

AMENDING CHAPTER 10 OF THE DANE COUNTY CODE OF ORDINANCES,  
PROVIDING FOR TOWN BOARD CONSIDERATION OF CONDITIONAL USE  
PERMITS

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Subsection 10.255(2) is amended to read as follows:

**(2) Conditional uses. (a) Statement of purposes.** The development and execution of this ordinance is based upon the division of the county into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use at a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses and are of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities. The following provisions are then established to regulate those conditional uses which require special consideration.

**(b) Authority.** Subject to sub. (c), the zoning committee, after a public hearing, shall, within a reasonable time, grant or deny any application for conditional use. Prior to granting or denying a conditional use, the zoning committee shall make findings of fact based on evidence presented and issue a determination whether the prescribed standards are met. No permit shall be granted when the zoning committee or applicable town board determines that the standards are not met, nor shall a permit be denied when the zoning committee and applicable town board determines that the standards are met.

**(c) Town/zoning committee action. 1.** The town board of the town where a conditional use is proposed shall be given notice and opportunity to approve or disapprove a conditional use. The town board shall communicate its position in writing on the conditional use application within sixty (60) days of the date of the public hearing. The town board may request an extension of the review period of up to forty (40) days by submitting a written request to the zoning committee. The zoning committee shall not take action on the application for conditional use until the time period for action by the town board has expired.

**2.** Either the town board or the zoning committee may deny an application for conditional use permit. If the town board action is denial no further action by the zoning committee is required. The zoning committee may approve or deny a conditional use permit without town action if the town board fails to act within the time period set forth in sub. 1. above. All such decisions may be appealed to the county board under sub. (2)(j). If the county board reverses a denial by the town board, the application shall be referred to the zoning committee with instructions to draft appropriate conditions.

**3.** Town board and zoning committee actions shall be supported by written findings of fact. Failure of a town board or the zoning committee to make written findings of fact

shall constitute approval of the application. Written findings of fact shall, at a minimum, address the standards enumerated in s. 10.255(2)(h) and, where applicable, s. 10.123(3). All findings shall be based solely upon the evidence within the public record.

**4.** If the town board approves the application subject to conditions and such conditions are amended or deleted by the zoning committee, the conditional use permit as approved by the zoning committee shall be submitted to the town board for approval of the zoning committee's conditions or denial of the permit. The town board shall submit a certified resolution indicating their action to the zoning administrator within forty (40) days of the approval by the zoning committee. If the town board does not act within the forty (40) day time period, the permit shall be deemed approved. If the town board denies the permit with the conditions as amended by the zoning committee, the permit shall be deemed denied. Such denial is appealable to the county board under sub. (2)(j).

**(d) *Initiation of conditional use.*** Any person, firm, corporation or organization having a freehold interest, a possessory interest entitled to exclusive possession, a contractual interest which may be a freehold interest, or an exclusive possessory interest which is specifically enforceable in the land for which a conditional use is sought, may file an application to use such land for one or more of the conditional uses provided for in this ordinance provided that the conditional use is one which is permitted by the zoning ordinance in the zoning district where the parcel is located.

**(e) *Application for conditional use.*** An application for a conditional use shall be filed with the zoning administrator on a form prescribed by the zoning administrator. The application shall be accompanied by such plans and other information as may be prescribed by the zoning administrator or the zoning committee and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in par. (h) hereinafter.

**(f) *Hearing on application.*** Upon receipt of the application and statement referred to in par. (e) above, the zoning committee shall hold a public hearing on each application for conditional use at such time and place as shall be established by the zoning committee. The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the zoning committee shall, by rule, prescribe from time to time.

**(g)** Notice of public hearing shall be given by publication of a Class 2 notice as provided for in chapter 985 of the Wisconsin Statutes. Notice to parties of interest shall be according to policies established by the zoning committee.

**(h) *Standards.*** No application for a conditional use shall be granted by the town board or zoning committee unless such body shall find that all of the following conditions are present:

- 1.** That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.
- 2.** That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.
- 3.** That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- 4.** That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.
- 5.** That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and

**6.** That the conditional use shall conform to all applicable regulations of the district in which it is located.

**(i) Conditions and guarantees.** Prior to the granting of any conditional use, the town board and zoning committee may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community and to secure compliance with the standards and requirements specified in subsection (h) above. In all cases in which conditional uses are granted, the town board and zoning committee shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

**1.** In addition to such other conditions as the town board and zoning committee may impose upon any conditional use, in the case of dependency living arrangements, each body shall require as a condition of approval that the use shall be discontinued at the time that a dependent person ceases to reside in the secondary living area. In no event shall the space so created be used for general rental purposes. The town board and zoning committee may, if they so desires, require the owner to record deed restrictions implementing these additional restrictions and such deed restrictions may be required to run in favor of the county, the town and adjacent landowners.

**(j) Appeal.** Any person aggrieved by the grant or denial of a conditional use permit, or the county board supervisor of the district in which the affected parcel is located, may appeal the decision of the town board or zoning committee to the county board. Such appeal must specify the grounds thereof in respect to the findings of the zoning committee, town board or both, the reason why the appellant is aggrieved and must be filed with the office of the zoning administrator within 20 days of the final action. The zoning administrator shall transmit such appeal to the county clerk who shall file such appeal with the county board. The county board shall fix a reasonable time for the hearing of the appeal and give public notice thereof as well as due notice to the applicant and the appellant(s) and decide the same within a reasonable time. The action of the zoning committee, town board or both, shall be deemed just and equitable unless the county board by a three-fourths vote of supervisors present and voting reverses or modifies the action appealed from. An appeal from a decision of the zoning committee, town board or both, shall be taken to the county board. No other entity of county government has jurisdiction to hear any such appeal and the avenue of appeal provided for herein is exclusive.

**(k) Effect of denial of application.** No application for a conditional use which has been denied wholly or in part shall be resubmitted for a period of one year from the date of said denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the zoning committee.

**(L)** 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.

**(m) Revocation of a conditional use permit.** If the zoning committee finds that the standards in subsection (2)(h) and the conditions stipulated therein are not being complied with, the zoning committee, after a public hearing as provided in subs. (2)(f) and (g), may revoke the conditional use permit. Appeals from the action of the zoning committee may be as provided in sub. (2)(j).

**(n) Abandoned conditional uses.** 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 these ordinances.

Adopted by the Dane County Board of Supervisors June 5, 2008.