

INSTRUCTIONS TO FILE FOR A **CONDITIONAL USE APPLICATION**

Introduction – What is a Conditional Use?

A “**Conditional Use**” is defined within the Hamilton Zoning Ordinance (HZO) as a use that is not outright permitted or appropriate within a specific zoning district unless the applicant can demonstrate to the Planning Commission and the City Council that the proposed use will not be detrimental to the public health, safety, or welfare of the City of neighborhood in which the proposed Conditional Use will be located.

The operation of a business listed as a Conditional Use, including any site work / improvements associated with the proposed Conditional Use, is not permitted until the approval is granted through the issuance of a Conditional Use Certificate.

Approval of Conditional Use Applications is ***not*** guaranteed. To receive a Conditional Use Certificate, an application must receive a favorable recommendation from the Planning Commission at a public hearing as well as final approval from the City Council. All applications are reviewed for compliance with the review criteria located on page 9 of this document.

Introduction – What is a Variance?

A variance is a minor relief granted from the rules of the zoning ordinance. Variances can be granted due to unusual conditions of a property, where following specific Zoning Ordinance regulations would result in practical difficulty or undue hardship. The applicant must prove the need for a variance.

Variances may be requested along with a Conditional Use application provided the relief being requested corresponds directly to the Conditional Use that is being applied for.

A variance can be reviewed and approved with a conditional use should they meet the criteria for approval of variances per the HZO. Approval of a variance is ***not*** guaranteed. All applications are reviewed for compliance the criteria located on page 10 of this document.

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Review Track for Applications

The **Review Track** for Conditional Use Applications, with or without a variances, contains the following benchmarks. The process typically takes three (3) to four (4) months to complete for approved applications.

- *Pre-Application Meeting*
- *Application Submittal*
 - Applications are required to be submitted three weeks prior to the public hearing
- *Staff Review & Processing*
- *Public Hearing - Planning Commission Meeting*
 - If the Planning Commission makes a favorable recommendation, the application continues to the City Council (Below) for final review and consideration
- *City Council*
 - City Council examines the merits of the submitted application and testimony provided at the Planning Commission and takes final action to deny, approve, or approve and application with conditions.

If an application is denied at any point during the review track (above), no similar application shall be accepted for a period exceeding one (1) year from the date of the denial.

Pre-Application Meeting

Prior to the application process, set up a **Pre-Application** meeting with City of Hamilton Planning Staff by contacting 513-785-7350. The pre-application meeting is critical as it provides a forum for staff and applicant(s) to:

- Outline what sections of the Zoning Ordinance apply to your project.
- Outline the process and what to expect.
- Answer questions.
- Review required submittal materials.

Application Submittal

Following the pre-application meeting, an interested applicant(s) will submit their application to the Planning Department at 345 High Street, Suite #350.

The processing fee for Conditional Use Applications (with or without a variance(s)) is \$200.00.

An application shall be considered filed when the application is completed, signed by the appropriate parties, and received by the Planning Department office along with all of the required submittal information (*Application Checklist, Page 5*) including the application fee.

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No application will be accepted or reviewed without receipt of payment.

All information should be typewritten or printed legibly in ink, and signed by the applicant and the property owner. The application should include the following items:

- A completed application
- A copy of all relevant plans (*professionally drawn or drawn in a similar, legible layout*)
- A copy of all written supporting documentation.

Staff Review & Processing

Once an application has been deemed complete, Planning Staff will process the information and notify the required parties which includes you the applicant, and all property owners located within 500 feet of the subject property.

After notification, staff will send the application for interdepartmental review to allow other city departments to provide comments, if applicable, pertaining to their respective scope of authority. The information and comments are compiled into a report by staff and sent to applicants as well as the Planning Commissioners one (1) week prior to the public hearing.

Public Hearing - Planning Commission Meeting

The Planning Commission meeting is a forum for the public to provide input or ask questions about a specific project or application. The role of the Planning Commission is to make a recommendation on Conditional Use applications in a manner that best serves the public health, safety, and welfare. In making their decision to approve or deny an application, the Planning Commission is required to utilize specific **Decision Making Criteria** (See page 7).

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

The following provides an overview of what to expect at your hearing.

- Planning Department Staff will present your case to the Planning Commission.
- You and/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 in what is known as the public hearing portion of the meeting.
- After considering all information presented, the Planning Commission renders a decision of favorable or denial.
- The Planning Commission may attach conditions to the approval of the application

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If the Planning Commission chooses to make a favorable recommendation of the application at the hearing, it will then be forwarded to the City Council for review and to take final action. If a Conditional Use application is denied, the Applicant will be unable to submit for the same conditional use for a period of one (1) year.

City Council

City Council will examine the merits of the submitted application and testimony provided at the Planning Commission at a Caucus Meeting. At this meeting Council will take action to deny or approve the application. Applications that are recommended for approval are drafted into an ordinance to be adopted by City Council authorizing the issuance of a Conditional Use Certificate along with any conditions. Approval of a City Ordinance requires two readings by City Council, which are done at subsequent Council Meetings.

Revocation of Conditional Use Certificate/Approval

A Conditional Use Certificate runs with the property for which it is approved and can be transferred to a new owner unless otherwise stipulated as a specific condition of approval. The Certificate can be revoked in accordance with zoning statutes in the following ways:

- The operation of the use associated with the Conditional Use Certificate has not occurred within a six (6) month period from the date of approval. This includes proposed site work (interior and exterior) which may require the issuance of a Certificate of Occupancy (COO) from the Building Department. An extension may be requested through the Planning Commission for approval; to be submitted one (1) month prior the expiration of the six (6) month period.
- The existing business associated with an approved Conditional Use Certificate is discontinued or abandoned for a period exceeding six (6) months.
- The breach by the applicant, successors or assigns of any condition, safeguard, or requirement expressed or referred to on the Conditional Use approval. Such breaches shall constitute a violation of the Zoning Ordinance.

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CONDITIONAL USE APPLICATION

I. APPLICATION REQUIREMENTS:

- General Requirements:**
 - **Pre-Application Meeting [Required]** (Date of Meeting: _____)
 - **Complete Conditional Use Application Form**
 - **Required Application Fee – (\$200)**
 - **Required Application Material**
 - (a) See Checklist.

Applicant Checklist

II. PROJECT OVERVIEW

- Description of Request(s)**
 - **Conditional Uses**
 - **Variances (where applicable)**

- Project Description**
 - **Introduction / Background to proposal**
 - **Scope of business operations**
 - **Description of how project addresses review criteria**
 - (a) Conditional Use Criteria – Section 1155.30 (see page 9)
 - (b) Variances – Section 1170.63 (see page 10)



CONDITIONAL USE APPLICATION

Applicant Requirements (continued)

III. SITE PLANS

- Basic drawing and location information**
 - North orientation arrow
 - Drawing scale information
 - Property lot lines
 - Street locations and names
- Proposed, location, dimensions, height, areas, and setbacks to property lines:**
 - Buildings
 - Signage
 - Fencing
 - Parking
 - Dumpster enclosure
 - Accessory structures
- Access and circulation on the site**
 - Vehicles
 - Pedestrians
- Location of off-street parking:**
 - Off-street parking areas
 - Driveways
 - Parking locations
 - Parking space dimensions
 - Surface materials
- Signage**
 - Location
 - Setbacks
 - Area and Height
- Location of landscaping areas**
- Fencing height and materials (if applicable)**

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CONDITIONAL USE APPLICATION

Applicant Checklist (continued)

III. BUILDING PLANS:

- Color exterior building elevation drawings
- Building elevations showing:
 - Building heights
 - Building materials
 - Architectural details
 - Features
- Interior floor plan showing:
 - Room/area uses
 - Interior room dimensions
- Location of areas/facilities relevant to the conditional use
- Other

IV. LANDSCAPING PLAN:

- Plans showing number, type, and location of:
 - Trees
 - Shrubs
 - Perennials / Flowering Plants

V. LIGHTING PLAN (If Applicable):

- Plans showing:
 - Location of building facade lighting
 - Location of lighting on the site
 - Photometric plan / Amount of light generated by site

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CONDITIONAL USE APPLICATION

Note: Staff correspondence pertaining to updates on your application, including reports and notifications, is conducted via email. Please be sure to include an email address for each of the contacts below. Staff is also able to notify additional individuals by providing their name and email address on a separate page titled "Additional Contacts" which should be included within your application.

PROPERTY ADDRESS: _____

Property Owner: _____

Owner's Mailing Address: _____

Email Address: _____ **Phone Number:** _____

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

Applicant's Mailing Address: _____

Email Address: _____ **Phone Number:** _____

Architect / Engineer: _____

Mailing Address: _____

Email Address: _____ **Phone Number:** _____

Previous Legal Use of Property: _____

Date Previous Use Discontinued: _____

Proposed New Use of Property: _____

PLEASE NOTE:

Incomplete applications or applications missing the required materials necessary to conduct a review will not be reviewed by staff nor will they be placed on the agenda to be heard by the Planning Commission until all required information has been submitted.

CERTIFICATION:

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

Applicant's Signature: _____

Property Owner's Signature: _____



CONDITIONAL USE APPLICATION

Conditional Use Review Criteria

Section 1155.30, C., of the Hamilton Zoning Ordinance states that in reviewing an application for a Conditional Use, the Planning Commission and City Council shall consider whether there is adequate evidence that the proposed Conditional Use is consistent with the following 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. (Please address these criteria in a separate sheet included in your application (see Project Overview Section of the Applicant Checklist)

- (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.
- (10) State how the proposal relates to existing land use of the vicinity, or to the City of Hamilton Comprehensive Plan. If the proposed use is inconsistent with the land uses in the surrounding area, justify the proposed deviation.

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CONDITIONAL USE APPLICATION

Variance Review Criteria

Section 1170.63 of the Hamilton Zoning Ordinance states that no such variance of the provisions or requirements of this Ordinance shall be authorized by the Board unless the Board finds, beyond reasonable doubt, that all of the following facts and conditions exist.

In the event your proposed conditional use project or property conditions cannot meet the requirements of the Hamilton Zoning Ordinance, you may ask for variances for your proposed conditional use. Please address these provisions in a separate sheet included in your application (see Project Overview Section of the Applicant Checklist).

- 1) **Exceptional Circumstances:** That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District.
- 2) **Preservation of Property Rights:** Variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and in the same vicinity.
- 3) **Absence of Detriment:** That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Ordinance of the public interest.
- 4) **Not of General Nature:** No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property for which variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.



2019 Planning Commission Meeting Calendar

First and Third Thursday of every month, except scheduled City Holidays.

First Thursday Meeting of every month is at 1:30 pm
Third Thursday Meeting of every month is at 6:00 pm

Meetings are in the City Council Chambers,
Municipal Building, 1st floor, 345 High Street.

| Meeting Date | Application Deadline |
|-------------------------|-----------------------------|
| <i>January 7, 2019</i> | <i>December 17, 2018</i> |
| <i>January 22, 2019</i> | <i>December 27, 2018</i> |
| <i>February 4, 2019</i> | <i>January 14, 2019</i> |
| February 21, 2019 | January 28, 2019 |
| March 7, 2019 | February 14, 2019 |
| March 21, 2019 | February 28, 2019 |
| April 4, 2019 | March 14, 2019 |
| April 18, 2019 | March 28, 2019 |
| May 2, 2019 | April 11, 2019 |
| May 16, 2019 | April 25, 2019 |
| June 6, 2019 | May 16, 2019 |
| June 20, 2019 | May 30, 2019 |
| July 5, 2019 | June 14, 2019 |
| July 18, 2019 | June 27, 2019 |
| August 1, 2019 | July 11, 2019 |
| August 15, 2019 | July 25, 2019 |
| September 5, 2019 | August 15, 2019 |
| September 19, 2019 | August 29, 2019 |
| October 3, 2019 | September 12, 2019 |
| October 17, 2019 | September 26, 2019 |
| November 7, 2019 | October 17, 2019 |
| November 21, 2019 | October 31, 2019 |
| December 5, 2019 | November 14, 2019 |
| December 19, 2019 | November 28, 2019 |