

## **SECTION 2.00 GENERAL PROVISIONS**

### **2.01 JURISDICTION**

The jurisdiction of this Ordinance shall apply to all structures, lands, water, and air within the unincorporated limits of the Town of Wayne.

### **2.02 COMPLIANCE**

- A. No Structure, Land, Water, or Air shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except in conformity with the regulations herein specified for the district in which it is located.
- B. The Duty of the Zoning Administrator shall be to interpret and administer this Ordinance. The Zoning Administrator shall issue, after review, all permits required by this Ordinance and shall maintain records of all permits issued. The Zoning Administrator shall investigate all complaints, give notice of violations, issue orders to comply with the zoning ordinance, and assist the town attorney in the prosecution of ordinance violators. The Zoning Administrator and his duly appointed deputies may enter at any reasonable time onto any public or private lands or waters to make a zoning inspection.

### **2.03 ZONING PERMIT REQUIRED**

No structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, or structurally altered until after having secured a zoning permit from the Town Zoning Administrator, unless otherwise excepted pursuant to Section 2.04 of this Ordinance. Applications for a zoning permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Town and shall include the following where applicable:

- A. Name and Addresses of the applicant, owner of the site, architect, professional engineer, or contractor.

- 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; existing and 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, if approved by the Town Zoning Administrator, a sketch at a scale of no less than one inch equals 40 feet, showing the location, 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; and existing and proposed street, side, and rear yards. In addition, the Zoning Administrator may require that the plat of survey show the location, elevation and use of any abutting lands and their structures within 150 feet of the subject premises; the mean and ordinary high water mark; the type, slope, degree of erosion and boundaries of soil as shown on the operational soil survey maps prepared by the U. S. Natural Resources Conservation Service; or other information as requested by the Zoning Administrator, Town Plan Commission, or the Town Board.
- D. Proposed Sewage Disposal Plan if municipal sewerage service is not available. This plan shall include a copy of the permit issued by the Washington County Land Use and Parks Department for the installation of a private onsite waste treatment system, or other appropriate means of waste disposal.
- E. Proposed Water Supply Plan if municipal water service is not available. This plan shall be in accordance with Chapter NR 812 of the Wisconsin Administrative Code and shall be approved by the Town Engineer or Town Board.
- F. Condominium Declaration. Any developer of land in the Town of Wayne who elects to create and market a condominium pursuant to Section 703 of the Wisconsin Statutes shall submit a copy of the Condominium Declaration, and any amendment thereto, to the Zoning Administrator to be attached to the file copy of the Building Permit application.
- G. Additional Information as may be required by the Town Plan Commission, Town Board, Town Engineer, Building, Health, or Plumbing Inspectors.
- H. A Zoning Permit shall be granted or denied in writing by the Town Zoning Administrator within 60 days. The permit shall be good for one year and may be extended upon application and personal appearance, with plans for completion, before the Town Board. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

#### **2.04 CERTIFICATE OF COMPLIANCE REQUIRED**

No vacant land shall be occupied or used; and no building or premises shall be erected, altered, moved, or create a change in use; and no nonconforming use shall be continued by a new owner, renewed, changed, or extended until a certificate of compliance shall have been issued by the Zoning Administrator. Such certificate shall show that the building or premises or part thereof is in compliance with the provisions of this Ordinance. Such certificate shall be obtained prior to the occupancy of any land and/or building.

#### **2.05 CONDITIONAL USE PERMIT REQUIRED**

See Section 4.00.

#### **2.06 SIGN PERMIT REQUIRED**

See Section 6.00.

#### **2.07 OTHER PERMITS**

It is the responsibility of the permit applicant to secure all other necessary permits required by any state, federal, or county agency. This includes, but is not limited to, a floodland or shoreland development permit from the Washington County Land Use and Parks Department, a water use permit pursuant to Chapter 30 of the Wisconsin Statutes or a wetland fill permit pursuant to Section 404 of the Federal Water Pollution Act and/or a Water Quality Certification from the Wisconsin Department of Natural Resources.

#### **2.08 WASHINGTON COUNTY SHORELAND AND FLOODPLAIN ZONING REGULATIONS**

The Town recognizes that Washington County has adopted a Shoreland and Wetland Zoning Ordinance and a Floodplain Zoning Ordinance as required by the Wisconsin Statutes. Accordingly, the Zoning Administrator shall refer to Washington County all applicants seeking zoning permits for structures or uses which are proposed to be located or conducted within the shoreland or floodplain area subject to County regulations. If the Zoning Administrator determines that any Town zoning permit is required for such a project, the permit shall not be issued until the county permit has been issued. In a situation where the Town and County regulations conflict, the more restrictive regulations shall apply.

#### **2.09 SITE RESTRICTIONS**

No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Town of Wayne Board, in applying the provisions of this Section, shall in writing recite the particular facts upon which they base their conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if so

desired. Thereafter the Town Board may affirm, modify, or withdraw the determination of unsuitability.

- A. Private Sewer and Water. In any district where public sewerage service is not available, the width and area of all lots shall be sufficient to permit the use of a private onsite waste treatment system designed in accordance with Chapters Comm 83 and Comm 85 of the Wisconsin Administrative Code.
- B. Public Access. No zoning permit shall be issued for construction unless the main body of the lot upon which the building or structure is to be erected fronts on a public street for a distance of at least 66 feet. For cluster development, access may be taken from a public or private street.
- C. All Structures shall be located on a lot; and in single-family and two-family residential districts, only one principal structure shall be located, erected, or moved onto a lot. The Town Board may permit more than one structure per lot in other districts where more than one structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Board may impose additional yard requirements, landscaping requirements, parking requirements, or require a minimum separation distance between principal structures.
- D. No Zoning Permit shall be issued for a lot which abuts a street dedicated or reserved to only a portion of its proposed width and located on the side from which the required dedication has not been secured.
- E. Lots Abutting More Restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yards on the less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.
- F. Preservation of Topography. In order to preserve the natural topography as much as possible and in order to protect against dangers and damage caused by man-made changes to the existing topography, and to avoid unsightly and hazardous exposed earth sections, no lots or portions of lots nor any parcels of land shall be excavated or filled unless the following conditions are met:
  - 1. If the difference in grade between 2 contiguous lots along a lot line is to be not greater at any point than 2 feet, this difference in levels may be sloped toward or away from the lot line at a gradient of one foot vertical to 2 feet horizontal, and as soon as practical must be covered adequately with top soil and sodded to prevent erosion; or a retaining wall of stone or other suitable masonry material shall be constructed to retain the higher ground. Within a single lot, any excavation or fill not exceeding 2 feet, and not

involving an area in excess of 4,000 square feet, shall be subject to the aforesaid requirements.

2. If a difference in grade between 2 adjacent lots along a lot line is to be greater at any point than 2 feet, the following procedure shall be followed:
  - a. No slope to be covered with sod, grass seed, or other natural plant material may exceed a gradient of one foot vertical to 2 feet horizontal.
  - b. A slope protected by rip-rap construction may not exceed a gradient of one foot vertical to one foot horizontal.
  - c. A difference in grades may be protected by a retaining wall providing that the wall is engineered in such a manner as not to collapse. No retaining wall shall exceed 4 feet in height. A retaining wall may be stepped to achieve greater height. Each step of the wall shall be no more than 4 feet in height and shall be set back a minimum of 2 feet from the previous step.
  - d. Approval of any of the aforesaid methods shall be obtained in the following manner:
    - (1) The applicant shall furnish a topographic survey with a maximum contour interval of one foot prepared by a registered professional engineer or registered land surveyor showing existing elevations on the subject lot and on adjacent lands within 25 feet of the area to be filled or excavated.
    - (2) The applicant shall furnish a map showing existing drainage patterns and existing soil types on the subject lot and on adjacent land within 25 feet of the area to be filled or excavated.
    - (3) The applicant shall furnish a plan showing a typical cross-section of the proposed slope, rip-rap, or retaining wall; the proposed drainage pattern; a planting or sodding schedule; and the proposed means of preventing erosion during construction. If a retaining wall is to be constructed, a registered professional engineer shall certify that the wall will not collapse.
    - (4) The Zoning Administrator shall transmit the applicant's plans to the Town Engineer for review and comment, and the permit shall be issued only after receipt of the Engineer's written report.
    - (5) The applicant shall complete the proposed work in strict accordance with the approved plan and the time schedule specified in the permit.
3. In every instance, no person, occupant, owner of land, or corporation shall remove or cause to be accumulated topsoil or subsoil on any manufacturing, business, institutional, park, conservancy, or residential district without the proper review and

approval of an application for such removal or accumulation by the Town Board. Such removal or accumulation includes, but is not limited to, piles of earth, dirt, topsoil, or subsoil, which has been formed, accumulated or pushed into mounds or piles and which obstruct views or pose a threat to the general safety or welfare of the community with the existence of trenches, holes, or pits caused by such removal or accumulation.

- G. Garages Required. All new dwelling units shall include either an attached or detached garage, with minimum dimensions of 12 feet by 24 feet, which shall be completed at the same time or prior to completion of the dwelling unit.

## **2.10 USE RESTRICTIONS**

The following use restrictions and regulations shall apply:

- A. Principal Uses. Only those principal uses specified for a district, their essential services, and the following uses listed in this Section shall be permitted in that district.
- B. Accessory Uses and structures are permitted in any district, subject to the requirements of Section 7.03 of this Ordinance, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry except home occupations and professional home offices as defined in this Ordinance.
- C. Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Town of Wayne Board following a recommendation by the Plan Commission in accordance with Section 4.00 of this Ordinance.
- D. Unclassified or Unspecified Uses may be permitted by the Town Board after review and public hearing provided that such uses are similar in character to the principal uses permitted in the district.
- E. Temporary Uses, such as real estate sales or rental field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted for a period of up to one year by the Town Board. Temporary use permits may be renewed if the Board deems such renewal appropriate. Additional temporary conditional use permits are set forth in Section 4.11 of this Ordinance and may be permitted as set forth in that Section.
- F. The Accumulation or Storage of Equipment, such as tractors, refrigerators, furnaces, washing machines, stoves, machinery or parts thereof, wood, brick, concrete block, or other unsightly debris which may tend to depreciate property values in the area or create a nuisance or hazard shall not be permitted on any lot

or parcel of land within the Town of Wayne, except within a permitted salvage yard operated under a Conditional Use Permit, or elsewhere if completely housed and out of public view. See Section 5.04.C for regulations on the storage of junked vehicles.

- G. A Temporary Mobile Home may be permitted in any district by the Zoning Administrator as temporary or emergency shelter. Emergencies justifying the placement of a mobile home shall include destruction of the permanent home on a lot by wind, fire, or other disaster. A mobile home may not be permitted as temporary shelter during the construction of a permanent home or business. A temporary or emergency mobile home permit may be issued for a period of one year and may be renewed for one six-month period. In authorizing the temporary use permit, the Zoning Administrator shall require that the mobile home be oriented in a manner that is compatible with adjacent land uses. Appropriate landscape screening may also be required.
- H. (2018)-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.
- I. (2018)-Creation of New Traditional and Lot Averaging Lots.  
The Town Board may allow the creation of traditional residential and lot

averaging 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).

### **2.11 REDUCTION OR JOINT USE**

No lot, yard, parking area, building area, or other space shall be reduced in area or dimensions so as not to meet the provisions of this Ordinance. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

### **2.12 PERMIT FEES**

All persons, firms, or corporations performing work which by this Ordinance requires the issuance of a permit shall pay a fee for such permit to the Zoning Administrator to help defray the cost of administration, investigation, advertising, and processing of permits and variances. The permits for which a fee is required are the Zoning Permit, Certificate of Compliance, Conditional Use Permit, Land Disturbing Permit, and Sign Permit. A fee shall also be required for a zoning text or map amendment, and a zoning appeal or variance. All fees shall be established by separate resolution by the Town Board from time to time as deemed appropriate.

### **2.13 DOUBLE FEE**

A Double Fee shall be charged by the Town Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.

### **2.14 VIOLATIONS**

It shall be unlawful to construct or use any structure, land, or water in violation of any of the provisions of this Ordinance. Failure to secure the necessary permits prior to commencing construction shall also constitute a violation. In the case of any violation, the Town Board of Supervisors, the Zoning Administrator, the Town Plan Commission, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Ordinance.

### **2.15 REMEDIAL ACTION**

Whenever an order of the Zoning Administrator has not been complied with within 30 days after written notice has been mailed to the owner, resident agent, or occupant of the premises, the Town Board, the Zoning Administrator, or the Town Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.

### **2.16 PENALTIES**

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$10 nor more than \$200 and costs of prosecution for each violation and in default of payment of such forfeiture



and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense.