

City of Eureka Springs Planning Commission
APPLICATION FOR CONDITIONAL USE PERMIT (CUP)

Name of Applicant _____
Address of Applicant _____
Phone _____ Email _____
Name of Property Owner if different than Applicant _____
Property Owner Address _____
Address of Property for CUP _____
Zoning District _____ Existing use _____
Proposed use _____
If lodging, current units _____ CUP _____ Grandfathered _____ Requested this CUP _____ Total _____

At the time of application, the following exhibits must be provided to the Planning Commission:

- _____ 1. Completed application along with **non-refundable \$100.00 fee**
- _____ 2. Name, address, telephone number of the record title holder of the property; legal description of property, provided by a copy of the warranty deed.
- _____ 3. Names, addresses, telephone numbers of all intended grantees, if property is subject to contract sale or title is to be otherwise conveyed.
- _____ 4. Layman's description of the property with zoning classification.
- _____ 5. A scaled, surveyed site plan of the property showing lot lines, zoning district, surrounding zoning, buildings and off-street parking spaces including property boundaries, legal description of the property's metes and bounds, north arrow.
- _____ 6. A scaled plan showing existing land uses within 200 feet of the property. (Photographs are helpful, but not required.)
- _____ 7. A list of names and current addresses of all owners within 200 feet of the property.

Exhibits to be provided before the public hearing:

- _____ 1. Proof of publication of the public notice.
- _____ 2. One copy of notification letter sent to surrounding property owners.
- _____ 3. Return receipt cards as proof of notification of surrounding property owners at least 10 days prior to public hearing.
- _____ 4. Public notice sign posted on property at least 15 days prior to public hearing

I certify that I have read and understand Sections 14.08.08 Sections A-H of the Eureka Springs Municipal Code (attached) which apply to the application for which I am seeking approval. I further certify that all of the information furnished is correct to the best of my knowledge.

Signature of owner if other than applicant Applicant signature Date

Planning Commission Conditional Use Permit Request Report

Public Hearing Date _____
The Planning Commission of the City of Eureka Springs met in _____ regular _____ special session on _____ to review the above application for a Conditional Use Permit.
The application was _____ approved _____ denied with _____ ayes, _____ nays and _____ abstentions.
Comments and conditions: _____

Reason for denial: _____

Planning Commission Secretary Planning Commission Chairman Date

SAMPLE LETTER OF NOTIFICATION
Conditional Use Permit (CUP)

Send Certified Registered Return Receipt to adjoining property owners within 200 feet at least 15 days prior to the Public Hearing. Turn in both parts of receipts to Planning Commission staff.

(Date) _____

TO: (Name) _____
(Address) _____
(City, State Zip Code) _____

Dear _____,

This letter is to inform you that _____ has purchased/owns the property at _____ in Eureka Springs, Arkansas.

I/We have applied to the Planning Commission for a Conditional Use Permit for _____ at _____ (property address/location), Eureka Springs, Arkansas.

If you wish to make comments in support or protest of this application, you may submit them in writing to: Eureka Springs Planning Commission, City Hall, 44 South Main Street, Eureka Springs, AR 72632 and/or attend the public hearing at 6 p.m. on _____ in the Western District Carroll County Courthouse, 44 South Main Street, Eureka Springs, AR.

Sincerely,

(Your name)

SAMPLE PUBLIC NOTICE
For Conditional Use Permit

Place as a Legal Notice in Carroll County News to run at least 8 days prior to meeting. Return Affidavit/Proof of Publication to Commission staff. Applicant must pay for publication.

Public Notice

An application has been filed by _____ for a Conditional Use Permit (CUP) for _____ at (street address or property location) _____.

A public hearing will be held at 6 p.m. _____ (day and date) _____ in the Western District Carroll County Courthouse, 44 S. Main St., by the Eureka Springs Planning Commission. Comments on the application will be heard or read aloud.

CHAPTER 14.08 ZONING DISTRICTS

14.08.08 Conditional use permits.

A. A conditional use permit is required for any use which is not a use allowed by right in any zoning district of the city. Conditional use permits will be issued only when authorized by the terms of this chapter. Approval of a conditional use shall not be a matter of right but shall only be granted when the proposed use is in harmony with the character of the zone where it shall be located.

Once a conditional use is approved, that use may continue so long as the owner abides by the requirements of this subsection and any special conditions placed upon the use by the Planning Commission. The conditional use is granted to the applicant for a specific use at a specific property and is not transferable.

B. All bed and breakfast and tourist lodging establishments which commence operation or are modified by the addition of units, alteration of the existing structures or the construction of additional structures, after September 30, 1986, shall be required to apply for conditional use in accordance with the procedures set forth in subsection 114-10(b).

C. **Submission requirements:** Anyone requesting a conditional use permit shall submit an application to the city providing the following:

1. The name, address and telephone number of the record title holder of the property and the legal description of the property, provided by a copy of the warranty deed;
2. The names, addresses and telephone numbers of all intended grantees, if the property is subject to contract sale or title is to be otherwise conveyed;
3. A layman's description of the property;
4. The zoning classification of the property;
5. Brief statement describing the intended use, and the affect the proposed conditional use will have on the character of the neighborhood;
6. The names, current addresses as provided by the Carroll County Tax Assessor and zoning districts of adjacent property owners (all within 200 feet of the property in every direction) including those across streets or alleys from the property in question;
7. A scaled surveyed drawing of the property on which the use will be located, showing accurate lot lines, zoning district, surrounding zoning, immediately adjacent property owners' names, a north arrow, existing structures, trees, and any proposed improvements;
8. Any other material or information relevant to the application. The city may request such drawings and other documents prior to the public hearing as may be helpful to the city's review of the application;
9. Information submitted must be signed by the record title owner of the property, or his or her agent identified and designated in writing by the property owner.
10. Applications for conditional use permits for a bed and breakfast shall state the number of "lodging units" and parking spaces available.

D. Upon receipt of a completed application for a conditional use and an application fee, the planning commission shall schedule a public hearing on the proposed conditional use at the next scheduled meeting of the planning commission.

The following procedures shall apply:

1. There shall be a public notice of the hearing published at least once (1) in a newspaper of general circulation in the city at least 15 days before the hearing, which notice sets forth the time and place of such hearing and the conditional use proposed. Responsibility and cost of the public notice shall be borne by the party making the proposal.
2. The applicant shall notify all adjacent property owners (within 200 feet of the property lines in every direction) by certified mail, return receipt requested, at least ten (10) days prior to the public hearing. All return receipts and a copy of the letter with an affidavit of publication by the publisher shall be furnished to the Planning Commission in care of the city prior to the public hearing.
3. The applicant shall post at least one (1), or more where deemed necessary for adequate notice, conspicuous sign or signs on the property subject to a conditional use hearing at least ten (10) days prior to said hearing.

Signs for this purpose shall be provided by the city and shall note the time and date of the public hearing. Each sign shall be no smaller than two (2) feet high by three (3) feet wide and to contain the words **CONDITIONAL USE HEARING ON THIS PROPERTY**, printed in bold block letters a minimum of three (3) inches high with a copy of the public notice concerning the conditional use application to be placed on the sign in a clear, weatherproof enclosure.

4. There shall be no hearing without the required public notice. Notice shall not be published before the Planning Commission has scheduled the public hearing.

E. Action by the Planning Commission on conditional use.

1. The Planning Commission shall hear the petitioner's request for a conditional use at the public hearing and shall consider the petitioner's purposes for the conditional use request as well as public comments. The applicant must be present at the meeting for the matter to be considered. If the applicant is unable to attend, written authorization from the applicant authorizing representation must be presented to the Planning Commission for the matter to be considered. Any decisions made by the designated agent shall be binding on the landowner.

2. The Planning Commission shall either grant or deny the conditional use permit within a reasonable time of the final public hearing, imposing such conditions, if any, deemed necessary and appropriate to protect the character of the neighborhood. If approved, the conditional use is thereby granted unless appealed to the City Council.

The following considerations shall be discussed in relation to each proposed use:

Particular consideration shall be given to the impact on adjacent property owners in residential and quiet use zones:

- a. Whether the proposed use would be contrary to master, comprehensive or land use plans and would have an adverse effect on the plans;
- b. The existing land use pattern in the neighborhood;
- c. The population density pattern and possible increase of overtaxing of the load on public facilities such as schools and infrastructure;
- d. Whether the proposed change will adversely influence property values or living conditions in the neighborhood;
- e. Whether the proposed use will create or excessively increase traffic congestion or otherwise affect public safety;
- f. Whether the proposed use will create a drainage problem;
- g. Whether the proposed use will seriously reduce light and air to adjacent areas;
- h. Whether the proposed use will be a deterrent to the improvement or development of adjacent property in accord with existing regulations;
- i. Whether there are substantial reasons why the property cannot be used in accord with existing zoning without the conditional use being granted;
- j. Whether the proposed use is in harmony with the character of the neighborhood;
- k. Whether other adequate sites in the city exist for the proposed use in districts already permitting such use;
- l. Harm to any historic, aesthetic, or other intrinsic value of the structure to house the use;
- m. Adequacy of parking, and whether providing parking for the use would damage existing scenic areas, including front yards, gardens, and grounds;
- n. Traffic congestion near the proposed site; specific concerns as to ingress and egress, two-way traffic, danger from curves or other terrain conditions; prevention of smooth flow of visitors, customers, and motorists;
- o. Adequacy of utilities serving the site;
- p. Adequacy of refuse and service areas;
- q. Screening and buffering from adjacent properties;
- r. Environmental impact of the proposed use, including, but not limited to, odors, noise, smoke, or signs;
- s. The temporal nature of the enterprise, with allowances for temporary activities only in extreme cases where effort is already underway to construct a permanent facility;
- t. The opinions of adjacent property owners.

3. Any person affected by a proposed use may express approval or disapproval in writing or in person at the public hearing. Any lack of response by surrounding property owners shall not be interpreted as approval or disapproval.

4. Where a conditional use application has been opposed in writing by more than 20 percent of the adjacent property owners, a three-fourths (3/4) vote of the Planning Commission full membership shall be required for it to be approved. In no case can approval be reached with less than four (4) affirmative votes.

F. Conditional use appeal.

1. An applicant or adjacent property owner wishing to appeal a decision of the planning commission approving or denying a conditional use may appeal the decision to the city council, so long as written notice of intent to appeal and a statement of the reason the appeal should be granted is filed with the city within 15 days of the Planning Commission decision. The City Council shall consider the Planning Commission's determination regarding a conditional use appeal at the City Council's next regularly scheduled meeting.

The City Council, by majority vote, may uphold, modify in whole or in part, or reverse the decision of the Planning Commission, or may return the proposed conditional use to the Planning Commission for further study and recommendation.

2. Where a conditional use is under protest by more than 20 percent of the adjacent property owners, a three-fourths vote of the full membership of the City Council shall be required. A proposal is under protest if a written protest is signed by the owners of at least 20 percent of the adjacent land, which includes land separated from the subject property by only an alley or street. An appeal of the Planning Commission decision will be to the City Council.

G. Revocation of conditional use permit. The city may revoke a conditional use permit for violation of any condition of the permit. In the event that the City learns of any such violation, it shall notify the applicant of the violation. The applicant may be heard at the meeting of the Planning Commission scheduled for consideration of the revocation and show cause as to why the permit should not be revoked. If the applicant fails to appear or fails to show good cause why the permit should not be revoked, the permit shall be revoked and the use shall cease and any continuation of the use shall be a violation of this Code.

H. Re-application. Once an application for a conditional use permit for a property has been denied, such action cannot be reconsidered for a period of 12 months after the original decision, except that the Planning Commission by a three-fourths vote of the complete membership may agree to schedule an earlier hearing in those cases where the applicant, in writing, clearly demonstrates that:

1. Circumstances affecting the property that is the subject of the application have substantially changed;
or

2. New information is available that could not with reasonable diligence have been presented at the previous hearing.

City of Eureka Springs City Council
APPLICATION FOR APPEAL of
CONDITIONAL USE PERMIT DECISION

Name of Applicant _____

Address _____

Phone _____ Email _____

Name of Property Owner if different than Applicant _____

Address _____

Property Address/location _____

Date of decision being appealed _____ *Appeal must be filed within 15 days after decision*

Reason for appeal request _____

I certify that I have read and understand Sections 14.08.10 C of the Eureka Springs Municipal Code (attached) which apply to the application for which I am seeking approval. I further certify that all of the information furnished is correct to the best of my knowledge.

Signature of owner if other than applicant

Applicant's signature

Date

City Council Conditional Use Decision Appeal Report

Regularly Scheduled Meeting Date _____

The City Council reviewed the above Appeal application on _____.

The application was _____ approved _____ denied with _____ ayes, _____ nays and _____ abstentions.

Comments and conditions: _____

Mayor

City Clerk

Date