by Planning Commission. The Planning Commission shall review and make recommendations to the City Council for approval, approval with conditions or denial for all special land uses.
 - 1. Following the submission of the required application materials the Planning Commission shall hold a public hearing in accordance with the City of New Buffalo Zoning Ordinance and applicable State of Michigan Statutes and provide a written recommendation for final review and approval by City Council.

2. The Planning Commission recommendation to City Council shall include written analysis for finding of fact of each standard for approval under Section 17-2 as well as specific design standards as applicable under Section 17-8.
3. The Planning Commission shall review the application in terms of the standards of Section 17-2, as well as any specific standards required for the special land use as noted under Section 17-8 and shall recommend in writing to the City Council for Council final approval, approval with conditions, or denial of the application.
4. Upon approval of a special land use application and accompanying site plan by City Council, the Zoning Administrator shall issue a special land use permit consistent with the City of New Buffalo Zoning Ordinance, Master Plan, State law and the terms and conditions approved by City Council.
5. In the event the City Council does not agree with the Planning Commission's recommendation for action by the City Council, the City Council shall include each of the following parts in their action.
 - a. A finding of fact, listing what the City Council determines to be relevant facts in the case in order to eliminate misleading statements, hearsay, irrelevant and untrue statements.
 - b. Conclusions to list reasons based on the facts for the City Council's action, often directly related, or not, to a finding of compliance, or non-compliance, to standards.
 - c. The City Council's action; recommendation or position, approval, approval with conditions, or disapproval.

SECTION 17-6 VALIDITY OF SPECIAL USE PERMIT APPROVAL

- A. Termination of Special Land Use for Failure to Commence Construction or Secure Extension. In cases where actual physical construction of a substantial nature of the structures authorized by a special land use permit has not commenced within one (1) year of issuance, and a written application for extension of the approval has not been filed as provided in Section 17-6B below, the permit shall automatically become null and void and all rights thereunder shall terminate.
- B. In the event that construction is not necessary to establish an approved special use, said use must be an established active use within one year from the date of approval or such approval shall become null and void.
- C. Extension. Upon written application filed with the City Clerk of the City of New Buffalo prior to the termination of the one (1) year period, the Planning Commission may authorize a single extension of the time limit for a further period of not more than one (1) year. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the extension period.

Section II. This ordinance was adopted on the 20th day of September, 2016 and shall become effective on the 19th day of October, 2016 which is 20 days following publication in the New Buffalo Times, a newspaper of general circulation within the City of New Buffalo.

CITY OF NEW BUFFALO, BERRIEN COUNTY, MICHIGAN

Lou O'Donnell IV, Mayor

Mary J. Robertson, Acting City Clerk