

## **SECTION 4.00 CONDITIONAL USES**

### **4.01 PERMITS**

The Town Board may issue a conditional use permit for conditional uses as specified herein after review and a 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 environment or property values within the Town of Wayne.

### **4.02 APPLICATION**

Applications for conditional use permits shall be made in duplicate to the Town Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following:

- A. Names 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 structure; 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 registered land surveyor or a location sketch drawn to scale showing all the information required under Section 2.03 for a Zoning Permit and, in addition, the following: mean and ordinary high water marks on or within 40 feet of the subject premises, and existing and proposed landscaping.
- D. Additional Information as may be required by the Town Board or the Town Zoning Administrator.

### **4.03 REVIEW AND APPROVAL**

The Town Board shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation. In addition:

- A. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation,

deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.

- B. Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic and highway access shall be required of all conditional uses. Variances shall only be granted as provided in Section 12.00 of this Ordinance.
- C. Amendments. Changes subsequent to the initial issuance of a conditional use permit which would result in a need to change the initial conditions shall require an amendment to the conditional use permit. The process for amending a conditional use permit shall generally follow the procedures for granting a conditional use permit as set forth in Section 4.01.
- D. Revocation of a Conditional Use Permit. Should a permit applicant, his heirs or assigns, fail to comply with the conditions of the permit issued by the Town Board, or should the use, or characteristics of the use be changed without prior approval by the Board, the Conditional Use Permit may be revoked. The process for revoking a permit shall generally follow the procedures for granting a conditional use permit as set forth in Section 4.01.
- E. A Notification of each conditional use permit granted in the A-1 Exclusive Agricultural District shall be transmitted to the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP).

#### **4.04 PUBLIC, SEMIPUBLIC, AND INSTITUTIONAL USES**

The following public and semipublic uses shall be conditional uses and may be permitted as specified.

- A. Airports, Airstrips, and Landing Fields, including private landing fields, in the M-1 and M-2 Manufacturing Districts, and the A-1 and A-2 Agricultural Districts, provided the site is not less than 20 acres in area. Airports, airstrips, and landing fields in the A-1 Exclusive Agricultural District shall be governmentally owned and operated, or used for farm related operations such as crop dusting.
- B. Utilities in all districts provided all principal structures and uses are not less than 50 feet from any residential district lot line.
- C. Public Passenger Transportation Terminals such as heliports and bus and rail depots, but excluding airports, airstrips, and landing fields, in the B-1 Business District and in the M-1 and M-2 Manufacturing Districts provided all principal structures and uses are not less than 100 feet from any residential district boundary.

- D. Public, Parochial, and Private elementary and secondary schools in all Residential Districts, the P-1 Park District, and the I-1 Institutional District 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.
- E. Religious Institutions in all Residential Districts, the A-2 District, and the P-1 District provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet away from any lot line.

#### **4.05 AGRICULTURAL USES**

The following agricultural and agricultural related uses shall be conditional uses and may be permitted as specified:

- A. Additional Single-Family or Two-Family Residential Dwellings for a child or parent of the farm operator, or for a person earning a livelihood from the farm operation, in the A-1 and A-2 Districts. The need for more than one single-family dwelling to support and carry on a permitted principal use or conditional use must be established to the satisfaction of the Town Board before the issuance of a conditional use permit. If approved, a second farm dwelling shall be placed on a parcel separated from the farm parcel and shall be a minimum of 60,000 square feet in area for a single-family dwelling or two-family dwelling. The minimum lot width shall be 150 feet, and corner lots shall be a minimum of 175 feet in width. A second farm dwelling permit shall not be permitted in the A-2 District unless the farm is at least 40 acres in area. Mobile homes for farm family members shall meet the requirements set forth in Section 4.06.H.
- B. Agricultural Warehousing in the A-1 and A-2 Districts.
- C. Animal Hospitals and veterinary services in the A-2 District provided that no structure or animal enclosure shall be located closer than 100 feet to a property boundary.
- D. Boarding Stables in the A-2 District. Confined housing of horses shall be located not closer than 100 feet to a residential district boundary or a navigable body of water.
- E. Boat and Recreational Vehicle Storage in the A-1 and A-2 Districts when the storage is in a completely enclosed structure which is at least 10 years old and provided that the use is clearly incidental to the principal farm use.
- F. Commercial Butchering of livestock; the commercial production of eggs; and the hatching, raising, fattening, or butchering of fowl in the A-1 and A-2 Districts.
- G. Commercial Kennels in the A-2 District provided that no structure or animal enclosure shall be located closer than 100 feet to a property boundary.

- H. Commercial Raising, propagation, or boarding of animals, such as dogs, cats, mink, rabbits, foxes, goats, and pigs in the A-1 and A-2 District. Commercial boarding of cats, dogs, and horses, however, shall not be permitted in the A-1 District unless it is incidental to agricultural uses.
- I. Housing for Farm Laborers, and for seasonal and migratory farm workers in the A-1 and A-2 Districts. Mobile homes for farm laborers shall meet the requirements set forth in Section 4.06.H.
- J. Operation of Motorized Off-Road Vehicles off the public right-of-way in any agricultural district provided that no more than two such vehicles are operated; that the Town Board shall find that the lot is large enough to accommodate such off-road vehicle operation; that there will be appropriate distance from neighboring properties to minimize nuisances; and that the off-road vehicle operation will not adversely affect the use and enjoyment of neighboring properties. Operation of recreational vehicles on authorized recreational trails approved by the Town shall not be subject to the conditional use process.
- K. Manure Pits in the A-1 and A-2 districts. Manure pits shall be located a minimum of 300 feet from any residential district boundary or navigable body of water.
- L. Ponds, Scrapes, and Water Diversions in the A-1 and A-2 Districts, and in all Residential Districts.
- M. Processing of Dairy Products, Peas, and Corn in the A-1 and A-2 Districts, and in the M-2 District.
- N. Veterinary Services intended to service farm animals in the A-1 District provided that all principal uses and structures are located not less than 200 feet from a residential district.

#### **4.06 RESIDENTIAL USES**

The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

- A. Accessory Structures listed in Section 7.03.B may be located in the street yard in any Agricultural or Residential District provided the accessory structure complies with the minimum street yard (setback) required for a principal structure. The Plan Commission may require a greater setback or may require the accessory use to be screened.
- B. Bed and Breakfast Establishments in the A-1 and A-2 Districts, the R-1 District, and the C-2 District provided that no more than 4 bedrooms are rented; that dwellings being considered for conversion to bed and breakfast establishments shall exhibit unique architectural or historic characteristics; that individual rentals shall not

exceed 5 consecutive days in length; that no retail sales, other than crafts made on-premise, shall occur in a bed and breakfast establishment; that adequate off-street parking is provided; and that any permit required by Section HFS 197.04 of the Wisconsin Administrative Code has been secured. One exterior advertising sign, not exceeding 2 square feet in area, may be erected on the premises.

- C. Circular Driveways on residential lots fronting on land access streets. The two ingress/egress points shall be separated by a minimum distance of 30 feet, and the edge of the driveway at the point where it intersects with the street shall be located no closer than 15 feet from an adjoining property line. Teardrop-shaped driveways with one ingress/egress point do not require a conditional use permit. Circular driveways shall be prohibited on residential lots fronting on arterial streets and highways and collector streets.
- D. Community Living Arrangements and community-based residential facilities (CBRF) which have a capacity for 9 or more persons in the R-1 and R-2 Districts.
- E. Community Living Arrangements and community-based residential facilities (CBRF) which have a capacity for 16 or more persons in the R-3 District.
- F. Home Industries in the A-1 and A-2 District or any residential district. A home industry is similar to a home occupation and shall generally be limited by the standards for home occupations set forth in Section 7.03.G. The Town Board may, however, permit the conduct of a home industry in an accessory building. The Board may further permit the assembly and manufacturing of small-scale piecework or the use of non-household appliances and tools when it is deemed not to be disruptive to the neighborhood.
- G. Housing for the Elderly and Community-Based Residential Facilities (CBRF) in the R-3 Residential District, the I-1 District, and the B-1 and B-2 Districts provided that the density of such housing shall not exceed 6 units per net acre; and provided that there shall be a minimum living area of 500 square feet for a one-bedroom dwelling unit and a minimum living area of 750 square feet for a two-bedroom or larger dwelling unit.
- H. Mobile Homes Located Outside Mobile Home Parks in the R-3 District provided that:
  - 1. The mobile home shall not have been previously used or occupied.
  - 2. The mobile home shall have a minimum floor area of 1,200 square feet.
  - 3. The mobile home shall be set on a full basement constructed of concrete or concrete block.
  - 4. A 2 stall automobile garage shall be provided.
  - 5. Except for persons employed on the premises, the mobile home shall be owner occupied and shall be located on not less than one acre of land, which shall also be owned by the mobile home owner.

- I. Mobile Home Parks in the R-3 District provided that:
1. Minimum park size shall be 10 acres.
  2. Minimum park width shall be 330 feet.
  3. Maximum density of mobile home sites shall be 6 per acre.
  4. Minimum open space provided shall be 20 percent of the development area, exclusive of streets.
  5. Minimum lot area for each single-wide mobile home shall be 5,000 square feet. The mobile home lot shall be a minimum of 50 feet in width.
  6. Minimum lot area for a double-wide mobile home shall be 6,000 square feet. The mobile home lot shall be a minimum of 60 feet in width.
  7. Minimum setback for a mobile home park shall be 75 feet from the right-of-way of a public street or roadway.
  8. Minimum distance between mobile home units and all other exterior park lot lines shall be 50 feet.
  9. Minimum distance between mobile home and service road shall be 20 feet.
  10. Minimum distance between mobile homes shall be 20 feet.
  11. All drives, parking areas, and walkways shall be surfaced with dust-free material. There shall be 2 parking spaces for each mobile home.
  12. No mobile home sales office or other business or commercial use shall be located on the mobile home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage, and an office may be permitted by the Town Board as accessory uses.
  13. Each mobile home park shall be completely enclosed, except for permitted entrances and exits, by either:
    - a. A temporary planting of fast-growing material, capable of reaching a height of 10 feet or more.
    - b. A permanent evergreen planting, the individual trees to be of such a number and so arranged that within 10 years they will have formed a dense screen. Such permanent planting shall be grown or maintained to a height of not less than 10 feet.
  14. All mobile homes shall meet the construction standards of the Mobile Homes Manufacturing Association.
  15. All mobile homes shall be skirted to conceal the chassis.
  16. All accessory structures must meet the requirements of Section 7.03 of this ordinance.
  17. No mobile home site shall be rented for a period of less than 30 days.
- J. Nursing Homes, Clinics and Commercial Children's Day Care Centers in any business or residential district provided that all principal structures and uses are not less than 50 feet from any lot line.
- K. Operation of Motorized Off-Road Vehicles off the public right-of-way in any residential district provided that no more than two such vehicles are operated; that the Town Board shall find that the lot is large enough to accommodate such off-road vehicle operation; that there will be appropriate distance from neighboring properties

to minimize nuisances; and that the off-road vehicle operation will not adversely affect the use and enjoyment of neighboring properties. Operation of recreational vehicles on authorized recreational trails approved by the Town shall not be subject to the conditional use process.

L. Cluster Development

1. Intent. Cluster development is encouraged on parent parcels containing environmentally sensitive areas such as floodplains, wetlands, groundwater recharge areas, steep slopes, woodlands, historic features and other uniquely valuable sites, in order to preserve such resources in common open space. Cluster development is also intended to provide usable and suitable open space and recreation for community residents, and to provide for a more creative, flexible and efficient pattern of lots, roads and utilities than would occur under traditional lotting.
2. Design Standards for Cluster Groups:
  - a. All dwellings shall be grouped into cluster groups surrounded by common open space, each of which shall contain no less than 3 units and no more than 7 units.
  - b. Cluster groups shall be defined by the outer perimeter of contiguous lotted areas and abutting streets.
  - c. All lots in a cluster group shall take access from interior streets.
  - d. All lots in a cluster group shall abut common open space to the front or rear. Common open space across an interior street shall qualify for this requirement.
  - e. In locating cluster groups, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized.
3. Open Space Requirements. Sixty (60) percent of the gross tract area shall be set aside as common open space. This common open space shall meet the following standards:
  - a. Gross tract area shall include all lands within the tract, except existing street rights-of-way and railway rights-of-way.
  - b. As a general guideline, at least one-quarter of the required open space shall be located along the internal or external road frontage of the site, in order to minimize the perceived density of the development.
  - c. All open space areas shall be part of a larger continuous and integrated open space system. At least 75 percent of the common open space areas shall be contiguous to other common open space areas. For the purpose of this Section, contiguous shall be defined as located within 100 feet across which access is possible, for example, on opposite sides of an internal street.
  - d. Common open space shall, to the greatest extent possible, protect site features identified in the site inventory and analysis as having particular value in the context of preserving rural character, in compliance with the intent of this Ordinance. Primary and secondary environmental corridors and isolated natural areas as identified by the

Regional Planning Commission are of particular significance for protection.

- e. No common open space shall be less than 10,000 square feet in area and not less than 30 feet in its smallest dimension. Open space not meeting this standard shall not be counted toward the total required 60 percent common open space.
  - f. The following areas shall not be included in the calculation of required common open space: private lot areas, street and highway rights-of-way whether public or private, railway rights-of-way, parking areas, and areas that do not meet the requirements of paragraphs b through e above.
4. Separation Distances. The outer perimeter of all cluster groups shall meet the following separation distances:
- a. From external arterial ultimate street rights-of-way: 50 feet.
  - b. From all other external street proposed rights-of-way: 50 feet.
  - c. From all tract boundaries: 100 feet.
  - d. From cropland or pastureland: 100 feet.
  - e. From buildings or barnyards housing livestock and manure storage facilities: 300 feet.
5. Landscaping Requirements:
- a. The developer shall provide street trees at the front of all interior lots, with a minimum setback of 10 feet from the right of way, at the rate of one canopy tree of 2.5 inch caliper per 50 feet. Suitable existing vegetation shall be credited toward the landscaping requirements when, in the opinion of the Town Board, it would equal or exceed the visual impact of the new required plant material after 2 years of growth.
  - b. Screening between cluster groups shall be required at a rate of one deciduous tree and one evergreen tree per 30 linear feet measured at a line equidistant from each cluster group. Such trees may be grouped and should not be arranged in a straight line.
6. Ownership and Maintenance of Common Open Space and Facilities. To ensure planning for ownership, operation, and maintenance of common open space, recreation facilities, stormwater management facilities, common parking areas and driveways, private streets, and other common facilities (hereinafter referred to as common facilities), the following regulations shall apply:
- a. One or more of the following methods may be used to own common facilities:
    - (1) Homeowner's Association. Common facilities shall be held in common ownership as undivided percentage interests by the members of a homeowners association. The organization shall be established by the owner or applicant and shall be operating prior to the sale of any dwelling units in the development. Membership shall be mandatory for all the



purchasers of dwelling units therein and their successors and assigns. The organization shall be responsible for maintenance and insurance of common facilities and members shall share equitably the costs of maintaining, insuring, and operating common facilities.

- (2) Condominium. Common facilities shall be controlled through the use of a condominium agreement which shall be in conformance with the Condominium Ownership Act of 1977 (Chapter 703, Wisconsin Statutes). All common open space and other common facilities shall be held in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.
  - (3) Dedication of Easements. Fee simple dedication or transfer of easements to a private conservation organization that is acceptable to the Town and is a bona fide conservation organization. The conveyance shall contain appropriate provisions for proper reverter or retransfer in the event that the organization is unwilling or unable to continue carrying out its functions. A maintenance agreement shall be established between the owner and the organization and shall be approved by the Town Board.
  - (4) Private Landowner. Ownership of common open space may be retained by a private landowner provided that the Town and residents of the development shall hold conservation easements on the land, protecting it from any further development. Resident access to common open space may be limited only by agreement of the residents, as indicated by documents signed at the time of purchase of individual dwelling units.
- b. The ownership and maintenance of all open space and related facilities shall be regulated by a developer's agreement approved by the Town Board of Wayne, recorded by the Washington County Register of Deeds, and binding upon the developer, owners, their heirs, their assigns, and any and all future owners of the subject lands.
7. Phased Land Divisions. Development may be phased in accordance with a unified development plan for the entire tract and the following requirements:
    - a. An inventory and analysis of the entire tract should be completed.
    - b. The unified development plan for the tract shall be approved as a sketch plan, and shall be made a part of a binding development agreement between the applicant and the Town.
    - c. When lots are subdivided prior to full development, the following standards shall apply:

- (1) All dimensional standards for cluster lots specified in the applicable zoning district regulations shall apply.
- (2) Common open space shall be provided for each phase on a percentage basis, based on the percentage of lots being developed. For example, if 25 percent of the total number of lots are proposed to be developed, at least 25 percent of the open space must be provided on the same tract with the lots.
- d. Any future development shall be consistent with the approved sketch plan and development agreement.
- e. The plan may be amended by approval of the Town of Wayne and affected landowners.

M. Lot Averaging

Lot averaging may be permitted by the Town Board subject to the following conditions. The conditions are intended to increase design flexibility by permitting a range of lot sizes, without creating common open space. Lot averaging is encouraged on parent parcels containing highly productive farmlands, in order to allow residential lots on a small portion of the parent parcel, while retaining the majority of the parent parcel for continued agricultural use.

- 1. Sewerage and water facilities shall consist of systems meeting the requirements of the Wisconsin Department of Commerce, the Wisconsin Department of Natural Resources, and the Town of Wayne.
- 2. When using lot averaging, the area of a lot may be reduced below the minimum, provided that the area by which it is reduced is added to another lot. The area of a lot may be reduced to no less than 1.5 acres (the absolute minimum lot area).
- 3. The dimensional standards set forth in the applicable zoning district regulations shall be met.
- 4. All lots capable of being further subdivided shall be restricted against further subdivision by deed restriction, conservation easement, or other agreement in a form acceptable to the Town Board of the Town of Wayne and duly recorded in the office of the Washington County Register of Deeds.
- 5. The subdivision of the total number of permitted lots on a tract may be phased, provided that any lots that may be further subdivided are deed restricted as to the remaining number of permitted lots.
- 6. Lots shall be laid out in such a way as to retain the maximum amount feasible of highly productive farmland on the parent parcel.
- 7. Residential lots shall be located at least 300 feet from buildings or barnyards housing livestock and from manure storage facilities.

N. Creation of New Traditional Lots.

The Town Board may allow the creation of traditional residential lots in the A-2, R-1, R-2, and R-4 Districts through use of a subdivision or certified survey map created in accordance with the Town Land Division Ordinance (Title XI of the Municipal

Code). Traditional lots shall generally be created on parent parcels that are not suitable for cluster developments or lot averaging.

O. In-Law Unit in the A-2 Agricultural/Rural Residential, R-1, and R-4 Residential Districts, subject to the following limitations and conditions:

1. The in-law unit must be located within the same structure as the primary residence; no more than one in-law unit may be permitted per primary residence or lot.
2. The location, building plan, and site plan shall be subject to approval by the Town Board. The architecture of the residence shall be compatible with the adjacent neighborhood.
3. The structure shall appear to be a single-family residence. There may be a separate entrance to the in-law unit, but there must be a communicating door between the primary residence and the in-law unit.
4. The in-law unit shall not be served by separate utilities.
5. The in-law unit shall contain not more than one bedroom and shall not be occupied by more than 2 people who are related by marriage to each other and are the mother or father of one of the primary residence owners.
6. The owner of the property shall notify the Town Board in writing each time the occupancy of the unit ends. If the unit is unoccupied for more than 12 months, the conditional use permit shall lapse and the property owner shall convert the unit back to part of the primary residence as directed by the Zoning Administrator.
7. The property owner shall cause to be recorded in the Office of the Washington County Register of Deeds a restrictive covenant, prior to the issuance of a building permit. The covenant shall state that the in-law unit shall be occupied by persons related by marriage and that the conditional use permit is not transferable without formal approval by the Town Board without the necessity of public hearing and that the unit shall be used as intended.
8. No additional house number shall be assigned for the in-law unit.

#### 4.07 BUSINESS USES

The following business uses shall be conditional uses and may be permitted as specified:

A. Billboards in the B-3, M-1, and M-2 districts, subject to the requirements set forth in Section 6.00 and subject to the following:

1. No billboard shall be permitted within 500 feet of another billboard on the same side of any one roadway.
2. No billboard shall exceed 20 feet in height or 150 square feet in area.
3. Billboards shall have a minimum 25 foot setback from any property line.
4. No billboard shall be permitted which is visible from any lot in a residentially zoned district used for residential purposes, and which is within 400 feet from the nearest lot line of any occupied parcel.

5. Billboards shall not be placed within the public right-of-way.
  6. Billboards shall comply with the requirements set forth in Chapter 84 of the Wisconsin Statutes. Where this Ordinance sets forth more restrictive requirements than those specified in the Statutes, the more restrictive requirements shall apply.
- B. Drive-In Establishments serving food or beverages for consumption outside the structure in the B-1, B-2 and B-3 Districts.
  - C. Funeral Homes and crematoriums in the B-1, B-2, or B-3 Districts provided all principal structures and uses are not less than 50 feet from any lot line.

#### **4.08 MANUFACTURING USES**

The following manufacturing uses shall be conditional uses and may be permitted as specified:

- A. Commercial Animal Reduction Facilities, forges, foundries, slaughterhouses, stockyards, and tanneries in the M-2 District.
- B. Landfills, Disposal Areas, Incinerators, salvage yards and sewage disposal and treatment plants in the M-2 District.
- C. Lumber Yards and building supply yards in the M-1 and M-2 Districts.
- D. Manufacturing of Ammonia, asbestos, asphalt, cement, chlorine, coal tar, creosote, explosives, fertilizer, glue, gypsum, insecticide, lampblack, poison, pulp, pyroxylin, radium, or similar substances in the M-2 District.
- E. Processing of Ammonia, asbestos, asphalt, cabbage, chlorine, coal tar, creosote, explosives, fertilizer, fish, glue, grease, gypsum, insecticides, lampblack, offal, poison, pulp, pyroxylin, radioactive materials, or similar substances in the M-2 District.
- F. Radio and Television Transmission Towers in any Agricultural, Business, or Manufacturing District.
- G. Storage of Bulk Fertilizer, explosives, gasoline up to 50,000 gallons, grease, and radioactive materials in the M-2 District. Storage of gasoline in excess of 50,000 gallons is prohibited.
- H. Transportation Terminals, and truck terminals and freight forwarding services in the M-1 and M-2 Districts.

I. Wireless Communication Facilities

In response to consumer demand for wireless communication services and requirements of the Federal Communications Commission (FCC), wireless communications providers wish to establish their systems as quickly and efficiently as possible. This will result in more antennas and towers across the visual landscape. In order to provide for appropriate location and network development, to minimize adverse visual effects through careful design, siting, co-location of providers and screening, and to maximize public safety, specific sites for wireless communication facilities may be granted by conditional use permit.

Wireless communication facilities may be permitted as conditional uses in the A-1, A-2, B-2, B-3, M-1, M-2 and Q-1 Districts provided that the following information, requirements, and standards shall apply:

1. Applications for wireless communication facilities shall include the following information:
  - a. A plat of survey, or site plan drawn to scale, showing the exact location of the facility and any associated equipment.
  - b. A description of the telecommunication service to be provided by the facility.
  - c. An indication as to whether the facility is designed to accommodate the equipment of additional carriers.
  - d. Approval from a registered professional engineer familiar with the requirements of wireless communication structures of new towers or appurtenances to be placed on buildings or to be ground mounted, and certification that the facility complies with applicable building and electrical codes and Electronic Industries Alliance and Telecommunications Industry Association standards.
  - e. A photo simulation that illustrates the appearance of the site once the facility has been constructed. Photos shall be taken from any adjoining street and from any adjacent residential zoning districts from which the facility will be visible. Elevation drawings shall be provided for wall and roof-mounted facilities for each side of the building from which the antennas or equipment will be visible.
  - f. A description of the height, material, and color of the facility, and associated accessory equipment, as well as a description of how the accessory equipment will be landscaped, screened, and secured.
  - g. Evidence of compliance with pertinent FCC regulations and federal requirements concerning radio-frequency emissions.
  - h. A copy of the Federal Aviation Administration (FAA) and Wisconsin Department of Transportation, Division of Aeronautics application, if required, or a written statement signed by the applicant that such approval is not required.
  - i. A copy of the Wisconsin Department of Commerce (COMM) application, if required, or a written statement explaining why COMM approval is not required.

- j. A statement from the building/property owner indicating that they consent to the placement of the wireless communication facility on the site, and that the lease does not preclude co-location.
  - k. Any other applicable information necessary to evaluate the request, as determined by the Town.
- 2. Co-location of equipment by various carriers is encouraged. No facility owner or operator shall unfairly exclude a telecommunications competitor from using the same facility or location. Any such exclusion shall be based upon technical, structural, or other objective reasons. If co-location is not feasible, the applicant shall provide sufficient reason and documentation of why it is not feasible.
- 3. Freestanding wireless communication facilities shall be subject to the height limitations of the zoning district in which they are located. Requests for freestanding facilities that are proposed to be constructed in excess of the maximum height allowed in the zoning district shall be considered when accompanied by a statement which justifies the need for the proposed height.
- 4. Roof and wall mounted antennas, support structures, and screening devices shall not exceed the highest point of the building upon which they are mounted by more than 7 feet. Whip type antennae may extend 15 feet from the highest point of the building. All roof, wall, and whip antennas, and required equipment shall comply with the height requirement for the zoning district in which they are located. Requests to exceed the maximum height allowed by the zoning district shall be considered when accompanied by a justification statement.
- 5. Freestanding wireless communication facilities shall be located no closer than a distance equal to 5 times their height from any property zoned R-1, R-2, R-3, or R-4. This distance shall be measured in a straight line from the boundary line of the residential zone to the proposed tower location. Stealth facilities shall be exempt from this requirement. Any equipment associated with wireless communications facilities shall meet the required setbacks for the zoning district in which they are located.
- 6. The minimum front, side, and rear yard setbacks for freestanding wireless communication facilities shall be a distance equal to the height of the freestanding facility.
- 7. Wireless communication facilities may be attached to existing utility infrastructure (i.e., electrical transmission poles, street light standards, and telephone poles) located within a public or utility right-of-way or easement, or constructed within the right-of-way or easement, provided the following requirements are met:
  - a. The antennae do not exceed the height of the existing utility infrastructure by more than 4 feet.
  - b. The facilities visually resemble other vertical utility infrastructure along the same street or highway.

- c. The applicant submits written authorization from the owner of the existing utilities and the right-of-way or easement with the application.
- 8. Freestanding wireless communication facilities shall not be artificially lighted unless required by the FAA or another regulatory agency.
- 9. Stealth wireless communication facilities and associated equipment are preferred and encouraged in instances where a freestanding facility is necessary.
- 10. Carriers shall notify the Town when they place the FCC on notice that a specific facility is being discontinued. Antennas or support structures and equipment not in use for 6 months for wireless communication purposes shall be removed by the facility owner. The Town may require the posting of a bond or other financial guarantee adequate to ensure removal of the facility at no cost to the Town.

**4.09 RECREATIONAL USES**

The following recreational facilities shall be conditional uses and may be permitted in all Districts except the A-1 District; provided that the lot area is a minimum of 3 acres and that all structures are not less than 50 feet from a lot line:

- A. Athletic fields.
- B. Archery ranges.
- C. Boating.
- D. Campgrounds.
- E. Conservatories.
- F. Driving ranges and miniature golfing.
- G. Firearm ranges.
- H. Golf courses with country club facilities.
- I. Go-kart tracks.
- J. Gymnasiums.
- K. Ice boating.
- L. Marinas.
- M. Model airplane flying areas.
- N. Music halls.
- O. Public swimming pools.
- P. Riding academies.
- Q. Swimming beaches.
- R. Skating rinks.
- S. Zoological and botanical gardens.

**4.10 ENERGY CONSERVATION USES**

The following energy conservation uses are conditional uses and may be permitted as specified:

- A. Wind Energy Conversion Systems, commonly referred to as “windmills,” which are intended to produce electrical power, may be permitted in any district provided that the following information, requirements, and standards shall apply:
1. **Application:** Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures, or connect to a utility company grid. The application shall further indicate the level of noise to be generated by the system, and provide assurances as to the safety features of the system. Solar easements shall accompany the application.
  2. **Construction:** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than 40 pounds per square foot.
  3. **Noise:** The maximum level of noise generated by a wind energy conversion system shall not exceed the standards set forth in Section 10.06, as measured at the lot line.
  4. **Electro-Magnetic Interference:** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
  5. **Location:** Wind energy conversion systems shall comply with all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems located on a lot in a R-1, R-2, R-3, or R-4 zoning district shall be located in the rear yard.
  6. **Height:** Wind energy conversion systems are exempt from the height requirements of this Ordinance, however, all such systems over 75 feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is considered an object affecting navigable air space and subject to FAA restrictions. A copy of the FAA application, if required, or a written statement signed by the applicant that such approval is not required shall be submitted with the conditional use permit application. A copy of any FAA restrictions imposed shall also be included as a part of the conditional use permit application.
  7. **Fence Required:** All wind energy conversion systems shall be surrounded by a security fence not less than 6 feet in height. A sign shall be posted on the fence warning of high voltage.
  8. **Utility Company Notification:** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate



utility company shall accompany and be part of the application for a conditional use permit.

9. Compliance with Electrical Code: The electrical portion of the installation shall comply with all provisions of Electrical Code of the Town of Wayne.

B. Solar Energy Conversion Systems, commonly referred to as “active” or “passive” solar collection and heating systems and including all systems as defined by Section 13.48(2)(h) of the Wisconsin Statutes when such systems are erected as an accessory structure may be permitted in any district.

1. Application: Applications for the erection of a solar energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the conversion system and the means by which the energy will be provided to the structure or structures.
2. Construction: Solar energy conversion systems shall be constructed and installed in conformance with all applicable state and local building and zoning codes.
3. Location and Height: Solar energy conversion systems shall meet all setback and yard requirements for the district in which they are located. Solar energy conversion systems shall conform to all height requirements of this ordinance unless otherwise provided in the conditional use permit issued pursuant to this section.

C. Earth Sheltered Structures, commonly referred to as “earth homes” which are built partially or totally into the ground for the purpose of using the insulating value of the soil to conserve energy may be permitted in the A-1, A-2, R-1, R-2, and C-2 Districts. This section does not include conventional homes with exposed basements, split-levels or similar types of construction and provided further that the following information requirements and standards shall apply:

1. Application: Applications for the construction of an earth-sheltered structure shall be accompanied by all of the information required to obtain a building permit. Attention shall be given to the bearing strength of the structure, provision of proper drainage for sanitary, storm and ground water and wastes, proper ventilation, grading of the lot and its affect on adjacent properties, proper exit availability and exterior renderings of the structures to determine its visual affect on adjacent structures. Such standards shall be certified by a registered professional engineer or architect.
2. Construction: Earth sheltered structures shall be constructed in conformance with all applicable state and local building codes. A registered professional engineer or architect shall certify that the design of the structure is in conformance with all applicable state and local codes.

D. Installation and Use of an Accessory Energy System commonly referred to as an outdoor boiler, furnace, or stove as a heat source for a residence or any accessory use thereof.

1. A Conditional use Permit shall be required for installation on a parcel 3 acres or less in size.
2. Application for the accessory energy system shall be accompanied by a plat of survey for the property to be served showing the location of the unit, the means by which heat will be provided to the structure or structures, and its aesthetic and smoke effect on neighboring residents.

#### 4.11 TEMPORARY USES

The following uses are conditional uses and may be permitted as specified.

- A. Flea Markets may be permitted in any business or manufacturing district for a period not to exceed 3 days. Special requirements may be imposed by the Town Board for parking, sanitary facilities, lighting, and hours of operation. No temporary use listed herein shall be conducted within the street right-of-way. Temporary uses permitted under this Section may erect one temporary sign not to exceed 50 square feet in area on one side and 100 square feet in area on all sides. All buildings, tents, equipment, supplies, and debris shall be removed from the site within 10 days following the temporary activity.
- B. Circuses and Animal Shows may be permitted in any business or manufacturing district for a period not to exceed 10 days. Special requirements may be imposed by the Town Board for parking, sanitary facilities, lighting, and hours of operation. The Board may limit or prohibit the display of dangerous animals such as tigers or snakes. No temporary use listed herein shall be conducted within the street right-of-way. Temporary uses permitted under this Section may erect one temporary sign not to exceed 50 square feet in area on one side and 100 square feet in area on all sides. All buildings, tents, equipment, supplies, and debris shall be removed from the site within 10 days following the temporary activity.
- C. Fireworks Sales Facilities may be permitted in any business or manufacturing district for a period not to exceed 45 days. No permit to sell fireworks may be granted until the Town Fire Inspector has reviewed the plan of operation and reported his findings and recommendations to the Town Board. No permit to sell fireworks shall be granted on any site where alcoholic beverages are served. Special requirements may be imposed by the Board for parking, sanitary facilities, lighting, and hours of operation. No fireworks sales facility shall be conducted within the street right-of-way. Temporary uses permitted under this Section may erect one temporary sign not to exceed 50 square feet in area on one side and 100 square feet in area on all sides. All buildings, tents, equipment, supplies, and debris shall be removed from the site within 10 days following the temporary activity.