

**SECTION 6**  
**CONDITIONAL USE REQUIREMENTS AND LIMITATIONS**

**6.1 PERMIT REQUIRED.**

Subject to review by and receipt of a recommendation from the Plan Commission, The Town Board may issue a permit granting approval for the use or development of a lot or parcel for one or more conditional uses specifically allowed in the zoning district within which such lot or parcel is located.

Issuance of a conditional use permit authorizes the property owner/applicant to move on to the next step in the development process and apply for all other permits or approvals that may be required by this Ordinance or other ordinances, e.g. site plan approval, subdivision plat approval, certified survey map (CSM) approval for a minor land division.

**6.2 STANDARDS FOR APPROVAL.**

The Plan Commission and Town Board shall base their recommendation and decision to grant a conditional use permit on consideration of the potential impact such use may have on the health, safety, and general welfare of adjoining property, the surrounding neighborhood, and the community as a whole. Specific consideration should be given to whether or not a proposed conditional use, including all principal and accessory buildings, structures and other developed features associated with that proposed use can meet any and all requirements, standards, and criteria set forth in the applicable zoning district section, and, that the proposed use would (or could if specific conditions of approval were satisfied):

- (1) be consistent with and/or further the general purpose and intent for this Ordinance (see Section 1.3) and the stated purpose and intent for the particular zoning district within which the subject property and proposed conditional use are located;
- (2) not create more adverse impacts on existing uses on adjoining property and the surrounding area than those which might reasonably result from a use and/or development that is permitted by right in the applicable zoning district;
- (3) not endanger the public health, general welfare or safety, and, not have a substantial or undue adverse impact that would diminish or impair the character and/or property values, of adjoining and/or surrounding property;
- (4) not be developed, constructed, arranged, operated or otherwise conducted on the lot or parcel that would interfere with the ongoing and future use and development of surrounding properties in accordance with the zoning districts within which the surrounding properties are located, and, not establish a precedent that encourages significantly more intensive or incompatible uses of surrounding properties;
- (5) be served by or provided with adequate essential services and public facilities, e.g. streets, potable water, sanitary sewer, police and fire protection, refuse disposal, parks, schools, etc.;
- (6) not result in the loss, destruction of or damage to water quality and quantity control features or facilities, or any other natural, historic, scenic resource, including floodplains, floodways, rivers, streams, soil and vegetation.

The burden of proof that a proposed conditional use meets or exceeds these standards is the responsibility of the property owner/applicant and not that of the Town Plan Commission or Town Board.

### 6.3 ZONING DISTRICT REGULATIONS AND CONDITIONS OF APPROVAL.

(1) Conditions of Approval.

The Plan Commission may recommend and the Town Board may impose stipulations and conditions imposing additional and more stringent requirements and limitations deemed appropriate and necessary to ensure the proposed conditional use, including all buildings, structures and other development features on the lot or parcel can or will meet the standards for approval set forth in Section 6.2. These stipulations and conditions may include, but not be limited to, the following:

- (a) prohibited uses;
- (b) site layout and developed features including building setbacks, location, design, orientation, height, landscaping, screening, etc;
- (c) performance bonds, letters of credit and/or financial sureties;
- (d) hours, days, seasons, etc. of operation;
- (e) sanitary sewer and potable water supply and/or disposal facilities.

Violations of any condition(s) set forth in the conditional use permit may constitute grounds for the imposition of additional and/or revised conditions, or, revocation of the conditional use permit. Such violations shall also be deemed to be a violation of this Ordinance and subject to all applicable penalties.

### 6.4 LIMITATIONS ON CONDITIONAL USE PERMITS.

(1) Time Limitations.

Unless otherwise stated as a condition of approval and made part of the conditional use permit, no permit shall remain valid for a time period longer than twelve (12) months unless the use has commenced within the twelve (12) month time period, or, a building permit (or other necessary permits required by this Ordinance or any other agency as a prerequisite to obtaining a building permit) has been obtained and the property owner/applicant is diligently pursuing completion of the development in order that the proposed use can commence prior to expiration of the time period for which such building permit (or other agency permit) remains valid.

(2) Discontinuation of Use.

The granting of a conditional use permit shall be deemed to authorize only the use(s) subject of the conditional use permit issued. Such permit shall automatically expire and cease to be of any force or have any effect if such use shall, for any reason, be discontinued for a period of twelve (12) consecutive months, or, thirty-six (36) cumulative months. Upon such expiration, all use(s) shall conform to the provisions, limitations, etc. contained in the applicable zoning district.

(3) Revocation.

A conditional use permit shall remain in effect provided that the terms and conditions set forth therein have been and continue to be met in the manner set forth in the permit and/or this Ordinance or until expiration of the permit. In the event that the property owner, applicant and/or operator fails to comply with the terms and conditions of conditional use permit or the provisions of this Ordinance, the permit may be revoked by the Town Board after giving twenty (20) days notice to the property owner, applicant or operator. The property owner, applicant or operator shall be entitled to a hearing before the Town Board concerning any questions, concerns, or circumstances surrounding the matter of revocation and grounds for such revocation. Reinstatement of a conditional use permit that has been revoked shall require review and approval by the Plan Commission and Town Board following the same procedures followed when the initial permit was granted.

- (4) Permit Runs with the Property.  
Except as may be otherwise provided in the conditional use permit, a conditional use permit shall be deemed to relate to and be of exclusive benefit to the site, lot or parcel of land subject to the permit and not the property owner/applicant, or operator of such use or land.
- (5) Additions, Enlargements, or Other Revisions to a Conditional Use.  
Except as may be otherwise provided in the conditional use permit, any addition, enlargement, expansion, or other revision or change to the use, buildings, structures, or other development features comprising the use subject to a conditional use permit shall only be authorized pursuant to the same review and approval procedures set forth in this Ordinance.
- (6) Re-application Restricted.  
Whenever the Town Board has taken final action on a conditional use permit application, whether it be approved or denied, the Plan Commission shall not accept any re-application or new application(s) for a conditional use on any site, lot or parcel of land, in whole or in part, for a period of six (6) months.

#### **6.5 CONDITIONAL USE PERMIT APPLICATION.**

An application for a conditional use permit, including new uses and the enlargement, expansion, addition or other revision to an existing conditional use, shall be filed with the Town Clerk on forms provided or prescribed by the Town Clerk.

Conditional use permit applications shall be accompanied by the following information, plans, data in order for the Plan Commission and Town Board to properly review the permit application and make a determination and subsequent recommendation as to whether or not the proposed use would be in compliance with the provisions of this Ordinance and whether or not a permit shall be granted:

- (1) Name(s) and mailing address(es) of the property owner(s), applicant(s), and authorized agent(s);
- (2) Names and mailing addresses of all owners of property abutting and/or within five-hundred (500) feet of all property lines of the property subject of the permit application;
- (3) Address (if any) and legal description of the subject property by lot, block and recorded subdivision, certified survey map (CSM) or metes and bounds survey;
- (4) Zoning district within which the subject property is located;
- (5) Name of the project (if any) and a detailed narrative description of the specific uses(s) and operational characteristics of the proposed use, including but not limited to, the following:
  - (a) hours of operation;
  - (b) number of employees;
  - (c) estimate of vehicle traffic and trips generated by the proposed use;
  - (d) estimate of water consumption and wastewater generated by the proposed use;
  - (e) type of materials and equipment used and stored as part of the proposed use;
  - (f) methods of handling solid and liquid waste, site and building maintenance, security;

- (6) Plat of Survey or Site Plan (drawn to and including an appropriate scale) containing a plan view of all existing and proposed features of the lot or parcel including, but not limited to, the following:
  - (a) all property lines, right-of-way lines, access driveways, and easements;
  - (b) existing and proposed topography shown at a contour level of not less than two (2) feet on a topography/grading plan (optional);
  - (c) location and number of parking, loading and storage areas and spaces (including solid waste);
  - (d) location of existing and proposed septic systems, disposal fields, holding tanks, storm sewers, drainage basins and other storm water facilities;
  - (e) location of all buildings, structures, fences, walls, landscaping, and lighting features;
- (7) Description and/or architectural plans or drawings necessary to adequately present the type, dimensions, height, density, intensity, structure, and materials for all proposed buildings, structures, fences, walls, landscaping, lighting and other developed features;
- (8) Copies of all other permits or approvals granted by all County, State or Federal agencies;
- (9) Any other information, data, plans, evaluations, studies, etc. required by the Plan Commission or Town Board as each may deem necessary.
- (10) Other information, data, plans, studies, reports, surveys, etc. deemed necessary by the applicant in support of the permit application.

## **6.6 PERMIT REVIEW AND PROCESSING PROCEDURES.**

- (1) Public Hearing.  
The Plan Commission and Town Board shall conduct a public hearing, either individually or jointly, concerning each conditional use permit application after giving proper notice of the time, place and proposed use as required by Section 19.84, Wisconsin Statutes, and as further prescribed in this Ordinance. Any party may appear in person or be represented by a duly appointed and authorized agent. *{amended 7/2007}*
- (2) Plan Commission Review and Recommendation to the Town Board.  
Upon completion of the public hearing and other investigations deemed necessary, including but not limited to the conduct of a site review on the subject property, the Plan Commission shall formally review and consider the permit application, including all plans, information, data, and other and supporting documentation, appropriate information provided or gained as part of or resulting from comments made during the public hearing before making its determination.

The Plan Commission shall evaluate the proposed conditional use and make a determination as to whether or not the proposed use meets or exceeds the standards for approval set forth in Section 6.2. The Plan Commission shall report to the Town Board all findings upon which its determination is based, whether such determination is the basis for recommending approval or denial. The Plan Commission shall include in its report a recommendation to approve, conditionally approve, or deny the permit application. If conditional approval is recommended, said report shall include any and all conditions, stipulations, limitations, and guarantees the Plan Commission deems are necessary in order for the proposed use to meet the standards of approval and

ensure ongoing compliance with such standards and conditions, stipulations, and limitations contained in the permit.

The report and recommendation of the Plan Commission required by this Ordinance shall be advisory only and shall not be binding on the Town Board.

(3) Town Board Action.

Upon receipt of the Plan Commission's recommendation, the Town Board shall render a decision to either grant or deny a conditional use permit application. The Town Board shall formally review and consider the permit application, including all plans, information, data, and other and supporting documentation, appropriate information provided or gained as part of or resulting from comments made during the public hearing before making its determination.

The Town Board shall evaluate the proposed use and make a determination as to whether or not the proposed use meets or exceeds the "standards for approval" set forth in Section 6.2. The Town Board may approve, conditionally approve, or deny the permit application. If approved conditionally, the ordinance granting the permit shall include any and all conditions, stipulations, limitations, and guarantees the Town Board deems necessary in order for the proposed use to meet the "standards of approval" and ensure ongoing compliance with such standards and conditions, stipulations, and limitations contained in the permit.