

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 9/15/22 Weekly Agenda Date: 9/20/22

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Daniel J. Priestley, CED Zoning Coordinator

WORDING FOR AGENDA ITEM:

Permitting Process for Hazardous Liquids Pipelines

ACTION REQUIRED:

Approve Ordinance

Approve Resolution

Approve Motion

Public Hearing

Other: Informational

Attachments

EXECUTIVE SUMMARY:

Informational update about Woodbury County's permitting options for hazardous liquids pipelines under the Woodbury County Zoning Ordinance.

BACKGROUND:

Under the Zoning Ordinance, pipelines, pipeline terminals, pumping stations, etc. must receive a conditional use permit after review by the Zoning Commission and approval by the Board of Adjustment. Conditional uses are those having special or unique characteristics that require a careful review of their location, design, configuration, and impacts to determine the desirability of permitting their establishment on any given size. Conditional uses may or may not be appropriate in a particular location. The Board of Adjustment has the authority to approve, approve with conditions or limitations, or deny the requested conditional use. Options will be discussed as it relates to the current zoning ordinance, amendments to the existing ordinance, or a stand alone ordinance.

FINANCIAL IMPACT:

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes No

RECOMMENDATION:

Information Item Permitting Process for Hazardous Liquids Pipelines

ACTION REQUIRED / PROPOSED MOTION:

Information Item Permitting Process for Hazardous Liquids Pipelines

Woodbury County Zoning Ordinance – Pipeline Permitting through Conditional Use

Excerpt - Section 3.03.4 – Land Use Summary Table of Allowed Uses in each Zoning District

	AP	AE	NR	SR	GC	HC	LI	GI
ok Principal allowed use								
C Conditional use								
A Accessory use								
-- Prohibited use								
Hospice facility	C	C	C	C	--	--	--	--
Hospice services	--	--	--	--	ok	--	--	--
Substance abuse counseling	C	C	--	--	ok	--	--	--
Soup kitchens	--	--	--	--	ok	--	--	--
Transportation, communication and public services								
Air transportation								
Airport and heliport	C	C	--	--	--	--	--	--
Bus garage	C	--	--	--	ok	--	ok	--
Pipelines								
Pipelines	C	C	C	C	C	C	C	C
Pipeline terminals, pumping stations, etc.	C	--	--	--	--	--	C	C

Excerpt – Section 6.02

- 170. **Use.** The type of activity or purpose for which a parcel of land and/or structure is arranged, designed, or intended, or for which it may be occupied.
- 171. **Use, Accessory.** A use that serves or is subordinate in purpose to another allowed use on the same lot.
- 172. **Use, Allowed.** A principal, conditional or accessory use that may be established in conformance with the regulations of the zoning district in which it is located.
- 173. **Use, Conditional.** A use that is allowed in conformance with the regulations of the zoning district in which it is located, if and only if, approved by the Board of Adjustment as provided in subsection 2.02-9.
- 174. **Use, Principal.** A use that is allowed as a matter of right in conformance with the regulations of the zoning district in which it is located.

Section 2.02.9 – Conditional Uses

9. Conditional Uses

- A. **Authority.** The Board of Adjustment shall hear and decide upon requests for a conditional use pursuant to subsection 2.01-5.D subject to the procedures, standards and conditions set out in this subsection.
- B. **Purpose.** Conditional uses are those uses having special or unique characteristics that require a careful review of their location, design, configuration, and impacts to determine the desirability of permitting their establishment on any given site. Conditional uses may or may not be appropriate in a particular location.

ADMINISTRATION

- C. Filing.
- (1) Right to apply for conditional uses. An application for a conditional use may be filed by the owner of, or any other person with a contractual interest in, the subject property.
 - (2) Form of application. An application for a conditional use shall be submitted to the zoning director and shall include at least the following information:
 - (a) The name and address of the property owner and the applicant;
 - (b) The address, if any, and the legal description of the property;
 - (c) The current zoning district classification;
 - (d) A specific description of the proposed conditional use including the section of this title for which a conditional use is authorized;
 - (e) A map, drawn to scale, showing the subject property, all structures and other improvements, with the proposed conditional use identified;
 - (f) Statements in response to the criteria and standards for approval of conditional uses in subsection 2.02-9. F below.
 - (3) Fee. A nonrefundable filing fee, as established by resolution of the Board of Supervisors to defray administrative costs, shall accompany the application for a conditional use.
 - (4) A certified abstractor's listing of the names and mailing addresses of all owners of real property lying within 500 feet from the subject property, except that in the case of a conditional use to allow construction of an airport, a sanitary landfill, or a telecommunication tower as provided in subsection 5.05-3, the abstractor's list shall be for all owners of real property located within one mile of the subject property.
- D. Stay of proceedings. A request for a conditional use shall have the effect of a temporary suspension of enforcement of the provisions of these regulations that are the subject of the conditional use until the conclusion of the conditional use process, unless the zoning director certifies that the suspension may cause imminent peril to life or property.
- E. Review and decision-making process.
- (1) Review by the planning and zoning commission. The planning and zoning commission shall review the application for a conditional use and report its findings and recommendations to the Board of Adjustment before their public hearing on the application. In their review, the planning commission shall consider each of the standards and other considerations for review of conditional uses as specified in subsection 2.02-9. F below.
 - (2) Action by the Board of Adjustment.
 - (a) Hearing required. After receiving the report of the planning and zoning commission, the Board of Adjustment shall conduct a public hearing on the variance request in accordance with subsection 2.02-1. B.
 - (b) Notification. Public notification of the Board of Adjustment hearing on the conditional use request shall be as required by subsection 2.02-1. B(1).

ADMINISTRATION

Such notices shall provide information on the time, date and location of the hearing and a brief description of the requested conditional use.

- (c) Decision. Within 35 days after the public hearing, the Board of Adjustment shall approve, approve with conditions or limitations, or deny the requested conditional use. The Board of Adjustment shall set forth findings of fact addressing the points enumerated in subsection 2.02-9. F below as a basis for its action.

F. Requirements for conditional uses.

- (1) Standards. In order to grant a conditional use, the Board of Adjustment must determine that:
 - (a) The conditional use requested is authorized as a conditional use in the zoning district within which the property is located and that any specific conditions or standards described as part of that authorization have been or will be satisfied.
 - (b) The proposed use and development will be in harmony with the general purpose and intent of this ordinance and the goals, objectives and standards of the general plan.
 - (c) The proposed use and development will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other factors affecting the public health, safety and general welfare.
 - (d) The proposed use and development will be located, designed, constructed and operated in such a manner that it will be compatible with the immediate neighborhood and will not interfere with the orderly use, development and improvement of surrounding property.
 - (e) Essential public facilities and services will adequately serve the proposed use or development.
 - (f) The proposed use or development will not result in unnecessary adverse effects upon any significant natural, scenic or historic features of the subject property or adjacent properties.
- (2) Other considerations. In its review of conditional use requests, the Board of Adjustment shall consider whether, and to what extent:
 - (a) The proposed use or development, at the particular location is necessary or desirable to provide a service or facility that is in the public interest or will contribute to the general welfare of the neighborhood or community.
 - (b) All possible efforts, including building and site design, landscaping and screening have been undertaken to minimize any adverse effects of the proposed use or development.

G. Limitations.

- (1) The Board of Adjustment may set a time limit for establishment of the use authorized by a conditional use permit as a condition for approval. If the use has not been established within that time, the Board of Adjustment may consider revocation of the conditional use permit.

ADMINISTRATION

- (2) If the use or development for which the conditional use permit was granted ceases to exist for a period of ninety days, the certificate of occupancy shall be terminated. The use or development shall not be reinstated unless the Board of Adjustment issues another conditional use permit.
- H. Appeal of the actions of the Board of Adjustment. Any interested party may appeal a decision of the Board of Adjustment as provided by the Code of Iowa. Such an appeal suspends the effect of the action of the Board of Adjustment until the appeal has been resolved.