

CHAPTER 8

DEVELOPMENT REVIEW PROCEDURES

Part 4: Conditional Uses

Article D – Conditional Uses

Sec. 13-8-11 Authority of the Plan Commission; Requirements.

- (a) The Plan Commission may authorize the Land Use and Development Director to issue a conditional use permit for either regular or limited conditional use after review and public hearing, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. In the instance of the granting of a limited conditional use, the Plan Commission in its findings shall further specify the delimiting reason(s) or factors, which resulted in issuing limited rather than regular conditional use. Such Plan Commission resolution, and the resulting conditional use permit, when, for limited conditional use, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- (b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Plan Commission shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.
- (c) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.
- (d) Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.
- (e) In determining whether to approve, approve with conditions, or deny a request for issuance of a conditional use permit, the Plan Commission and the Common Council shall consider all relevant factors, including the following approval criteria:
 - (1) Consistency with the Comprehensive Plan. The relationship of the proposed use to the goals, objectives, and policies of the City's Comprehensive Plan.

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- (2) Compatibility. The compatibility of the proposed use with existing development within two hundred (250) feet of the proposed use and within five hundred (500) feet along the same street and development anticipated in the foreseeable future within the neighborhood and conditions that would make the use more compatible.
 - (3) Importance of services to the community. The importance of the services provided by the proposed facility to the community, if any, and the requirements of the facility for certain locations, if any, and without undue inconvenience to the developer, and the availability of alternative locations equally suitable.
 - (4) Neighborhood protections. The sufficiency of terms and conditions proposed to protect and maintain the uses in the surrounding neighborhood.
 - (5) Conformance with other requirements of this Ordinance. The conformance of the proposed development with all provisions of this Ordinance.
 - (6) Other factors. Other factors pertinent to the proposed use, site conditions, or surrounding area considerations that the Plan Commission or the Common Council feels are necessary for review in order to make an informed and just decision.
- (f) Conditional Use Permit Void
- (1) In any case where the holder of a conditional use permit issued under this ordinance has not instituted the use or begun construction within one year of the date of approval, the permit shall be null and void, unless granted a one-year extension by the Common Council.
 - (2) Any use, for which a conditional use permit has been issued, upon its cessation or abandonment for a period of one year, will be deemed to have been terminated and any future use shall be in conformity with this ordinance, unless granted a one-year extension by the Common Council.

Sec. 13-8-12 Initiation of Conditional Use.

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for one (1) or more of the conditional uses in the zoning district in which such land is located.

Sec. 13-8-13 Application for Conditional Use.

- (a) **Required Application Materials.** An application for a conditional use shall be filed in duplicate on a form prescribed by the City. Such applications shall be forwarded to the Plan Commission on receipt by the Plan Commission. Such applications shall include where applicable:

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- (1) A statement, in writing, by applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13-5-7 hereinafter.
 - (2) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all property owners of record within two hundred fifty (250) feet.
 - (3) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees and the zoning district within which the subject site lies.
 - (4) Plat of survey prepared by a registered land surveyor showing all of the information required for a building permit and existing and proposed landscaping. Additional information as may be required by the Plan Commission or other boards, commissions or officers of the City. The Plan Commission may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; high water mark and ground water conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.
 - (5) Fee receipt in the amount of One Hundred Fifty Dollars (\$150.00).
- (b) **Plans.** In order to secure information upon which to base its determination, the Plan Commission may require the applicant to furnish, in addition to the information required for a building permit, the following information:
- (1) A plan of the area showing contours, soil types, high water mark, ground water conditions, bedrock, slope and vegetation cover;
 - (2) Location of buildings, parking areas, traffic access, driveways, walkways, open spaces, landscaping, lighting;
 - (3) Plans for buildings, sewage disposal facilities, water supply systems and arrangements of operations;
 - (4) Specifications for areas of proposed filling, grading, lagooning or dredging;
 - (5) Other pertinent information necessary to determine if the proposed use meets the requirements of this Chapter.

Sec. 13-8-14 Hearing on Application.

All requests for conditional uses shall be to the Plan Commission or the Plan Commission can, on its own motion, apply conditional uses when applications for rezoning come before it. Nothing in this Chapter shall prohibit the Common Council, on its own motion, from referring the request for conditional use to the Plan Commission. Upon receipt of the application and statement referred to in Section 13-8-13 above, the Plan Commission shall hold a public hearing on each application for a conditional use at such time and place as shall be established by such Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time.

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Sec. 13-8-15 Notice of Hearing on Application.

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 Notice under the Wis. Stats. in the official City newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Land Use and Development Director, members of the Common Council and Plan Commission, and the owners of record as listed in the office of the City Assessor who are owners of property in whole or in part situated within two hundred fifty (250) feet of the boundaries of the properties affected, said notice to be sent at least five (5) days prior to the date of such public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

Sec. 13-8-16 Denial of Application for Conditional Use Permit.

When a decision of denial of a conditional use application is made, the Plan Commission shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Commission has used in determining that each standard was not met.

Sec. 13-8-17 Appeals.

Any action of the Plan Commission in granting or denying a conditional use permit may be appealed to the Common Council, if a written request for an appeal is filed within ten (10) days after the date of the Plan Commission's action in granting or denying the permit. Such request for appeal shall be signed by the applicant or by the owners of at least twenty percent (20%) of the land area immediately adjacent extending one hundred (100) feet therefrom or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land. The request shall be filed with the Land Use and Development Director who shall submit it to the Common Council at its next meeting, together with any documents and other data used by the Plan Commission in reaching its decision.

The Common Council may consider the matter forthwith, refer the matter to a subsequent meeting or set a date for a public hearing thereon. In the event the Common Council elects to hold a public hearing, notice thereof shall be given by mail to the known owners of the lands immediately adjacent thereto and directly opposite any street frontage of the lot or parcel in question and by publication of a Class 1 Notice in the official newspaper at least ten (10) days before the date of the hearing. The Common Council may either affirm or reverse in whole or in part the action of the Plan Commission and may finally grant or deny the application for a Conditional Use Permit.

