



INSTRUCTIONS TO FILE AN APPLICATION FOR A CONDITIONAL USE

The Hamilton Planning Commission (PC) hears requests for Conditional Uses and makes a recommendation to Hamilton City Council for final decision as defined in the Hamilton Zoning Ordinance (HZO).

An application shall be considered filed when the application is completed, signed and received by the Community Development Department office along with all required information and fee.

Be sure to fill in all appropriate blanks on the application. All information should be typewritten or printed legibly in ink, and signed by the applicant and the property owner.

If sufficient space is not available on the form to provide information or answer a question, please attach 8 1/2" x 11" sheets to each copy and make specific reference to the question being answered.

Make certain that each page of information presented contains your name and the address and lot number of the property concerned. The Community Development Department may waive the submission of any information not relevant to the Conditional Use.

The application should include:

- A written description of the proposed Conditional Use including nature of the business and hours of operation. The written description of the proposed Conditional Use should further address the nine (9) Conditional Use Review Criteria below in Section 1155.30.C.
- Plans of the proposed site for the Conditional Use indicating the location of all existing and proposed buildings, parking, loading, and driveway areas, traffic access and circulation, open spaces, landscaping, refuse and service areas, utilities, signage, yards and setbacks, and such other information as the PC may require to determine of the effect of the proposed Conditional Use on the surrounding neighborhood. (REVISED OR2015-9-80)

A fee of \$200.00 shall accompany a request for Conditional Use.

You will be notified as to the date, time, place, and purpose of the hearing. If applying for Conditional Use approval the owners of all property within 500 ft. of the property in question will be notified.

HEARING PROCEDURE

You, as the applicant, or your representative, should be present at the meeting in order to have the case considered.

- Community Development Department Staff will present and explain the case to the Planning Commission.
- You, or your representative, may then present any information or testimony that is relevant to the Conditional Use to the Planning Commission.
- The Planning Commission will then hear from any other interested parties.
- After considering all information presented, the Planning Commission will render a decision.
- The decision of the Planning Commission will then be forwarded to the Hamilton City Council for review.
- Community Development Department Staff will inform you of when the Hamilton City Council will hear the recommendation for your Conditional Use.

If you proceed with the project on the basis of the City Council decision or in accordance with the HZO, whichever applies, you must then submit to Construction Services proper drawings and specifications for the project to obtain the necessary permits.

No Conditional Use approval of the City Council is valid longer than six (6) months unless a building permit for such erection or alteration is obtained and the work is started within such period. Or, where no erection or alteration is necessary, the permitted use is established within such period, or an extension is requested in writing and granted by the Planning Commission.

Any Conditional Use shall automatically expire if the Conditional Use ceases by discontinuance or abandonment for a period of more than six (6) months.

No application that is substantially similar to an application that has been denied, wholly or in part, shall be accepted for one year from the date denial. The Community Development Department shall determine if a similar application differs enough to be considered a different application and not subject to this section. The Community Development Department may consider factors such as the nature or size of a proposal, changes in the development or traffic patterns of the area, or newly discovered evidence pertinent to a decision on a previous application.

Copies of the Hamilton Zoning Ordinance (HZO) and zoning map are online at hamilton-city.org or may be obtained from the Community Development Department for a fee of \$10.00 each.



APPLICATION FOR CONDITIONAL USE

Please Note: The Planning Commission has no obligation to approve a Conditional Use.

The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the Planning Commission that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed. (HZO Section 1155.10)

Property Address: _____

Lot No(s): _____

Property Owner: _____

Owner's Mailing Address: _____

Applicant's Name (If different than owner): _____

Applicant's Mailing Address: _____

Applicant's Email Address: _____

Applicant's Phone Number: _____

Previous Legal Use of Property: _____

Date Previous Use Discontinued: _____

Proposed New Use of Property: _____

Requesting a Conditional Use Approval from the following Sections of the Hamilton Zoning Code:

Description of the proposed Conditional Use including nature of the business, hours of operation:

Applicants must include adequate information to satisfy 1155.30 – Application and Review C. Conditional Use Review Criteria – General Standards (attached to application). Please add additional sheets if more space is needed. This will assist the Planning Commission in making an informed decision on the requested Conditional Use.

(1) Is the proposed Conditional Use to be located in a district wherein such use may be permitted, subject to the requirements of this Section and the Zoning Ordinance?

(2) Will the proposed Conditional Use substantially or permanently injure the appropriate use of neighboring property and serve the public convenience and welfare?

(3) Will the proposed Conditional Use be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area?

(4) Will the proposed Conditional Use be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools? If not, the applicant shall be responsible for the extension or establishment of any public facilities and services to effectively service the proposed Conditional Use.

(5) Will the proposed Conditional Use have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets?

(6) Will the proposed Conditional Use comply with all applicable development standards, except as specifically altered in the approved Conditional Use?

(7) Will the proposed Conditional Use be hazardous to or have a negative impact on existing or future neighboring uses?

(8) Will the proposed Conditional Use involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district?

(9) Will the proposed Conditional Use impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district?

Applicants must also submit all pertinent plans of the proposed site for the Conditional Use indicating the location of all existing and proposed buildings, parking, loading, and driveway areas, traffic access and circulation, open spaces, landscaping, refuse and service areas, utilities, signage, yards and setbacks, and such other information as the Planning Commission may require to determine of the effect of the proposed Conditional Use on the surrounding neighborhood.

CERTIFICATION:

I certify that all of the information contained in this Application is complete, true and accurate.

Applicant's Signature

Date

Applicant's Printed Name

Property Owner's Signature

Date

Property Owner's Printed Name

ADMINISTRATION

1155.00 CONDITIONAL USES

(OR 2014-9-90)

1155.10 – Conditional Uses:

1. The Planning Commission (PC) shall review and make a recommendation to City Council, in accordance with the provisions of this Ordinance for applications for Conditional Uses. The PC shall review the particular facts and circumstances of each proposed Conditional Use, and if recommending approval shall find adequate evidence that the proposed conditional use complies with the General Standards applicable to all Conditional Uses found in 1155.30. (REVISED OR2015-9-80)
2. The PC has no obligation to recommend approval of a Conditional Use, and City Council has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the PC that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed. (REVISED OR2015-9-80)
3. In considering an application for a Conditional Use, the PC and City Council shall give due regard to the nature and condition of all adjacent uses and structures and in recommending approval of a conditional use may impose such requirements and conditions, in addition to any expressly stipulated in this Ordinance, as the PC may deem necessary for the protection of adjacent properties and the public interest. (REVISED OR2015-9-80)

1155.20 – Process

1. Submission of application for a Conditional Use along with applicable fee and plan consistent with the requirements set forth in Section 1155.30 shall accompany the Application.
2. Information shall be submitted to the Department of Community Development, who may distribute such information to various City Departments for review/comment.
3. Within 30 days of receipt, the PC shall hold a Public Hearing on the Conditional Use application. Notice of such hearing shall be mailed to property owners within 500 feet of the subject property within 10 calendar days of such hearing. (REVISED OR2015-9-80)
4. Within 30 days of the Public Hearing, the PC shall recommend to City Council the approval, the approval with conditions or modifications, or the denial of the application for Conditional Use and shall clearly state in writing the findings upon which its recommendation is based. (REVISED OR2015-9-80)
5. In recommending approval, the PC may also recommend appropriate conditions and safeguards in conformance with the intent and purposes of this ordinance for the protection of nearby property and the public health, safety and general welfare. (REVISED OR2015-9-80)

6. The recommendation of the PC shall be forwarded to City Council for review in accordance with Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton. The City Council via a majority vote may accept the recommendation of the PC, reject the recommendation of the PC, or remand the matter to the PC for further consideration. (REVISED OR2015-9-80)

1155.30 – Application and Review

The applicant shall submit an application to the Department of Community Development for a Conditional Use along with applicable fee. The applicant shall submit at least the following supporting information to be considered for a Conditional Use.

- A. A written description of the proposed Conditional Use including nature of the business and hours of operation. The written description of the proposed Conditional Use should further address the nine (9) Conditional Use Review Criteria below in Section 1155.30.C.
- B. Plans of the proposed site for the Conditional Use indicating the location of all existing and proposed buildings, parking, loading, and driveway areas, traffic access and circulation, open spaces, landscaping, refuse and service areas, utilities, signage, yards and setbacks, and such other information as the PC may require to determine of the effect of the proposed Conditional Use on the surrounding neighborhood. (REVISED OR2015-9-80)
- C. Conditional Use Review Criteria – General Standards

In reviewing an application for a Conditional Use, the PC shall consider whether there is adequate evidence that the proposed Conditional Use is consistent with the following General Standards:

- (1) The proposed Conditional Use is to be located in a district wherein such use may be permitted, subject to the requirements of this Section and the Zoning Ordinance.
- (2) The proposed Conditional Use will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
- (3) The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
- (4) The proposed Conditional Use shall be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools. If not, the applicant shall be responsible for the extension or establishment of any public facilities and services to effectively service the proposed Conditional Use.
- (5) The proposed Conditional Use will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets.
- (6) The proposed Conditional Use will comply with all applicable development standards, except as specifically altered in the approved Conditional Use.
- (7) The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses.

- (8) The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.
- (9) The proposed Conditional Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

D. Conditional Use Review Criteria – Use Specific Standards and Variances

In reviewing an application for a Conditional Use, the PC shall also consider certain use-specific standards, applicable to certain Conditional Uses, and determine whether there is adequate evidence that the proposed Conditional Use is consistent with the applicable use-specific standards. Any waiver or deviation from the use-specific standards will become part of the PC recommendation. (REVISED OR2015-9-80)

1155.40 – EFFECT OF CONDITIONAL USE APPROVAL

- (1) Conditional Use Approvals granted by City Council shall run with the land and shall not be affected by a change in ownership. The applicant, his or her successors and assigns shall be bound by Conditional Use approval. (REVISED OR2015-9-80)
- (2) Only the approved Conditional Use shall be permitted on the subject site. Any change in a Conditional Use shall require a new application and review. The Conditional Use shall be void If the Conditional Use is terminated and replaced by a Permitted Use pursuant to this ordinance
- (3) The breach by the applicant, successors or assigns of any condition, safeguard, or requirement expressed or referred to on the Conditional Use approval shall render the Conditional Use void and shall constitute a violation of this Ordinance and the Ordinance approving the Conditional Use.

1155.50 – TIME LIMITS

- (1) The Conditional Use shall automatically expire if the Conditional Use ceases by discontinuance or abandonment for a period of more than six (6) months.
- (2) The applicant shall have six (6) months from the date of approval of the Conditional Use to receive approval through the Issuance of a Certificate of Occupancy or the Conditional Use shall be deemed null and void. An applicant may request one (1) extension of six (6) months from the PC. (REVISED OR2015-9-80)

1155.60 – REAPPLICATION

No application for a Conditional Use that is substantially similar to an application that has been denied, wholly or in part, shall be accepted for one year from the date denial. The Community Development Department shall determine if a similar application differs enough to be considered a different application and not subject to this section. The Community Development Department may consider factors such as the nature or size of a proposal, changes in the development or traffic patterns of the area, or newly discovered evidence pertinent to a decision on a previous application.

1155.70 – APPEALS

1. Any person, firm or corporation, or any officer, department, board or agency of the municipality who or which has been aggrieved or affected by any decision of the City Council on a Conditional Use may appeal to the Butler County Court of Common Pleas pursuant to Chapter 2506 of the Ohio Revised Code. (REVISED OR2015-9-80)



Conditional Use Process

