

## ORDINANCE 2014-9

### AN ORDINANCE AMENDING PARAGRAPH 400.05 (7) OF THE CITY ZONING ORDINANCE RELATING TO THE ISSUANCE AND ENFORCEMENT OF CONDITIONAL USE PERMITS

The Common Council of the City of Richland Center, Wisconsin, does ordain as follows:

#### SECTION 1:

Paragraph 400.05 (7) of the Code of Ordinances is amended to read:

400.05 (7) Conditional Use Permits. [As Amended by Ord 2004-10] The procedure for issuance and enforcement of conditional use permits is as follows:

**(a) Application.** Persons applying for a conditional use permit shall fill out completely and file with the Zoning Administrator an Application for Conditional Use Permit form, which form shall be furnished by the City. The Conditional Use Permit form shall be signed by the land owner and by any person seeking the conditional use permit, if that person is not the same as the land owner. The applicant shall pay over to the Zoning Administrator the prescribed fee for the requested permit. [History Ord 1998-5]

**(b) Initial Review by Zoning Administrator; Referral to Planning Commission.** The Zoning Administrator shall review the filed application to determine whether the application is fully and correctly filled out. The Zoning Administrator may require the applicant to furnish as part of the application any additional information which the Zoning Administrator deems necessary to an evaluation of the merits of the application. Once the Zoning Administrator is satisfied that the application is fully and correctly filled out and any requested additional information has been received, the Zoning Administrator shall refer the application to the Planning Commission.

**(c) Notice of Application to Neighboring Landowners; Consideration by the Planning Commission.** The Planning Commission shall consider the application at its next regular meeting which will allow for the seven (7) day notice provided herein. The City Clerk shall mail notice of the application and of the Planning Commission meeting at which the application will be considered to the applicant and to the owner of each property located within 200 feet of the outside boundaries of the land which is the subject of the application not less than seven (7) days prior to the meeting. Failure to mail the notice to all landowners, providing it is unintentional, or failure of a property owner to receive the notice, shall not invalidate the proceedings.

**(d) Request for Additional Data or Information.** The Planning Commission may request from the applicant any additional data or information which it deems necessary to an evaluation of the merits of the application. A request by regular mail to the applicant at the address shown on the application shall constitute a valid demand for any such data. Alternatively, the Planning Commission may make such request verbally to the applicant at any meeting where the applicant is present, which also constitutes a valid request. [History: Ord 1997-13]

**(e) Optional Public Hearing before Planning Commission.** The Planning Commission may, in its discretion, hold a public hearing on any application for a conditional use permit. If the Planning Commission determines to hold such a public hearing, it shall give notice thereof by publishing a Class I notice under chap. 985 Wis. Stats. in the official City newspaper. If the Planning Commission has held such a public hearing, the Commission's report shall contain or have appended thereto a list of the persons who appeared at the public hearing and a brief synopsis of each person's testimony or statement made at the public hearing.

**(f) Report of Planning Commission.** The report and recommendation of the Planning Commission, which may be in the form of minutes of the meeting at which the matter was considered by the Commission, shall be transmitted to the City Clerk, who shall thereafter place the matter on the agenda of the City Council at an upcoming regular City Council meeting no more than ninety (90) days after the completed application has been submitted by the applicant.

**(g) Council Action.** The City Council shall take action on the application within sixty (60) days after receiving the report from the Plan Commission. However, the Council may deny or defer indefinitely consideration of any application when the applicant has been duly requested by the Zoning Administrator, the Planning Commission or by the Council to furnish additional information or data and the applicant has failed to do so, which such failure shall toll the 60 day period. The City Council may, in its discretion, hold a public hearing on any application for a conditional use permit, but is not required to do so. If the Council determines to hold such a public hearing, it shall give notice thereof by publishing a Class 1 notice under chap. 985 Wis. Stats. in the official City newspaper.

**(h) Criteria.** Each request for a conditional use approval shall consider the following criteria in addition to any other criteria which the City Council deems appropriate:

1. The request is consistent with applicable provisions of the comprehensive plan.
2. The request is compatible with the existing or allowable uses of adjacent properties.
3. The request can demonstrate adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed.
4. The request can demonstrate adequate provisions for maintenance of the use granted by the conditional use permit and associated structures approved under said permit.
5. The request has minimized, to the degree possible, adverse effects on the natural environment.
6. The request will not create undue traffic congestion
7. The request will not adversely affect the public health, safety and welfare.
8. The request conforms to all applicable provision of this code. [History Ord 2002-2]

**(I) City Council's Options.** A request for a conditional use permit may be approved, approved

with conditions or limitations or denied.

**(j) Imposition of Conditions or Limitations.** In approving the grant of a conditional use permit, the City Council may impose such conditions or limitations on the permit as it considers necessary to protect the public health, safety and welfare, and any such conditions or limitations may include a time limit for the conditional use to exist or for the operation or activity permitted by the permit to be carried on. The City Council may provide for an expiration date of a conditional use permit in order to enable a review of the use or the property under the permit, and may, if satisfied after such review that the use of the property pursuant to the conditional use permit is satisfactory, renew the permit or may add additional conditions or limitations on the permit as a condition of renewal. If the City Council determines that the permittee has committed serious or repeated violations of the conditions or limitations on the permit or that renewal of the permit adversely affects the public health, safety and welfare it may refuse to renew the permit.

**(k) Examples of Conditions and Limitations.** Conditions and limitations may include but are not limited to: landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards (setbacks) or parking requirements, may be required by the Common Council upon its finding that these are necessary to fulfill the purpose and intent of this Zoning Ordinance. **[History: Ord 2002-2]**

**(l) Conformity by Permittee with Conditions and Limitations.** Once a conditional use permit is issued, the Permittee shall conform to all conditions and limitations imposed by the City Council on the conditional use. A violation of the conditions and limitations of a conditional use permit shall constitute a violation of this zoning ordinance and shall be subject to the enforcement and penalties provisions set forth in par. 400.05 (10) as well as the provisions set forth below.

**(m) Permit Void for Non-User.** A conditional use permit shall become void one (1) year after the date it was approved by the City Council unless within the year the permitted use is actually commenced. The City Council may, but is not required to, grant an extension of the time for commencement of the conditional use provided that a request for a delayed commencement date is made to the City within the one year after the initial approval of the conditional use permit.

**(n) Discontinuance of Use.** When any conditional use is discontinued for a period of six (6) months, or the use is changed from that use permitted by the conditional use permit to a permitted use, the conditional use permit is terminated and any future use of said location shall be in conformity with the provisions of this Zoning Ordinance relating to permitted uses.

**(o) Recourse of the City for Violations.** In the event the Permittee has violated or failed to comply with any conditions and limitations of a conditional use permit the City shall have the following remedies:

1. **ACTION FOR FORFEITURE.** The City may in the event of any violation or failure to comply issue or cause to be issued a citation or complaint seeking a forfeiture for the violation as a violation of the zoning ordinance imposed by par. 400.05(10) (b). Each day that a violation is maintained or permitted to exist shall constitute a separate violation. The imposition of a forfeiture shall not be deemed a waiver of any other available remedies. It is not required that the City give notice of the

violation prior to commencing an action seeking imposition of a forfeiture, although the City may opt to do so.

2. **OPTIONAL NOTICE OF VIOLATION.** The City may, but is not required to, give written notice of a violation to the owner of the property and to any person other than the owner who is known to the City to be using the property under a conditional use permit, which notice shall be mailed by first class mail to the property owner at the address shown for mailing of tax bills on the property as shown in the records of the Richland County Treasurer and to any other user of the property known to the zoning administrator at the address of the property. If such notice is personally delivered, it shall not be necessary to mail the notice to the recipient(s) of the hand delivered notice. Said notice shall state essentially the following:

a. That the use of the property has not been in conformity with the conditions and limitations of the Conditional Use Permit, and shall briefly enumerate those conditions and limitations violated or not complied with.

b. That if the violations of the conditions and limitations of the Conditional Use Permit or deficiencies are not corrected within the time stated in the Notice, the Conditional Use Permit may be revoked by the City and the City may, upon such revocation, bring legal action to prevent the continuing use of the property for the conditional use which was formerly permitted by the Conditional Use Permit.

3. **REVOCATION OF PERMIT FOR FAILURE TO CORRECT VIOLATIONS OR FOR REPEATED VIOLATIONS.**

a. If notice of the violation has been given, and if the violation(s) of the conditions and limitations of the Conditional Use Permit have not been corrected prior to the expiration of the period stated in such notice, the City Council may proceed to consideration of revocation of the Conditional Use Permit.

b. Alternatively, if there have been repeated violations of the conditions and limitations of the Conditional Use Permit and notice of one or more prior violations has been given under subparagraph a, the City Council may proceed to consideration of revocation of the Conditional Use Permit.

c. Notice of consideration by the City Council of possible revocation of a conditional use permit shall be given to the owner of the property by certified mail at the address shown in the records of the Richland County Treasurer for mailing tax bills for the property or by personal service upon the owner. If a person other than the owner occupies the property, that person shall be given notice of such possible revocation by first class mail at the address of the property or by personal delivery to such person. The owner and/or the occupant of the property shall have the right to appear and be heard by the Council at the time of such consideration.

d. In determining whether to revoke a conditional use permit, the Council may take into consideration the current violation and any previous violations of the conditions and limitations of the Conditional Use Permit, regardless of whether a forfeiture was imposed or other enforcement action was taken for the previous violations.

e. In the event that the conditional use permit is revoked, the City may refer the matter to the City Attorney to bring action for an injunction against continuation of any use of the property which is not a

permitted use, and to seek in addition judgment for the City's costs, disbursements and attorneys fees incurred in bringing such action as provided by law.

4. REMEDIES NOT EXCLUSIVE; NO WAIVER OF REMEDIES. The taking by the City of one or more of the foregoing actions by the City for a violation of the conditions or limitations of a Conditional Use Permit shall not be deemed a waiver by the City of its right to take any other of the forgoing actions in regard to the violation

**SECTION 2: EFFECTIVE DATE.**


This ordinance shall be in full force and effect from and after its passage and publication.

Enacted the 16th day of December, 2014



Paul F. Corcoran, Mayor

ATTEST:

  
Melinda D. Jones, Clerk