City of Elkhart

INSTRUCTIONS AND FILING PROCEDURE FOR CONDITIONAL USES

Conditional Use Permits provide a set of procedures and standards for specific land uses that will allow practical latitude for the developer, but at the same time maintain sound provisions for the protection of the health, safety, and general welfare of the residents of the City of Elkhart. In order to provide controllable and reasonable flexibility, Conditional Use requirements permit detailed review of certain specified types of land use activities which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Land and structure uses possessing these characteristics may be authorized when defined and permitted within a specific zoning district by the issuance of a conditional use permit. Through this procedure, the Board of Zoning Appeals has the opportunity to impose conditions and safeguards that are deemed necessary for the protection of the public welfare.

A complete Conditional Use Petition (see page 2) must be filed with the Planning & Zoning Department located at the Permit Center at 229 S. Second Street, Elkhart, Indiana. **Petitions must be filed no later than the filing deadline dates as shown below** on the Board of Zoning Appeals (BZA) calendar, and with all required signatures in permanent ink.

2026 CITY OF ELKHART BOARD OF ZONING APPEALS CALENDAR

File by Date	Meeting Date
Friday, December 5, 2025	Thursday, January 8, 2026
Friday, January 2, 2026	Thursday, February 12, 2026
Friday, February 6, 2026	Thursday, March 12, 2026
Friday, March 6, 2026	Thursday, April 9, 2026
Thursday, April 2, 2026	Thursday, May 14, 2026
Friday, May 1, 2026	Thursday, June 11, 2026
Friday, June 5, 2026	Thursday, July 9, 2026
Thursday, July 2, 2026	Thursday, August 13, 2026
Friday, August 7, 2026	Thursday, September 10, 2026
Friday, September 4, 2026	Thursday, October 8, 2026
Friday, October 2, 2026	Thursday, November 12, 2026
Friday, November 6, 2026	Thursday, December 10, 2026
Friday, December 4, 2026	Thursday, January 14, 2027

All meetings are held at 6:00 p.m. in the Council Chambers, 2nd floor, City Municipal Building on the 2nd Thursday of each month unless indicated in **bold**.

APPLICANT CHECKLIST – CONDITIONAL USE PETITION

A complete Conditional Use Petition must contain the following information:

1. _____ **A Conditional Use appeal letter patterned after the sample form on page 5** and including such data and/or information necessary for a clear understanding of the situation by the Board of Zoning Appeals. The appeal must address and discuss each of the **applicable standards (see page 3)** that the Board must use to make a decision. Please include any other pertinent data that will assist the Board in determining whether or not the approval of the Conditional Use request will be in the best interest of the City of Elkhart.

2. _____ A completed **Petition form (see pages 6 & 7)** signed by the legal owner of record of the property that is the subject of the Petition. **The owner(s) of record at the time the petition is filed shall be considered the applicant and must sign the petition.** If the request is filed by any person other than the legal owner or the owner's attorney, written authorization of the legal owner authorizing the person to act as the owner's agent for petition purposes must be filed with the petition. If the applicant is not an individual, the name(s) and title(s) of the person(s) who are authorized to execute legal documents for the applicant shall be supplied. Land Contract Purchasers or Renters cannot bring petitions without authorization from the owner of record.

3. _____ A full and accurate legal description of the property for which the conditional use is being requested. **The abbreviated version shown on a tax form is NOT an acceptable legal description.** A full legal description may be found on the recorded deed or possibly on a certified survey. If the legal description is in a Word or PDF format, please email it to Raen.Levendoski@cityofelkhartin.gov.

4. _____ A site plan of the property which must include the following: Location and size of all existing and proposed buildings and structures; Location and dimensions of building lines, right-of-way lines, setbacks, regulated drains and public and private easements (existing and proposed); Elevation contours and spot elevations sufficient to determine drainage (existing and proposed), if necessary; Layout of drives and other traffic features on opposite side of street and/or adjacent properties; Statement of availability of City sewer and water, if required for the proposed use; Locations of parking and loading areas, traffic access and circulation, open space, landscaping, refuse and service areas, signs, turning radii, and proposed vehicle and projected turning paths from turning radius templates. If site plan is larger than 11" x 17", provide 12 copies.

5. _____ *When changes to a building are involved*, the plans for the proposed conditional use must be provided and scaled to proportion.

6. _____ Vicinity map showing all existing land uses within a three hundred (300) foot radius of the property.

7. _____ Any supplemental information required for conditional use applications specified in the regulations of the zoning district in which the property is located.

8. _____ Names and addresses (with zip codes) of all property owners within a 300-ft. radius of the property for which the conditional use is being sought. Obtain information from the Auditor's Office: 117 N. 2nd St, Goshen.

9. _____ A filing fee in the amount listed in Section 29.12 of the Zoning Ordinance. The Permit Center accepts Visa, MC, and Discover credit cards, cash or a check made payable to the City of Elkhart.

$200.00	Residential (One & Two Family)
$300.00	Multi-Family, Business & Manufacturing

Failure to meet any of the above requirements will result in your application not being accepted by the Planning Department staff until such time as said requirements are met.

CONDITIONAL USE PROCEDURE

Petitions for Conditional Uses are reviewed by the Planning Department staff prior to the public hearing and decision of the Board of Zoning Appeals.

You or your designated representative must be present at the Board of Zoning Appeals meeting to make a presentation and answer any questions that may arise. The presentation must include sufficient evidence relating to the **standards listed below** (as well as any other information you feel is pertinent to your petition) to persuade the Board to grant your request.

After you have completed your presentation, public comments are heard for or against your petition.

You may be allowed to respond to any comments or answer any questions which may arise concerning your petition; this is at the discretion of the Board Chairman.

Standards Applicable to All Conditional Uses: Section 29.8 C. of the City of Elkhart Zoning Ordinance mandates that "The Board of Zoning Appeals shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

1. Is in fact a conditional use as established under the permitted land uses within the zoning district.
2. Will be harmonious with and in accordance with the general objectives or with any specific objective of the City's Comprehensive Plan and/or the Zoning Ordinance.
3. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance and function with the existing or intended character of the general vicinity and will not change the essential character of the area.
4. Will not be hazardous or disturbing to existing neighboring uses.
5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed uses shall be able to provide adequately any such services.
6. Will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community.
7. Will not involve uses, activities, processes, materials, equipment and conditions 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 or odors.
8. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
9. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance."

The Planning Department staff will consider these standards when making a recommendation to the Board of Zoning Appeals. You **must** address the above standards within the body of your appeal letter (see page 5).

Conditions and Commitments: When granting approval of any conditional use, the Board of Zoning Appeals may prescribe appropriate conditions or require the property owner to make written commitments regarding the use and development of the property which is the subject of the petition. Conditions or commitments may require special screening and buffering with reference to type, dimensions and character; additional setback distances, yards and open space or other measures necessary to ensure the compatibility of the proposed use and harmony of the proposed development with neighboring properties and other properties within the district. Conditions or commitments may address the following:

1. Off-street parking and loading areas;
2. Refuse and service areas;
3. Proposed signs and exterior lighting;
4. Noise, glare, odor, adverse economic effects or traffic hazards resulting from the proposed use;
5. Any other matter requiring particular attention in order to avoid adverse effects of the proposed use on neighboring properties and other properties in the district.

Action by the Board of Zoning Appeals: Following the public hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or deny the petition as presented. If the petition is approved or approved with modifications, the Board of Zoning Appeals shall instruct the Planning Department staff to issue a conditional use permit listing the specific conditions specified by the Board of Zoning Appeals for approval. If the petition is denied by the Board of Zoning Appeals, it shall notify the applicant in writing listing specific reasons for such denial.

Expiration of Conditional Use Permit: A conditional use approval shall be deemed to authorize only one particular use, and said approval shall automatically expire if, for any reason, the use has not commenced within one year or an implemented use has been discontinued for a period of one year.

Construction Requirements: Any person granted conditional use approval who fails to commence construction within twelve (12) months after such permit is issued or fails to conform to the provisions of the development plan approved by the Board of Zoning Appeals, may be required by the Board of Zoning Appeals upon its own motion and shall be required by the Board of Zoning Appeals upon written petition by any third party, to show cause why such approval should not be withdrawn and such permit revoked.

Modifications: The holder of a zoning clearance permit for a conditional use may apply to the Board of Zoning Appeals at any time for an alteration, modification, amendment, or extension of the application or development plan upon which such permit was based:

1. Upon receipt of such application, the Board of Zoning Appeals shall proceed as in the case of original applications for a conditional use.
2. In the event that the Board of Zoning Appeals shall approve and order such applications or development plans modified, altered, amended, or extended, it shall notify the Planning Department staff which shall issue an amended zoning clearance permit accordingly.
3. Any alteration, change, or amendment to a site plan (previously approved by the Board of Zoning Appeals through the conditional use process) and involving a new structure, combination of structures, or addition to an existing structure, may be issued a zoning clearance permit by the Planning Department staff without the requirement of a public hearing or Board of Zoning Appeals approval provided that:
   a. The net increase in floor area is less than one thousand (1,000) square feet but not to exceed fifty percent (50%) of the gross floor area of structures on the parcel.
   b. The plans for the proposed use are submitted to and approved by the Planning and Zoning Office.
   c. The plans are revised to incorporate any recommendations deemed appropriate by the Planning Department staff.
   d. The property of the proposed use is not located within one-hundred (100) feet of the property line of any existing residential land use.

Notice of the public hearing is prepared by the Planning Department staff and published in the newspaper 10 days prior to the meeting. Please refer to the BZA calendar (see page 1) for filing deadlines and the meeting location, time and dates.

THIS IS NOT A FILL-IN FORM.
It is a sample form to be used as a guide when preparing your appeal letter to the Board of Zoning Appeals

DATE:

TO: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Conditional Use Petition

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. I, *(insert property owner(s) name(s),* am the owner of the following described real estate located within the City of Elkhart, _____ Township, Elkhart County, State of Indiana, to-wit:

   Attach the accurate legal description and common address - a tax key number is not a legal description.

2. The above described real estate presently has a zoning classification of _____ _____ District under the Zoning Ordinance of the City of Elkhart.
3. Petitioner presently occupies the above described property in the following manner: *(Explain existing use)*.
4. Petitioner desires to *(Explain the proposed conditional use in detail)*.
5. The Zoning Ordinance of the City of Elkhart requires *(Explain ordinance requirements and note the Section Number of the Ordinance)*.
6. Explain why this property is suited to the conditional use being requested.
7. Provide a narrative statement evaluating the effects of such elements as noise, glare, odor, fumes, and vibration upon adjoining properties; and a discussion of the general compatibility with adjacent and other properties in the district.
8. Using the **standards from page 3**, address each standard. You cannot answer simply "Yes" or "No"; you must state **why** this is true (the reasons for your answer).

WHEREFORE, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested conditional use.

Signature of Property Owner: _____

Printed Name: _____

Second Property Owner: _____

Printed Name: _____

Contact Person: _____

Name: _____

Address: _____

Phone Number where you can be reached: _____

Email: _____

EXAMPLE

PETITION #: _____ **FILING FEE: $**_____

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: CONDITIONAL USE

Property Owner(s): _____

Mailing Address: _____

Phone #: _____ Email: _____

Contact Person: _____

Mailing Address: _____

Phone #: _____ Email: _____

Subject Property Address: _____

Zoning: _____

Present Use: _____ Proposed Use: _____

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): _____

SIGNATURE(S): _____ DATE: _____

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

_____ One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.

_____ A completed Petition form signed by the legal owner of record (or approved representative).

_____ If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.

_____ A full and accurate legal description of the property.

_____ One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.

_____ Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: _____ DATE: _____

AFFIDAVIT IN SUPPORT OF CONDITIONAL USE PETITION

I, _____, being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my conditional use petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at _____ Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the _____ day of _____, 20_____.

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

_____

Printed: _____

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared _____, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this _____ day of _____, 20_____.

_____

Printed: _____

My Commission Expires:

_____

Notary Public in and for the State of Indiana
Resident of _____ County, Indiana