

Livestock Siting Permit Record of Decision Guidelines for Local Government



Why does a political subdivision need to create a record of decision?

Political subdivisions that adopt a livestock facility siting ordinance are required to issue a written decision when granting or denying an application under Wis. Admin. Code § ATCP 51.34 (3)(a), which states “the decision shall be based on written findings of fact included in the decision. The findings of fact shall be supported by evidence in the record under Wis. Admin. Code § ATCP 51.36.” The political subdivision is required to provide a copy of notice of action and final application granted or denied to DATCP, pursuant to Wis. Admin. Code § ATCP 51.34(5).

A written record of decision provides a procedural record of the approval or denial process for reference and for any legal challenges. Additionally, DATCP uses these records to evaluate the current application requirements to ensure the process is working as intended in order to fulfil the Department’s obligation under Wis. Stat. § 93.90(2)(e).

These guidelines are offered for political subdivision convenience. They do not replace the controlling legal authorities and do not constitute legal advice.

What should you include in a record of decision? A written record of decision drafted in accordance with these guidelines should contain the following:

Section 1 - Introduction: Provide a brief summary on the context of the document.

Section 2 - Findings of fact: Describe the procedural steps that you took to review and subsequently approve or deny the application. The following are examples of information you could include:

- When was the application received?
- Who is the applicant and what are they applying for?
- Was an application fee paid?
- When did you determine the application complete and send a notice to the applicant?
 - If you determined the application was at any point to be incomplete, why was it incomplete? How and when did you notify the applicant?
- If a public meeting was held, how and when did you notify adjacent landowners informing them of the meeting?
- If a public meeting was held, when and where was it held? Who was present?
- If a public meeting was held, what documents or testimonies were presented?
- If a public meeting was held, what, if any, support was presented for or against the applicant?
- What ordinance(s) does the application comply or not comply with?
- What recommendation or decision was made at the meeting?
- Any other relevant steps in the approval or denial of the application.

Section 3 - Conclusions

State the decision to approve or deny the permit, pursuant to which ordinance(s) and date. The record should also list conditions of approval (if any), especially if you have adopted more stringent standards through Wis. Stat. § 93.90(3)(ar) or Wis. Admin. Code § ATCP 51.10(3). Pursuant to the Wisconsin Supreme Court interpretation in *Adams v. State of Wisconsin*, conditions in a permit must be related to the standards of Wis. Stat. ch. 93 or Wis. Admin. Code ch. ATCP 51.

Sign and date the record of decision and include it with a copy of the notice and application sent to DATCP. You must maintain a record of this decision for a minimum of seven years (Wis. Admin. Code § ATCP 51.36).



Record of Decision Example

The text below is an example of a written record of decision. A usable template is provided on the following page.

Introduction

Example Farm, LLC has applied for an expansion of their current permitted livestock facility from 1,000 animal units to 1,500 animal units, thus requiring a conditional use permit under Section 7(3)(c) of the county zoning ordinance. The planning and zoning committee states the following findings of fact and decision on the application for Example Farm, LLC.

Findings of Fact

- On July 8, 2020, Example Farm, LLC submitted an application for an expansion of their livestock facility from 1,000 animal units to 1,500 animal units.
- Example Farm, LLC paid the application fee of \$500 on July 8, 2020, as required by Section 7(3)(c)(2) of the county zoning ordinance.
- On July 15, 2020, Pat Smith - County Zoning Administrator, determined the application to be complete pursuant to Section 7(3)(c)(4) of the county zoning ordinance and sent notice to the applicant by way of certified mail.
- On July 16, 2020, paper notice was sent to all landowners directly adjacent to the applicant informing them of the proposed expansion and the planning and zoning committee hearing held on August 15, 2020, where the proposal shall be reviewed.
- On August 15, 2020, the planning and zoning committee held a hearing at 1005 Courthouse Lane, Barntown, WI 55555. All five committee members were present, as well as Pat Smith – County Zoning Administrator and Example Farmer of Example Farm, LLC.
- Example Farmer of Example Farm, LLC presented their application to the planning and zoning committee for an expansion from 1,000 animal units to 1,500 animal units.
- The planning and zoning committee reviewed the application from Example Farm, LLC. The session was available for public comment. No individuals came forth to speak for or against the proposed expansion.
- Pat Smith – County Zoning Administrator confirmed that the application complies with Sections 5, 6, and 7 of the county zoning ordinance.
- On August 15, 2020, the planning and zoning committee concluded to approve the Example Farm, LLC application for an expansion of 1,000 animal units to 1,500.

Conclusions

Example Farm, LLC is issued a conditional use permit, pursuant to Section 7(3)(c) of the county zoning ordinance, effective August 15, 2020. Conditions of approval are as follows:

- Example Farm, LLC shall operate as described in their application.
- Any modifications to the permit must be submitted to the county for approval.
- The county shall monitor compliance with this permit annually, in accordance with Section 7(3)(c)(7) of the county zoning ordinance.

County Zoning Administrator: _____

Date: _____

Record of Decision Template

The following template is available for a written record of decision. Copy and paste the text below into a new document and modify the bracket fields to reflect the details of the submitted application and the decision-making process in your political subdivision. Tip: Use the “Find and Replace” function to change duplicate brackets quicker.

Introduction

[APPLICANT NAME] has applied for a [NEW FACILITY or FACILITY EXPANSION (if expansion, list previous number of permitted animal units and new threshold)] thus requiring a [CONDITIONAL/SPECIAL USE PERMIT or LICENSE] under [APPLICABLE SECTION OF LOCAL ORDINANCE]. [LOCAL POLITICAL SUBDIVISION] states the following findings of fact and decision on the application for [APPLICANT NAME].

Findings of Fact

- On [DATE OF APPLICATION SUBMISSION], [APPLICANT NAME] submitted an application for a [NEW FACILITY or FACILITY EXPANSION (if expansion, list previous number of permitted animal units and new threshold)].
- [APPLICANT NAME] paid the application fee of [FEE AMOUNT] as required by [PROVISION OF ORDINANCE REQUIRING AN APPLICATION FEE] on [DATE OF FEE SUBMISSION].
- On [DATE OF COMPLETENESS DETERMINATION], [LOCAL AUTHORITY RESPONSIBLE FOR DETERMINATION] determined the application to be complete pursuant to [PROVISION OF ORDINANCE REQUIRING COMPLETENESS DETERMINATION] and sent notice to the applicant by way of certified mail.
- On [DATE OF NOTICES SENT], paper notice was sent to all landowners directly adjacent to the applicant informing them of the proposed [NEW FACILITY or EXPANSION] and [LOCAL AUTHORITY IN CHARGE OF APPLICATION REVIEW] hearing on [DATE OF MEETING FOR APPLICATION REVIEW] where the proposal shall be reviewed.
- On [DATE OF MEETING FOR APPLICATION REVIEW], the [LOCAL AUTHORITY IN CHARGE OF APPLICATION REVIEW] held a hearing at [LOCATION OF MEETING FOR APPLICATION REVIEW]. [NUMBER OR NAMES OF LOCAL AUTHORITY MEMBERS] were present, as well as [OTHER RELEVANT LOCAL AUTHORITY STAFF] and [APPLICANT NAME or REPRESENTATIVE OF APPLICANT NAME].
- [APPLICANT NAME or REPRESENTATIVE OF APPLICANT NAME] presented their application to the [LOCAL AUTHORITY IN CHARGE OF APPLICATION REVIEW] for a [NEW FACILITY or FACILITY EXPANSION (if expansion, list previous number of permitted animal units and new threshold)].
- The [LOCAL AUTHORITY IN CHARGE OF APPLICATION REVIEW] reviewed the application from [APPLICANT NAME]. The session was available for public comment. [NUMBER OF INDIVIDUALS COMMENTING FOR] came forth to speak for the proposed [NEW FACILITY or EXPANSION]. [NUMBER OF INDIVIDUALS COMMENTING AGAINST] came forth to speak against the proposed [NEW FACILITY or EXPANSION].
- [LOCAL AUTHORITY IN CHARGE OF APPLICATION REVIEW or OTHER RELEVANT LOCAL AUTHORITY STAFF] confirmed that the application complies with [PROVISION(S) OF ORDINANCE THAT REQUIRES COMPLIANCE FOR APPLICATIONS].
- On [DATE OF MEETING FOR APPLICATION REVIEW] the [LOCAL AUTHORITY IN CHARGE OF APPLICATION REVIEW] concluded to [APPROVE or DENY THE APPLICATION].

Conclusions

[APPLICANT NAME] is [ISSUED or DENIED] a [CONDITIONAL/SPECIAL USE PERMIT or LICENSE], pursuant to [PROVISION OF ORDINANCE THAT DECISION IS BASED ON], effective [DATE OF LOCAL AUTHORITY DECISION]. Conditions of approval are as follows:

- [LIST CONDITIONS OF APPROVAL]

[LOCAL AUTHORITY STAFF WITH SIGNATURE AUTHORIZATION]: _____

Date: _____