Article VIII. Conditional Uses

9.8.1 Conditional Uses

(A) Purpose

(1) The purposes of this Chapter are to divide the unincorporated portions of the County into districts within which the use of land and buildings, and the bulk and location of buildings in relation to the land are mutually compatible, and substantially uniform.

(2) There are certain uses that may be entirely appropriate and not necessarily incompatible with the basic uses permitted in any district, but not at every or any location therein or without restrictions or conditions being imposed by reason of unique problems that use of its particular location presents from a zoning standpoint, including the impact of those uses upon neighboring land or public facilities, and the public need for the particular use at a particular location. Such uses may be necessary or desirable to be allowed in a particular district provided that due consideration is given to their location, development and operation. Such uses are hereby classified as conditional uses and are subject to the provisions specified herein.

9.8.2 Application

(A) Applicant

Any person having ownership interest in property, an exclusive possessory interest, or a contractual interest in property that may become an ownership or exclusive possessory interest, may apply for a CUP. Prior to final approval of the CUP, the entire tract covered by the CUP or proposed project shall be either under single ownership, evidenced by legal title or binding sales contract or under lease or such other legal control over the land and proposed use which is sufficient to ensure that the applicant will be able to carry out the proposed project and assume all liability for the project which would normally be assumed under full land ownership.

(B) Application Fee

The application fee as periodically designated by the Iron County Zoning Committee shall be paid when the application is filed.

(C) Filing of Application

Application for a CUP shall be made on forms approved by the Zoning Committee and available at the Zoning Department. A completed application packet, together with the applicable CUP application fee shall be filed with the Department. The Zoning Administrator shall immediately initial and date one copy of the application when received.

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(D) Additional Information

In addition to the information obtained on the application, the Zoning Administrator and/or Committee may request any additional information deemed necessary or appropriate for review.

9.8.3 Conditional Use Application Review Process

(A) Completed Applications Referred to Committee

(1) The application shall first be reviewed by the Zoning Administrator for completeness. When it is deemed complete by the Zoning Administrator, a notation of completeness shall be made on the application, and it shall be referred to the Committee.

(B) Notice and Public Hearing

(1) The Committee shall seek an advisory recommendation from the town board of the town in which the proposed conditional use is located. The town board shall make a recommendation and send to either the County Zoning Administrator or the County Zoning Committee. Comments or recommendations received from the town in a timely manner will be taken into consideration by the Zoning Committee decision.

(2) The Zoning Committee shall hold a public hearing on the completed application. Notice of the hearing shall be published as a Class 2 notice pursuant to Ch. 985, Wis. Stats. In addition, notice of the date of the public hearing shall be sent to the clerk of the town where proposed conditional use is located and the applicant.

(C) Issuance or Denial of an Application

(1) Conditional use permit applications shall be reviewed for completeness by the Zoning Administrator within 30 working days of the date the application is filed and the fee is paid. The Committee shall attempt to approve the complete application, conditionally approve the application, or deny the application within 90 days of receipt of the completed application. However, at its sole discretion, the Committee may extend this review time for up to a total of 180 days after receipt of the completed application.

(2) The Committee may request additional information from the applicant, the town, or others after the receipt of the completed application. Comments or recommendations received from the town in a timely manner shall be considered by the Zoning Committee in their decision, but the Committee is not bound by the town's input.

(3) If the application is approved or conditionally approved, the Zoning Administrator shall issue a written CUP with any conditions attached. The Zoning Administrator may require that the applicant and/or property owner sign a CUP agreement expressly accepting the permit conditions.

(4) If the application is denied, written reasons for the denial shall be provided to the applicant along with a notice of the applicant's right to appeal the denial to the Board of Adjustment.

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(D) Basis of Approval or Denial

(1) The Zoning Committee shall review each conditional use permit application for compliance with all requirements applicable to that specific use and to all other relevant provisions of this ordinance. The Committee's decision to approve or deny the conditional use permit must be supported by substantial evidence. "Substantial evidence means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion." Wis.Stats.§59.69(5e)(a)(2).

(2) To aid in the review of and decision-making regarding the proposed conditional use, the Zoning Committee shall evaluate the following specific criteria as applicable, but shall not be limited thereto:

(a) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

(b) The uses, values and enjoyment of neighboring property shall not be substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

(c) The proposed conditional use is compatible with the use of adjacent land and any adopted local plans for the area.

(d) 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.

(e) Adequate utilities, access roads, drainage and other necessary site improvements have been or will be provided for the conditional use.

(f) Adequate measures have been or will be taken to provide ingress and egress so as to minimize traffic congestion in the public streets.

(g) The conditional use shall conform to all applicable regulations of the district in which it is located.

(h) The conditional use does not violate shoreland or floodplain regulations governing the site.

(i) Adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.

The foregoing criteria are deemed reasonable and, to the extent practicable, measurable.

(3) An applicant's failure to demonstrate, by substantial evidence, that the application and all applicable requirements in this ordinance and conditions established by the county relating to the conditional use are or will be satisfied shall be grounds to deny the conditional use permit. At all times the burden of proof to demonstrate satisfaction of these criteria remains with the applicant.

(E) Conditions

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The Committee may attach conditions to the CUP deemed necessary or appropriate in furthering the purposes of this ordinance. Such factors to be considered may include, but are not limited to the following:

1. Landscaping
2. Type of construction
3. Sureties
4. Lighting
5. Fencing
6. Planting
7. Screening
8. Operational control
9. Period of operation
10. Improved traffic circulation
11. Deed restrictions
12. Free and unlimited access to the project site during daylight hours to any Zoning Committee member or any Zoning employee investigating the project's construction, operation or maintenance
13. Written notification of the Department at least five days before the project is started and five days after each phase of the project is completed.
14. Parking requirements
15. Erosion control
16. Stormwater management
17. Signage
18. Construction schedule
19. An acknowledgment that the nature and extent of the conditional use shall not change from that described in the application and approved in the CUP

Conditions imposed as part of the conditional use permit shall be achievable, practicable and to the extent possible, measurable. Any conditions imposed must be related to the purpose of the ordinance and be based on substantial evidence.

(F) Reapplication After Denial

(1) No CUP application which has been denied by the Committee shall be considered again within one year of the written denial.

(2) An applicant may file a CUP application if the application does not involve a request for a similar project or project of similar size, scope and design, or where the application no longer conflicts with any ordinance provisions.

(G) Recording of Conditional Use Permits

The Zoning Administrator shall keep a complete record of all CUPs issued by the County. The Zoning Administrator may record notice of a CUP with the register of deeds as appropriate

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(H) Lapse of Conditional Use Permit

A CUP shall lapse and be void unless the use permitted by the CUP has been substantially commenced within three years from the date of issuance of the CUP and has been completed within the time period specified in the CUP.

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