

Door County Land Use Services

CONDITIONAL USE PERMIT

A “conditional use” is one that has been determined to be compatible in a particular area, not a use that is always compatible at a specific site within that area. The use is subject to requirements and conditions, and is only allowed under a conditional use permit (CUP) issued by Door County. A conditional use permit is also required if an owner wishes to expand a non-conforming use (i.e., a use previously legally established which would not be allowed under current zoning regulations).

PERMIT & HEARING PROCESS

1. Submit a completed application form with the non-refundable fee.
2. Provide a detailed written description of your project, building plans, and a site plan (drawn to scale). Provide one complete set of plans no larger than 11” x 17”.
3. If an agent will represent you, you must submit your agent’s name, telephone number, and mailing address to the Door County Land Use Services Department.
4. Once the application is deemed complete, a copy of the application packet and staff report will be sent to the town to ask for recommendations and comments. You and neighboring property owners will receive a copy of the letter and staff report which forwards your application to the town. Please call the town to see if/when the town may be meeting to discuss this matter.
5. The Door County Land Use Services Department will publish a notice of the hearing in the Door County Advocate and will notify you and neighboring property owners in writing of the hearing date / time. It takes ~2 months from time of application submittal to hearing date.
6. If the applicant/agent fails to appear at the hearing, s/he will be deemed to be in default and the conditional use permit may, in the RPC’s sole discretion, be denied. The applicant/agent may, if s/he failed to appear for good reason, request in writing that the RPC reopen the default denial. A written request to reopen shall be received by the Door County Land Use Services Department within 30 days of the default denial. The RPC may, in its sole discretion, reopen a default denial if good cause is shown, such as mistake, inadvertence, or excusable neglect. If a default denial is reopened, the applicant/agent must submit a new fee, unless the RPC determines otherwise.
7. Other people can also attend the hearing to testify for or against your request.
8. Once the conditional use permit is issued, the applicant shall obtain a regular zoning permit within twelve months to authorize any new construction related to establishing the conditional use.

CRITERIA USED TO MAKE A DECISION

The Door County Resource Planning Committee (RPC) decision to approve, approve with conditions, or deny the CUP must be supported by substantial evidence. A conditional use permit applicant has the burden of proof. S/he must demonstrate, by substantial evidence, that the application and all requirements and conditions established in the ordinance and by the RPC relating to the conditional use are or shall be satisfied. If an applicant meets their burden of proof, then the RPC must grant the CUP. If an applicant fails to meet their burden of proof, the CUP will be denied. The CUP may also be denied if there is substantial evidence opposing the conclusions and evidence of the applicant, as the RPC’s decision need only be supported by substantial evidence.

Testimony and exhibits offered by persons other than the applicant, whether in support of or opposition to the CUP, must constitute 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.

To aid in its review of the proposed project, the RPC will consider the Door County Comprehensive Zoning Ordinance criteria set forth below.

- 1) Whether the proposed project will adversely affect property values in the area.
- 2) Whether the proposed use is similar to other uses in the area.
- 3) Whether the proposed project is consistent with the Door County Comprehensive and Farmland Preservation Plan or any officially adopted town plan.
- 4) Provision of an approved sanitary waste disposal system.
- 5) Provision for a potable water supply.
- 6) Provisions for solid waste disposal.
- 7) Whether the proposed use creates noise, odor, or dust.
- 8) Provision of safe vehicular and pedestrian access.
- 9) Whether the proposed project adversely impacts neighborhood traffic flow and congestion.
- 10) Adequacy of emergency services and their ability to service the site.
- 11) Provision for proper surface water drainage.
- 12) Whether proposed buildings contribute to visual harmony with existing buildings in the neighborhood, particularly as related to scale and design.
- 13) Whether the proposed project creates excessive exterior lighting glare or spillover onto neighboring properties.
- 14) Whether the proposed project leads to a major change in the natural character of the area through the removal of natural vegetation or alteration of the topography.
- 15) Whether, and in what amount and form, financial assurance is necessary to meet the objectives of this ordinance.
- 16) Whether, and to what extent, site-specific conditions should be imposed to mitigate potentially problematic impacts of the use.
- 17) The impact of the proposed project on public health, public safety, or the general welfare of the County.

**Note: State, federal, and local requirements also need to be met.*

The RPC is allowed to consider topics, related to the purposes of the ordinance and based on substantial evidence, in addition to the above.

If the conditional use permit application is approved, the RPC will establish a completion date for the proposed project. Once the use is established, a conditional use permit will generally remain in effect as long as the conditions and requirements upon which the permit was issued are followed. Subsequent owners of the property are generally allowed to continue the use, subject to those conditions and requirements. An affidavit is to be recorded with the deed to provide successors in interest notice of the conditional use permit and conditions and requirements.

The RPC may, however, impose conditions regarding the permit's duration, transfer, or renewal, in addition to any other conditions pertaining to ordinance standards or the criteria listed above. For example, the RPC may grant a limited term conditional use permit if a reasonable basis exists for such limitation. Any limited term conditional use permit may be subject to renewal after a re-evaluation of the use via a hearing before the RPC.

RESOURCE PLANNING COMMITTEE DECISION

- The RPC will consider the evidence presented and will most likely make a decision that same day at a business meeting after the hearing(s). If the hearings are lengthy or if additional information is needed, it is possible the decision could be tabled to a later date.
- The RPC will approve, with or without conditions, or deny the request.
- The Door County Land Use Services Department will send the applicant the RPC's decision in writing within a few days after the hearing and meeting.
- An affidavit shall be recorded with a deed to provide successors in interest notice of the conditional use permit and conditions and requirements.

APPEALS

If the conditional use permit is denied, you may appeal the decision to Door County Board of Adjustment as provided in Sec. 59.694(10), Wis. Stats. If the permit is approved, it may be appealed to the Board of Adjustment by any aggrieved party. All appeals must be filed within the time constraints set forth in the statutes (i.e., 30 days after the decision is filed with the Door County Land Use Services Department). For this reason, you may want to delay the start of the project until the appeal period has expired.