

2024 OA-23

AMENDING CHAPTER 10 OF THE DANE COUNTY CODE OF ORDINANCES,
REGARDING THE REVIEW PROCESS FOR 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. Sections 10.101(7)(c) is amended to read as follows:

(c) Review process.

1. Hearing on application.

a. Upon receipt of a complete and acceptable application, statement, site plan and operational plan, the zoning committee shall hold a public hearing on each application for conditional use. The zoning committee shall establish, by rule, a regular schedule and location for public hearings. The zoning committee may prescribe or amend rules for the conduct of the hearing and preserving a publicly-accessible recording of the proceedings.

b. The Department of Planning Development will publish a Class 2 notice of each public hearing, as provided in Chapter 985 of the Wisconsin Statutes. The Department will also provide direct notice to the Town Clerk of any towns affected by the proposed conditional use. The zoning committee shall establish policies governing notice to other parties of interest.

2. Town Board Action.

a. The Department of Planning and Development shall provide direct notice to the town clerk of the town where a conditional use is proposed.

b. The town board may, ~~at a properly noticed public meeting, recommend that~~ the county zoning committee grant, grant with conditions or deny any application for conditional use.

i. ~~Any~~ The town board recommendation on a conditional use permit shall be communicate its positions submitted in writing ~~on the conditional use application to the county zoning committee~~ within sixty (60) days of the date of the county zoning committee public hearing.

ii. 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.

iii. ~~The committee may grant a town board additional time to make a recommendation if reasonably necessary to adjudicate the application.~~

c. ~~Any town board recommendation Prior to granting or denying on a conditional use application, the town board shall make include written findings of a factual based on evidence for the recommendation. presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the following standards:~~

i. ~~General standards for approval of a conditional use under s. 10.101(7)(h);~~

ii. ~~Any prescribed standards specific to the applicable zoning district.~~

iii. ~~Any prescribed standards specific to the particular use under s. 10.103.~~

47 ~~d. The town board must deny a conditional use permit if it finds that the~~
48 ~~standards for approval are not met.~~

49 ~~e. The town board must approve a conditional use permit if it finds that the~~
50 ~~standards for approval are met.~~

51 **3. Zoning Committee Action.**

52 **a.** The zoning committee, after a public hearing, shall, within a reasonable
53 time, grant, grant with conditions, or deny any application for conditional use.

54 **b.** The zoning committee shall not take action on the application for
55 conditional use until it receives ~~action~~ a recommendation from the town board or
56 the time period for action by the town board described in s. 10.101(7)(c)2. has
57 expired, ~~or the town board informs the committee in writing that it does not intend~~
58 ~~to make a recommendation.~~

59 ~~i. If the town board denies the conditional use permit within the timeframes~~
60 ~~described in s. 10.101(7)(c)2., the zoning committee need take no further~~
61 ~~action. Recommendations received from the town board within the time set forth~~
62 ~~in s. 10.101(7)(c)2 shall be taken into consideration by the zoning committee in~~
63 ~~making their decision. If the town board elects not to submit a recommendation~~
64 ~~the committee will presume the town board has no position on the proposed~~
65 ~~conditional use.~~

66 ~~ii. The zoning committee may approve or deny a conditional use permit~~
67 ~~without town action if the town board fails to act within the time period set forth in~~
68 ~~s. 10.101(7)(c)2.~~

69 **c.** The zoning committee may postpone action on any conditional use permit
70 until any unresolved violations of this Chapter or Chapters 11, 12, 13, 14, 17, 74,
71 75 or 78 are corrected and the property brought into full compliance with
72 applicable standards.

73 **d.** Prior to granting or denying a conditional use, the zoning committee shall
74 make written findings of fact based on evidence presented and issue a
75 determination whether the proposed conditional use, with any recommended
76 conditions, meets all of the following standards:

77 **i.** General standards for approval of a conditional use under s. 10.101(7)(h);

78 **ii.** Any prescribed standards specific to the applicable zoning district.

79 **iii.** Any prescribed standards specific to the particular use under s. 10.103.

80 **e.** The zoning committee must deny a conditional use permit if it finds that the
81 standards for approval are not met.

82 **f.** The zoning committee must approve a conditional use permit if it finds that
83 the standards for approval are met.

84 **(d)** Appeals of Conditional Use Permit Decisions. Any person aggrieved by the
85 grant or denial of a conditional use permit may appeal the decision to the circuit
86 court as authorized by Wis. Stat. s. 59.69(5e)(e) using the procedures contained
87 in Wis. Stat. s. 59.694(10).

88 **(e)** Resubmittal of a Conditional Use Permit Application. No application that is
89 the same as, or similar to, an application that has been denied under this section,
90 and affecting the same property or portion thereof, may be submitted for a period
91 of one (1) year from the date of said denial, or if appealed, the court decision,
92 unless the applicant provides substantial new evidence or proof of a change of

93 conditions that would support approval or conditional approval of the application
94 found valid by the county zoning committee. This prohibition also applies to an
95 application that is withdrawn within 30 days of, or any time after, the county
96 public hearing.

97 **(f)** Failure to Commence or Abandonment of a Conditional Use. If any use
98 allowed by an approved conditional use permit is not commenced, within one
99 year of issuance of the permit or is abandoned for one year or more, the
100 associated conditional use permit shall be terminated by the zoning
101 administrator. Future re-establishment of an abandoned conditional use permit
102 shall require approval of a new conditional use permit.

103 **(g)** Revocation of Conditional Use Permit.

104 **1.** Application for a conditional use permit constitutes consent to inspection of
105 the permitted premises by the zoning administrator or designee to assure permit
106 compliance.

107 **2.** If a landowner or holder of the conditional use permit is found to be in
108 violation of the permit conditions, the landowner or holder of the permit shall be
109 notified in writing of the said violation(s) and given 10 days to correct the
110 violation.

111 **3.** If the violation is not corrected within the assigned correction period, a
112 report shall be filed with the zoning committee documenting the violation.

113 **4.** If the zoning committee finds that the conditions stipulated in the
114 conditional use permit are not being complied with, the zoning
115 committee, after a public hearing, may revoke the conditional use permit.
116 Appeals from the action of the zoning committee may be as provided in s.
117 10.101(7)(d).

118 **(h)** Requirements and standards for conditional use permits.

119 **1.** Standards for approval. Before approving any conditional use permit, the
120 ~~town board and~~ zoning committee must find that all of the following conditions
121 are met:

122 **a.** That the establishment, maintenance or operation of the conditional use will
123 not be detrimental to or endanger the public health, safety, comfort or general
124 welfare;

125 **b.** That the uses, values and enjoyment of other property in the neighborhood
126 for purposes already permitted shall be in no foreseeable manner substantially
127 impaired or diminished by establishment, maintenance or operation of the
128 conditional use;

129 **c.** That the establishment of the conditional use will not impede the normal
130 and orderly development and improvement of the surrounding property for uses
131 permitted in the district;

132 **d.** That adequate utilities, access roads, drainage and other necessary site
133 improvements have been or are being made;

134 **e.** That adequate measures have been or will be taken to provide ingress and
135 egress so designed as to minimize traffic congestion in the public streets; and

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

138 **g.** That the conditional use is consistent with the adopted town and county
139 comprehensive plans.

140 **h.** If the conditional use is located in a Farmland Preservation Zoning district,
141 the ~~town board and~~ zoning committee must also make the findings described in
142 s. 10.220(1).

143 **2.** Conditions.

144 **a.** Standard conditions. The ~~town board and~~ zoning committee shall impose,
145 at a minimum, the following conditions on any approved conditional use permit:

146 **i.** Any conditions required for specific uses listed under s. 10.103.

147 **ii.** The physical development and operation of the conditional use must
148 conform, in all respects, to the approved site plan, operational plan and phasing
149 plan.

150 **iii.** New and existing buildings proposed to house a conditional use must be
151 constructed and maintained to meet the current requirements of the applicable
152 sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.

153 **iv.** The applicant shall apply for, receive and maintain all other legally required
154 and applicable local, county, state and federal permits. Copies of approved
155 permits or other evidence of compliance will be provided to the zoning
156 administrator upon request.

157 **v.** Any ongoing business operation must obtain and continue to meet all
158 legally required and applicable local, county, state and federal licensing
159 requirements. Copies of approved licenses or other evidence of compliance will
160 be provided to the zoning administrator upon request.

161 **vi.** Existing onsite wastewater sewage disposal systems, if any, serving the
162 conditional use must be inspected by a licensed plumber to determine its
163 suitability for the proposed or expanded use. Deficient systems must be brought,
164 at the owner's expense, into full compliance with the current requirements for
165 new development of the state plumbing code and Chapter 46, Dane County
166 Code.

167 **vii.** All vehicles and equipment must access the site only at approved locations
168 identified in the site plan and operations plan.

169 **viii.** Off-street parking must be provided, consistent with s. 10.102(8).

170 **ix.** If the Dane County Highway, Transportation and Public Works Department
171 or the town engineer determine that road intersection improvements are
172 necessary to safely accommodate the conditional use, the cost of such
173 improvements shall be borne by the landowner. Costs borne by the landowner
174 shall be proportional to the incremental increase in traffic associated with the
175 proposed conditional use.

176 **x.** The Zoning Administrator or designee may enter the premises of the
177 operation in order to inspect those premises and to ascertain compliance with
178 these conditions or to investigate an alleged violation. Zoning staff conducting
179 inspections or investigations will comply with any applicable workplace safety
180 rules or standards for the site.

181 **xi.** The owner or operator must keep a copy of the conditional use permit,
182 including the list of all conditions, on the site, available for inspection to the public
183 during business hours.

184 **xii.** Failure to comply with any imposed conditions, or to pay reasonable county
185 costs of investigation or enforcement of sustained violations, may be grounds for
186 revocation of the conditional use permit.

187 **b.** Other conditions. In addition to the standard conditions listed above, the
188 ~~town board and~~ zoning committee may, at their discretion, and in consideration of
189 the town board's recommendation, impose any other conditions as necessary to
190 meet the standards for approval described in s. 10.101(7)(d)1. above, including
191 but not limited to:

192 **i.** Expiration dates on conditional use permits, except for permits for
193 communication towers under s. 10.103(9). Continuation or extension of an
194 expired conditional use requires re-application and approval by the ~~town board~~
195 ~~and~~ zoning committee.

196 **ii.** Limits on hours or days of operation, or number of events each year.

197 **iii.** Limits on numbers of employees.

198 **iv.** Limits on numbers of total people, vehicles or animals on the premises at
199 any one time.

200 **v.** Limits on total quantity or volume of product on the premises at any one
201 time.

202 **vi.** Limits on square footage of buildings or outdoor areas devoted to the
203 proposed use.

204 **vii.** Requirements for screening, berms or minimum setbacks as necessary to
205 minimize disturbance to neighboring properties.

206 **viii.** Noise limits, set to a decibel [db(a)] level appropriate for the particular use
207 and location, as provided in s. 10.102(6).

208 **ix.** Controls, limits or setbacks to control odor or fumes.

209 **x.** Surety bonds or other financial guarantees, to dismantle equipment,
210 buildings or structures that may pose a hazard or nuisance after a conditional
211 use permit is abandoned or revoked. Unless otherwise required under applicable
212 state statute or administrative code:

213 • Any bond or other financial instrument shall expressly state that it will
214 remain in full force and effect for a period of at least six months after the surety
215 provides Dane County written notification of expiration or termination of the
216 surety's obligation under the bond.

217 • Applicant shall remove any equipment or structure placed or erected
218 pursuant to the conditional use permit no less than 30 days prior to the
219 termination or expiration of the guarantee.

220 • Bonds or other financial instruments shall not exceed \$20,000 unless it is
221 conclusively demonstrated that a higher amount is necessary to protect the
222 public health, safety and welfare.

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224 **ARTICLE 3.** Section 10.102(12)(b)2 is amended to read as follows:

225 **2.** At the ~~town board and~~ zoning committee's discretion, screening may also
226 be required as a condition on any conditional use permit, where appropriate to
227 minimize visual impact to neighboring properties.

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230 ARTICLE 4. Section 10.500(3)(b)3 is amended to read as follows:
231 3. Review, ~~approval~~ and make a recommendation denial of regarding conditional
232 use permits applications under s. 10.101(7)(c).

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235 *-[EXPLANATION: This amendment revises the review process for conditional*
236 *use permits and conforms it with state law]*