

**TOWN OF BUCHANAN
ORDINANCE NO. 2018-07**

Chapter 525, Zoning, Article XIII, Special Exception, Ordinance Amendment

WHEREAS, the Town of Buchanan has adopted zoning regulations, Chapter 525 of the Code of the Town of Buchanan pursuant to authority conferred by Sections 60.62, 61.35 and 62.23(7) Wis. Stats.; and

WHEREAS, the Town of Buchanan desires to better articulate Town Board involvement and approval for a special exception and to incorporate recent legislative changes with regard to special exceptions.

NOW THEREFORE, the Town Board of the Town of Buchanan does hereby as follows:

**ARTICLE XIII
Special Exceptions**

§ 525-82. General.

A special exception is a use or structure that may not be appropriate generally or without restriction throughout a district but which, if controlled as to number, area, location or relation to neighborhood, would promote the public health, safety, welfare, comfort, convenience or the general welfare. Such uses or structures may be permissible in a zoning district as a special exception only if specific provision for such use or structure is made in the district. A special exception shall not be issued for any other use or structure.

§ 525-83. Procedure.

All applications for a special exception shall be submitted to the Administrator. A site plan is required for all applications and shall be submitted coincident with the application. The application may also be accompanied by any other material or information necessary to demonstrate that the grant of a special exception will be in harmony with the general intent and purpose of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public interest. The Administrator shall refer all applications and accompanying materials to the Plan Commission.

§ 525-84. Public hearing. [Amended 8-17-2010 by Ord. No. 2010-03]

Upon the filing of an application for a special exception, the Plan Commission shall fix a reasonable time (not more than 45 days from the filing date) for a public hearing. A Class 2 notice, pursuant to Ch. 985, Wis. Stats., shall be published, specifying the date, time and place of hearing and the matters to come before the Plan Commission. Notice shall be mailed to parties in interest, as determined by the Plan Commission.

§ 525-85 Appeals. [Amended 8-17-2010 by Ord. No. 2010-03]

An appeal shall be requested in writing by the applicant to the Zoning Administrator. Such appeal shall be taken within 30 days of the final decision by filing a notice of appeals specifying the grounds thereof with the Zoning Administrator. The Zoning Administrator shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The Board may request the applicant to provide additional information as may be needed to determine the case. Any hearing required under this section shall be conducted as described below.

- (1) The Board of Appeals Chairperson shall open the hearing and make a concise statement of its scope and purposes. Appearances shall be entered on the record. Any official or employee of the Town of Buchanan and any other person may participate in the hearing. Any person desiring to participate in the hearing, whether on his or her own behalf or as an authorized agent or attorney, shall enter an appearance in person by giving his or her name and address, the name and address of the person being represented, and the capacity in which he or she is representing such person.
- (2) Persons entering an appearance may make statements, offer evidence or ask questions concerning the matter to be heard. Such statements need not be made under oath. The Chairperson shall determine the order in which people may speak and may limit the length of the presentations if it appears there will not be enough time for all who wish to speak or if presentations are unduly repetitious. Statements may be presented in oral or written form.
- (3) The hearing shall be recorded by an electronic recording device.

§ 525-86. Conditions and safeguards.

- A. Where by the terms of this chapter certain conditions and requirements are specified for a special exception use or structure, such conditions and requirements must be imposed by the Plan Commission and Town Board. In addition to the conditions and requirements specified by the terms of this chapter, the Plan Commission may recommend and the Town Board may impose appropriate additional conditions and requirements as deemed necessary to ensure the proposed use or structure will serve the objectives of this chapter and promote the public health safety, comfort, convenience and general welfare. The requirements and conditions must be reasonable and, to the extent practicable, measurable. The requirements and conditions must be based on substantial evidence consisting of facts and information.
- B. The following general conditions and requirements shall apply to all special exception applications:

- (1) The proposed use or structure shall be compatible in scale and intensity with surrounding property including but not limited to traffic generated noise, lighting, hours of operation and other externalities.
- (2) The design and layout of the proposed use are compatible with existing and future permitted uses and structures of surrounding properties. Generally, a buffered perimeter shall be provided.
- (3) Ingress and egress access shall be located and designed to minimize traffic hazards and congestion.
- (4) Adequate public facilities and services are available or will be provided for the proposed use.

§ 525-87. Records and decisions.

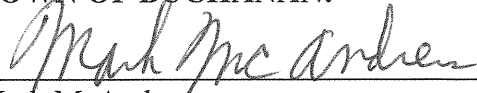
The Town Board shall keep a record of its proceedings under this section, all of which shall be filed immediately as public records. All decisions under this section shall be taken by resolution in which a majority of the Town Board members must concur. Every final decision under this section shall be in writing accompanied with the reasons for the final decision. The decision to approve or deny must be supported by substantial evidence.

- A. A special exception shall become effective upon approval of the Town Board. A record of the special exception shall be filed with the Town Clerk.
- B. A special exception shall expire if a building permit is required but has not been obtained within 12 months of special exception approval.
- C. Failure to comply with any condition and requirement placed on a special exception shall be deemed a violation of the zoning code.

This amendatory ordinance shall take affect after notice, hearing, adoption and publication.

Adopted this 21st day of August, 2018.

TOWN OF BUCHANAN:



Mark McAndrews
Town Chairperson

Attest:

Cynthia Sieracki

Cynthia Sieracki
Town Clerk/Treasurer