

## CHAPTER 9 ZONING PROVISIONS

Conditional Uses

### 9.24 CONDITIONAL USES

1. Application:

Application for conditional use permits shall be made in duplicate to the Town Board on forms furnished by its Clerk and shall include the following where pertinent and necessary for proper review as determined by the Plan Commission.

- A. Name and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
- B. Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structures; proposed operation or use of the structure or site; number of employees, and the zoning district within which the subject site lies.
- C. Plat of survey prepared by a land surveyor registered in Wisconsin or other map drawn to scale and approved by the County Planner showing the location, property boundaries, dimensions, elevations, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas, and driveways; existing highway access restrictions; existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within 40 feet of the subject site; soil mapping unit lines; mean and historic high water lines on or within 40 feet of the subject premises, and existing and proposed landscaping.
- D. Additional information as may be required or waived by the Town Board such as ground surface elevations, basements and first floor elevations, utility elevations, historic and probable future floodwater elevations, flood proofing measures, soil type, slope, and boundaries, and plans for proposed structures giving dimensions and elevations pertinent to its effects on flood flows.
- E. Fee receipt from the Town Clerk in the amount stated on Fee Schedule.

2. Review and Approval of Conditional Uses:

The Town Plan Commission shall review the site either by on site inspection or by viewing appropriate maps, photos and documents of existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effects of the proposed use, structure, operation, and improvement upon flood damage protection, water quality, shoreland cover, natural beauty and wildlife habitat, and shall make a recommendation to the Town Board.

The Town Board may authorize the issuance of a conditional use permit after review and public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this Ordinance and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the Town of Lyndon and its communities.

Conditions, such as landscaping, type of construction, construction commencement and completion dates, sureties, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, street dedication, certified survey maps, flood proofing, ground cover, diversions, silting basins, terraces, stream bank protection, planting screens, operational control hours of operation, improved traffic circulation, highway access restrictions, increased yards, or additional parking may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.

Compliance with other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required of all conditional uses. Variances shall only be granted as provided elsewhere in this Ordinance:

3. Earth and Water Movements:

Earth movements not related to farming activity involving a site disturbance in excess of 1 acre such as stream course changing, waterway construction or enlargement, channel clearing, removal of stream or

lake bed materials, dredging, lagooning, and the installation of soil and water conservation structures are conditional uses and may be permitted in any zoning district.

The Town Board may request a review of each such earth or water movement by the Department of Natural Resources, the Soil Conservation Service or other appropriate agency, and await their recommendations before taking final action, but not to exceed 60 days.

4. Agricultural and Related Uses:

Except where specifically permitted as a principal use, the following agricultural and related uses shall be conditional uses and may be permitted as specified. In approving or disapproving the location of a conditional use, the Town Board shall view the proposed site or sites and shall consider such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this Ordinance set forth in Sections of this Ordinance elsewhere and upon the particular land use problems related to development of the site or sites as proposed.

A. Housing for migratory or seasonal farm workers in the A-1, A-2, and A-3 Districts.

B. Commercial feed lots in the A-1, A-2, and A-3 Districts.

C. Livestock sales barns in the A-1, A-3, and A-4 Districts.

D. Animal hospitals, shelters, kennels in all the Agricultural and Conservancy Districts and the Business Districts provided that the lot area is not less than 5 acres and further provided that, if animals are to be housed outside there is a minimum building separation of 1,000 feet from the nearest neighboring residential structure existing at the time of the issuance of zoning permit.

E. Veterinarian services in the A-2 and A-4 Districts.

F. Commercial raising, propagation, or boarding of animals such as dogs, mink, rabbit, foxes, goats, pigs, fowl, and beef in the A-1, A-2, and A-3 Districts.

G. Commercial egg production in the A-1, A-2, and A-3 Districts.

H. Land restoration in all Agricultural and Conservancy Districts when conducted in accordance with the appropriate Soil Conservation Service standards.

I. Conditional uses allowed in zoning districts A-1, A-2 and A-3. Land uses in these districts are restricted to agricultural uses and uses that are consistent with agricultural use. All structures and improvements must be consistent with agricultural use as defined in §91.01 (10), Wis. Statutes.

- Farm consolidation.
- Agricultural-related uses.
- Ice age trail.
- Religious uses.
- A lease for oil or natural gas exploration and extraction.
- Government uses.
- Utility uses other than those not listed under A-1 Agriculture Land District.
- Institutional uses
- Farm family business with the limitations of § 91.75 (8) Wis. Stats. Rental of property qualifying as a “farm family business” under § 91.75 (8) Wis. Stats
- Non-metallic mineral extraction within the limitations of § 91.75 (9), Wis. Stats.
- A migrant labor camp certified under § 103.92, Wis. Stats.

The Department of Agriculture, Trade and Consumer Protection must be notified of all final actions granting conditional uses for land within an exclusive agricultural district.

A conditional use permit is required for uses that are not agricultural, but are consistent with agricultural use. The Town Board must make findings:

1. That the proposed use is consistent with agricultural use
2. The location in an Exclusive Agricultural Zoning district is necessary in light of alternative locations available.

J. Farm Direct Markets:

Within the A-4 district, the activity of selling agricultural products directly to the public under circumstances that do not qualify as a Roadside Stand. Farm direct markets (FDMs) are allowed only if a Conditional Use Permit has been obtained, and if the following requirements are met:

- a. The FDM is deemed to be incidental to the agricultural use of the parcel.
- b. The owner(s) of the parcel are the owner(s) and principal operator(s) of the FDM.
- c. No additional permanent structure in excess of 1600 sq. ft. of floor area is built for use by the FDM.
- d. The FDM involves only the sale of farm products raised or produced in Wisconsin.
- e. Not less than 75% of the display area of the FDM must be devoted to the display and sale of farm products raised or produced on the premises.
- f. The FDM may not offer for sale any processed or prepared foods intended for consumption on the premises.
- g. The FDM activity may not employ on the premises more than four (4) persons who do not reside on the parcel, except for relative of the owner(s) of the FDM.

Before issuance of a Conditional Use Permit, the Town may consider all other factors it deems relevant to its decision, including by way of illustration but not limitation the adequacy of existing driveways for anticipated traffic and whether driveway upgrades would take tillable agricultural land out of production; anticipated congestion on public roads, and the safety impact of customers of the FDM applicant accessing the applicant's property from the adjacent public roads; whether the applicant's proposal would require installation of plumbing and/or wastewater disposal systems; the environmental impacts of the proposed FDM; and the impact on the quality of life of the immediate neighbors of the applicant.

5. Mineral Extraction and Related Uses:

All conditional uses listed for the M-3 District shall be subject to the following regulations and such other regulations, as the Town Board may deem appropriate after viewing the site or sites and considering evidence presented at the hearing. Applicants are responsible for complying with all state and county regulations. See Section 10.12 5-C.

A. Plat or Survey:

Submittal of a plat of survey showing, as appropriate, the data and information set forth in Sections elsewhere in this Ordinance, topographic data (minimum contour interval of 5 feet) existing natural resource base data, the locations of existing and proposed access roads, and the depth of existing and proposed excavations.

B. Operations Plan:

Submittal of an operations plan, including at least a description of the operational methods proposed to be used; a list of equipment, machinery, and structures to be used and constructed; a description of the source, quantity, and disposition of water to be used; a description of proposed noise and dust control procedures; and proposed hours of operation.

C. Restoration Plan:

Submittal of a restoration plan, including at least proposed contours (minimum contour interval of 5 feet), type of fill, depth of restored topsoil, planting or restoration, and timing and completion data. Non-metallic mining area must be returned to agricultural use.

D. Sureties:

The applicant shall furnish sureties to enable the Town Board to carry out the restoration plan in the event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the town Board, and the form and type of such sureties shall be approved by the Town Board.

E. Permit Renewal:

Any conditional use permit issued for a use permitted in this Section shall be in effect for a specified time period, but not to exceed 2 years. Such permit may be renewed upon application for successive periods not to exceed 2 years each. Modifications or additional conditions may be imposed upon application for renewal.

6. Public and Semi-Public Uses:

Except where specifically permitted as a principal use, the following public and semi-public uses shall be conditional uses and may be permitted as specified. In approving or disapproving the location of a conditional use, the Town Board shall view the proposed site or sites and shall consider such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this

Ordinance set forth in Sections elsewhere in this Ordinance, and upon the particular land use problems related to development of the site or sites as proposed.

- A. Airports, airstrips, and landing fields in all Agricultural Districts and the Park (P) and Business (B) Districts, provided the site area is not less than 20 acres, and must be agriculturally related. Airports can only be permitted in EAZ if agriculture related.
- B. Colleges, universities, hospitals, sanitariums, religious, charitable, penal, and correctional institutions, cemeteries and crematories in the P and B Districts provided all principal structures and uses are not less than 50 feet from any lot line.
- C. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums, in all districts. These uses must be consistent with agricultural use in EAZ and necessary in light of alternative location.
- D. Public, parochial, and private elementary and secondary schools and churches in all Residential, Business, Agricultural, and Park Districts, provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any lot line. These uses must be consistent with agricultural use in EAZ and necessary in light of alternative location.
- E. Public passenger transportation terminals such as heliports, bus and rail depots, except airports, airstrips, and landing fields, in the B District, provided all principal structures and uses are not less than 100 feet from any Residential District boundary.
- F. Utilities in all districts provided all principal structures and uses are not less than 50 feet from any Residential District lot line. These uses must be consistent with agricultural use in EAZ and necessary in light of alternative location.

7. Recreational and Related Uses:

Except where specifically permitted as a principal use elsewhere in this Ordinance, the following recreational and related uses shall be conditional uses and may be permitted as specified on other than agricultural related lands. In approving or disapproving the location of a conditional use, the Town Board shall view the proposed site or sites and shall consider such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this Ordinance and upon the particular problems related to development of the site or sites as proposed.

- A. Amusement activities such as fairgrounds, roller skating rinks, go-cart tracks, race tracks, and recreation centers
- B. Archery ranges, golf driving ranges, firearm ranges, sports fields, polo fields, and skating rinks.
- C. Commercial recreation facilities such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, racetracks, rifle ranges, Turkish baths, skating rinks, and theaters.
- D. Cultural activities such as aquariums, art galleries, botanical gardens, arboreta, historic and monument sites, libraries, museums, planetarium, and zoos.
- E. Golf courses and country clubs in all Residential, Conservancy and Business Districts.
- F. Hunting and fishing clubs.
- G. Public assembly uses such as amphitheatres, arenas, field houses, gymnasiums, natatoriums, auditoriums, exhibition halls, music halls, legitimate theaters, motion picture theaters, and stadiums.
- H. Public or private campgrounds.

8. Residential and Related Uses:

Except where specifically permitted as a principal use, the following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

- A. Fraternities, lodges, and meeting structures of a non-commercial nature in all Business Districts provided all principal structures and uses are not less than 25 feet from any lot line.
- B. Home occupations and professional offices in all Residential Districts, not to exceed more than 25 percent of the floor area.
- C. One-family detached dwellings; one-family semi-detached dwellings; one-family attached dwellings; two-family dwellings; multiple-family dwellings; and all principal uses permitted in the B District, provided that such business uses shall not occupy more than 15 percent of the total development area, in the R-4 District.
- D. Planned residential development in the R-1, R-2, and R-3 Districts, provided that no planned development shall be approved which includes residential uses not permitted as a principal use in

the given district. The district regulations may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. The following provisions shall be complied with:

DEVELOPMENT	AREA	Minimum 5 acres
LOT	AREA	Minimum of 2/3 of the minimum lot area for the district in which located; minimum 3,000 square feet for attached single-family dwellings
0	WIDTH	Minimum of 2/3 of the minimum lot width for the district in which located; minimum 20 feet for attached single-family dwellings
BUILDING	HEIGHT	Maximum 35 feet
YARD	STREET	Minimum 20 feet
	REAR	Minimum 50 feet
	SIDE	Minimum 20 feet from street right-of-way lines, exterior property lines of the development, and other buildings

- E. Residential dwelling units, in the A-1, A-2, A-3 and A-5 Districts when necessary and essential to the principal or conditional permitted use.
- F. Residential dwelling units not to exceed 1 per principal use when attached to the principal structure in Business and Industrial District.
- G. Rest homes, nursing homes, homes for the aged, clinics, and children’s nurseries or day care centers in the R-3, P, and all Business Districts provided all principal structure and uses are not less than 50 feet from any lot line.

9. Resource Disposal Uses:

All operations listed as conditional uses in the M-4 District shall be subject to the following regulations and such other regulations, as the Town Board may deem appropriate after viewing the site or sites and considering evidence presented at the hearing:

- A. Uses to comply with Wisconsin Administrative Code, County Code of Ordinances, and other applicable laws. All processing and disposal operations must be conducted in strict accordance with the provisions of Chapter NR 151, Wisconsin Administrative Code; the SANITARY ORDINANCE, SHEBOYGAN COUNTY, WISCONSIN, and any other applicable laws.
- B. Plat of Survey:  
Applicants shall submit a plat of survey showing, as appropriate, the data and information set forth in this Ordinance, topographic data (minimum contour interval of 2 feet), existing natural resource base data, the location of existing and proposed access roads, and the depth of existing and proposed excavations and fills.
- C. Operations Plan:  
All applicants shall submit an operations plan that shall include at least a description of the operational methods proposed to be used; a list of equipment, machinery, and structures to be used and constructed; a description of the source, quantity, and disposition of the water to be used; a description of proposed noise, rodent, and dust control procedures, and proposed hours of operation.
- D. Restoration Plan:

All applicants shall submit a restoration plan showing at least proposed contours (minimum contour interval of 2 feet), type of fill, depth or restored topsoil, planting or reforestation, and timing and completion dates.

E. Sureties:

The applicants shall furnish a surety to enable the Town to carry out the restoration plan in the event of default by the applicant. The amount of such surety shall be based upon the cost estimates prepared by the Town, and the form and type of all sureties shall be approved by the Town Board.