

**City of Stoughton Application for Conditional Use Review and Approval
(Requirements per Section 78-905)**

Applicant Name: _____

Applicant Address: _____

Applicant Phone and Email: _____

Property Owner Name (if different than applicant): _____

Property Owner Phone: _____

Subject Property Address: _____

This form is designed to be used by the Applicant as a guide to submitting a complete application for a conditional use review *and* by the City to process said application. Parts II and III are to be used by the Applicant to submit a complete application. (See conditional use review and approval procedures attached)

I. Record of Administrative Procedures for City Use

Application form filed with Zoning Administrator Date: _____

Application fee of \$_____ received by Zoning Administrator Date: _____

II Application Submittal Packet Requirements

Prior to submitting the final complete application as certified by the Zoning Administrator, the Applicant shall submit an initial draft application for staff review at least 30 days prior to a Planning Commission meeting, followed by one revised draft final application packet based upon staff review and comments. The final application materials are required to be submitted at least 2 weeks prior to the Planning Commission meeting.

Initial Packet

(1 electronic 11 x 17 copy of plans to Zoning Administrator) Date: _____

Final Packet

(1 electronic 11 x 17 copy of plans
and if necessary one large scalable copy of plans to Zoning Administrator) Date: _____

(a) A map of the proposed conditional use:

- Showing all lands under conditional use consideration.
- All lot dimensions of the subject property provided.
- Graphic scale and north arrow provided.

(b) A written description of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations.

(c) A site plan (conforming to the requirements of Section 78-908(3)) of the subject property as proposed for development OR if the proposed conditional use is a large development (per Sections 78-205(11)). A proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided said plat contains all information required on said site plan per Section 78-908.

(d) Written justification for the proposed conditional use indicating reasons why the Applicant believes the proposed conditional use is appropriate with the recommendations of the City of Stoughton Comprehensive Plan, particularly as evidenced by compliance with the standards set out in Section 78-905(5)(c)1.-6, as follows.

IV. Application Information for City Use

Notified Neighboring Property Owners (within 300 feet) Date: _____

Notified Neighboring Township Clerks (within 1,000 feet) Date: _____

Class 2 legal notice sent to official newspaper by City Clerk Date: _____

Class 2 legal notice published on _____ and _____ Date: _____

Conditional Use recorded with the County Register of Deeds Office after approval

Sec. 78-905. - Conditional use review and approval procedures.

- (1) *Purpose.*
 - (a) The purpose of this section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed conditional uses. (Refer to the requirements of Wisconsin Statutes 62.23.)
 - (b) Certain uses in situations which are of a special nature, or are so dependent upon actual contemporary circumstances, as to make impractical the predetermination of permissibility, or the detailing in this ordinance of specific standards, regulation or conditions which would permit such determination in each individual situation, may be permitted as conditional uses.
 - (c) Under this chapter, a proposed conditional use shall be denied unless the applicant can demonstrate, to the satisfaction of the city that the proposed conditional use will not create undesirable impacts on nearby properties, the environment, nor the community as a whole.
- (2) *Limited conditional uses.* Limited conditional uses are the same as regular conditional uses excepting that further, in considered findings of the common council and the granting thereof, because of any of the following should be of lesser permanence than regular conditional uses, and the duration or term of existence may be established until time certain or be limited to a future happening or event at which time the same shall terminate:
 - (a) Their particularly specialized nature.
 - (b) Their particular locations within a district.
 - (c) The peculiar unique relationships or needed compatibility of uses to involved individuals.
 - (d) Any other reason(s) the common council deems specially relevant and material to delimit the scope thereof.
- (3) *Initiation of request for approval of a conditional use.* Proceedings for approval of a conditional use may be initiated by an application of the owner(s) of the subject property.
- (4) *Application requirements.* All applications for proposed conditional uses, regardless of the party of their initiation per subsection (3) above, shall be approved as complete by the zoning administrator a minimum of two weeks prior to the initiation of this procedure. The submittal of an application to the city clerk to initiate this procedure shall not occur until the zoning administrator has certified acceptance of the complete application to the city clerk. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the zoning administrator, without an application. Prior to the submittal of the official notice regarding the application to the newspaper by the city clerk, the applicant shall provide the city clerk with ten copies of the complete application as certified by the zoning administrator. Said complete application shall be comprised of all of the following:
 - (a) A map of the subject property showing all lands for which the conditional use is proposed, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Dane County (as provided by the City of Stoughton). Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;

- (b) A map, such as the planned land use map, of the generalized location of the subject property in relation to the city as a whole;
 - (c) A written description of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations;
 - (d) A site plan of the subject property as proposed for development. Said site plan shall conform to any and all the requirements of subsection 78-908(3). If the proposed conditional use is a large development (per subsection 78-205(11)) or a group development (per subsection 78-205(12)), a proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided said plat contains all information required on said site plan per section 78-908;
 - (e) As an optional requirement, the applicant may provide written justification for the proposed conditional use consisting of the reasons why the applicant believes the proposed conditional use is appropriate, particularly as evidenced by compliance with the standards set forth in subsections 78-905(5)(c)1 - 6., below.
- (5) *Review by the zoning administrator.* The proposed conditional use shall be reviewed by the zoning administrator as follows:
- (a) The zoning administrator shall determine whether the application is complete and fulfills the requirements of this chapter. If the zoning administrator determines that the application is not complete or does not fulfill the requirements of this chapter, he shall return the application to the applicant. If the zoning administrator determines that the application is complete, he shall so notify applicant.
 - (b) Upon notifying the applicant that his application is complete the zoning administrator shall review the application and evaluate and comment on the written justification for the proposed conditional use provided in the application per subsection (4)(e), above.
 - (c) The zoning administrator may also evaluate the application to determine whether the request is in harmony with the recommendations of the comprehensive plan, particularly as evaluated by the standards of subsection (5)(c)1 - 6., below:
 1. Is the proposed conditional use (the use in general, independent of its location) in harmony with the purposes, goals, objectives, policies and standards of the City of Stoughton Comprehensive Plan, this chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the city?
 2. Is the proposed conditional use (in its specific location) in harmony with the purposes, goals, objectives, policies and standards of the City of Stoughton comprehensive plan, this chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the city?
 3. Does the proposed conditional use, in its proposed location and as depicted on the required site plan (see subsection (4)(d), above), result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this chapter, the comprehensive plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the city or other governmental agency having jurisdiction to guide development?

4. Does the proposed conditional use maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?
 5. Is the proposed conditional use located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property?
 6. Do the potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use (as identified in subsections 1 - 5, above), after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts?
- (d) The zoning administrator shall forward the review(s) per subsection (5)(b), and if it has been prepared, the report per subsection (5)(c), to the plan commission for the commission's review and use in making its recommendation to the common council. If the zoning administrator determines that the proposal may be in conflict with the provisions of the comprehensive plan, the zoning administrator shall note this determination in the report.
- (6) *Review and recommendation by the plan commission.* The common council shall not approve a conditional use without allowing an opportunity for a recommendation from the plan commission per the provisions of this section.
- (a) The plan commission shall schedule a reasonable time and place for a public hearing to consider the application within 45 days after the acceptance and determination of the complete application as determined by the zoning administrator. The applicant may appear in person, or by agent, and/or by attorney. Notice of the proposed amendment and the public hearing shall conform to the requirements of Section 62.23(7)(d) of the Wisconsin Statutes. Said notice shall contain a description of the subject property and the proposed conditional use. In addition, at least ten days before said public hearing, the city clerk shall mail an identical notice to the applicant, and to the clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this chapter. Failure to mail said notice or failure to meet the time requirements herein, provided it is unintentional, shall not invalidate proceedings under this section.
 - (b) Within 60 days after the public hearing (or within an extension of said period requested in writing by the applicant and granted by the plan commission), the plan commission may make a written report to the common council, and/or may state in the minutes its findings regarding subsection (4), above, and its recommendations regarding the application as a whole. Said report and/or minutes may include a formal finding of facts developed and approved by the plan commission concerning the requirements of subsections (5)(b)1 - 6, above.
 - (c) If the plan commission fails to make a report within 60 days after the filing of said complete application (and in the absence of an applicant-approved extension per subsection (6)(b), above), then the common council hold a public hearing within 30 days after the expiration of said 60-day period. Failure to receive said written report from the plan commission per subsection (6)(b), above, shall not invalidate the proceedings or actions of the common council. If such a public hearing is necessary, the common council shall provide notice per the requirements of subsection (6)(a), above.

State Law reference— State Law Reference: Section 62.23(7)(d).

- (d) If the plan commission recommends approval of an application, it shall state in the minutes or in a subsequently issued written decision, its conclusion and any finding of facts supporting its conclusion as to the following: that the potential public benefits of the proposed amendment outweigh any and all potential adverse impacts of the proposed conditional use, as identified in subsection (5)(c) above, after taking into consideration the proposal by the applicant.
- (7) *Review and action by the common council.* The common council shall consider the plan commission's recommendation regarding the proposed conditional use. The common council may request further information and/or additional reports from the plan commission, the zoning administrator, the applicant, and/or from any other source. The common council may take final action (by resolution) on the application at the time of its initial meeting, or may continue the proceedings at applicant's request. The common council may approve the conditional use as originally proposed, may approve the proposed conditional use with modifications (per the recommendations of the zoning administrator, the plan commission, authorized outside experts, its own members, and/or from any other source) or may deny approval of the proposed conditional use. If the common council wishes to make significant changes in the proposed conditional use, as recommended by the plan commission, then the procedure set forth in Section 62.23(7)(d) of the Wisconsin Statutes shall be followed prior to common council action. Any action to amend the provisions of proposed conditional use requires a majority vote of the common council. The common council's approval of the proposed conditional use shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed conditional use.
- (8) *Effect of denial.* No application which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the zoning administrator.
- (9) *Termination of an approved conditional use.* Upon approval by the common council, the applicant must demonstrate that the proposed conditional use meets all general and specific conditional use requirements in the site plan required for initiation of development activity on the subject property per section 78-908. Once a conditional use is granted, no erosion control permit, site plan approval (per section 78-908), certificate of occupancy (per section 78-909), or building permit shall be issued for any development which does not comply with all requirements of this chapter. Any conditional use found not to be in compliance with the terms of this chapter shall be considered in violation of this chapter and shall be subject to all applicable procedures and penalties. A conditional use may be revoked for such a violation by majority vote of the common council, following the procedures outlined in subsections (6) and (7), above.
- (10) *Time limits on the development of conditional use.* The start of construction of any and all conditional uses shall be initiated within 365 days of their approval by the common council and shall be operational within 730 days of said approval. Failure to initiate development within this period shall automatically constitute a revocation of the conditional use. For the purposes of this section, "operational" shall be defined as the granting of a certificate of occupancy for the conditional use. Prior to such a revocation, the applicant may request an extension of this period. Said request shall require formal approval by the common council and shall be based upon a showing of acceptable justification (as determined by the common council).
- (11) *Discontinuing an approved conditional use.* Any and all conditional uses which have been discontinued for a period exceeding 365 days shall have their conditional use invalidated automatically. The burden of proof shall be on the property owner to conclusively demonstrate that the subject conditional use was operational during this period.

- (12) *Change of ownership.* All requirements of the approved conditional use shall be continued regardless of ownership of the subject property. Modification, alteration, or expansion of any conditional use in violation as approved per subsection (7) above, without approval by the common council, shall be considered in violation of the zoning ordinance and shall be grounds for revocation of said conditional use approval per subsection (9), above. For bed and breakfast land uses the granting of a conditional use permit shall be valid while said property is owned by the owner at time of conditional use approval.
- (13) *Recording of conditional use requirements.* A certified copy of the authorizing resolution, containing identifiable description and any specific requirements of approval, shall be recorded by the city with the county register of deeds office.
- (14) *Notice to the DNR.* The plan commission shall transmit a copy of each application for a conditional use for conservancy regulations in the Shoreland-Wetland, Floodway, Floodplain Conservancy, or Floodway Fringe Overlay Zoning Districts to the Wisconsin Department of Natural Resources (DNR) for review and comment at least ten days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions relating to conditional uses for shoreland-wetland conservancy regulations or to floodland regulations shall be transmitted to the DNR within ten days of the date of such decision.
- (15) A use now regulated as a conditional use which was approved as a legal land use—either permitted by right or as a conditional use—prior to the effective date of this chapter shall be considered as a legal, conforming land use so long as the previously approved conditions of use and site plan are followed. Any modification of the previously approved conditions of use or site plan shall require application and city consideration under this section.
- (16) *Fees.* One or more fees are required for this procedure. Refer to section 78-919.