

## Section 34 – Conditional Uses

*Generally.* Conditional uses are allowed only by specific approval of the Board of Adjustment and only in the zone in which they are listed.

- I. Application and Review Procedure
  - A. Following a public hearing and upon an affirmative finding by the Board that:
    1. The proposed conditional use is to be located in a zone wherein such use may be permitted; and
    2. The conditional use is consistent with the spirit, purpose and intent of the zoning regulations, will not substantially and permanently injure the appropriate use of neighboring property, and will serve the public convenience and welfare; the Board shall grant the conditional use.
- II. The Board of Adjustment may approve or deny any applications for a conditional use permit. If it approves the issuance of a conditional use permit, it may attach conditions to the approval such as time limitations, requirements that one or more things be done before construction can be initiated, or conditions of a continuing nature. Any such condition shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section of the zoning regulations, or any other applicable ordinance of the County listing the conditional use under consideration.
- III. The Board of Adjustment shall have the power to revoke conditional use permits for noncompliance with the conditions thereof. Furthermore, the board shall have the right of action to compel offending structures or uses to be removed at the cost of the violator and may have judgment against that person for such cost.
- IV. The conditional use permits approved by the Board of Adjustment shall be recorded at the expense of the applicant in the office of the County Court Clerk.
- V. Approval of a conditional use permit does not exempt the applicant from complying with all requirements of building, housing, and other codes and regulations of the County.
- VI. In any case in which a conditional use permit has not been exercised within one year from its date of issuance, such conditional use many revert to its original zoning designation following a public hearing held by the Board of Adjustment in accordance with KRS Ch. 424. "Exercised," as set forth in this subsection, shall mean that binding contracts for the construction of the main building or other improvements have been let or, in the absence of contracts, that the principal building or other improvements are under construction to a substantial degree, or that prerequisite conditions involving substantial investment are under contract, in development, or complete. When construction is not a part of the use, "exercised" shall mean that the user is operating in compliance with the conditions as designated in the permit.

- VII. The administrative official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once each year. The enforcement office shall have the power to inspect the land or structure where the special use is located in order to determine if the landowner is complying with all of the conditions, which are listed on the conditional use permit.
- VIII. If the landowner is not complying with all of the conditions listed on the conditional use permit, the enforcement officer shall report this fact in writing to the chairperson of the Board of Adjustment. The report of the enforcement officer shall state specifically the manner in which the landowner or occupant is not complying with the conditions on the conditional use permit. A copy of this report shall be furnished to the landowner at the same time (as nearly as is possible) it is furnished to the chairperson of the board. The Board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner and/or occupant at least one week prior to the hearing.
- IX. If the Board of Adjustment finds that the facts alleged in the report of the enforcement officer are true, and that the landowner and/or occupant has taken no action to comply with the conditions (as originally placed on the permit) between the date of the report and the date of the hearing, the board may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.
- X. Once the Board of Adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request by the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied and enter the facts which indicate that the conditions have been satisfied and the conclusions in the margin of the copy of the conditional user permit which is on file with the County Court Clerk; thereafter the use in question, if it continues to meet the other requirements of the zoning regulations, will be considered a permitted use.