City of Fort Atkinson
101 N. Main Street
Fort Atkinson, WI 53538

City of Fort Atkinson Procedural Checklist for Interpretations Requirements per Section 15.10.50

This form is designed to be used by the Applicant as a guide to submitting a complete application for securing interpretations and by the City to process the application.

Name, company, and client (if applicable): _____

_____

_____

Phone number: _____ Email: _____

Property address for requested interpretation: _____

_____

I Application Packet Requirements

The Applicant shall submit an electronic copy of the application and any paper copies required by the City.

☐ Clear indication of the text of this Chapter for which the interpretation is requested and the specific questions the applicant has regarding said text.

If the requested interpretation relates to a specific property, the additional following information shall be required:

☐ A map of the subject property depicting:

- ☐ All lands for which the interpretation is requested and all other lands within 100 feet of the boundaries of the subject property.
- ☐ Current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control.
- ☐ All lot dimensions of the subject property.
- ☐ A graphic scale and a north arrow.

☐ A written description of the reason for the requested interpretation and how the proposed interpretation relates to type of activities, buildings, and structures currently located on, and proposed for, the subject property.

☐ A site plan of the subject property as proposed for development. Said site plan shall conform to any and all the requirements of Section 15.10.42.

☐ If the requested interpretation relates to the classification or treatment of a particular land use under the provisions of this Chapter, a series of written responses to the following questions:

- ☐ How is the subject land use (in general) in harmony with the purposes, goals, objectives, policies and standards of the City's Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City?
- ☐ How is the subject land use in harmony with the purposes, goals, objectives, policies and standards of the pertinent zoning district for which the interpretation is being sought?

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II Review by Zoning Administrator

1. The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Title. If the application is determined to be incomplete, the Zoning Administrator shall notify the applicant.

2. The Zoning Administrator shall review the application and evaluate and comment on the written justification for the proposed interpretation provided in the application to determine whether the requested variance is in harmony with the City's Comprehensive Plan.

3. The Zoning Administrator shall forward a report indicating the interpretation of the Zoning Administrator to the applicant. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the Comprehensive Plan, the Zoning Administrator shall note this determination in the report.

III Standards for Review

1. Articulate certain public purpose(s) underlying the standard(s) for which an interpretation is required. (Rationale: Before any zoning interpretation is made, there must be an explicit discussion of certain purpose(s) for which the regulation was initially imposed. Each zoning regulation is intended to protect the interests of both present and future neighbors and the general public. Each standard is developed as a regulatory response to an identifiable potential negative impact. A sound interpretation of any standard cannot be ensured without careful analysis of the regulation and the end toward which it is directed. It is understood that there may be other public purposes underlying the interpretation which are not explicitly articulated.)

2. Articulate the actual impact of various proposed interpretations, permitting flexibility in design and prohibiting any interpretation that lowers the protection afforded to the public. There is a critical distinction between an interpretation which provides a greater degree of design freedom to achieve a permitted land use, and an interpretation which permits a new or not previously permitted use, or which allows a use to be enlarged, or have its intensity increased beyond the degree specified in the Chapter. Design freedom is to be encouraged while a lowering of the standards of this Chapter is to be prohibited.

3. Determine whether the proposed interpretation will ensure a just balance between the rights of the landowner and all others who will be affected by that person's land use proposal. If an interpretation would merely allow a design solution that is slightly different from the one expressly stated or permitted, and if it would result in a same or greater degree of protection to any affected party (i.e. the abutting landowners, the public at large, and/or a future property owner or renter), such an interpretation may be appropriately made. Any interpretation which would result in any identifiable loss of protection for one group to the benefit of others is contrary to the spirit of this Chapter. Similarly, any interpretation which would either increase the nuisance potential of any use or alter the purpose for which the regulation was adopted shall be considered counter to the legislative intent of this Chapter. Any interpretation which will result in any loss of protection or increase in intensity beyond that already permitted shall only be made if the party interpreting this Chapter has the power to impose additional restrictions or requirements.

4. This Chapter has been carefully designed by the City Council to combine maximum achievement of public goals, and the protection of abutting property owners while providing flexibility for property owners to use their land for a variety of uses consistent with the goals and objectives of the Comprehensive Plan. Great care has been taken to balance the rights of competing groups while achieving maximum protection with flexibility and a range of use options. Persons interpreting this Chapter should not substitute their own judgments for the legislative acts of the City Council.

5. In addition to the applicant's response to the questions required by 1.-4. above, the following standards shall govern the decision on the requested interpretation on land use interpretation matters:

(a) No interpretation shall allow the establishment of any land use which was previously considered and rejected by the City Council on an application for an amendment to the Zoning Ordinance, the Official Zoning Map, or a previously applied for appeal from a requested interpretation.

(b) No interpretation shall permit a land use listed as a use permitted by right, a special use, or a conditional use in another zoning district if the use is not listed as permitted in the zoning district of the subject property (see Article II).

(c) No interpretation shall permit a land use in a zoning district unless evidence is presented which demonstrates that the land use will comply with any and all regulations applicable to development in the subject property's zoning district (see Article II).

(d) No interpretation shall permit a land use in a particular zoning district unless such use is substantially similar to other uses permitted in that same district and is more similar to such other uses than to uses either not permitted in said district, or permitted in a more intensive district in the same zoning district category (see Article II).

(e) If the proposed land use is more similar to a land use permitted only as a conditional use in the subject property's district than to a use permitted by right, then an interpretation permitting such use shall be conditioned upon the approval of a conditional use pursuant to Section 15.10.32.

6. Limitations on Favorable Land Use Interpretation

(a) No interpretation finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be valid for a period of more than 365 days from the date of issuance of the interpretation, unless a building permit is issued and development has begun within that period, and is thereafter diligently pursued to completion, or a certificate of occupancy is obtained and a use commenced within that period.

(b) An interpretation finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be deemed to authorize only that particular use at that particular location for which the interpretation was issued. The interpretation shall not be deemed to authorize any allegedly similar use for which a separate interpretation has not been issued. A favorable interpretation shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of 365 consecutive days or more.

III Process Checklist

- ❑ Staff-Applicant meeting (if applicable) Date: _____
- ❑ Receipt of complete application packet by Zoning Administrator Date: _____
- ❑ Review and action by Zoning Administrator Date: _____