

SECTION 15 - CONDITIONAL USE PERMITS

Subdivision 1. Application.

1. Conditional Use Permits may be issued for any and only the uses or purposes for which such permits are required or permitted by provisions of this Ordinance.
2. Application:
An application for a Conditional Use Permit shall be filed with the Zoning Administrator on a form prescribed by the Town Board. The application shall be accompanied by such plans and elevations and site plans as prescribed by the Town Planning and Zoning Commission.
3. Township Notice of Application
 - a. Every applicant for a Conditional Use Permit shall receive a Township Notification form from the Planning & Zoning Administrator. The Township Notification form shall be in a form as prescribed by the Town Board. The applicant shall present the Township Notification form to the effected township board for consideration at its next meeting and return it to the Planning and Zoning Administrator within forty-five (45) days of presentation. Failure of the township board to return the form shall be considered approval by the township board of the application. Upon receipt of the Township Notification form or passage of the forty-five (45) days, the application shall be set on for public hearing as provided in Subdivision 2.
 - b. No Township Notification is necessary if the township has enacted its own zoning ordinance and issues zoning permits.
 - c. Buildings of six hundred (600) square feet or less need no permits.
 - d. Buildings exceeding ten thousand (10,000) square feet require a Conditional Use Permit.

Subdivision 2. Notification and Public Hearing.

1. Upon receipt in proper form of the application and other requested material, the Town Planning and Zoning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission. At least ten (10) days in advance of each hearing, notice of the time and place of such hearing shall be published in the official paper of the Town. All adjoining property owners so affected and the town board, shall be notified by U.S. mail as to the time and place of the public hearing. For conditional use permits pertaining to housing, all property owners within one-half ($\frac{1}{2}$) mile shall be notified by U.S. mail as to the time and place of the public hearing. For conditional use permits pertaining to feedlots, all property owners within one (1) mile shall be notified of the public hearing by U.S. Mail. Municipalities within one and one-half (1 $\frac{1}{2}$) miles of the proposed conditional use shall be given proper notice.
2. Whenever any conditional use permit is applied for in any Flood Plain Zone, in addition to the notice specified in paragraph 1 of this subdivision, the zoning administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for the proposed conditional use sufficiently in advance so that the commissioner will receive at least ten (10) days' notice of the hearing.

Subdivision 3. Report to the Town Board.

For each application for a conditional use, the Town Planning and Zoning Commission shall report to the Town Board its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be compiled with when they are deemed necessary for the

protection of the public interest. Upon receipt of the report of the Planning Commission, the Town Board shall hold whatever public hearings it deems advisable and shall make a decision upon the proposal to grant or deny a Conditional Use Permit.

Subdivision 4. Findings.

No conditional use shall be recommended by the Town Planning and Zoning Commission unless said Commission shall find:

1. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity;
2. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;
3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;
4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use;
5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Subdivision 5. Fees.

To defray administrative costs of processing requests for Conditional Use Permits, a fee shall be paid by the applicant. Such fee shall be established by the Town Board.

Subdivision 6. Compliance.

Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith.

Subdivision 7. Procedures for Evaluating Proposed Conditional Uses within the General Flood Plain District.

1. Upon receipt of an application for a conditional use permit for a use within the general flood plain district, the applicant shall be required to furnish such of the following information as is deemed necessary by the Town Board for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe.
 - a. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
 - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
 - c. Profile showing the slope of the bottom of the channel or flow line of the stream for at least

five hundred (500) feet in either direction from the proposed development.

2. One copy of the above information shall be transmitted to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe and to determine the regulatory flood protection elevation. Procedures consistent with the Minnesota Regulations NR 86-87 shall be followed in this expert evaluation. The designated engineer or expert shall:
 - a. Estimate the peak discharge of the regional flood.
 - b. Calculate the water surface profile of the regional flood base upon a hydraulic analysis of the stream channel and over bank areas.
 - c. Compute the floodway necessary to convey the regional flood without increasing flood stages more than one-half (0.5) foot. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
3. Based upon the technical evaluation of the designated engineer or expert, the Town Board shall determine whether the proposed use is in the floodway or flood fringe and the regulatory flood protection elevation at the site.
4. Procedures to be followed by the Town Board in passing on conditional use permit applications within all flood plain districts are as follows:
 - a. Require the applicant to furnish such of the following information and additional information as deemed necessary by the Town Board for determining the suitability of the particular site for the proposed use.
 - 1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials flood-proofing measures, and the relationship of the above to the location of the stream channel.
 - 2) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
 - b. Transmit one copy of the information described in subsection a. above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
 - c. Based upon the technical evaluation of the designated engineer or expert, the Town Board shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
5. Factors upon which the decisions of the Town Board shall be based; In passing upon conditional use applications, the Town Board shall consider all relevant factors specified in other sections of this ordinance, and the following:
 - a. The danger to life and property due to increased flood heights or velocities caused by encroachment.
 - b. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
 - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - e. The importance of the service provided by the proposed facility to the town.

- f. The requirements of the facility for a waterfront location.
 - g. The availability of alternative locations not subject to flooding for the proposed use.
 - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
 - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
 - l. Such other factors which are relevant to the purposes of this ordinance.
6. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the Town Board shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
- a. Modification of waste treatment and water supply facilities.
 - b. Limitations on period of use, occupancy and operation.
 - c. Imposition of operational controls, sureties, and deed restrictions.
 - d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 - e. Flood-proofing measures, in accordance with the state building code. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with regulatory flood protection elevation and associated flood factors for the particular area.
7. A copy of all decisions granting conditional use permits in flood plains shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

Subdivision 8. Permit Time Length.

A Conditional Use permit shall be substantially implemented within two (2) years of the date of issuance or reapplication will be required.