

**CHAPTER 11
TOWN OF LISBON ZONING ORDINANCE**

SECTION 4 CONDITIONAL USES

(a) Approval required

Certain uses and situations which are of a special nature, or are so dependent upon actual contemporary circumstances as to make impractical the predetermination of permissibility or the detailing in this ordinance of the specific standards, regulations, or conditions which would permit such determination in each individual situation, may be permitted as conditional uses in the zoning districts listed for each individual conditional use type, subject to the requirements hereinafter specified for each conditional use type, the approval of the Town Plan Commission, unless otherwise designated herein, and subject to any conditions as deemed appropriate in the approval process.

(b) Application

Application for conditional use permits may be made by an individual property owner or group of owners or by a municipality, lake management district, sanitary district, or similar agency on behalf of a larger property area where said proposal may benefit a larger group or entire community. Application shall be made to the Town Clerk and shall include:

1. A plat of survey (preferably a topographic survey), or an accurate map of the property drawn to a scale of not less than two hundred (200) feet to one (1) inch, and properly dimensioned showing: all lands within 500' of the subject property; the land in question; its legal description and location; location and use of existing buildings, sanitary systems, and private water supplies on such land; the ordinary high water mark of any navigable waters within one hundred (100) feet of the boundaries of the land in question; the location and use of any proposed buildings; sanitary systems and private water supplies on such land and within one hundred (100) feet of the land in question. Contact the Town Hall as to the number of copies required.
2. Names and complete mailing addresses, including zip codes, of the owners of all properties within five hundred (500) feet of any part of the land included in the proposed change. When the project is to include a larger area and number of property owners and the applicant is the municipality or other governmental agency representing a large number of properties, the necessity of including names and addresses for the owners of land within five hundred (500) feet of the project area is not required although there must be a listing of all properties directly included by the project. Notice of hearing will only be required to be sent to the community, DNR, and other agencies of government as set forth elsewhere in this ordinance, and the notice shall be published in the newspaper as a class 2 type notice.
3. Additional plans, data, or information as may be required by the County Environmental Health Division or the Town Plan Commission. Such plans shall be in sufficient detail to enable the Plan Commission to evaluate the suitability of architectural and landscape treatment; the proper sitting of the building or buildings on the lot; generation of vehicular traffic, and provision for parking and circulation needs; drainage and sewage disposal; exterior lighting; control devices, where necessary, to eliminate noise, dust, odor, smoke, or other objectionable operating conditions; and the general compatibility of the proposed use with the area in which it is located.
4. A fee, as established and periodically modified by the Town under Section 37 (b) 5 shall accompany each application, except those submitted by a governmental body or agency. Such fee shall be paid by cash, check, or money order to the Town of Lisbon to defray the cost of official notification and posting of the public hearing. Costs incurred by the Town of Lisbon in obtaining legal, planning, engineering, and/or other technical and professional advice in connection with the review of conditional use applications and preparation of conditions to be imposed on such uses, shall also be charged to the applicant.

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5. Where necessary, to comply with the Waukesha County Shoreland and Floodland Protection Ordinance, and certain regulations established by the Wisconsin Statutes and the federal government, applications will be required to be submitted to the Waukesha County Planning and Zoning Division, the state Department of Natural Resources, and the U.S. Army Corps of Engineers.

The Town Clerk shall promptly refer any conditional use application to the Town Plan Commission for a determination.

(c) **Public Hearing**

Upon receipt of the application, the foregoing data, and fees, the Town shall establish a date for a public hearing by the Town Plan Commission, and shall publish notice of said hearing once each week for two (2) consecutive weeks in a newspaper of general circulation in the area of the proposed conditional use. The notice of the public hearing shall contain the purpose, time and place of the meeting. Notice of the public hearing shall be given by regular mail to the owners of all lands within five hundred (500) feet of any part of the land included in such conditional use at least seven (7) days before such public hearing. An exception to this requirement for notice to surrounding property owners is that for projects which are applied for and the responsibility of the municipality or other governmental agency as mentioned in Section 4 (b), notice is not required to be mailed to each affected property owner or those who own property within five hundred (500) feet of the project area. All other requirements for notice shall be accomplished as specified in this ordinance.

Testimony of all interested parties will be recorded at the public hearing and the Town Plan Commission shall take action within thirty (30) days, to either approve or disapprove of the application along with any conditions of approval or reasons for denial. If additional time is necessary beyond the thirty (30) days referred to above, such time may be extended with the consent, preferably in writing, of the petitioner. The decision of the Town Plan Commission, and any conditions or reasons made applicable thereto, shall then be sent in writing to the applicant and made a permanent part of the Town's records. In the case of conditional use applications for a cemetery or mausoleum, the Town Plan Commission shall submit their recommendation to the Town Board for official action of that body.

(d) **Final Determination and basis for Approval or Denial**

The Plan Commission and/or Town Board, if required, shall base their determination on the potential effect of such use on the health, general welfare, and safety of the Town and the immediate neighborhood, as well as the spirit and intent of the zoning ordinance. Specific consideration shall be given to the effect on the movement of traffic, environment, area aesthetics, Town services, and precedent of future development. Further, the proposed use shall conform to the building location, floor area ratio, parking, landscaping, lot width, setback, offset, height, building size, lot size, and open space regulations of the district in which it is located, except as otherwise regulated in this ordinance, or as modified by the Board of Appeals or the Town Plan Commission as appropriate.

The Plan Commission may deny the conditional use request if it concludes, based upon the information submitted, that the proposed use and/or development would likely:

- Materially endanger the public health, general welfare, and safety.
- Be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factor.
- For any other reason cause a substantially adverse effect on property values.
- Be inharmonious with the area in which it is to be located.

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- Will not be in general conformity with the land use plan, comprehensive plan, transportation plan, environmental plan, park and recreational plan, or other officially adopted plan.

The Town Plan Commission shall review the proposal as submitted along with requirements as may be established by the state department of natural resources and any applicable federal requirements. If approved, the decision shall include an accurate description of the approved use, the property description, and all conditions applied to the approval. If the conditional use request is denied, the Plan Commission shall state their reasons for denial.

Any conditions as may be deemed necessary by the federal government, the state, the town plan commission, the town board, or the county zoning agency shall be made an integral part of the permit. The applicant shall comply with these conditions, and in the event of conflicting conditions, the more restrictive of the conflicting conditions shall be complied with. Any deviation or alteration of the conditions set forth in the permit shall constitute a violation of the terms of the conditional use permit. Such violation shall constitute a violation of this ordinance and will be subject to prosecution and penalties under the terms of this ordinance. Notification of Town action on conditional uses shall be sent to the Department of Natural Resources, within ten (10) days of the approval by the Town if the conditional use is located in a shoreland and floodland area.

When a conditional use is approved, an official record of such conditional use approval shall be prepared by the Town in a prescribed form which shall include the description of the use for which the approval is given, and all development plans and conditions attached thereto. A copy of the official record shall be filed in the Town Hall.

Uses and structures accessory to the principal conditional use approval shall be regulated in accordance with the provisions of this ordinance.

(e) **Yearly compliance review**

All Conditional Use approvals shall be reviewed at least once every year at a time to be determined by the Town in order to ensure compliance with the terms and conditions of the approval.

(f) **Application for change, extension, alteration, or modification of conditional use permits**

If any holder of a conditional use permit wishes to change, modify, extend, or alter the terms of said permit, he or she must apply for such change, modification, extension, or alteration through the procedure of application for conditional use permits as detailed in this ordinance.

(g) **Termination, expiration, or automatic granting of conditional use status**

Conditional use status will terminate when, after a class 2 notice is published, notice is provided to the owner of the subject property of a public hearing, and the public hearing is held, the plan commission determines any of the following:

1. The conditional use has not continued in conformity with the conditions of the permit.
2. A change in the nature or character of the surrounding area, or of the conditional use itself causes it to be no longer compatible with surrounding uses.
3. The conditional use has been discontinued for a period of twelve (12) consecutive months. This includes an approved conditional use that has not commenced within twelve (12) months of the date of the Plan Commission action, or a building permit that has not commenced within six (6) months of issuance. A business of a seasonal nature shall not be deemed discontinued during periods in which it is normally inactive (i.e., summer camps, ski

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hills, quarries, marinas, etc.). Any future use shall conform to the regulations of the district in which it is located.

Upon a determination or finding by the town being made that the use must be terminated, the owner of the premises shall be required to bring all lands and structures into conformity with the permitted use regulations of the zoning district in which the property is located within sixty (60) days from such a determination. When changes in use or conditions of use upon which the use or operation exists are found to be more appropriate by the town, any changes or required improvements, or changes to the use or operation as set forth by the town, shall be made within sixty (60) days.

A use which existed lawfully on a lot at the time said lot was placed in a district where such use would be permitted only with conditional use approval, shall automatically be granted conditional use status. The grant of conditional use status in such cases shall be based upon the existing conditions at that time, and any expansion of the use shall require an amendment to the conditional use. Application may be made at any time for expansion of the conditional use or other change, and such application shall not prejudice the existing conditional use status as authorized above. Existing legal nonconforming uses may be reclassified as a conditional use subject to the conditional use provisions, procedures, and requirements of this section of the ordinance.

(h) **Conditional uses permitted**

Subject to the foregoing, in addition to such uses enumerated in the district regulations, the following may be permitted as conditional uses in the districts specified, provided further that a public hearing shall be held by the Town Plan Commission before any such conditional use is granted, **and the location, building, and site plan and plan of operation shall be submitted to and considered for approval by the Town Plan Commission in each case:**

1. Airports, Landing Fields and Take Off Strips: In A-10, and in all cases the following requirements shall be met in order to grant a conditional use:
 - A. Subject to the approval of building and site plans and a plan of operation for the conduct of the use.
 - B. Subject to the review and approval by the Federal Aviation Administration and/or the State of Wisconsin Bureau of Aeronautics or a letter waiving their approval or indicating such approval is unnecessary.
2. Animal Hospitals, Veterinarian Clinics, Commercial Kennels (including “doggy day care” and pet sitting businesses): In any district, except C-1, EFD, UC, R-3, PR, RM, P-I, B-4, and Q-1 districts. However, animal hospitals and veterinarian clinics shall be permitted uses by right in all business and industrial districts, except B-4, as long as such facilities do not include the operation of a commercial kennel as defined in this ordinance. In the BP District, Animal Hospitals and Veterinarian Clinics, excluding commercial kennels, require a conditional use, provided all principal structures and uses are not less than 100 feet from any residential use. In all cases, the following requirements shall be met in order to grant a conditional use:
 - A. Animal hospitals and clinics not involved in the operation of a commercial kennel may be permitted on lots of not less than one (1) acre and shall be in conformance with building location, height regulations and area regulations of the district in

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which such facilities are located. A commercial kennel operation shall not be permitted on parcels of less than three (3) acres and three hundred (300) feet of minimum average width.

- B. No building other than one used only for residence purposes shall be closer than fifty (50) feet to the lot line of an adjoining lot in a zoning district permitting residential use. Where the buildings are to be used to board or house dogs in a commercial kennel, including outdoor kennel runs, such structures and fenced runs shall not be closer than one hundred (100) feet to an adjoining lot line of any zoning district.
 - C. Off street parking shall be provided as required for Office Buildings and Customer Service Establishments.
3. Antique shops, gift shops, arts and crafts studios, and similar uses: Such uses are permitted uses by right in all Business and Industrial Districts, and may be allowed as conditional uses in the A-3, R-1, R-2, and R-3 zoning districts, and in all cases, the following requirements shall be met in order to grant a conditional use:
- A. The plan commission shall make a finding that such use is compatible with surrounding and nearby residential land uses which may be affected by the proposed use.
4. Automobile, Gasoline, and Service Stations and Convenience Stores associated with gasoline sales: In B-1, B-2, B-4 and B-P Business Districts and any Industrial District, and in all cases, the following requirements shall be met in order to grant a conditional use:
- A. No gasoline pumps and/or other accessory equipment shall be closer than fifteen (15) feet to the base setback line and fifty (50) feet offset to the side and rear yards. Underground or aboveground storage tanks shall conform with state standards.
 - B. No lighting installation shall be permitted which creates a hazard to traffic or a nuisance to surrounding property and all lights shall be shielded, baffled, or shaded to avoid such hazard or nuisance.
5. Bed and Breakfast Facility: The intent is to provide travelers/guests with temporary accommodations and breakfast, for a fee, on a daily or weekly room rental basis, as an accessory use in any existing structure designed for and occupied as a single family residence in any district permitting single family residences, except the EFD, UC, B-4, B-P, Q-1, M-1 and M-2 zoning districts, and in all cases, the following requirements shall be met in order to grant a conditional use:
- A. Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located. For building with significant architectural or historical value, the architectural integrity and arrangement of existing interior spaces must be maintained and the number of guest rooms shall not be increased except as may be required to meet health, safety, and sanitation requirements.

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- B. Off-street parking shall be provided at the rate of one (1) parking space for each room rented and two (2) spaces for the owner/occupant. The front yard shall not be used for off-street parking for temporary guests unless the parking area is screened from view with natural plant material, and found to be compatible with the neighborhood.
 - C. The number of rooms shall be limited to five (5) sleep-in rooms or less, excluding those used by the occupants of the facility, and no room may contain more than two (2) beds. There must be at least five hundred (500) square feet of gross interior floor area for each sleeping room. These facilities providing service to a greater number of guests are not considered "license exempt" under state law and must comply with state hotel/motel restaurant licensing procedures administered by the County or State Health Department. The issuance of such licenses shall not be considered as conferring non-conforming commercial status to the use that would either allow alteration of the facility or otherwise compel rezoning of the property for commercial use beyond the scope of this section.
 - D. One (1) on-premise sign may be allowed provided that such sign is compatible with the residential use of the site and its surrounding areas and is not more than fifteen (15) square feet in size with letter sizes not less than five (5) inches in height.
 - E. All necessary state and county permits, certifications, or requirements shall be obtained as a condition of approval of a bed and breakfast facility.
 - F. Room rentals to families or individuals shall not exceed fourteen (14) consecutive days during any thirty day (30) period.
 - G. The bed and breakfast facility must be accessory to and contained within the single family dwelling occupied by the owner (e.g., not a manager) of said premises.
 - H. The only meal to be provided to travelers/guests shall be breakfast and it shall only be served to guests taking overnight lodging in the facility.
 - I. The Waukesha County Department of Parks and Land Use - Environmental Health Division (EHD) shall examine both the water system and the sewage disposal system, and shall conduct a general health and safety inspection of the proposed facility. The EHD may impose any conditions required to ensure that all necessary health and safety standards have been met. The applicant shall not initiate any construction activity and other improvements related to the bed and breakfast facility; or begin operation of the facility until a determination, in writing, by the EHD that the necessary inspections have been completed and any deficiencies have been corrected. The proprietor shall have a water quality evaluation conducted by a recognized water testing laboratory on an annual basis following the certification of adequacy by the EHD. The results of that test shall be submitted to the EHD with a copy to the town building inspector. All requirements must be incorporated into the terms of the conditional use permit.
6. Business Park and Shopping Center Uses: In the B-4 zoning district. The use is a permitted use in the B-P zoning district. In evaluating the proposed use, the Town Plan Commission shall base their action on whether or not the proposed use will violate the spirit or intent of the ordinance, be contrary to the public health, safety, or general welfare, be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, traffic

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congestion, incompatibility of uses, or other similar factors, or for any other reason causes substantial adverse effect on the property values and general desirability of the neighborhood or the shopping center. The Town shall utilize the following considerations in the determination of the appropriateness of the contemplated uses:

- A. The Town Plan Commission must review and approve all existing and proposed uses.
 - B. The economic practicality of the proposed use.
 - C. The proposed use shall be served by adequate off-street parking, loading, and service facilities.
 - D. The proposed use shall not create an adverse effect upon the general traffic patterns, circulation, or adjoining property.
 - E. The architecture, landscape, lighting, and general site development shall be compatible with the surrounding neighborhood and uses.
 - F. The use may be granted with any reasonable conditions deemed necessary by the Town Plan Commission.
 - G. The proposed development shall have adequate drainage and stormwater retention facilities, sewage and water facilities. Restrictions may be placed on uses without public sewer.
 - H. The intended use complies with the locally adopted Land Use Plan/Comprehensive Development Plan.
 - I. The shopping center complies with the Town of Lisbon Design Standards for the B-4 and B-P Zoning Districts (refer to Addendum E).
7. Cemeteries and Mausoleums for the Burial of Human Remains Only: Permitted by right in the P-I District. In any other district as a conditional use, except in the C-1, UC, PR, B-4, B-P, and Q-1 districts, subject to the approval of the Town Board following the recommendations of the Plan Commission.
8. Churches, Synagogues, and Other Buildings for Religious Assembly: Permitted by right in the P-I District. In any other district as a conditional use, except in the C-1, UC, PR, B-4, and B-P districts, and in all cases, the following requirements shall be met in order to grant a conditional use:
- A. A floor area ratio of no more than 50% shall be allowed.
 - B. Off-street parking shall be required in accordance with Section 3 (j) of this Ordinance.
 - C. Such use shall conform to the setback, height, and double the offset requirements of the district in which it is located.
 - D. The height limitation may be extended to a maximum of fifty (50) feet provided the minimum required setbacks and offsets shall be increased two (2) feet for every

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additional foot of height in excess of the permitted maximum in that district. The aforesaid height regulation shall not apply to the spire or belfry of a church except where airport safety zone regulations specifically limit the maximum height.

9. Commercial fish ponds, bait ponds, or fish hatcheries: In the C-1, A-10, A-5, B-2, B-3, Q-1, M-1, and M-2 districts, and in all cases, the following requirements shall be met in order to grant a conditional use:
 - A. No such use shall be permitted on a lot less than five (5) acres in area.
 - B. No building, other than one used only for residential purposes, shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.

10. Commercial Truck Parking: Such uses are uses permitted by right in B-3, Q-1, M-1, and M-2 districts. In all other districts as a conditional use, except the C-1, EFD, UC, PR, RM, RD-5, AD-10, P-I, B-4, and B-P zoning districts, and in all cases, the following requirements shall be met in order to grant a conditional use. However, in no case, shall such use be allowed on any lot within a recorded subdivision or certified survey map, or on unplatted lands in the Town where lot sizes are less than three (3) acres.
 - A. Parking and storage of commercial or industrial type vehicles (trucks, construction vehicles, grading equipment, buses, semi-trailers and tractors, similar vehicles and related equipment, other trailers, etc) may be allowed as long as the vehicle is owned or leased and operated by the owner or occupant of the premises. No such use shall be allowed on any parcel except as may front directly upon, and have access to, an arterial or collector street as defined in this ordinance.
 - B. No more than three such vehicles and equipment shall be allowed to be parked or stored on the occupant's property. The type of vehicles allowed shall be specified by the Plan Commission. All such vehicles and equipment shall be fully operative and in active use. Where considered appropriate, two (2) semi trailers may be allowed, but in no case may there be more than one (1) semi-tractor or "cab" unit. The number of vehicles cannot be increased without the approval of a variance by the Town of Lisbon Board of Appeals.
 - C. The Plan Commission shall specify the area on the property where the vehicles shall be parked or stored. No such vehicle shall be allowed to be parked or stored closer than fifty (50) feet to any adjacent lot line, and not closer than one hundred (100) feet from the base setback line. In the case of refrigerator trucks, the refrigeration unit may not be operated in the open, except upon entering or leaving the property.
 - D. In determining whether or not the proposed conditional use permit should be issued, a determination of compatibility with adjacent existing and future land uses shall be made by the Town Plan Commission in issuing the conditional use permit. If it is determined that it would in any way be incompatible and represent an adverse effect or nuisance to adjacent land uses, the conditional use permit shall not be issued.
 - E. The conditional use permit shall be reviewed every year by the Town Plan Commission in order to determine conformance with the terms and conditions of the permit and if it is determined that the use is no longer compatible with adjacent land

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uses as they develop in the vicinity, or if the use has become a nuisance in the sole opinion of the Plan Commission, the conditional use permit may be revoked in accordance with the revocation procedures contained in this Ordinance.

- F. When a request is filed with the Plan Commission for a proposed use that involves more than three (3) vehicles, or involves the construction of buildings to house, service, or maintain the vehicles, or where the use can be considered the principal use for the property, the use shall not be granted until the property has been rezoned, or until a conditional use permit has been applied for and granted. The Plan Commission, in its sole discretion, shall determine whether the property owner shall be required to apply for and obtain a conditional use permit or zoning change.
 - G. Notwithstanding anything contained herein to the contrary, the parking of agricultural equipment in an agricultural zoning district, and the parking of one panel van or pick up truck of a commercial nature in any zoning district, shall be permitted and shall not be subject to the requirements provided by this section.
 - K. The requirements of Section 3 (j) (4) through (11) shall also apply to the Commercial Truck Parking conditional use section of this ordinance.
 - I. Approval of a conditional use under this provision of the ordinance also requires compliance with Sections 3 (c) 3, 3 (d) 7, and 3 (j) as applicable. Noncompliance with Sections 4 (h) 10 and/or 3 (c) 3, 3 (d) 7, and 3 (j) as applicable, is subject to the provisions of Section 37 of this ordinance, as well as Chapter 5, Nuisances, of the Town of Lisbon, Waukesha County, Wisconsin, General Code of Ordinances, also included as Addendum B herein.
11. Contractor's Yard: In A-10, A-5, B-3, Q-1, or Industrial Districts, and in all cases, the following requirements shall be met in order to grant a conditional use:
- A. The minimum lot area shall be at least five (5) acres.
 - B. All buildings used in the conduct of the business shall be located at least one hundred (100) feet from the lot line of an adjoining lot permitting a residential use or at least fifty (50) feet from a lot line of an adjoining lot in any other district.
 - C. No such use shall be allowed on any parcel, unless the parcel fronts directly upon and has access to an arterial or major collector street, as defined in this Ordinance, or within an established industrial park, where the roads can accommodate the heavy equipment.
 - D. A planting screen at least ten (10) feet high in initial height shall be provided between any abutting property line and the proposed use. The plan commission may increase or decrease the planting screen requirements as may be deemed appropriate.
 - E. In determining whether or not the proposed conditional use should be approved, the plan commission shall make a determination that the proposed conditional use is compatible with adjacent land uses. If it is determined that the proposed conditional use would in any way be incompatible with the adjacent land uses or represent an adverse effect or nuisance to adjacent land uses, the proposed conditional use shall not be approved.

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- F. The Site Plan and Plan of Operation submitted for review and approval must include the type and quantity of equipment and vehicles owned or leased by the property owner, the storage of materials, and hours of operation.
12. Fur Farms, Pig Farms, Creameries, Condenseries, Wholesale Fattening of Livestock, Pea Vineries, Commercial Poultry and Egg Production, Commercial or Custom Grain Drying Operations: In A-10 and A-5 districts, and in all cases, the following requirements shall be met in order to grant a conditional use:
- A. No building other than one used only for residential purposes shall be located closer than one hundred (100) feet to the lot line of an adjoining lot permitting a residential use. In all other cases a minimum offset of fifty (50) feet shall be maintained.
 - B. Subject to approval of a site plan and plan of operation by the plan commission, and the plan commission shall give particular attention to the method by which animal waste will be handled in a safe and healthful manner. No such consideration or approval will be granted on a lot of less than twenty (20) acres in size.
13. In Law Unit: In any Residential, Agricultural, B-1, or B-2 zoning district, except the RM zoning district, and in all cases, the following requirements shall be met in order to grant a conditional use:
- A. The Waukesha County Department of Parks and Land Use - Environmental Health Division shall certify that the septic system will accommodate the proposed use and in accordance with COMM 83, County, and State Sanitary Codes.
 - B. Maximum living area of the in law unit shall not exceed eight hundred (800) square feet and shall contain no more than two (2) bedrooms. There shall be an additional off street parking space for the in law unit. There shall be no more than one (1) in law unit per single family lot.
 - C. The architecture of the residence shall be compatible with the adjacent residential neighborhood and shall appear to be a single family residence. All other appropriate zoning district requirements for the principal living unit shall be complied with. A common entrance to the residence and in law unit should be designed into the structure so that a separate front entrance off of the common entrance is available and the structure does not appear to be a duplex.
 - D. The Plan Commission shall determine if it is appropriate to have an interior door between the in law unit and the principal residence.
 - E. A Deed Restriction shall be filed in the Waukesha County Register of Deeds Office and a copy of the recorded document presented to the Building Inspector prior to issuance of the Building Permit. This Deed Restriction shall state that the in law unit is to be occupied by persons related by blood, adoption or marriage to the family occupying the principal unit and that the Conditional Use is not transferable without formal approval of the Plan Commission without necessity of a public hearing and that the unit will be used as intended.

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14. Land-altering Activities: Land-altering activities in excess of those limits set forth in Section 3 (c) of this Ordinance may be permitted as a conditional use in any district, except the Conservancy/Wetland District unless rezoned to allow such activity. The UC district limits disturbance to 15% of the lot. In all cases, the following requirements shall be met in order to grant a conditional use:
- A. Highway construction which may be exempted by Wisconsin statutes by a written Memorandum of Understanding between the Wisconsin Department of Natural Resources and Department of Transportation for a specific highway project, new home construction and the attendant limited grading and filling necessary to achieve positive drainage away from the foundation, dredging as may be allowed in Section 3 (c) of this Ordinance, and minor grading as defined in the Ordinance, shall be excluded from regulation under this provision, but may be regulated elsewhere in this Ordinance.
 - B. The above land-altering activities permitted as a conditional use and in all cases, the following requirements shall be met in order to grant a conditional use:
 - i. Detailed plans of the project, at a scale of not less than 1" = 100', including all areas to be graded, filled, or otherwise altered along with seeding and/or vegetation plans, a planting schedule, and erosion and sedimentation practices to be employed shall be submitted for review and approval.
 - ii. No such use shall create flooding, concentrated runoff, inadequate drainage, unfavorable topography, excessive erosion and sedimentation, or restrict navigation in navigable waters.
 - iii. Such use shall comply with any ordinances or regulations established by the town and the county regulations as well as Chapter 30, 87, and 281 of the 2001-2002 Wisconsin Statutes and any federal regulations.
 - iv. Such use conforms to Section 3 (c) of this Ordinance.
 - v. If a rezoning is required, the procedure established in this Ordinance shall be complied with and the amendment to any other appropriate zoning district shall be approved in conjunction with the conditional use approval.
 - vi. The proposed grading and land-altering activities shall conform to the Town of Lisbon's adopted Storm Water Management and Erosion Control Ordinance (refer to Addendum F and Section 3 (c) 11) and a permit under that ordinance must be issued prior to the issuance of the conditional use permit.
15. Legal non-conforming uses: In any district as provided by Section 3 (n).
16. Limited Family Business or Service Oriented Businesses: The purpose and intent of this section is to provide a listing of procedures and standards of operation for limited family businesses/service oriented businesses (LFB/SOB) that may be allowed to operate in an attached garage or detached accessory building under a conditional use permit in the A-10, A-5, and A-3 zoning districts. The use is not permitted in C-1, UC, EFD, PR, AD-10, RD-5, R-1, R-2, R-3, RM, Q-1, B-1, B-2, B-3, B-4, B-P, M-1, M-2 and P-I zoning districts. A conditional use permit for a limited family business is designed to accommodate small

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family businesses without the necessity for relocation or rezoning, while at the same time protecting the interests of the adjacent property owners and any future development of the area.

- A. Examples of a LFB/SOB include, but are not necessarily limited to, the following:
- i. Non-health related professional office or studio (architect, lawyer, accountant, realtor, travel agent, photographer, insurance agent, salesman, interior decorator, artist, crafter, tailor, shoe repair, beautician, barber, housekeeping, woodworker, music teacher, dance teacher, massage therapist, etc.).
 - ii. Small engine repair
 - iii. Certain outdoor or indoor storage for off-season vehicles (boats, snowmobiles, etc.) or for certain retail products (vending machine items, for example).
 - iv. A business where the only part of the business located on the property is the business office and/or the storage of the vehicles used for the business that are used at an off site location.

In the event a question arises, the town plan commission shall make the determination as to whether or not a business is considered a LFB/SOB.

- B. **Application requirements.** In all cases, the following requirements shall be met in order to grant a conditional use. An applicant may apply for a LFB/SOB if all of the following are true:
- i. The property is located in the A-10, A-5, A-3, R-1 or R-2 zoning district.
 - ii. The main portion of the business is run by members of the family residing on the premises, who is also the owner of the business.
 - iii. The business does not employ more than one (1) person who is not a resident on such lot, whether they are family members or not.
 - iv. The business is operated in the residence, the attached garage, or detached accessory building, and only where the principal use of the property is single family residential and where the business use is clearly incidental to the use of the property for residential purposes.
 - v. The business is operated entirely within a building(s).
 - vi. The business is run primarily for monetary gain or financial support.
 - vii. There is no manufacturing or assembling of products, and/or no sale of products on the premises unless the products are those produced by the LFB/SOB.
 - viii. Such business does not include conduct of any retail (other than subsection G above) or wholesale business on the premises, nor the removal of sand, gravel or stone from the premises for commercial purposes.
 - ix. Such business does not include the use of any machinery, tools, or other appliances, unless specifically allowed by the Conditional Use Permit.
 - x. Such business does not occupy more than twenty (20) percent of the site.
 - xi. Adequate off-street parking facilities are provided adjacent, or reasonably adjacent, to the building that houses such business.
 - xii. The nameplate does not exceed three (3) square feet in area.
 - xiii. Such business does not affect the residential character of the property or the neighborhood in the sole determination of the Town Plan Commission.

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- xiv. Such business does not adversely affect the exterior of the structure or the property in the sole determination of the Town Plan Commission.
 - xv. The limited family business must operate on a parcel having at least the minimum parcel size required for the district in which it is located.
- C. In addition to the application requirements listed above, the minimum conditions of any approval must include, but not be limited to:
- i. Any unauthorized expansion of the limited family business will be subject to an amendment to the conditional use permit and, if said amendment is denied, the existing use may not be able to operate, any proposed expansion could not take place, and/or the existing conditional use permit could be terminated.
 - ii. All employees, except one full-time equivalent, shall be members of the family residing on the premises.
 - iii. The plan commission shall determine the total percentage of the buildings that may be devoted to the limited family business. However, the total percentage used shall not exceed 20% of what is available.
 - iv. The limited family business is restricted to a service oriented business or home occupation type business and is prohibited from manufacturing or assembling products. The sale of products on the premises, which are not produced by the limited family business, is prohibited. The limited sale of products as accessories to the business may be permitted or limited by specific conditions in the conditional use permit (i.e. hair care products such as shampoo and conditioners normally associated with a business that cuts or styles hair).
 - v. The conditional use permit shall restrict the number and types of machinery and equipment the limited family business operator may be allowed to bring onto the premises, and the machinery and equipment must be stored inside a building. If the use of any machinery, tools, or other appliances can reasonably be construed as creating an abnormal nuisance to the surrounding property owners, the Town Plan Commission may consider termination of said business after a public hearing is held.
 - vi. The structures used in the limited family business shall be considered to be residential accessory buildings and shall meet all of the requirements for such buildings. The design and size of the structures are subject to conditions in the conditional use permit.
 - vii. The conditional use permit shall automatically expire and terminate upon the sale of the property or its transfer to a non-occupant of the property.
 - viii. The limited family business shall not operate on a parcel having less than the minimum parcel size required for the district in which it is located. For certain uses that are determined by the town to have a potential adverse affect on adjacent residential zoned properties, additional requirements regarding location and site standards (i.e. screening) may be required as conditions of the conditional use permit.

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17. Marinas and boat liveries: In the PR District and any business district, except B-4 and B-P, and in all cases, the following requirements shall be met in order to grant a conditional use:
- A. Such use shall be located at least five hundred (500) feet from the nearest public bathing beach or park.
 - B. Such use is designed and constructed so as to not interfere with adjacent riparian owners' uses of the water for swimming, fishing, or boating; nor interfere or obstruct the public's free navigation.
 - C. The minimum lot area shall be three (3) acres with a minimum average width of lot not less than three hundred (300) feet.
 - D. Sewerage disposal field shall be located no closer than one hundred (100) feet from the ordinary high water mark.
 - E. Fuel pumps shall be located two (2) feet above the ordinary high water mark. Fuel storage tanks shall be located no closer than fifty (50) feet from the ordinary high water mark, shall be located above ground and shall be adequately screened and fireproofed. The offset requirements for fuel pumps shall be at least twenty (20) feet from the side lot line and storage tanks shall be located no closer than fifty (50) feet from any side lot line. All other locational requirements shall conform to the requirements of the district in which the use is located.
 - F. No lighting installation shall be permitted which creates a hazard to any type of vehicular traffic or nuisance to surrounding properties.
 - G. No arcade as defined herein shall be permitted unless specifically authorized by the conditional use permit.
 - H. No pier may be permitted to extend beyond the pierhead line if established. The total length of all piers, and T's or L's extending from the pier may not exceed the total length of the lake frontage of the property and in no case greater than one hundred fifty (150) feet from shore, unless DNR requirements are more restrictive.
 - I. Any other condition of operation such as long term boat storage, launching, or other associated commercial activity on the site may be considered for inclusion in the terms and conditions of the conditional use permit in order to make the facility compatible with the neighborhood and the lake and to meet the spirit and intent of the Ordinance.
18. Mobile home parks and trailer camps: In B-2, B-3, M-1, and M-2 districts, and in all cases, the following requirements shall be met in order to grant a conditional use:
- A. The provisions of all other trailer camp or mobile home ordinances shall be met. Reference Chapter 14, Mobile Homes and Mobile Home Parks, of the Town of Lisbon, Waukesha County, Wisconsin, General Code of Ordinances (Addendum C).
 - B. No such use shall be allowed unless municipal sewage facilities are used and the minimum lot size per unit is one-half (1/2) acre having a minimum width of not less than one hundred twenty (120) feet, offsets of twenty (20) feet and a setback of fifty (50) feet.

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19. Motels and Hotels: In the B-2 and B-3 districts only, and in all cases, the following requirements shall be met in order to grant a conditional use:
- A. No such use shall be permitted on a lot less than three (3) acres in area.
 - B. Off-street parking shall be required in accordance with Section 3 (j) of this Ordinance.
 - C. No building shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.
 - D. All provisions of the County Community Health Code shall be met.
20. Multiple Family Units: In the RM District, and only where sewer is provided, more than two dwelling units are subject to the following requirements being met in order to grant a conditional use:
- A. The minimum lot area shall be one acre. The number of units shall be based on a maximum density of four (4) units per acre, exclusive of wetlands or 100-Year Floodplain or lands zoned C-1. The width of the lot shall be increased as the size of the lot increases in order to avoid excessively long and narrow lots and shall, however, be no less than one hundred and eighty (180) feet in width. The amount of open space on the property shall be four thousand (4,000) square feet per unit.
 - B. Approval of sewer availability shall be received prior to any approval of the proposed conditional use by the plan commission.
 - C. The minimum total floor area per unit shall be nine hundred (900) square feet.
 - D. Town Plan Commission review and approval of building plans, a site plan and a plan of operation, and architectural plans for the project is required.
 - E. There shall be two (2) off-street parking spaces required for each unit. The location and arrangement of these parking spaces shall be subject to the approval of the Plan Commission.
 - F. A minimum 440 square foot garage is required for each unit. If more than two single-family dwelling units are attached, the garages may be detached from the dwelling units, otherwise they must be attached to the dwelling units.
 - G. The offset and landscaping requirements are subject to approval by the Plan Commission. However, the offset requirements shall not be reduced to less than twenty (20) feet from any lot in an adjoining residential district. The road setback minimum shall be fifty (50) feet, and the shore/floodplain/wetland/C-1 setback shall be a minimum of 75'. The maximum height shall not exceed thirty five (35) feet as measured in accordance with this ordinance. Additional height may be permitted if the offset and setback requirements are increased by one (1) foot for each additional one (1) foot in height beyond thirty-five feet.
 - H. The Town of Lisbon may allow multi family development where the ownership is held in common under the Unit Ownership Act set forth in Chapter 703 of the Wisconsin State Statutes (condominiums). Because of its multi family nature, this

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development must also be served by public sewer. The town provides regulations to guide said development in accordance with Section 4 (h) 20 or 21 of this ordinance.

- I. In the U.S. Public Land Survey System Township of primarily Section 16 of the Town of Lisbon, but also containing a small portion of Section 17, condominium development of any kind will be permitted only if sewer is available and only at a density of no more than one (1) unit per 0.71 acres in accordance with the border agreement with the Village of Sussex and the adopted sewer service area plan.
- J. Multiple-family uses in the Town of Lisbon/Village of Merton joint planning/extraterritorial land use area will only be allowed subject to the terms agreed to in the joint planning process and shown in the clause on the adopted Town of Lisbon/Village of Merton joint planning area/extraterritorial land use plan map.

21. Planned Unit Development (PUD):

Purpose and Intent:

Due to increased urbanization, the associated greater demands for open space and natural resource preservation and protection, and the need to provide more efficient public services and create a more desired and creative living environment than would result through the strict application of the standard zoning requirements, flexibility in the regulations governing the development of land is herein provided. These provisions are intended to encourage planned unit development, as defined in this ordinance, which will recognize both the changes in design and technology in the building industry, and the new demands in the housing market. It is intended that these provisions create imaginative and interesting communities with substantial open area owned in common within the development, or dedicated to the public, for the enjoyment of the residents and the general public, as determined for each development, and will encourage a more efficient and desirable use of the land and open space areas thereby resulting in more variety of the physical development of the Town. This provision allows communities to infill between existing subdivisions, and allows growth adjacent to incorporated municipalities where municipal services may be available in the future. Coordinated site planning and a mixture of compatible uses are two additional benefits of a planned unit development. Such developments should also provide a safe and efficient system for pedestrian, bicycle, and vehicular traffic circulation, access, parking, lighting, signage, landscaping, architectural treatment, attractive recreation and open spaces, a sound economic design, the efficient provision of public and private utilities, community facilities, and ensure adequate standards of construction and planning.

Planned unit developments may be allowed as a conditional use in any district except the EFD, B-4, and Q-1 districts, and except that, while the C-1 Conservancy District can be part of a PUD as an outlot, no portion of any building lots or structures shall be allowed in the C-1 Conservancy District. Certain districts also prohibit one type (residential, mixed, commercial/light industrial) of planned unit development, but may allow another type (residential, mixed, commercial/light industrial) of planned unit development. In all cases where a planned unit development is proposed, the following requirements shall be met in order to grant a conditional use:

A. Procedures:

- 1. Pre-application meeting. Prior to official submittal of the petition for a conditional use, the owner/agent shall meet with the Town Administrator/Clerk, or his or her designee, to discuss the scope and nature of the contemplated development, the application process and

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requirements, and the general concept plans and project design. The Town shall provide the owner/agent with the Engineer's checklist, the Town of Lisbon Land Division Review Checklist, the Condominium Plat Checklist (as applicable), and the owner/agent must sign and submit the professional services reimbursement form at the pre-application meeting.

2. Conceptual plan submittal. A conceptual plan, as defined in this ordinance, shall be submitted to the town and placed on an agenda for review and discussion along with the appropriate fee and the following information:
 - a. The name and legal description of the project.
 - b. Initial request for any variances or waivers required by the zoning ordinance, land division and development/subdivision control ordinance, or any other ordinances, regulations, rules or guidelines.
 - c. Conceptual architectural renderings and design of the buildings, if applicable.
 - d. Estimated cost of the buildings, if applicable.
 - e. Project plans and conceptual phasing schedule.
 - f. The density of the project and the amount of open space and common areas.
 - g. A detailed cover letter describing the benefits the planned unit development will provide to the Town of Lisbon.
 - h. Information regarding on site sewage disposal systems or public sewer.
 - i. Natural resource features.
 - j. Conceptual provisions for storm water management.

In addition, the following review comments will be provided at the meeting:

- Conceptual Town Engineer review comments.
 - Conceptual Fire Department review comments.
 - Conceptual County Planner review comments.
 - Conceptual County Environmental Health Division review comments.
3. Public Hearing. Once the Plan Commission has determined that all conceptual comments have been satisfactorily addressed, the owner/agent may file the required application with the Town for a conditional use. The petitioner shall contact the town for the appropriate number of copies and the appropriate fee.

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The Town shall provide notice to neighbors and the official town newspaper and hold a public hearing pursuant to the provisions of Section 36 of this Ordinance. Notice for such hearing shall include reference to the requested conditional use. The notice shall also be posted in three places in the town.

The application shall be accompanied by project binders to include revisions to all information previously required at the conceptual stage, and the additional items outlined below:

- a. A cover letter which details how the proposed Planned Unit Development complies with the Town's adopted Land Use Plan/Comprehensive Development Plan or any adopted component or amendment thereof and the general character of and the uses to be included in the proposed Planned Unit Development. The cover letter must also include the following information:
 - i. Total area to be included in the Planned Unit Development, amount of open space to be provided, residential density computations, proposed number and size of dwelling units, availability of or requirements for municipal services, and any other similar data pertinent to a comprehensive evaluation of the proposed development.
 - ii. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
 - iii. Any proposed variances or waivers from the standards of development as set forth in the Town zoning regulations, land division and development/subdivision control ordinance, or other regulations, rules, ordinances, or guidelines.
- b. The expected date of commencement of physical development as set forth in the proposal and the submittal of a staging plan, if the development is to be staged.
- c. An overall site development plan showing how the objectives in Section 4 (h) 21, and specifically A through M, are to be achieved. The following information shall be submitted with the site plan:
 - i. A legal description and boundaries of lands included in the proposed Planned Unit Development.
 - ii. The location of public and private roads, sidewalks, paths, trails, and driveways.
 - iii. The size, arrangement, and location of any individual building sites and proposed building groups on each individual lot.
 - iv. The location of institutional, recreational, green space and open space areas, and areas reserved or dedicated for public uses, including schools, parks, and drainage

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ways.

- v. The type, size, use, and location of all buildings and structures.
- vi. A landscaping plan showing existing and proposed vegetation location and including species and sizes at installation and maturity.
- vii. Architectural plans (color preferred) illustrating the exterior design, materials and colors, height, and character of proposed structures, including elevations and interior floor plans.
- viii. The existing and proposed location of public utilities including sanitary sewer and water supply facilities.
- ix. The existing and proposed location of all private utilities or other easements.
- x. Characteristics of soils related to proposed uses including soil tests for basements and on site sewerage disposal systems as required in the drainage regulations section and other sections in this ordinance. Also submit proposed private well information and show locations.
- xi. Existing and proposed grades with contours at no greater than two-foot intervals National Geodetic Vertical Elevation.
- xii. Anticipated uses of adjoining lands in regard to roads, surface water drainage, and compatibility with existing adjacent land uses.
- xiii. The location of existing driveway openings adjacent to, and across the street from, the proposed planned unit development.
- xiv. A Grading Plan to be reviewed and approved by the Town Engineer.
- xv. Building plans in compliance with Building Codes to be reviewed and approved by the Town Building Inspector.
- xvi. A Storm Water Management and Erosion Control Plan showing all existing and proposed storm water drainage facilities and erosion control measures, and drainage patterns to be reviewed and approved by the Town Engineer.
- xvii. All existing and proposed water features, wetlands, floodplain, environmental corridors, and any other natural resource features.
- xviii. A signage plan including location, size, dimensions, materials, and colors. Include wattage and cut sheets if lighted.

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- xix. A lighting plan including design, location, number, wattage, lumens, isofootcandle dispersion, specifications on the type of illumination, and cut sheets.
- xx. A dumpster/recycling area plan.
- xxi. A fencing plan.
- xxii. A screening plan including berms, fences, and walls.
- xxiii. A parking plan including facilities, number and size of spaces for residents, employees and customers, handicap spaces, access, screening, general traffic circulation, adjacent streets, loading/unloading areas, snow removal areas.
- xxiv. All plans shall be prepared by registered professionals in their respective fields, and shall be at an engineering scale of not less than 100 feet to the inch, unless an architectural scale is used.
- xxv. Any other information as may be required by the Plan Commission in considering the application.

In addition, the following review comments will be provided at the public hearing:

- Town Engineer review comments.
- Fire Department review comments.
- Town Attorney review comments.
- County Planner review comments.
- County Environmental Health Division review comments.

4. Decision. The Town Plan Commission in making its decision on the conditional use shall consider:
- a. Whether the petitioners for the proposed Planned Unit Development have indicated that they intend to begin the physical development of the designated Planned Unit Development within twenty four (24) months following the issuance of a conditional use permit for the Planned Unit Development and that the development will be carried out according to a reasonable construction schedule satisfactory to the Town.
 - b. Whether the proposed Planned Unit Development is consistent in all respects with the purpose of this section and to the spirit and intent of this Ordinance; is in conformity with the land use plan/comprehensive development plan or adopted component or amendment thereof; would not be contrary to the general welfare and economic prosperity of the Town or of the immediate neighborhood; and that the benefits and design of the resultant development justifies the establishment of a Planned Unit Development and approval of a conditional use.

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- c. The Plan Commission shall not grant their approval unless it is found that:
 - i. The proposed site shall be provided with adequate water from either a private onsite well or public water utility, sanitary facilities, and drainage facilities for surface water and storm water.
 - ii. The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
 - iii. No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, schools, street maintenance, and maintenance of public areas by the proposed development.
 - iv. The streets, sidewalks, driveways, paths, and trails on the site of the proposed development shall be adequate to serve the residents of the proposed development, and the public where made available to the general public, and shall meet the minimum standards of all applicable ordinances, rules, guidelines, and regulations of the Town.
 - d. **The planned unit development must be approved by at least five members of the Plan Commission.**
 - e. If the planned unit development is approved, the petitioner shall provide appropriate financial guarantees for any public improvements to the town for review and approval by the town attorney and the town engineer prior to the commencement of construction.
 - f. The Plan Commission may add any additional conditions or restrictions they deem necessary or appropriate to promote the spirit and intent of this Ordinance and the purpose of this section.
5. **Land Divisions.** Any proposed land division which is part of the proposed Planned Unit Development shall be subject to the requirements of the subdivision control/land division and development ordinance of the town, including any associated technical checklists.
- Preliminary plat or condominium plat. Upon final approval of a conditional use permit, a preliminary plat, or condominium plat if applicable, shall be officially submitted to the County, with copies of the plat with the same date as that submitted to the County also submitted to the town (contact the town for the appropriate number of copies and fees). The plat will be placed on the plan commission agenda for review and discussion. The following information must also be submitted:
- a. A cover letter addressing any outstanding issues from the conceptual plan commission meeting or the public hearing for the planned unit development, and proving satisfaction of those outstanding issues as necessary.

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- b. If the proposed project is a condominium, the owner/agent shall submit all additional items as required to be filed with the town in accordance with Chapter 703 of the Wisconsin State Statutes.

In addition, the following review comments will be provided at the meeting:

- Town Engineer review comments.
- Fire Department review comments.
- Town Attorney review comments.
- County Planner review comments.
- County Environmental Health Division review comments.

Final plat or condominium plat. Upon approval of a preliminary plat, or condominium plat if applicable, a final plat shall be officially submitted to the County, with copies of the plat with the same date as that submitted to the County also submitted to the town (check with the town for the appropriate number of copies and fees). The plat will be placed on the plan commission agenda for review and discussion. The following information must also be submitted:

- a. A cover letter addressing any outstanding issues from the conceptual plan commission meeting, the public hearing for the planned unit development, or the preliminary plat, and proving satisfaction of those outstanding issues as necessary.
- b. Final draft of the developers agreement with the town that will govern the project once completed, including timelines for stage development plans.
- c. Final draft of the association by-laws, covenants, and restrictions.
- d. If the proposed project is a condominium, the owner/agent shall submit all additional items as required to be filed with the town in accordance with Chapter 703 of the Wisconsin State Statutes.

In addition, the following review comments will be provided at the meeting:

- Town Engineer review comments.
- Fire Department review comments.
- Town Attorney review comments.
- County Planner review comments.
- County Environmental Health Division review comments.

No planned unit development, once approved by the Plan Commission and the approved plat recorded, may be thereafter divided into separate parcels except upon approval of the Plan Commission and Town Board in accordance with the Town of Lisbon Zoning Ordinance and the subdivision control/land division and development ordinance of the town, the town land use plan or any subsequent

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comprehensive plan, Waukesha County Department of Parks and Land Use approval, where required, and approval by any extra territorial municipalities, where required.

- B. Water and sanitary facilities. Adequate water and sanitary facilities shall be provided.
- C. Site plan and plan of operation. A site plan and plan of operation must be submitted for all planned unit development requests.
- D. Permanent preservation of open space areas. Adequate guarantee shall be provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation and maintenance or by dedication to the public, as determined by the Town Plan Commission.
- E. Park dedications and/or reservations. Certain park dedication and/or reservation provisions of the subdivision control/land division and development ordinance of the town shall apply to all residential units erected in a planned unit development. Specifically, where dedication/reservation of open space or public sites are not in accordance with the Town of Lisbon Park and Recreation Plan (which references the Town of Lisbon Land Use Plan or subsequent component thereof such as a Comprehensive Development Plan), or compatible with the development of the community, the developer shall pay fees, in lieu thereof, to the Town, as established on an annual basis by the Town.
- F. Modification of zoning district requirements. The zoning district requirements (lot size, lot width, height, offset, setback, open space, floor area ratio, building size, and building location) which would otherwise apply may be modified for planned unit developments based on the reasons stated in the purpose and intent section of the Planned Unit Development conditional use and upon compliance with the following:
 - 1. All private onsite waste disposal system provisions are approved by the Waukesha County Environmental Health Division.
 - 2. The proposed development is in conformity with the Town of Lisbon Land Use Plan/Comprehensive Development Plan or any subsequent amendments thereto, is not contrary to the general welfare and/or economic balance of the community, and that the benefits and amenities of the resultant development justifies the variation from the normal requirements of the district in which the development is located.
 - 3. All other requirements for a planned unit development are met as set forth in Section 4 (h) 21.
 - 4. **Residential Planned Unit Developments:**
 - a. The zoning district lot sizes and density for residential planned unit developments may be modified by applying up to a 30% maximum density bonus to the density otherwise permitted in each specific zoning district, unless otherwise stated below or elsewhere in this ordinance. The 30% increase can be applied to any zoning district except C-1, EFD, B-4, and Q-1, unless otherwise stated below or elsewhere in this ordinance. This is the maximum dwelling unit density increase for a residential planned unit

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development whether or not it is served by public sewer. For example, where lands are to be developed as a planned unit development and are to be served with public sewer, the density may only be increased by a total of up to the maximum of 30%. The planned unit development density bonus and the sewer reduction provisions of this ordinance cannot both be applied to further increase the density bonus beyond the 30% maximum.

UC	Five (5) acres per dwelling unit*
AD-10	Not less than one acre per dwelling unit based on a 10 acre density
RD-5	Not less than one acre per dwelling unit based on a five acre density
R-1	Thirty thousand (30,000) square feet per dwelling unit
R-2	Thirty thousand (30,000) square feet per dwelling unit
R-3	Thirty thousand (30,000) square feet per dwelling unit
RM	Thirty thousand (30,000) square feet per dwelling unit (if three or more units are proposed, the site must be sewerd)
B-P	Forty thousand (40,000) square feet per dwelling unit

*Note: Upland Corridors are further subject to the following: If all of the Upland Corridor zoned lands and designated Environmental Corridors are preserved in their entirety within the public open space or open space owned by the property owners or in recreational use, and are preserved in their natural state, the density of one unit per five (5) acres may be added to the maximum number of dwelling units otherwise allowed in this section.

b. **Lands currently zoned C-1 may not be used in formulating the density of the project as a reduction has already been factored in the above table and the maximum 30% density bonus.** When lands border a public body of water, pyramiding as defined in this ordinance may be allowed if the minimum frontage and average width of the parcel fronting on the public body of water at the high water mark is one hundred (100) feet for the first dwelling unit and an additional twenty-five (25) feet for each dwelling unit thereafter. No more dwelling units may have access to the public body of water than what would result from the application of this pyramiding provision irrespective of the overall size of the development project.

c. Adequate guarantee shall be provided for permanent preservation of open space areas resulting from these regulations and as shown on the approved site plan either by private reservation for use of the residents within the development and maintenance or by dedication to the public or others as may be specifically provided for (e.g., farmers use of open space, dedication to a public entity, for the preservation of rural character, or development of a private recreational facility open to the general public in perpetuity for a fee), as determined by and subject to the approval of the Town Plan Commission. There shall not be any clear cutting or clearing of vegetation other than dead, diseased, or dying vegetation or removal of invasive species on any lands being so preserved in public open

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space or open space owned by the property owners or in recreational use which are considered Upland or Environmental Corridors, as depicted on the Town of Lisbon Zoning Map and/or Land Use Plan/Comprehensive Development Plan or any subsequent amendment thereto, except as provided in (h) below for limited path, trail, or recreational related development. Buildings or uses for noncommercial or accessory facilities may be permitted in such open space area with the approval of the Plan Commission, subject to the limitations in (g) below.

d. Perpetual care and maintenance of public open space or open space owned by the property owners or in recreational use shall be provided for by an agreement recorded in the Waukesha County Register of Deeds office. Said agreement shall include an operation plan, which shall preserve the natural qualities of the environmentally significant lands. The agreement shall be submitted to and approved by the Plan Commission with the assistance of an expert naturalist, if needed. This condition is not deemed satisfied unless all required approvals are granted.

e. Ownership and tax liability of the open space areas shall be established in a manner acceptable to the Town Plan Commission and made a part of the conditions of any approval.

f. The total open space of the development shall be no less than would have resulted from the application of the open space requirements of the zoning district.

g. Public open space or open space owned by the property owners or in recreational use shall be of a size and shape to provide an integrated system of open spaces to the greatest extent possible, and to provide protection of environmentally significant lands. These spaces shall not consist of long, narrow bands or corridors, but shall be larger blocks of wide corridors of land, usually not less than one (1) acre in area. Corridors linking large blocks or wide corridors of public open space or open space owned by the property owners or in recreational use shall not be less than fifty (50) feet in width to provide adequate buffers from adjacent residential lots. The size, shape, and location of said public open space or open space owned by the property owners or in recreational use shall be subject to review and approval of the Plan Commission in order to qualify the project for consideration as a planned unit development. Public open space or open space owned by the property owners or in recreational use shall be a minimum of 40% of the entire development, and not more than 20% of the required open space may be floodplain or wetland. This requires 80% of the open space to be upland or non-lowland open space. Ponds and detention basins not designated as floodplain or wetland may be included in the required 40% open space, but shall not constitute more than 20% of the total amount of open space. In any planned unit development, no more than 5% of the public open space may be used for public buildings such as schools, fire stations, municipal buildings, etc. The Plan Commission may modify the 5% open

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space requirement, but only in conformance with the overall intent of these provisions while also protecting the public interest.

h. In public open space or open space owned by the property owners or in recreational use containing environmentally significant areas as defined in this ordinance, a maximum of 5% of the environmentally significant areas may be used for limited construction of recreational related structures and recreation paths and trails. Otherwise, there shall not be any clear cutting or clearing of vegetation other than dead, diseased, or dying vegetation or removal of invasive species on any lands being so preserved in public open space or open space owned by the property owners or in recreational use which are considered Upland or Environmental Corridors, as depicted on the Town of Lisbon Zoning Map and/or Land Use Plan/Comprehensive Development Plan or any subsequent amendment thereto. If invasive species are removed, they shall be replaced in kind with vegetation indigenous to the corridor.

i. Public open space or open space owned by the property owners or in recreational use shall contain at least 90% green space. Such public open space or open space owned by the property owners or in recreational use shall not be part of individual residential building lots, and all but 5% of the open space shall be free of structures and impervious surfaces. The Plan Commission may modify the 5% open space requirement, but only in conformance with the overall intent of these provisions while also protecting the public interest. The remaining open space that is not required to be green space, which may be up to 10% open space, may include surface area of water bodies such as ponds or detention basins.

j. As part of the planned unit development application process, the Plan Commission may require a conceptual yield plan and a conceptual conservation design (PUD) subdivision to be submitted so the Plan Commission can determine whether or not there will be no more lots allowed with the planned unit development than one would be allowed with a conventional layout. Refer to Figure 1.

k. The 30% density bonus is justified as a slight increase in density is a reasonable compromise in order to achieve more sustainable conservation design development that preserves natural features, creates more open space within developments, protects the rural character of the town, and cause less need for infrastructure such as roads and storm water management facilities. The 30% density bonus can only be utilized in the Town of Lisbon if the following criteria are met:

i. The development plan for a given site must incorporate an absolute minimum of 40% of the site in public open space or open space owned by the property owners or recreational

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use. In calculating the open space, not more than 20% of the required open space may be floodplain or wetland. This requires 80% of the open space to be upland or non-lowland open space.

- ii. The Town must create and map an Upland Corridor zoning district for all primary and secondary environmental corridors as well as isolated natural resource areas, which allows for development at a density not greater than one unit per five acres.
- iii. Individual development projects must be developed as planned unit developments, conservation design developments utilizing conservation design standards, or cluster design developments, which allow the town to properly analyze the project's design. Conventional subdivision developments cannot be considered when using the 30% density bonus option.
- iv. Significant natural resource features such as primary and secondary environmental corridors, isolated natural resource areas, wetlands, and floodplains must be protected and shall be incorporated into the protected open space. If any portion of the above natural resource features will be located on a private lot, said resource must be protected with a protective covenant or restriction. Sites that do not contain significant natural resource features may be conducive to prairie or wetland restorations, enhanced with the establishment of landscaped open spaces, or used for agricultural purposes.

5. Commercial/Light Industrial Planned Unit Developments:

The economic practicality of a proposed Commercial/Light Industrial planned unit development shall be justified on the basis of purchasing potential, competitive relationship, and demonstrated tenant interest. The use of a Commercial/Light Industrial planned unit development may be authorized only where the zoning is mapped in one or more of the business/industrial districts (B-1, B-2, B-3, B-P, M-1, and M-2) on the parcel or a portion thereof. If only a portion is zoned for business/industrial, the Commercial/Light Industrial planned unit development may only be used for the same percentage of the site that would result from the normal application of the business/industrial zoning district requirements. The location of the proposed business/industry uses can, however, be flexed on the site so long as no more area is devoted to such uses than would be permitted in the zoning district in which the planned unit development is located. The attendant parking areas and service facilities for the commercial/industrial areas shall be included in the areas allocated to such non-residential uses.

- a. The proposed planned unit development shall be served by adequate off-street parking, loading, and service facilities.

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b. The planned unit development shall not create an adverse effect upon the general traffic pattern or adjoining property values.

c. Architecture, landscaping, lighting, and general site development shall be compatible with the surrounding neighborhood.

d. The aforementioned requirements shall be certified by the Town Plan Commission as having been fully met.

e. In the business/industrial zoning district planned unit developments, the density shall be the same as in the R-3 district (30,000 square feet), except in the B-P District where it must be no less than 40,000 square feet.

6. Mixed Planned Unit Developments:

A Mixed planned unit development shall consider allowing a mixture of business, light industrial, residential, in the B-1, B-2, B-3, B-P, M-1, and M-2 districts, or other uses as the zoning would allow. The percentage of area in the project shall be the same as would result from the application or the strict adherence of the zoning district regulations, or as outlined in the Residential Planned Unit Development section above. The location of the uses can, however, be flexed on the site so long as no more area is devoted to the various uses than would be permitted in the zoning district in which the planned unit development is located. The attendant parking areas and service facilities for the non-residential part of the project shall be included in the areas allocated to such non-residential uses.

a. The proposed mixture of commercial, light industrial, residential, and other uses shall produce a unified composite that is compatible both within itself and with the surrounding neighborhood.

b. The mixed uses shall conform to the general requirements applicable to each of them as here-in-before set forth.

c. The maximum allowable dwelling unit density shall be computed using only the residential area portion of the total planned unit development area. If residential use and non-residential use occur in the same proposed building, that percentage of the commercial/industrial use of the building shall be deducted from said building lot and only the remaining area shall be used in the density computation for the remaining residential units.

d. Example - Computing Maximum Dwelling Unit Density in a Mixed Planned Unit Development:

A developer wishes to divide one hundred (100) acres of land into a mixed planned unit development. Ten (10) of these acres are zoned C-1 Conservancy. The development plan shows ten (10) acres devoted to commercial uses in the B-2 District. The remainder is

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zoned R-1 Residential. The following computations demonstrate the method of determining how many residential units may be allowed in the project.

Gross acreage	100 acres
Less ten (10) acres zoned C-1	<u>- 10 acres</u>
90 acres	
Less ten (10) acres designated for B-2 Business use	<u>- 10 acres</u>

Remainder for residential use 80 acres

Total residential acreage in sq. ft. used to calculate the density:

80 acres x 43,560 square feet = 3,484,800 square feet

Divide by the square feet per dwelling unit requirement for the R-1 Residential district after applying the 30% density bonus or other applicable figure:

3,484,800 divided by 30,000 square feet = 116 units

The 10 acres designated for commercial use cannot be included in the planned unit development density as it is not zoned for residential use and would have to be rezoned to residential use to be considered in the residential density. Any lands zoned C-1 likewise may not be used in formulating the density of the project as a reduction has already been factored in the maximum 30% density bonus or other applicable figure.

- G. Condominiums. The Town of Lisbon may allow, upon petition, a planned unit development where the ownership is held in common under the Unit Ownership Act set forth in Chapter 703 of the Wisconsin State Statutes (condominiums). The Town provides regulations to guide condominium development in Section 4 (h) 20 or 21 of this ordinance. Multi family condominium developments must be served by public sewer.
- H. Town of Lisbon-Village of Sussex Border Agreement dated January 22, 2001. In the U.S. Public Land Survey System Township of primarily Section 16 of the Town of Lisbon, but also containing a small portion of Section 17, condominium development of any kind will be permitted only if sewer is available and only at a density of no more than one (1) unit per 0.71 acres in accordance with the border agreement with the Village of Sussex and the adopted sewer service area plan, and as may be amended in the future.
- I. Town of Lisbon-Village of Merton Joint Planning Area. Any multi-family planned unit development uses in the Town of Lisbon/Village of Merton joint planning/extraterritorial land use area will only be allowed subject to the terms agreed to in the joint planning process and shown in the clause on the adopted Town of Lisbon/Village of Merton joint planning area/extraterritorial land use plan map.
- J. Financial Guarantees. In approving the planned unit development plan, in whole or

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in part, the Plan Commission may require the posting of appropriate financial guarantees for any public improvements in an amount determined by the Town Engineer, and in a form approved by the Town Attorney. Such financial guarantees shall guarantee the completion of the project as approved.

- K. Changes or Additions: Any subsequent change or addition to the plans or uses shall first be submitted for approval to the Town Plan Commission and if, in the opinion of the Town Plan Commission, such change or addition constitutes a substantial alteration of the original plan, a conditional use amendment public hearing before the Plan Commission shall be required and notice thereof given pursuant to the provisions of Section 36 of this Ordinance.
 - L. Certification of project as a permitted use. After all conditions of a planned unit development project are certified by the Town Plan Commission as being completed, the conditional use status of such completed development shall be changed to a permitted use in the zoning district in which it is located.
 - M. Termination: If a permit, as required in any of the other Town approval processes related to the planned unit development, is not issued by the Building Inspector or the Town within two (2) years of receiving the planned unit development conditional use permit, or if physical development has not otherwise commenced, the conditional use approval shall automatically be terminated without public hearing.
22. Private Clubs and Resorts: Without limitation because of enumeration, this category includes private (not open to the general public) clubs and resorts such as outdoor/indoor recreational facilities, driving ranges, campgrounds, golf courses, racquet clubs, soccer clubs, swimming pools, beaches, yacht clubs, boarding stables, firing and archery ranges and gun clubs, recreational camps, riding academies, etc. These uses are allowed as conditional uses in any district, except C-1, UC, P-I, and PR, and in all cases, the following requirements shall be met in order to grant a conditional use:
- A. No such use shall be permitted on a lot less than three (3) acres in area except in the B-1 Restricted Business District or less restrictive district.
 - B. No building, other than one used only for residence purposes shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.
 - C. Off-street parking shall be provided as required by the Plan Commission adequate to meet the particular needs of the proposed use.
 - D. No such permitted use shall include the operation of a commercial facility such as a bar, restaurant, or arcade except as may be specifically authorized in the grant of a conditional use permit.
23. Public and Commercial Disposal Operations for Noncombustible Materials: In M-2 and Q-1, disposal operations for inert clean fill materials, as defined in this ordinance and by the WDNR, such as concrete, stone, brick, sand, dirt, gravel, and similar materials; gravel pit and quarry spoils; nonorganic materials as allowed by state law; and excavated materials; may be allowed, and in all cases, the following requirements shall be met in order to grant a conditional use:

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A. A detailed restoration plan shall be submitted to, and approved by, the Town Board following a recommendation from the Town Plan Commission.

B. The Site Plan and Plan of Operation, and the Restoration Plan, shall be approved or disapproved upon consideration of the effects on: Topography, drainage, water supply, soil conditions, roads and traffic, present and ultimate land development and use, and any other factors involved in the specific operation.

C. Disposal operations are prohibited within the following area unless written permission is obtained from the State of Wisconsin:

1. Within 1,000 feet of any navigable lake, pond, or flowage. The WDNR shall determine if the water body is navigable.

2. Within 300 feet of a navigable river or stream, or to the landward side of the 100-year floodplain, whichever distance is greater. The WDNR shall determine if the water body is navigable. If the 100-year floodplain has not been established in the area of the proposed use, then a flood study shall be conducted, reviewed, and approved in conjunction with requesting the proposed conditional use.

3. Within an area from which solid waste or leaching therefrom may be carried into any surface water, or may have a detrimental effect on the groundwater.

4. Within 1,000 feet of the nearest edge of the right-of-way of any state trunk highway or the boundary of a public park unless written permission has first been obtained from the State of Wisconsin and the entity governing the public park.

D. A license shall be obtained from the Town of Lisbon and the Town Board shall review the license for possible renewal on an annual basis (January 1) of each year. The fee shall be as established by the Town of Lisbon and may increase on a yearly basis. If required, a license shall also be obtained from the State of Wisconsin.

E. The Town may require that a letter of credit, approved by the Town Attorney, in an amount approved appropriate for the specific operation, as determined by the Town Engineer, be filed with the Town.

F. Any organic materials shall be prohibited and shall be appropriately recycled.

G. All state and federal laws relating to the use shall be adhered to.

H. Approval by the Town Plan Commission must be obtained prior to commencing any of the above disposal operations.

24. Public and semi-public buildings and uses: In any district, except C-1 and UC, and in all cases, the following requirements shall be met in order to grant a conditional use:

A. Such use shall conform to the setback, height, and double the offset requirements of the district in which it is located.

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- B. The height limitation may be extended to a maximum of fifty (50) feet provided the minimum required setbacks and offsets shall be increased two (2) feet for every additional foot of height in excess of the permitted maximum height of that district.
25. Quarrying as defined in this Ordinance: In Q-1 and M-2, and in all cases, the following requirements shall be met in order to grant a conditional use:
- A. Procedure for application:
- i. Permit: No quarrying operation shall take place in any district until a conditional use permit and quarrying permit have been secured from the Town Board. Such permits shall be for an initial period as is deemed appropriate by the Town to the specific situation but not exceed five (5) years, and may be renewed thereafter for periods not to exceed three (3) years provided application thereof shall be made at least sixty (60) and no more than one hundred twenty (120) days before expiration of the original permit. Application for renewal after such date shall be treated as an original application.
- ii. Application: Application for a conditional use permit and quarrying permit shall be made on forms supplied by the Town Clerk and shall be accompanied by a fee as established and periodically modified under Section 37 (b) 5 of this Ordinance in order to schedule, notice, and hold the public hearing. Such fee shall be paid by cash, check, or money order to the Town of Lisbon, and shall be accompanied by:
- a. A full and adequate description of all phases of the contemplated operation and the specific mention of type of machinery and equipment, which will be or might be necessary to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source, and its disposition shall be made part of the description.
- b. A legal description of the proposed property with a map showing its location with indications of private access roads, existing or proposed, and of public highways adjacent to the site which will be affected by the operation.
- c. A topographic map of the area at a minimum contour interval of two (2) feet extending beyond the site to the nearest public street or highway or to a minimum distance of three hundred (300) feet on all sides.
- d. A restoration plan as required by NR 135.
- B. Procedure for action on application and other requirements:
- i. Referral to Plan Commission: The application and all data and information pertaining thereto shall be referred to the Plan Commission for public hearing and the Plan Commission shall forward a recommendation to the Town Board within sixty (60) days after the public hearing.

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- ii. Public hearing: Within sixty (60) days after an application has been filed, a public hearing shall be held at which all interested parties may be heard. In addition to the normal posting and publishing, notices also shall be sent through the mail or otherwise placed in the hands of all land owners within a half mile radius of the approximate center of the proposed quarrying operation. These notices shall be mailed or delivered at least ten (10) days prior to the date of hearing. Substantial compliance with the notice requirements of this section shall be deemed sufficient. No hearing shall be required precedent to issuing a permit in a Quarrying District.

- iii. Action by the Town Board: The Town Board shall, within forty five (45) days after receipt of the recommendation of the Plan Commission, take action to approve or disapprove the application for the proposed quarrying operation and shall be guided by consideration of the public health, safety, and welfare, and shall give particular consideration to the following factors in making their decision:
 - a. The effect of the proposed operation on existing roads and traffic movement in terms of adequacy, maintenance, repair, safety, and efficiency.
 - b. The effect of the proposed operation on drainage and water supply.
 - c. The possibility of soil erosion as a result of the proposed operation.
 - d. The degree and effect of dust and noise as a result of the proposed operation.
 - e. The practical possibility of restoration of the site.
 - f. The effect of the proposed operation on the natural beauty, character, tax base, land value, and land uses in the area.
 - g. The most suitable land use for the area with particular consideration for future value.
 - h. The need for this limited natural resource to construct local infrastructure, roads, and housing, its economic effects on the community, and whether or not it is in the public interest.

- iv. Additional conditions: Any conditions accessory to the granting of a permit shall be in writing and copies made a part of the permit and of the records of the Town.

- v. Renewals: The procedure as designated in i., ii., iii., and iv. above shall also apply to applications of renewal of a permit. Determination in regard to renewal shall be based particularly on an evaluation of the effect of the continuance of the use in relation to changing conditions in the area. Where renewal is not granted, the reasons for refusal shall be presented to the applicant in writing and made a part of the records of the Town.

C. General Requirements:

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- i. No part of the quarrying operation, including any accessory access roads, parking areas, office buildings, etc., but not including the restoration based on the approved plan, shall be permitted closer than one thousand (1,000) feet to a residential zoning district, unless approved by the Town Board after public hearing and upon proper notice as required in this section of the ordinance, and in accordance with Section 4(25)(B)(iii)a-h above, but in no case shall such quarrying operation, access roads, parking areas, etc. be permitted closer than 200 feet to any residential zoning district. Further, no part of the quarrying operation, including any accessory access roads, parking areas, office buildings, etc., shall be permitted closer than 75 feet to any shoreline, river, or stream, or 50 feet to any other environmentally sensitive area as defined in this ordinance.
 - ii. No quarrying operation shall be permitted, except in a Q-1 or M-2 district, if thirty (30) or more families reside within a one-half mile radius of the center of the proposed property.
- D. Road Setback requirements: No part of the quarrying operation other than access roads shall be located closer than two hundred (200) feet, nor shall any parking area, stock pile, or office building be located closer than one hundred (100) feet, to the base setback line along any street or highway.
- E. Offset requirements: No part of the quarrying operation shall be permitted closer than two hundred (200) feet, nor shall any access road, parking area, or office building be located closer than fifty (50) to any property line, except with the written consent of the owner of adjoining property, or except where said line is abutting a Q-1 or M-2 district, or abutting an existing quarrying operation, but in no case shall such operation be closer than twenty (20) feet to any property line, except by agreement between abutting quarrying operations, or be in conflict with the provisions of Section 3 (c) 5 relating to the preservation of topography.
- F. Operational Requirements:
 - i. Fencing or other suitable barrier shall be erected and maintained around the property or around portions of the site where, in the determination of the Town Board, such fencing or barrier is necessary for the protection of the public, and shall be of a type approved by the Town Board.
 - ii. All machinery and equipment used in the quarrying operation shall be constructed, maintained, and operated in such a manner as to minimize dust, noise, and vibration. Access and haulage roads on the site shall be maintained in a manner to minimize dust by surfacing or treatment as directed by the Town Engineer.
 - iii. The crushing, washing, refining, or other processing other than the initial removal of material, may be permitted as an accessory use only as specifically authorized under the terms of the grant of the permit or as otherwise provided in a Q-1 or M-2 district.
 - iv. In stone quarries the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone, and similar architectural or structural stone, and the storing or stock-piling of such products on the site

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shall be considered a permissible part of the operation, provided such production does not require the use of crushing or other heavy machinery, except as may be otherwise specifically authorized under the terms of the grant of the permit or as otherwise provided in a Q-1 or M-2 district.

- v. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the quarrying operation shall not be permitted, except as otherwise provided in a Q-1 or M-2 district.
- vi. The washing of sand and gravel shall be prohibited in any operation where the source of water is of doubtful capacity or where the quantity of water will, in the opinion of the Town Engineer, seriously affect the supply of other uses in the area.
- vi. The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Plan Commission to screen the operation so far as practical from normal view, to enhance the general appearance from the public right-of-way, and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding countryside. Such planting shall be started as soon as practicable, but no later than one (1) year after quarrying operations have begun and shall be done according to the recommendations of the Town Plan Commission.
- viii. Quarrying operations shall not begin before the hour of 6:00 a.m. and shall not continue after the hour of 6:00 p.m. unless previously authorized by the Town Board, and no operation shall take place on Sundays or legal holidays. During periods of national or unusual emergency, times and hours of operation may be altered at the discretion of the Town Board and through the issuance of a special permit which shall be renewable at thirty (30) day intervals.

G. Restorative requirements:

In order to insure that the area of the quarrying operation is restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a permit, submit to the Town Board a copy of a plan for such restoration that meets the requirements of NR 135 and any other applicable ordinances and that has been approved by the Waukesha County Land Resources Division who is the governing body responsible for the administration and enforcement of the restoration plan.

H. Exceptions:

- i. The provisions of this section, Section 4 (h) 25, shall not apply to the removal of sod.
- ii. When the operation is limited to the removal of topsoil, the Plan Commission may, consistent with the intent of these regulations, modify any or all of the provisions of this section, Section 4 (h) 25, provided, however,

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that in no case shall such operation be permitted closer than ten (10) feet to any property line, or to a depth in excess of eighteen (18) inches, or so as to adversely affect the drainage of the area.

- iii. The provisions of this section, Section 4 (h) 25, shall not apply to an operation which is incident to a legitimate use of the premises; provided, however, where such operation involves the commercial disposal of the material removed, the approval of a conditional use by the Plan Commission in accordance with the provisions of this ordinance, shall be required and such operation shall be limited to a maximum period of six (6) months.
- iv. In a Q-1 or M-2 district the Plan Commission may, consistent with the intent of these regulations, modify the provisions relative to permitted hours of operation; and where the character of terrain, of surrounding development, or other special conditions would justify such modification may permit a reduction in the required setbacks or offsets; provided, however that in no case shall the setback be less than one hundred (100) feet, or the offset be less than one hundred (100) feet for quarrying operations, or twenty (20) feet for any access road, parking area, or office building except as may be otherwise provided by Section 4 (h) 25 E.

I. Application for existing operation:

- i. Permit: Within sixty (60) days after the original adoption of this ordinance, all existing quarrying operations shall be required to register with the town clerk submitting pertinent data relative to the present operation, including the boundaries of the actual operation and of the ownership. A conditional use permit and a quarrying permit shall be granted to such existing operation subject to compliance with the operational requirements, Section 4 (h) 25 F of this ordinance, where they can be reasonably applied under existing circumstances.
- ii. Plan for restoration: A plan for restoration of any existing quarrying operation shall be submitted to the town and the county as provided by Section 4 (h) 25 G. The plan for restoration shall comply with the requirements of NR 135.
- iii. Renewal permit: Within three (3) years after the original adoption of this Ordinance any such existing operation shall be required to make application for a renewal permit the same as for application for renewal in the case of a new operation under this ordinance, except in a Q-1 or M-2 district.

26. Restaurants, Supper Clubs, Lake Resorts (open to the general public), Taverns, Dance Halls, Pool Halls, Bowling Alleys, and Similar Uses: In B-1, B-2, B-3, and B-4 Business districts. Drive through restaurants require a conditional use in the B-P district. In all cases, the following requirements shall be met in order to grant a conditional use:

- A. The minimum lot area shall be at least two (2) acres and at least two hundred (200) feet in minimum in average width.
- B. Off-street parking shall be provided within two hundred (200) feet of the building in which such use is occurring, and all parking, including access drives and aisles shall

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be offset twenty (20) feet from any lot line of an adjacent property zoned agricultural or residential. The number of spaces required shall be in accordance with the requirements contained in Section 3 (j), or as otherwise required by the Town Plan Commission.

- C. A planting screen of at least six (6) feet in initial height shall be provided between any abutting residential district and the proposed conditional use. The Town Plan Commission may require additional screening. A planting plan prepared by a Registered Landscape Architect shall be submitted to the Town for review and approval as a condition of approval.
 - D. The proposed building shall be offset at least fifty (50) feet from any adjoining residential district and one hundred (100) feet from the high water mark of any lake or navigable body of water.
27. Testing Laboratories (Experimental or Analytical): Agricultural laboratory testing is allowed as a conditional use in the A-10 and A-5 zoning districts. Medical, biological, food processing, and industrial design and manufacturing laboratory testing is allowed as a conditional use in the B-2, B-3, Q-1, M-1, and M-2 zoning districts.

In all cases, the following standards shall be met in order to grant a conditional use:

- A. The minimum lot size shall be three (3) acres.
 - B. The minimum offset for a building housing only testing facilities shall be fifty (50) feet where the zoning upon the adjoining lot permits residential use.
 - C. Off-street parking shall be provided as required for office buildings and customer service establishments.
 - D. Approvals of any other applicable state or federal agencies.
28. Unspecified Conditional Uses. Other uses or situations not specifically provided for in this conditional use section, that may be determined to be acceptable in the subject zoning district under the provisions of Section 3 (d) and in the judgment of the plan commission meet the intent of a conditional use as set forth in Section 4, may be allowed in accordance with the procedures set forth in Section 4.
29. Communication Towers and related facilities. In any district, except C-1 and EFD, and in all cases, the following requirements shall be met in order to grant a conditional use:

This section provides the procedures and standards for issuance of Conditional Use Permits for the placement, construction, or modification of communication towers as defined in this ordinance.

- A. It is intended that Conditional Use Permits shall be issued under this section to accommodate the expansion of wireless communication technology while minimizing the number of tower sites through the requirement that permitted towers be placed or constructed so that they may be utilized for the collocation of antenna arrays to the extent technologically and economically feasible.
- B. No Conditional Use Permit for the placement or construction of a tower shall be

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issued unless the applicant presents to the Town Plan Commission credible evidence establishing to a reasonable degree of certainty the following:

- i. No existing communication tower is located within the area in which the applicant's equipment must be located; or
- ii. No existing communication tower within the area in which the applicant's equipment must be located is of sufficient height to meet the applicant's requirements and the deficiency in height cannot be remedied at a reasonable cost; or
- iii. No existing communication tower within the area in which the applicant's equipment must be located has sufficient structural strength to support the applicant's equipment and the deficiency in structural strength cannot be remedied at a reasonable cost; or
- iv. The applicant's equipment would cause electromagnetic interference with equipment on the existing communication tower(s) within the area in which the applicant's equipment must be located, or the equipment on the existing communication tower(s) would cause interference with the applicant's equipment and the interference, from whatever source, cannot be eliminated at a reasonable cost; or
- v. The fees, costs, or contractual provisions required by the owner in order to collocate on an existing communication tower are unreasonable relative to industry norms; or
- vi. The applicant demonstrates that there are other factors that render existing communication towers unsuitable or unavailable and establishes that the public interest is best served by the placement or construction of a new communication tower.

C. The cost of eliminating impediments to collocation shall be deemed reasonable if it does not exceed by 25 percent the cost of constructing a new tower on which to mount the applicant's equipment.

D. In the event the Plan Commission determines that it is necessary to consult with a third party in considering the factors listed in subsection (2) above, all reasonable costs and expenses associated with such consultation shall be borne by the applicant. Failure to pay such costs and expenses or provide information requested by the Plan Commission shall be grounds for denial or revocation of a Conditional Use Permit. The applicant may provide to the Plan Commission the names of consultants that the applicant believes are qualified to assist in resolving the issues by the Plan Commission, but the Town Engineer retains the authority to recommend the consultant to the Town.

E. In applying the standards and criteria set forth in the Conditional Use section to applications for Conditional Use Permits for the placement or construction of a communication tower, the Plan Commission shall, unless it is shown to be unreasonable, condition the grant of the permit upon the applicant placing or constructing the communication tower so as to accommodate, at a minimum height of 150 feet, the collocation of additional antenna arrays similar in size and function to that placed on the tower by the applicant. Collocation sites need not be available on the tower as initially

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placed or constructed, provided that the tower will support at the specified minimum height the later addition of the required number of collocation sites. Notwithstanding the height and number of collocation sites on the tower as initially placed or constructed, the communication tower design approved and permitted under this ordinance shall be for a tower of 150 feet in height and shall include the required collocation sites. The holder of a permit under this section shall make the collocation sites required hereunder available for the placement of technologically compatible antenna arrays and equipment upon contractual provisions which are standard in the industry and at prevailing market rates allowing the permit holder to recoup the cost of providing the collocation sites and a fair return on investment.

F. Unless otherwise provided herein, a Conditional Use Permit is required for any modification of an existing communication tower that significantly alters the appearance or structural integrity of the tower. The Plan Commission shall apply the standards under the Conditional Use section, when considering an application for a Conditional Use Permit to allow the modification of an existing communication tower. In addition, the Plan Commission shall consider the reasonableness, based on economic and technological feasibility, of conditioning the grant of the Conditional Use Permit upon modifying the tower.

G. Upon written inquiry by the Plan Commission the recipient of a Conditional Use Permit under this section shall have the burden of presenting credible evidence establishing to a reasonable certainty the continued compliance with all conditions placed upon the Conditional Use Permit. Failure to establish compliance with all conditions placed upon the Conditional Use Permit shall be grounds for revocation of the permit. In the event the Plan Commission determines that it is necessary to consult a third party to ascertain compliance with the conditions of the Conditional Use Permit, all reasonable costs and expenses associated with such consultation shall be borne by the holder of the subject Conditional Use Permit. Failure to pay such costs and expenses or provide information requested by the Commission shall be grounds for revocation of the permit. The holder of the subject Conditional Use Permit may provide to the Plan Commission the names of consultants that the permit holder believes are qualified to assist in resolving the issues by the Plan Commission. In any event, where a dispute arises under this ordinance involving an applicant for a Conditional Use Permit and the holder of a Conditional Use Permit hereunder, the Plan Commission may allocate consulting costs and expenses between the applicant and the permit holder.

H. A Conditional Use Permit shall not be required for collocation on an existing tower permitted under this section, provided the collocated antenna arrays or equipment is similar in size and function to that installed by the holder of the Conditional Use Permit for the tower, does not significantly alter the appearance or structural integrity of the tower approved and permitted under this section, and is fully in compliance with all conditions contained in the original Conditional Use Permit. However, approval of a structural report stamped by a Professional Structural Engineer, a revised Site Plan and Plan of Operation and a Building Permit are required. The Town Engineer shall approve of the structural report. The holder of the Conditional Use Permit for any tower on which collocation occurs shall within 30 days of such collocation provide the Plan Commission with written notification of the identity of the co-locator and the nature of the equipment installed. Within 30 days of the date on which any collocated use ceases, the permit holder shall provide the Plan Commission with written notice of the cessation of such use.

I. The holder of a Conditional Use Permit for a tower and any user collocating under

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this ordinance shall each be permitted to construct a building for use directly incidental and necessary to the use of the tower. Two or more users of the tower may each build a separate building or share a single building. Buildings constructed or used by tower co-locators shall be subject to conditions established for the Conditional Use Permit for the tower.

J. Conditional Use Permits issued hereunder shall identify the primary type or types of transmission equipment that is to be placed on the subject communication tower. Any communication tower on which the transmission equipment so identified is no longer placed or used for a continuous period of 12 months shall, upon notification by the Plan Commission, be removed by the property owner issued under this section. If the tower is not removed within 60 days of such notification, the Plan Commission may remove the tower at the expense of the property owner.

K. If required by the Town Attorney, upon approval or revised approval of the use, a Conditional Use Agreement in the form of a deed restriction shall be recorded in the Waukesha County Register of Deeds office and shall include all conditions of approval.

L. A building permit is required for all towers, appurtenances, and cabinets.

M. The intent of these regulations is not to prohibit communication towers that are otherwise allowed by the enactment of federal regulations governing the same.

30. Outdoor Commercial Recreation Facilities/Uses. This category includes facilities and uses listed as conditional uses in Section 4 (h) 10 of this ordinance and, without limitation because of enumeration, other uses open to the public such as amusement parks, water parks, batting cages, paintball ranges, laser tag ranges, orienteering, trampolines, racquet sports, athletic courts, stadiums, indoor/outdoor recreational facilities, etc. These types of uses may be allowed as conditional uses in the B-3, M-1, and M-2 zoning districts, subject to the regulations in Section 4 (h) 10 of this ordinance, and no such conditional use shall include the operation of a commercial facility such as a bar, restaurant, or arcade except as may be specifically authorized in the grant of a conditional use permit pursuant to Section 4 (h) 26.
31. Outdoor storage and display. In the B-4 and BP Districts subject to review and approval of plans as required. In all other districts where outdoor storage and display is a permitted use, the use is subject to review and approval of plans as required, but is not subject to a conditional use.
32. Drive through facilities. In the BP District subject to review and approval of plans as required. In all other districts where drive through facilities are a permitted use, the use is subject to review and approval of plans as required, but is not subject to a conditional use.
33. Truck terminals of any size, warehousing, distribution centers, storage facilities for distributors, and mail-order centers over 50,000 square feet or with more than 5 overhead doors. In the BP District subject to review and approval of plans as required. In all other districts where the uses are permitted uses, the uses are subject to review and approval of plans as required, but are not subject to a conditional use.
34. Factory Outlets and retail sales of products made onsite in the principal industrial operation. In the BP District subject to review and approval of plans as required. In all other districts where the uses are permitted uses, the uses are subject to review and approval of plans as required, but are not subject to a conditional use.

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35. General Sale of Industrial Products not listed as permitted uses in the BP District are subject to review and approval of plans as required. In all other districts where the uses are permitted uses, the uses are subject to review and approval of plans as required, but are not subject to a conditional use.