

- (3) **Staff review.** Within 10 days of submittal, the zoning administrator shall either schedule a date for the public hearing with the Plan Commission if the application is deemed complete or make a determination that the application is incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 3 months after the date of such determination to resubmit the application or forfeit the application fee. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- (4) **General notice.** Consistent with division 2 of article 6, the zoning administrator shall provide for class 2 public notice, an on-site sign, property owner notice, agency notice, and meeting agenda notice.
- (5) **Staff report preparation and distribution.** The administrator shall prepare a written staff report as described in this division and provide a copy of it to each member of the Plan Commission, the Town Board of Supervisors, and the applicant. The administrator shall also provide a copy to interested people upon request.
- (6) **Public hearing.** Allowing for proper notice, the Plan Commission shall conduct a public hearing to review the application consistent with division 3 of article 6. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance consistent with division 3 of article 6.
- (7) **Plan Commission recommendation.** The Plan Commission shall make a written recommendation to the Town Board of Supervisors to approve or deny the proposed amendment.
- (8) **Town Board of Supervisors action.** After reviewing the Plan Commission’s recommendation, the Town Board of Supervisors shall make a decision based on the decision criteria contained in this division to (1) approve the creation of the district, (2) approve the creation of the district with conditions, or (3) deny the creation of the district. Action to approve the planned development district shall be done by ordinance.
- ~~(9) **Required vote with a protest by qualified property owners.** If a written protest signed and acknowledged by the owners of 20% or more of the area of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the affirmative vote of three-fourths of the members of the Town Board of Supervisors voting on the proposed amendment.~~
- (10) **Notification of decision.** Within a reasonable time following the Town Board of Supervisor’s decision, the zoning administrator shall mail the decision notice to the applicant by regular mail.
- (11) **Acceptance by property owner required.** If an approval includes one or more condition of approval, the property owner shall sign the decision notice to acknowledge the imposition of such condition or conditions and return the same to the zoning administrator. Failure to sign and return the decision notice within 45 days of the Town Board of Supervisors’ decision shall void the approval. The decision notice shall become effective upon the property owner’s signature.
- (12) **Preparation of new zoning map.** If the district is approved, the zoning administrator shall within 60 days of the date of adoption cause a new zoning map to be prepared consistent with division 2 of article 8.
- (13) **Public records.** If the district is approved, the administrator shall keep a duplicate copy of the approved project plan and development agreement, if any, as a permanent record.

#### 9.07-38 Basis of decision

The Plan Commission in making its recommendation and the Town Board of Supervisors in making its decision shall consider the following factors:

- (1) whether development in the proposed district is in keeping with the spirit and intent of this chapter;
- (2) whether development in the proposed district is consistent with the Town’s comprehensive plan;
- (3) the effects of development in the proposed district on traffic safety and efficiency and pedestrian circulation, both within and outside of the district;

## ATTACHEMENT A TO ORDINANCE 2018-006

### ARTICLE 7 SPECIFIC REVIEW PROCEDURES AND REQUIREMENTS

**Divisions**

1. Code amendment (text and zoning map)	8. Reserved
2. Planned development overlay district	9. Variance
3. Reserved	10. Administrative appeal
4. Conditional use	11. Zoning permit
5. Special use permit for specified livestock operations	12. Reserved
6. Determination of unsafe conditions	13. Site plan
7. Termination of approval	14. Rural accessory building determination
	15. Code interpretation

#### DIVISION 4 CONDITIONAL USE

**Sections**

9.07-51 Generally	9.07-58 Staff report content
9.07-52 Initiation	9.07-59 Content of decision notice
9.07-53 Application and review procedure	9.07-60 Effect of approval
9.07-54 Basis of decision	9.07-61 Amendment of an approved conditional use
9.07-55 Special requirements for certain land uses in a A-1 district	9.07-62 Violation of a condition of approval
9.07-56 Imposition of conditions	9.07-63 Appeal
9.07-57 Application form and content	

**9.07-51 Generally**

Although each zoning district is primarily intended for a predominant type of land use, there are a number of uses that may be appropriate under certain conditions. These are referred to as "conditional uses" and are listed in division 3 of article 8. This division describes the requirements and procedures for reviewing a conditional use, including an amendment of an approved conditional use. In this sub-section, the following terms apply:

"Conditional Use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by the town but does not include a variance.

"Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

**9.07-52 Initiation**

The owner of the subject property may submit an application for the establishment of a conditional use.

**9.07-53 Application and review procedure**

The general steps outlined below shall be used in the review of an application for a conditional use.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the zoning administrator to review (1) applicable regulations and procedures, (2) applicable sections of the Town's comprehensive plan, and (3) the proposal. The zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary.

- (6) effects of the proposed use on the natural environment;
- (7) effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances;
- (8) effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts; and
- (9) any other factor that relates to the purposes of this chapter as set forth in s. 9.01-5 and other sections as may apply that can be supported by substantial evidence.

The requirements and conditions described must be reasonable and, to the extent practical, measurable and may include conditions such as the permit's duration, transfer or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the Town relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The Town's decision to approve or deny the permit must be supported by substantial evidence.

In the event the conditional use being proposed is an adult-oriented establishment, the above-named decision-making bodies shall not consider the nature of expressive conduct protected by the U.S. Constitution with regard to any of the above-mentioned criteria.

#### **9.07-55 Special requirements for certain land uses in a A-1 district**

(a) **Agriculture-related uses.** Subject to the general requirements under this division, the Town Board of Supervisors may approve agriculture-related uses in a A-1 district as a conditional use only if all of the following apply:

- (1) The use supports agricultural uses in the A-1 zoning district in direct and significant ways, and is more suited to the A-1 zoning district than to an industrial or commercial zoning district.
- (2) The use and its location in the A-1 zoning district are consistent with the purposes of the A-1 zoning district.
- (3) The use and its location in the A-1 zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (4) The use is reasonably designed to minimize conversion of land, at and around the use site, from agricultural use or open space use.
- (5) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (6) Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

(b) **Nonmetallic mine.** Subject to the general requirements under this division, the Town Board of Supervisors may approve a nonmetallic mine in the A-1 district as a conditional use only if all of the following apply:

- (1) The operation complies with (1) subchapter I of ch. 295, Wis. Stats., and administrative rules promulgated under that subchapter; (2) applicable provisions of chapter 20 of the general code; and (3) any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mineral extraction sites.
- (2) The use and the location of such use in the A-1 zoning district are consistent with the purposes of the A-1 zoning district.
- (3) The use and the location of such use in the A-1 zoning district are reasonable and appropriate, considering alternative locations outside the A-1 zoning district, or are specifically approved under state or federal law.
- (4) The use is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.

(b) **Limitation on imposing conditions.** A condition of approval shall not lessen a development standard or other requirement contained in this chapter.

(c) **Effect on contracts with another party.** The Town Board of Supervisors shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract with a third party under which the third party is engaging in a lawful use of the property.

(d) **Special condition for business as property owner.** As a condition of approval of a conditional use, the property owner if it is a business entity, such as a limited liability company or a corporation, shall for the life of the conditional use continuously maintain a registered office in the state of Wisconsin as evidenced by registration with the Wisconsin Department of Financial Institutions.

#### 9.07-57 Application form and content

The application submittal shall include an application form as may be used by the county and a project map prepared at an appropriate scale depicting the information listed in appendix A. In addition, the applicant shall also provide a building, site plan, and plan of operation along with the application materials.

#### 9.07-58 Staff report content

The staff report shall contain the following:

- (1) a summary of the comments received from the interdepartmental/agency review;
- (2) preliminary findings based upon the decision criteria listed in this division;
- (3) a recommendation to approve the application, approve the application with conditions, or deny the application;
- (4) a preliminary list of conditions regardless of whether the staff recommendation is for approval or denial; and
- (5) other information deemed necessary by the staff.

#### 9.07-59 Content of decision notice

- (a) **Approval.** If an application for a conditional use is approved, the decision notice shall include the following:
- (1) a statement that the application is approved;
  - (2) a description of the conditional use;
  - (3) a description of where the conditional use will occur on the property;
  - (4) findings based upon the decision criteria listed in this division;
  - (5) a list of conditions of approval imposed by the Town (which may include a date by which time the conditional use must be established) that must be satisfied prior to the establishment of the conditional use or complied with during the life of the conditional use, or both;
  - (6) if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision notice and return it to the zoning administrator within 45 days of such decision to acknowledge acceptance of the same;
  - (7) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
  - (8) a statement that an aggrieved person, other than the applicant, may appeal the decision to a court of competent jurisdiction and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
  - (9) other information the Town Board of Supervisors or zoning administrator deems appropriate;
  - (10) the signature of the zoning administrator on behalf of the Town Board of Supervisors; and
  - (11) the date of the decision.

considered a part of the mobile home. The basic unit shall not occupy in excess of one fourth of the area of the lot and the complete unit including all accessory structures shall not occupy more than one-half of the area of the lot.

(k) **Setback and buffer strips.** Each manufactured home shall be located at least 5 feet from any manufactured home lot line. There shall be a minimum setback of the manufactured home of 20 feet from the front, or main street side of the lot and of at least 10 feet from the rear of the lot. All mobile homes shall be located at least 25 feet from the perimeter of the site. Accessory buildings shall be located at least 10 feet from the perimeter of the site.

(l) **Drainage and landscaping.** The ground surface shall be graded and equipped to drain all surface water in a safe, efficient manner away from the manufactured home pad. Except for the manufactured home pad and other hard-surfaced areas, manufactured home spaces shall be sodded or seeded or otherwise landscaped.

(m) **Skirting.** Each manufactured home shall be skirted within 30 days of placement on the pad.

(n) **Mail delivery.** An off-street area for central mail delivery shall be provided.

(o) **Solid waste collection.** If the solid waste service provider does not provide individual pickup, a dumpster enclosure of sufficient size shall be provided.

(p) **Common storage area for residents.** An open, well-drained, dust-free storage area for the parking of boats, trailers, and outside vehicles owned by those living in the manufactured housing community shall be provided. The minimum size of such area shall be 100 square feet per manufactured home space. The storage area shall be fenced to prevent access from outside the park.

(q) **Recreation area.** A manufactured housing community shall contain a recreation area consisting of one-half acre for each 100 manufactured home spaces. The minimum area in a park shall be 0.2 acres. Such area shall be located in a central area of the manufactured housing community.

(r) **Utilities.** Utilities, including electrical, television, and telephone services, shall be placed underground.

(s) **Lighting.** Street lights shall be provided in sufficient number and intensity to permit the safe movement of vehicles and pedestrians at night and shall be effectively related to buildings, trees, walks, steps, and ramps.

(t) **Fire hydrants.** Fire hydrants shall be installed as required by the fire department serving the subject property.

(u) **Sanitation.** All appropriate state, county, and county sanitation regulations shall be strictly observed. Manufactured housing communities established after December 17, 2013, shall be served by a public sanitary district. An expansion of a manufactured housing community existing prior to December 17, 2013, may be served by an on-site system.

(v) **Continuing maintenance.** The owner of the manufactured housing community shall maintain the park in a clean and sanitary manner and may adopt and enforce community rules.

(w) **Community safe room.** A new manufactured housing community that contains 20 or more manufactured home spaces and existing manufactured housing communities that expand the number of spaces to 20 or more spaces shall provide and maintain an on-site community safe room for the use of park residents during wind-related storm events. The shelter shall meet applicable building codes and shall comply with the design and construction guidance as contained in *Design and Construction Guidance for Community Safe Rooms* (FEMA 361, second edition), or later edition, as published by the Federal Emergency Management Agency, U.S. Department of Homeland Security.

(x) **Local license.** Prior to the establishment of a manufactured housing community, the operator shall obtain a license from the town and maintain such license for the life of the use or until the town no longer requires such license.

#### 9.08-253 Multifamily building, 3 or more units

(a) **Number of principal buildings per parcel.** More than one multifamily building with 3 or more dwelling units may be located on a parcel of land, provided the overall density is maintained.

(b) **Design and construction.** A multifamily building with 3 or more dwelling units shall meet the design and construction standards for a single-family dwelling under s. ~~9.08-255(c)~~ **9.08-254**

**9.08-378 to 9.08-380      Reserved****Series 13. Transportation Facilities****9.08-381 Airport**

All buildings, outdoor airplane or helicopter storage areas, and other activity areas shall be located at least 100 feet from the perimeter of the airport property.

**9.08-382 Bus storage facility**

Outdoor storage areas and other activity areas shall be located at least 50 feet from a property in a residential zoning district and 25 feet from a property in a commercial or mixed-use zoning district.

**9.08-383 Mass transit terminal**

The primary access to a mass transit terminal shall be off of a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.

**9.08-384 Off-site parking lot**

(a) **Access requirements.** The primary access to an off-site parking lot shall be off of a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.

(b) **Out-through traffic.** Access and vehicular circulation shall be designed so as to discourage cut-through traffic.

**9.08-385 Parking structure**

Snow chutes shall be placed in a location causing the least amount of impact on surrounding properties.

**9.08-386 Park-and-ride lot**

The primary access to a park-and-ride lot shall be located in close proximity to a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.

**9.08-387 Railroad line**

No special standards apply to railroad lines.

**9.08-388 Street**

No special standards apply to streets.

**9.08-390 to 9.08-400      Reserved****Series 14. General Storage****9.08-401 Bulk fuel storage**

No special standards apply to bulk fuel storage.

**~~9.08-402 Personal storage facility~~**

~~(a) **Minimum lot area.** The lot on which a personal storage facility is located shall be at least one acre in size.~~

~~(b) **Access.** The access to a cubicle shall not open directly onto a public road right-of-way.~~

~~(c) **Surfacing of travelways.** Driveways, interior aisles, and walkways shall be concrete or asphaltic concrete, except as may be allowed in this subsection. Consistent with the procedures and requirements of article 7 of this chapter, the Plan Commission may allow gravel surfaces as a special exception and require, as a condition of approval, additional buffer yard and landscaping requirements deemed necessary to provide adequate screening between this use and adjoining properties.~~

~~(d) **Storage of prohibited substances.** No cubicle shall be used to store explosives, toxic substances, hazardous materials, or radioactive materials.~~

~~(e) **Uses.** Only uses that are accessory to storage shall occur. No portion of the site shall be used for fabrication, repair, or any similar use or for human habitation.~~

~~(f) **Design.** The personal storage facility shall be designed so as to minimize adverse visual impacts on nearby properties. The color, exterior materials, and orientation of proposed buildings and structures shall complement existing and anticipated development in the surrounding area. A personal storage facility in a commercial zoning district shall meet the special architectural requirements in division 8 of this article.~~

~~(g) **Fencing of outdoor storage area.** An area used for outdoor storage of operational vehicles, watercraft, and the like shall be enclosed by a security fence.~~

~~(h) **Setback of outdoor storage area.** Outdoor storage areas shall comply with the building setback standards for the zoning district in which the use is located.~~

**9.08-403 Truck terminal**

(a) **Setback of outdoor storage area.** Outdoor storage areas and other activity areas shall be located at least 100 feet from a property in a residential zoning district.

(b) **Control of fugitive dust.** As part of the building, site, and operation plan review process, the control of fugitive dust generated by this use shall be addressed.

**9.08-404 Warehouse**

(a) **Setback of outdoor storage area.** Outdoor storage areas and other activity areas shall be located at least 100 feet from a property in a residential zoning district.

(b) **Control of fugitive dust.** As part of the building, site, and operation plan review process, the control of fugitive dust generated by this use, if any, shall be addressed.

**9.08-406 to 9.08-410 Reserved**

**Series 15. Industrial Uses**

**9.08-411 Artisan shop**

When an artisan shop is located in a commercial or mixed-use zoning district, all materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.

**9.08-412 Batching plant associated with a nonmetallic mine**

(a) **Prerequisite use.** A batching plant in this instance shall only be allowed as an ancillary use to a nonmetallic mine that was previously approved under this chapter.

(b) **Setback requirements.** A batching plant shall be located at least 300 feet from a property in a residential zoning district and 200 feet from a property in a commercial or mixed-use zoning district.

(c) **Termination of approval.** If the zoning administrator determines that the nonmetallic mine with which the batching plant is associated is permanently closed, the administrator shall follow the procedure outlined in article 7 of this chapter relating to termination of the approval.

(b) **Curbs.** All off-street parking spaces shall have curbs so as to prevent vehicles from overhanging into pedestrian ways.

(c) **Drainage.** Parking areas shall meet the drainage requirements set forth in Section 23.15 of the Winnebago County Zoning Ordinance.

(d) **Location and Arrangement.** Subject to required landscaping areas, all required yards in commercial and industrial districts may be used for off street parking. Off-street parking shall be arranged for convenient access and safety of pedestrians and vehicles. Off-street parking shall be arranged so that no vehicle shall be required to back from such facilities directly onto public streets. Except for driveways, no part of the right-of way shall be used for vehicle maneuvering or parking.

(e) **Service drive, when required.** Groups of 3 or more parking spaces, except those in conjunction with a single-family or two-family dwelling on a single lot, shall be served by a service drive so that motor vehicles can enter and exit the parking area without backing onto a public right-of-way.

(f) **Service drive standards.** Service drives shall be designated and constructed to facilitate the flow of traffic, provide maximum safety in traffic ingress and egress and maximum safety of pedestrian and vehicular traffic on the site, and meet the dimensional standards in Exhibit 11-2.

Exhibit 11-2. Dimensional standards for parking spaces

Angle	Stall Width	Curb Length	1-Way Aisle	2-Way Aisle	Stall Depth
			Width	Width	
0°	9 ft.	22 ft. 6 in. [1]	12 ft.	24 ft.	8 ft. [1]
30°	9 ft.	18 ft. [1]	12 ft.	19 ft.	17 ft. [1]
45°	9 ft.	12 ft. 6 in. [1]	12 ft.	19 ft.	19 ft. [1]
60°	9 ft.	10 ft. 6 in. [1]	16 ft.	20 ft.	20 ft. [1]
90°	9 ft.	9 ft.	24 ft.	24 ft.	18 ft.

**9.11-08 Shared parking**

(a) **Generally.** There may be instances where two or more land uses could share the same parking facilities as shown in Exhibit 11-3. The zoning administrator may, upon written petition, authorize the joint use of parking facilities required by such uses, provided:

- (1) the applicant shows that there is no substantial conflict or overlap in the principal operating hours of the building or use for which the joint use of parking facilities is proposed;
- (2) the parking facility for which joint use is proposed shall be located within 400 feet of the building or use required to provide parking;
- (3) directional signage is provided where appropriate;
- (4) pedestrian links are direct, clear, and safe; and
- (5) parking lots are located within the same zoning district as the use they serve.

(b) **Written agreement required.** The parties involved in the joint use of off-street parking facilities shall evidence their agreement for such joint use by a legal instrument approved by the town corporation counsel as to form and content. Such instrument, when approved as conforming to the provisions of this part, shall be recorded in the office of the Winnebago County register of deeds and a copy filed with the zoning administrator.