

Chapter 4
CONDITIONAL USE PERMITS

SECTION:

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XX-4-1: PURPOSE: The purpose of a conditional use permit is to provide the town with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health, and safety. In making this determination, whether or not the conditional use is to be allowed, the town may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining roads, and all other or further factors as the town shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety. (Ord. 900, 18 Apr 22)

XX-4-2: REVIEW CRITERIA: The planning commission and town board shall consider possible adverse effects of the proposed conditional use. Their judgment shall be based upon (but not limited to) the following factors.

- A. The proposed action's consistency with the specific policies and provisions of the town comprehensive plan.
- B. The proposed use's compatibility with present and future land uses of the area.
- C. The proposed use's potential to impact natural resources such as surface water, groundwater, or wetlands; sites identified for rare biological species habitat; ecologically sensitive areas; or historically significant areas.
- D. The proposed use's conformity with all performance standards contained within this ordinance and other town ordinances.
- E. Traffic generation of the proposed use in relation to capabilities of roads serving the property.

- F. The proposed use can be accommodated by existing public services and facilities and will not overburden the town's service capacity. (Ord. 900, 18 Apr 22)

XX-4-3: GENERAL PERFORMANCE STANDARDS: The evaluation of any proposed conditional use permit request shall be subject to and include, but not be limited to, the following general performance standards and criteria, as may be applicable to the parcel, lot, or use:

- A. The architectural appearance and functional design of the building and site shall not be so dissimilar to the existing or potential buildings and area so as to cause a blighting influence. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment.
- B. Screening of the use and landscaping of the parcel or lot shall be provided in compliance with chapter 19 of this ordinance.
- C. The parcel or lot shall be accessed by a road of sufficient capacity to accommodate the type and volume of traffic which would be generated and adequate right-of-way shall be provided.
- D. Adequate off street parking and off street loading shall be provided in compliance with chapter 21 of this ordinance.
- E. All exterior lighting shall be so directed so as not to cast glare toward or onto the public right-of-way or neighboring residential uses, and shall be in compliance with section XX-16-10 of this ordinance.
- F. All signs and informational or visual communication devices shall be in compliance with chapter 23 of this ordinance.
- G. Potential exterior noise generated by the use shall be identified and mitigation measures as may be necessary shall be imposed to ensure compliance with section XX-16-11 of this ordinance.
- H. The hours of operation may be restricted when there is judged cause incompatibility with surrounding uses.
- I. Provisions shall be made for daily litter control, an interior location for recycling, and trash handling and storage or an outdoor, enclosed receptacle area shall be provided in compliance with section XX-16-8 of this ordinance.

- J. The stormwater management for the parcel or lot shall be subject to the review and approval of the town engineer.
- K. The use shall have adequate on-site sewage treatment system in compliance with section of XX-16-5 of this ordinance.
- L. The use complies with all applicable performance standards of the zoning district in which it is located, this ordinance, or other town ordinances.
- M. The use and site shall be in compliance with any federal, state or county law or regulation that is applicable and any related permits shall be obtained and documented to the town. (Ord. 900, 18 Apr 22)

XX-4-4: SPECIFIC USE STANDARDS: The evaluation of any proposed conditional use permit request shall be subject to and include, but not be limited to, the following specific performance standards and criteria, as may be applicable to the parcel, lot, or use:

- A. Aircraft Landing Strip, Private:
 - 1. The airplane landing strip has the approval of the Minnesota department of transportation.
 - 2. The use of the airport is limited to the property owner.
- B. Airport, Public:
 - 1. The public use airport has the approval of the Minnesota department of transportation.
 - 2. The use of the airport will not unduly interfere with the use and enjoyment of other properties, including by the effects of noise.
- C. Aquaculture:
 - 1. The provisions of the S district and FP district are met, if applicable.
 - 2. Any required state or federal permits are applied for and issued.
 - 3. The activity shall be located on a minimum of five acres.
 - 4. Retail sales shall be allowed subject to approval of the town board.

- D. Churches, including related structures and activities located on the same site that are an integral part of the church proper, and convents or homes for persons related to the religious functions.
- E. Communication towers up to 200 feet in height subject to the provisions of chapter 27 of this ordinance.
- F. Daycare, Commercial:
 - 1. Any state licensing or permitting requirements are met.
- G. Farm Related Business:
 - 1. The business is primarily farm-related under one or more of the following criteria:
 - a. The business provides a repair or maintenance service for equipment unique and necessary to agricultural operations.
 - b. The business produces a product or involves a process that utilizes locally grown or produced commodities.
 - c. The business involves sales and/or purchasing of products of the local agricultural economy or of goods unique and necessary to agricultural operations.
 - 2. Sewage is treated by an on-site sewage system and in accordance with section XX-16-6 of this ordinance.
 - 3. The business is of a scale that the demand for support services such as sewer, water, police, fire protection, roads be accommodated within the context of the service levels available.
 - 4. The business is operated in conformance with the conditions of an approved plan of operation.
 - 5. The applicant submits a copy of workers' compensation insurance or signs an affidavit stating that they will not have any employees.
- H. Farm Related Bunkhouse for a Temporary Residence:
 - 1. A site plan for each parcel with a multi-unit dwelling is submitted showing the following:
 - a. The location of the housing unit(s).

- b. The access to the housing unit(s).
 - c. The location of the sewage treatment system.
 - d. Applicable zoning setbacks for the structure.
 - e. Adjacent land uses.
 - f. A complete set of building plans that are in conformance with all state and local building codes and subject to the approval of the town building official.
 2. The applicant shall own a minimum of 160 acres of land.
 3. Residence requirements:
 - a. One multi-unit structure shall be allowed per farming operation.
 - b. No more than four units per multi-unit structure or a 10 bedroom structure.
 - c. Building code capacity load requirements specify a minimum of 200 square feet of habitable space per occupant.
 - d. An emergency storm shelter facility shall be provided.
 4. The employer and all seasonal workers shall be in compliance with all applicable state and federal laws, including all laws regulating seasonal migrant workers.
 5. Each multi-family unit shall be connected to a sewage treatment system and is designed by an Minnesota pollution control agency licensed professional to handle the capacity of all housing.
 6. All solid waste generated by the occupants shall be disposed of properly.
 7. The length of time the multi-unit dwelling shall be occupied is limited to the needs of the farming operation and allowed only during the period of April 15th through November 1st. A temporary residence shall be occupied by farm workers only and the applicant shall provide written notice to the zoning administrator as to when the temporary residence(s) will be occupied each year.
- I. Feedlots and/or Manure Storage Areas (Tier 2 – Tier 5) meeting the requirements of chapter 24 of this ordinance, and:

1. All feedlots shall comply with Minnesota rule 7020.
2. Manure storage areas shall be designed, constructed and maintained in compliance with Minnesota rule 7020.2100.
3. All feedlots and/or manure storage areas shall comply with section XX-24-XX of this ordinance.
4. All proposed feedlots and/or manure storage areas requiring a conditional use permit shall submit an application in accordance with the provisions of chapter 4 of this ordinance, along with the required fee and the following information:
 - a. A map or aerial photo indicating dimensions of the feedlot and/or any manure storage area, and showing all existing homes, buildings, lakes, ponds, water courses, wetlands, dry-runs, rock outcroppings, roads, wells, and general contour and north arrow.
 - b. A copy of approval from the Minnesota pollution control agency to operate a feedlot.
 - c. Designation of applicable Tier (e.g. Tier 1, Tier 2, etc.).

J. Golf Courses:

1. If the course is proposed to be located in the floodplain, the criteria in the FP district in addition to these criteria shall be complied with.
2. The course shall be located on either a minor collector, a major collector, a minor arterial or major arterial road as identified in the town comprehensive plan and county transportation plan.
3. A permanent club house shall be constructed that is adequate in size as per the state building code to serve the proposed number of golfers.
4. The course shall be a minimum of nine holes.
5. There shall be adequate fencing to deter trespassing on adjacent property.
6. Parking requirements - 20 spaces, plus three spaces per hole. If a restaurant and/or bar is established, one additional space per four seats is required. Additional requirements may be added if additional activities are proposed.
7. There shall be an on-site sewer system that is constructed in accordance with section XX-16-6 of this Ordinance.

8. All buildings shall be constructed in conformance with the building code.
 9. The applicant will submit information identifying wetlands, watercourses, water bodies and wooded areas. The applicant will also state how the proposal would affect the above natural features. The proposal will be reviewed to determine adverse impact on the above natural features and on areas or sites of historical or archaeological significance. Conditions may be imposed to limit or prevent adverse impact on the above stated or other natural features.
 10. The applicant shall submit an operational plan which, when accepted by the town board shall become part of the conditional use permit.
 11. Appropriate uses accessory to a golf course include, but are not limited to, a pro shop, a club house, locker room, restaurant and bar, private parties, tennis courts, racquetball, swimming pool, indoor track, exercise room, sauna or steam room, snowmobiling, snowshoeing, cross country skiing.
 - a. These are uses generally or sometimes found in conjunction with golf courses. Those permitted under a particular conditional use permit will be dependent upon additional parking capacity, the capacity of the on-site sewer system and the water supply system.
 - b. If these uses are to be allowed they shall be addressed in the operational plan. Any changes in use requires an amendment to the conditional use permit.
 12. The front yard setback area may be utilized for parking purposes. A parking area located in a front yard setback may not be hard surfaced with asphalt, concrete, or similar material. At no time shall a parking lot intrude upon or in any way utilize road right-of-way for parking purposes.
 13. Any of the above requirements may be waived by the town board for golf courses existing at the time of adoption of this section or for golf courses that were once in existence and are being reactivated.
- K. Light Industry:
1. The applicant or business involves the processing or fabrication of certain materials or products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties.
 2. The proposed business is located within an area of similar land uses and maintains or enhances the character of the immediate neighborhood.

L. Mini Storage:

1. There shall be no exterior storage of any kind.

M. Motor Sports Facility, Public:

1. The use of the facility is limited to the permitted number.
2. The facility is not allowed in a residential plat.
3. The facility shall be located on a minimum of 20 acres.
4. The town board may limit the days and hours of operation.
5. The facility shall be located a minimum of 1,000 feet from any residence except that of the landowner and a minimum of 0.5 mile from 10 or more homes existing prior to application for a permit under this provision.
6. The facility shall be located a minimum of 1,000 feet from a livestock facility.
7. Sufficient on-site parking shall be available.
8. Road access shall be approved by the town engineer.
9. Owners of public use facilities shall furnish proof of adequate liability insurance to cover non-family users.
10. Landowners wishing to hold a single day or week-end motor sport event or permit holders wishing to schedule a special event in excess of their permit limits may apply for an occasional special events conditional use permit.

N. Permanent town or county structures or uses of land, except roads and their appurtenances and drainage systems established pursuant to Minnesota statutes Chapter 103E.

O. Personal Storage Structure:

1. A building without a primary residence defined as a personal storage structure.
2. Personal storage structures will be limited to personal use and cannot be used for any business operation.
3. Only one personal storage structure be allowed per parcel.

4. The area of the personal storage structure will be limited to 1,800 square feet unless the parcel is less than 2.5 acres and then the size limit will be a 1,200 square foot building.
 5. A maximum height of the structure is 25 feet from the ground to the peak.
 6. The size and location of the personal storage structure shall not impede the placement of a future home, or primary and secondary septic system.
 7. No plumbing or floor drains shall be allowed.
 8. Personal Storage Structures shall not be allowed in a platted development, unless in a S District.
- P. Power Generation Plants:
1. The town board shall approve plans for site planning, visual screening, traffic operations, noise control, dust control, and stormwater management.
- Q. Private Game Refuge and Wildlife Management Areas:
1. A permit is issued by the Minnesota department of natural resources.
- R. Riding Academies, Stables and Similar Uses:
1. The use shall be located on a minimum of 10 acres.
 2. The number of animal units permitted will be regulated by the permit.
 3. If the facility has more than 10 horses, a Minnesota pollution control agency feedlot certificate of compliance shall be issued.
 4. If the facility has 10 or fewer horses there shall be an acceptable manure handling plan.
 5. The facility is operated in conformance with an approved plan of operation
- S. School Bus Service: The operation, maintenance and storage of more than two school buses provided the following criteria are met:
1. The school bus service shall be located on a parcel with an area of 10 acres or greater.

2. The parcel shall be on a hard surface road unless access via a gravel road is approved by the township engineer.
3. All buses shall be screened from view from the public road by a combination of plantings, berming and/or fencing.

T. Seasonal Storage:

1. Seasonal Storage Business established after January 3, 2006 shall be located on a minimum of twenty acres. Businesses established prior to this date may be located on any sized acreage, however the landowner shall provide proof of the year established, such as commercial tax records. The business may not be located within a residentially platted parcel.
2. The existing facility shall consist of agricultural buildings converted for seasonal storage.
3. If the buildings used for seasonal storage are damaged or destroyed beyond 50 percent of their value as determined by the town building official, they may be rebuilt for the purposes of seasonal storage in accordance with the Minnesota state building code.
4. An operational plan shall be approved by the town board as stipulated within the conditions of approval.
5. Days and hours of operation shall be included within the operational plan with the understanding this is a seasonal storage facility.
6. The public shall not have individual access to the storage facilities. All access shall be gained by employees of the storage facility or their agent only.
7. There shall be no exterior storage of any kind.

U. Second Farm-Related Dwelling:

1. The house is occupied by someone employed on the farm at least 20 hours per week.
2. The minimum lot or parcel area required to allow for a second farm related dwelling shall be 80 acres.
3. The location of the second farm related dwelling on this parcel shall be wooded and meet the minimum lot size and dimensional regulations of the underlying zoning district.

4. An on-site sewer system is installed in conformance with section XX-16-6 of this ordinance.
 5. A boundary survey shall be required if the parcel is to become a separate lot of record.
 6. A site plan shall be submitted with the application that shows how the second dwelling could meet platting requirements.
- V. Single-family dwelling provided that that the housing development requirements of the R1 district are met.
- W. Waste Facility:
1. The facility/operation is in compliance with the county solid waste ordinance and any other applicable ordinance.
 2. The facility/operation is in compliance with the comprehensive plan and the county solid waste master plan.
 3. The site shall not be located within the S district or FP district.
 4. Any required environmental assessment documents have been developed and required review procedures have been completed.
 5. Any required county, state, or federal licenses have been issued.
 6. The facility/operation is in compliance with all applicable Minnesota pollution control agency and United States. environmental protection agency rules and regulations.
 7. An operational plan shall be developed and the activity conducted in accordance with the operational plan.
 8. The permit shall be subject to annual renewal concurrent during the same month as county license renewal.
 9. A site plan is submitted showing adjacent land uses and the type of measures that will be used to buffer the physical impacts to these sites.
- X. Windpower management meeting the requirements set forth by chapter 28 of this ordinance. (Ord. 900, 18 Apr 22)

XX-4-5: PROCEDURE:

- A. Request for Permit:
 - 1. The town board or the planning commission may, upon their own motion, initiate a request for a conditional use permit in conformance with the provisions of this chapter.
 - 2. Any person owning real estate or having documented interest therein may initiate a request for a conditional use permit for said real estate in conformance with the provisions of this chapter.

- B. Request for a conditional use permit shall be filed with the town on an official application form and processed in accordance with this chapter and Minnesota statutes 15.99.
 - 1. An application shall be accompanied by a fee as provided in by the town fee schedule ordinance.
 - 2. Such application shall also be accompanied by detailed written and graphic materials fully explaining the proposed change, development, or use including the information required by section XX-9-4 of this ordinance.
 - 3. The request shall be considered as being officially submitted when the zoning administrator determines that there is compliance with all the information requirements.
 - 4. The town board, the planning commission, and the town staff shall have the authority to request additional information from the applicant or to retain expert testimony at the expense of the applicant, and said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this ordinance.
 - 5. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

- C. The applicant shall supply proof of title and the legal description of the property for which the conditional use permit is requested, consisting of an abstract of title or registered property abstract currently certified, together with any unrecorded documents whereby the petitioners acquire a legal ownership or equitable ownership interest and, as applicable, supply documented authorization from the owner(s) of the property in question to proceed with the requested conditional use permit.

- D. Upon receipt of said application, the town clerk shall set a public hearing to be conducted by the planning commission following proper hearing notification as applicable.

1. Notice of said hearing shall consist of a legal property description and description of request, and be published in the official newspaper at least 10 days prior to the hearing.
 2. Written notification of said hearing shall be mailed to surrounding area property owners within 350 feet of the property in question at least 10 days prior to the hearing.
 3. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be attested and made a part of the records of the proceeding.
 4. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth in this chapter, provided a bona fide attempt has been made to comply with the notice requirements of this chapter.
- E. The zoning administrator shall instruct the appropriate staff persons to prepare technical reports where applicable, and provide general assistance in preparing a recommendation on the action to the planning commission and town board.
- F. The applicant or a designated representative thereof shall appear before the planning commission and town board in order to answer questions concerning the proposed request. Failure by the applicant to attend meetings at which the application is to be considered by the planning commission or town board may be grounds for denial of the request.
- G. The planning commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this ordinance.
- H. The town board shall not consider or act upon a conditional use permit until they have received a report and recommendation from the planning commission or until 60 days after the first regular planning commission meeting at which the request was considered.
- I. Upon completion of the report and recommendation of the planning commission, the request shall be scheduled for consideration on the agenda of the town board. Such reports and recommendations shall be entered in and made part of the permanent written record of the town board meeting.
- J. Upon receiving the report and recommendation of the planning commission and town staff, the town board shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded finding of fact and may impose any condition it considers necessary to protect the public health, safety, and welfare.

- K. If, upon receiving said reports and recommendations of the planning commission and town staff, the town board finds that specific inconsistencies exist in the review process and thus the final action of the town board will differ from that of the Planning Commission, the town board may, before taking final action, refer the matter back to the planning commission for further consideration.
- L. Approval of a request shall require passage by a majority vote of the town board.
- M. The zoning administrator shall provide the applicant and property owner with written notice of the town board's findings of fact and decision regarding the application.
- N. If a request for a conditional use permit receives approval of the town board, the town clerk, at the applicant's expense, shall record such with the appropriate Sherburne county office. No building permits for the property in question will be granted until recording of the action has been completed.
- O. All decisions made by the town regarding a conditional use permit shall be final, except that any aggrieved person shall have the right to appeal within 30 days after delivery of the decision to the appellant, to the district court in Sherburne county. Any person seeking judicial review under this ordinance shall serve the town and all necessary parties, including any landowners, within the 30 day period defined above.
- P. Whenever an application for a conditional use permit has been considered and denied by the town board, a similar application for the conditional use permit affecting substantially the same property shall not be considered again by the planning commission or town board for at least one year from the date of its denial, except as follows:
 - 1. Applications are withdrawn prior to the town board taking action on the matter.
 - 2. If the town board determines that the circumstances surrounding a previous application have changed significantly.
 - 3. If the town board decides to reconsider such matter by a four- fifths vote of the entire town board. (Ord. 900, 18 Apr 22)

XX-4-6: AGREEMENT: The approval of a conditional use permit and the stipulations, limitations and conditions therein shall be applied to the property in question. All written and graphic materials officially submitted to the town shall be treated as a formal agreement between the applicant and the town. Once approved, no changes, modifications, or alterations shall be made to any plan detail, standard, or specifications without prior submission of a plan modification request to the zoning administrator for review and approval. (Ord. 900, 18 Apr 22)

XX-4-7: PERFORMANCE SECURITY: Upon approval of a conditional use permit the town shall be provided with a performance security in accordance with section XX-10-2 of this ordinance. (Ord. 900, 18 Apr 22)

XX-4-8: AMENDED PERMIT: The owner of a property with a conditional use permit may propose an amendment to modify the conditional use at any time. No changes in the approved plans, intensity or scope of the conditional use shall, however, be undertaken without prior approval of those changes by the town. Requests for permit modifications shall be processed according to section XX-4-5 of this chapter and shall be subject to all requirements and standards of this ordinance; except, that those permit modifications meeting the following criteria, as determined by the zoning administrator, may be approved administratively in accordance with chapter 8 of this ordinance:

- A. Only applications for preexisting uses or uses explicitly classified as allowed uses, including accessory uses, by the approved conditional use permit governing the use of the property are eligible for administrative approval.
- B. The permit modification shall not result in an increase in hours of operation, traffic, employees, or number of dwelling units, expand any principal building or otherwise increase the intensity of the use of the site.
- C. The permit modification shall comply with all requirements of the applicable zoning district and all other performance standards of this ordinance or other town ordinances.
- D. All applications for permit modification shall be complete and in full accordance with the requirements of section XX-9-6 of this ordinance. (Ord. 900, 18 Apr 22)

XX-4-9: EXPIRATION OF PERMIT APPROVAL:

- A. Unless otherwise specified by the town board at the time it is authorized, a conditional use permit shall be null and void and expire if the applicant fails to utilize such conditional use permit and fulfill each and every condition attached thereto within one year from the date of its authorization unless a petition for an extension of time in which to complete or utilize the permit has been granted by the zoning administrator; provided, that:
 - 1. The extension is requested in writing and filed with the town at least 30 days prior to the expiration of the initial conditional use permit request.
 - 2. The request for extension states facts demonstrating that a good faith attempt has been made to complete or utilize the use or activity permitted in the conditional use permit.
 - 3. A maximum of one administrative extension shall be granted.

4. The extension shall not exceed 90 days from the initial conditional use permit expiration date.
 5. There shall be no charge for the filing of a petition for an administrative extension.
- B. Upon receiving a recommendation from the planning commission and town staff, the town board may grant an extension of the conditional use permit of greater than 90 days; provided, that:
1. The conditions described in subsections A1, A2, and A3 of this section are satisfied.
 2. The extension shall not exceed one year from the initial conditional use permit expiration date.
 3. The filing of a petition for extension is subject to fee requirements established by the town fee schedule ordinance. (Ord. 900, 18 Apr 22)

XX-4-10: REVOCATION OF PERMIT:

- A. The planning commission may recommend, and the town board may direct, the revocation of any conditional use permit for cause upon determination that the authorized conditional use is not in conformance with the conditions of the permit or is in continued violation of this ordinance, other town ordinances, or other applicable regulations.
- B. The town board or planning commission shall initiate an application and the zoning administrator shall notify the responsible person that they have an opportunity to show cause why the permit should not be revoked.
- C. The application shall be processed and considered pursuant to section XX-4-5 of this chapter. (Ord. 900, 18 Apr 22)

XX-4-11: CERTIFICATION OF TAXES AND FEES PAID: Prior to approving an application for a conditional use permit, the applicant shall provide certification to the town that there are no delinquent property taxes, special assessments, interest, or town utility fees due upon the parcel of land to which the application relates. (Ord. 900, 18 Apr 22)