

100.237 Conditional use permits.

The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met:

- (1) The board may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one (1) or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.
- (2)
 - (a) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing, and other regulations.
 - (b) If the applicant submits a modified plan to the relevant regulatory authorities in order to comply with all of the requirements of building, housing, and other regulations that expands the applicant's conditional use beyond the previously established geographic boundaries of the original conditional use permit, then the expanded conditional use shall be reviewed by the board. This review shall be limited to an examination solely of the expanded geographic boundaries of the modified plan. The board may deny the applicant's conditional use permit for the expanded geographic area.
 - (c) The applicant shall have the duty of informing the board of modifications made in accordance with paragraph (b) of this subsection, within fourteen (14) days of their submission. The applicant's failure to provide the board with notification shall be grounds for the board to revoke the conditional use permit, after a hearing before the board.
- (3) In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.
- (4) The administrative official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional

use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the board of adjustment. 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 at least one (1) week prior to the hearing. If the board of adjustment finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment 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.

- (5) 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 of 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 conclusion in the margin of the copy of the conditional use permit which is on file. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.
- (6) When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, the mayor and city clerk of any city with a population of less than three thousand (3,000) based upon the most recent federal decennial census so affected within any county containing a consolidated local government, an owner of every parcel of property adjoining the property to which the application applies, and such other persons as the local zoning ordinance, regulations, or board of adjustment bylaws shall direct. Written notice shall be by first-class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.
- (7) When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city,

county, or planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:

- (a) If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or
- (b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 92, sec. 195, effective January 1, 2015; and ch. 113, sec. 2, effective July 15, 2014. -- Amended 2002 Ky. Acts ch. 346, sec. 148, effective July 15, 2002. -- Amended 1990 Ky. Acts ch. 362, sec. 10, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 30, sec. 6, effective July 15, 1988; and ch. 144, sec. 1, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 134, sec. 1, effective July 15, 1986. -- Amended 1978 Ky. Acts ch. 384, sec. 23, effective June 17, 1978. -- Created 1966 Ky. Acts ch. 172, sec. 51.

Legislative Research Commission Note (1/1/2015). This statute was amended by 2014 Ky. Acts chs. 92 and 113, which do not appear to be in conflict and have been codified together.