

DIVISION 3.0600

CONDITIONAL USE STANDARDS AND REGULATIONS

SECTION 3.0601 GENERAL STANDARDS FOR CONDITIONAL USES

- A. General Standards. No Conditional Use Permit shall be recommended or granted pursuant to this Ordinance unless the applicant shall establish the following:
1. Ordinance and Comprehensive Master Plan Purposes and Intent. The proposed use and development will be in harmony with the general and specific purposes for which this Ordinance was enacted and for which the regulations of the zoning district in question were established and with the general purpose and intent of the Town of Saukville Comprehensive Master Plan or element thereof.
 2. Adverse Impact. The proposed use and development will not have a substantial or undue adverse or detrimental effect upon or endangered adjacent property, the character of the area, or the public health, safety, morals, comfort, and general welfare and not substantially diminish and impair property values within the community or neighborhood and:
 - a. Interference with Surrounding Development. The proposed use and development will be constructed, arranged, and operated so as not to unreasonably interfere with the use and development of neighboring property according to the applicable zoning district regulations.
 - b. Adequate Public Facilities. The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities including public water supply system and sanitary sewer, police and fire protection, refuse disposal, public parks, libraries, schools, and other public facilities and utilities or the applicant will provide adequately for such facilities.
 - c. Traffic Congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets. Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - d. Destruction of Significant Features. The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.
 - e. Hazard Protection. The proposed use and development shall reasonably protect persons and property from erosion, flooding, fire, noise, glare, or similar hazards.
 3. Compliance with Standards. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Town Board pursuant to the recommendations of the Plan Commission. The proposed use and development shall comply with all additional standards imposed on it by the particular provision of this Division and Ordinance authorizing such use. (Also see Sections 3.0901 and 3.0904 of this Ordinance.)
- B. Special Standards for Specified Conditional Uses. When the zoning district regulations authorize a conditional use in a particular zoning district and that conditional use is indicated as having

special standards as set forth in either Section 3.0602 and 3.0603 of this Division, a Conditional Use Permit for such use in such zoning district shall not be recommended or granted unless the applicant shall establish compliance with all such special standards.

- C. Considerations. In determining whether the applicant's evidence establishes that the foregoing standards have been met, the Plan Commission and the Town Board shall consider the following:
1. Public Benefit. Whether and to what extent the proposed use and development at the particular location requested is necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community.
 2. Alternative Locations. Whether and to what extent such public goals can be met by the location of the proposed use and development at another site or in another area that may be more appropriate than the proposed site.
 3. Mitigation of Adverse Impacts. Whether and to what extent all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping, and screening.
- D. Conditions on Conditional Use Permits. The Plan Commission may recommend, and the Town Board may impose, such conditions and limitations concerning use, construction, character, location, landscaping, maintenance, screening, operation, hours of operation, and other matters relating to the purposes and objectives of this Ordinance upon the premises benefited by the issuance of a Conditional Use Permit as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements near the subject property, upon such public facilities and services, protection of the public interest, and to secure compliance with the standards and requirements specified in the Ordinance. Such conditions shall be expressly set forth in the ordinance granting the Conditional Use Permit, and the Town Board may require the unconditional consent of the applicant to such conditions. Violation of any such condition or limitation shall be a violation of the Ordinance and shall constitute grounds for revocation of the Conditional Use Permit.
- E. Costs. The costs of all professional, expert, technical consultant services retained by the Town and rendered in review of a Conditional Use Permit, administration of a Conditional Use Permit, checking and/or inspections relating to a Conditional Use Permit including, but not limited to, the Town Zoning Administrator, Town consulting professional engineer, Town consulting planner, Town Attorney, or other professional, expert, or technical services shall be borne by the applicant for a Conditional Use Permit.
- F. Affidavit of Compliance with Conditions. In all cases in which conditional uses are granted, the Town Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being, and will be, complied with. Whenever any Conditional Use Permit granted pursuant to this Ordinance is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Zoning Administrator so stating.
- G. Effect of Issuance of a Conditional Use Permit. The grant of a Conditional Use Permit shall not authorize the establishment or extension of any such use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any other permits or approvals that may be required by the ordinances and codes of the Town of Saukville, including but not limited to Building Permit, Zoning Permit, land division approval, site plan approval, or other type of permit of approval.
- H. Limitations on Conditional Use Permits.

1. Time Limitations. Subject to an extension of time granted by the Town Board upon recommendation by the Plan Commission, no Conditional Use Permit shall be valid for a period longer than six (6) months unless a Building Permit and/or Certificate of Occupancy is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a Zoning Permit is issued and a use commenced within that period.
 2. Use Discontinuance. A Conditional Use Permit shall be deemed to authorize only the particular use for which it was issued. Such permits shall automatically expire and cease to be of any force or effect if such use shall be discontinued for twelve (12) consecutive months or more; provided, however, that if such use is discontinued due to labor strikes, war, natural disasters, or other similar cause(s) beyond the reasonable control of the holder of the Conditional Use Permit, such twelve (12) month period shall be extended for a period of time equal to the period that the holder of the Conditional Use Permit is prevented from engaging in the particular use for which the Conditional Use Permit was issued.
 3. Conditional Use Permit Runs with Land and Not the Applicant. Unless otherwise provided in the resolution granting a Conditional Use Permit, a Conditional Use Permit shall be deemed to relate to, and to be for the benefit of, the use and lot in question rather than the applicant, owner, or operator of such use or lot.
 4. Additions and Enlargements to *Legal* Conditional Uses. Any additions or enlargements of an existing *legal* conditional use for which a Conditional Use Permit has been issued may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in this Ordinance.
 5. Additions and Enlargements to *Illegal* Conditional Uses. Any additions or enlargements of an existing illegal conditional use for which a Conditional Use Permit has *not* been issued shall not be allowed unless the entire use is made to conform to all the regulations of the zoning district in which it is located and pursuant to the procedures and subject to the standards and limitations provided in this Ordinance.
- L. Amendments to Conditional Use Permits. A Conditional Use Permit may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provide in this Ordinance for its original approval.
- J. Review of Conditional Use Permits. An existing Conditional Use Permit may be reviewed by the Town as follows:
1. The Plan Commission may review a Conditional Use Permit if any of the following determinations are made by the Plan Commission:
 - a. The conditional use has not continued in conformity with the Town's conditions of approval of the Conditional Use Permit or with any subsequent amendments to the Conditional Use Permit.
 - b. Violations of other statutes, ordinances, or laws.
 - c. A change in the character of the surrounding area or in the conditional use itself which has caused the conditional use to become incompatible with the surround uses.

2. The determination for the review of a Conditional Use Permit shall be made by the Plan Commission after due notice to the property owner, occupant, or agent as indicated on the Conditional Use Permit, as to the reasons for the review.
 3. Upon review of the Conditional Use Permit, the Plan Commission may recommend to the Town Board that no action be taken, recommend revisions to the Conditional Use Permit or any recommend that the Town Board proceed with a public hearing for possible termination of the Conditional Use Permit.
- K. Requirements for Conditional Uses in the A-2 Exclusive Agricultural District and the A-3 Agricultural Transition District. Conditional uses in the A-2 Exclusive Agricultural District and the A-3 Agricultural Transition District are limited to those agricultural-related, other utility, institutional, or governmental uses that are consistent with agricultural uses as defined in Sections 91.01(10) of the Wisconsin Statutes as amended and are found necessary in light of the alternative locations available for such uses.

SECTION 3.0602 DETAILED STANDARDS FOR CONDITIONAL USES IN AGRICULTURAL AND RESIDENTIAL DISTRICTS

- A. Building Moving within Agricultural and Residential Districts. The moving of an existing building from outside the Town to a site within the Town, or from site to site within the Town, requires a Conditional Use Permit to ensure neighborhood compatibility, structural integrity of the building, architectural quality, and compliance with the requirements of this Ordinance. No building shall be moved into the Town, or moved from site to site within the Town, except through the obtainance of a Conditional Use Permit from the Town. The following specific requirements and standards shall apply to building moving:
1. Compatibility With Existing Structures in the Vicinity of the Site Where the Building is to be Moved. The building to be moved shall be compatible in terms of architecture, floor are, massing, and bulk (as determined by the Plan Commission, with the existing structures in the vicinity of the site where the building is to be moved.
 2. No Detrimental Effects. The building to be moved shall have to detrimental effect on the living environment and property values of the area into which the building is to be moved.
 3. Surety Bond Required. A Surety bond shall be posted with the Town to cover any costs incurred to the Town with respect to the movement of the building through public street rights-of-way.
 4. Building Inspection Report Required. A building inspection report shall be submitted to the Town prior to the issuance of a Conditional Use Permit which evaluates the overall condition of the building, as inspected and described in writing by a State of Wisconsin certified building inspector. The report shall include photographs and diagrams as necessary and shall enumerate all changes or alterations necessary to bring the building up to current Town Building Code standards. Said building inspection report shall be reviewed and comment upon made to the Plan Commission by the Town Building Inspector.
- B. Home Occupations and Home Offices. The following specific requirements and standards shall apply for home occupations and home offices in the agricultural and residential districts:
1. Home Occupation Employees. No person shall be employed other then persons residing on the premises.

2. Maximum Floor Area Permitted to be Used for Home Occupation. The use of the dwelling unit for the home occupation or home office shall be clearly incidental and secondary to its use for residential purposes. No more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation or home office. No outside display, storage, or use of land is permitted.
3. No Change in the Outside Appearance of the Building, Accessory Structure, or Premises Permitted. There shall be no change in the outside appearance of the building, accessory structure, or premises because of such home occupation or office, except for an unlighted sign or nameplate, not more than one (1) square foot in total area, attached to and not projecting from the building.
4. Conduct of Home Occupation in Accessory Building, Accessory Structure, or Outdoors Prohibited. No home occupation or home office shall be conducted in any accessory building or structure or outdoors.
5. Use of Mechanical and Electrical Equipment. No mechanical equipment shall be used on the premises, except such that is normally used for on-site domestic or household purposes. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television sets off the premises, or causes fluctuations in line voltage greater than that normally associated with household use. Computer and communications equipment that meets the aforementioned criteria which can be purchased for use in the home shall be considered as “normally associated with household use.”
6. Sale and Display of Commodities and Goods. No commodity or good not produced on the premises shall be sold on the premise nor displayed on the exterior or interior of the premises, or warehoused on the premise for sale elsewhere. This does not preclude taking orders for sales or provision of services off-site.
7. Traffic. No vehicular or pedestrian traffic shall be generated by such home occupation or home office in greater volume than would normally be expected from the principal use. For measuring vehicular traffic, criteria established in the most current edition of the Institute of Transportation Engineer’s publication titled *Trip Generation* shall be used.
8. Vehicle Used in Conjunction with the Home Occupation. No more than one (1) vehicle shall be used in the conduct of the home occupation. No vehicles shall be parked and no equipment or materials shall be stored for trash haulers, home builders, home repair contractors, and similar occupations.
9. Home Occupation Uses – Permitted. A home occupation may include, but not limited to the following: domestic crafts such as seamstress, sewing, tailoring, weaving, washing and ironing, private tutoring and instruction including music instruction (limited to three (3) pupils at any one time), and home offices shall include professional services.
10. Levels of Noise, Emissions, Radiation, Vibration, Heat, Glare, Smoke, Dust, Fumes, Odors, or Electrical Interference. There shall be no levels of noise, emissions, radiation, vibration, heat, glare, smoke, dust, fumes, odors, or electrical interference created which is detectable to the normal senses outside the dwelling unit greater than that normally associated with household use.
11. Refuse. No refuse greater than the amount allowable for regular residential pickup shall be generated by any home occupation.

12. Nuisance Causing Activities. No home occupation cause or create and nuisance, cause or create any substantial or undue adverse impact on any adjacent property or the character or the are; or threaten the public health, safety or general welfare; or be noxious, offensive, or hazardous.
 13. Materials Which Decompose by Detonation Prohibited. No materials which decompose by detonation shall be allowed with a home occupation.
 14. Public Utility Use Exceeding Typical Residential Dwelling Unit Demand Not Permitted. No home occupation shall be permitted which generates sewerage or water use greater than what is typical for a residential dwelling unit.
- C. Open Space Subdivision. The following specific requirements and standards shall apply to all “Open Space Subdivision” options in the A-1, A-4, A-5, and R-4 Districts:
1. “Open Space Subdivisions” to Meet District Standards and Limitations on the Total Number of Lots.
 - a. All “Open Space Subdivisions” shall meet the applicable open space ratio, density, lot dimensions, living area per dwelling unit, and height requirements for both the zoning district and “Open Space Subdivisions” option selected.
 - b. All “Open Space Subdivisions” are intended to preserve open space and under no circumstances shall the total number of lots allowed under and “Open Space Subdivision” be allowed to have a greater number of lots than would otherwise be allowed under a conventional subdivision.
 2. Conservation and/or Open Space Preservation Easements. All “Open Space Subdivisions” shall have submitted conservation and/or open space preservation easements regulating the protection of natural resource features and/or open space in the proposed development. Such documents shall assure that all such conservation and/or open space preservation easements are held privately and in perpetuity under a Wisconsin nonprofit membership corporation (homeowners’ association). Said conservation and/or open space preservation easements shall cover the total required Open Space Ratio (OSR) area of the Open Space Subdivision. In addition:
 - a. Covenants and Restrictions to be Enforceable by the Town. All covenants, deed restrictions, easements, and similar restrictions to be recorded in connection with the “Open Space Subdivision” shall provide that they may not be modified, removed, or released without the express consent of the Town Board and that they may be enforced by the Town and by future landowners within the proposed development.
 - b. Limitation on Construction of Any Structure or Improvement in Areas Covered by a Conservation and/or Open Space Preservation Easement. No areas covered by a conservation and/or open space preservation easement shall be used for the construction of any structure or improvement except such structures and improvements as may be approved by the Town Board.
 - c. Continued Preservation of Open Space Required. The conservation and/or open space preservation easement must be permanent, not be for a given period of years, and must run with the land. Such conservation and/or open space preservation easements may provide that they may be released, but only with the approval of the Town Board.

- d. Ownership and Maintenance.
- 1) The “Open Space Subdivision” plans shall include such provisions for the ownership and maintenance of such open space and improvements as are reasonably necessary to ensure their continuity, care, conservation, maintenance, and operation according to predetermined standards and to ensure that remedial measures will be available to the Town if such open space or improvements are permitted to deteriorate or are not maintained in a condition consistent with the best interests of the subject “Open Space Subdivision” or the Town.
 - 2) The initial maintenance of the common open space and improvements within an “Open Space Subdivision” shall be the responsibility of the developer. The covenants, deed restrictions, easements, and similar restrictions as well as the Wisconsin nonprofit membership corporation (homeowners’ association) documents may prescribe a method for transfer of maintenance responsibility to the Wisconsin nonprofit membership corporation (homeowners’ association). In the event no method for transfer or maintenance responsibility is prescribed, the developer shall retain this responsibility until fifty (50) percent of the development has been sold to lot or unit owners. When at least fifty (50) percent of the “Open Space Subdivision” has been sold, the Wisconsin nonprofit membership corporation (homeowners’ association) shall be deemed the common open space and improvements and such owners shall become fully responsible for its continued maintenance and upkeep.
3. Wisconsin Nonprofit Membership Corporation (Homeowners’ Association). All “Open Space Subdivisions” shall have submitted the legal instruments and rules for the creation of a Wisconsin nonprofit membership corporation (homeowners’ association). Said nonprofit membership corporation shall be responsible for maintaining all open space areas and conservation and/or open space easements in the development. In addition, such nonprofit membership corporation shall meet each of the following standards.
- a. That the by laws and rules of the nonprofit membership corporation and all declarations, covenants, and restrictions to be recorded must be approved as part of the “Open Space Subdivision” plans before becoming effective. Each such document shall provide that it shall not be amended in any manner that would result in it being in violation of the requirements of this Ordinance.
 - b. That the nonprofit membership corporation must be established and all declarations, covenants, and deed restrictions must be recorded before the sale of any property within the area of the “Open Space Subdivision: designated to have the exclusive use of the proposed open space or improvements.
 - c. That the nonprofit membership corporation must be responsible for casualty and liability insurance, taxes, and the maintenance of the open space and improvements to be deeded to the nonprofit membership corporation.
 - d. That the membership in the nonprofit membership corporation must be mandatory for each property owner of the “Open Space Subdivision” and any successive property owner having a right to the use or enjoyment of such open space or improvements.
 - e. That every property owner having a right to the use or enjoyment of such open space or improvements must pay its pro rata share of the cost of the nonprofit

membership corporation by means of an assessment to be levied by the nonprofit membership corporation that meets the requirements for becoming a lien on the property according to the State statutes.

- f. That the nonprofit membership corporation must have the right to adjust the assessment to meet changed needs. The membership vote of the nonprofit membership corporation required to authorize such adjustment shall not be fixed as more than two-thirds of the nonprofit membership corporation members voting on the issue.
- g. That the Town must be given the right to enforce the protective covenants, deed restrictions, or conservation and/or open space preservation easements as they relate to common property.
- h. The Town must be given the right, after a minimum of ten (10) days' written notice to the nonprofit membership corporation, to perform any maintenance or repair work that the nonprofit membership corporation has neglected to perform, to assess the nonprofit membership corporation membership for such work and to have a lien against the property of any member failing to pay such assessment. For this purpose alone, the Town shall have all the rights and powers of the nonprofit membership corporation and its governing body under the agreements and declarations creating the nonprofit membership corporation. In the case of an emergency, as determined by the Town, the Town may issue an enforcement correctional order. If no such nonprofit membership corporation exists, the Town has the right to assess the property owner(s) of the development for such work and to have a lien against the property if any property owner(s) fail to pay such assessment.
- i. That in the event the Wisconsin non-profit membership corporation should cease to exist or should fail to fulfill its obligations as stated herein or to pay the real estate taxes assessed against its properties within the "Open Space Subdivisions", the Town may cause such maintenance to be performed and levy the cost thereof as a special assessment against all of the properties within the "Open Space Subdivision: under the provisions of the Wisconsin Statutes. Similarly, any real estate taxes remaining unpaid, together with any penalties and interest thereon, may be collected by the Town as a special assessment against all of the properties in the "Open Space Subdivision which border the properties, or the Town may seek a mandatory injunction requiring the Wisconsin nonprofit membership corporation to levy and collect assessments for such purposes.

- 4. Town Attorney Review. The Town Attorney shall review all conservation and/or open space easements and homeowners' association legal instruments and shall approve said instruments as to form.
- 5. Minimum Required Width of Open Space When Abutting an Adjacent "Conventional Subdivision". A minimum one hundred (100) foot wide open space buffer shall be provided between an "Open Space Subdivision" and an abutting "Conventional Subdivision." Said open space buffer shall be protected by a conservation and/or open space preservation easement and shall count toward the total required amount of open space for the "Open Space Subdivision."

D. Kennels, Private. Private kennels shall meet the following requirements:

1. Solid Waste and Feces Removal. The disposal of all feces and other solid waste generated by the kennel operation shall be reviewed and approved by the Town Zoning Administrator.
2. Required Fencing. All runs and kennel area shall be fenced with chain link, solid wood fencing, or a masonry wall of a height to be determined by the Plan Commission. The fence or wall shall be of quality material and be neat in appearance.
3. Noises, smoke, and Odor. Any training of animals shall not include the use of loud noises (unless approved by the Town Board) or produce smoke or odor. The kennel facility shall not generate adverse, off-site noise or odor impact.
4. Humane Society of the United States (HSUS) Guidelines to be Used. *Humane Society of the United States (HSUS) Guidelines* shall be used, as a minimum, for the flooring, walls between kennels, drainage, heating and cooling, cage sizes, and runs.
5. Minimum Required Setbacks. All outdoor runs shall be a minimum of one hundred fifty (150) feet from any residential portion of a Town-approved "Open Space Subdivision" or residential zoning district and all exercise areas shall be a minimum fifty (50) feet from any or residential portion of a Town-approved "Open Space Subdivision" or residential zoning district.

E. Stables, Private and Hobby Farms. The following minimum standards shall be used:

1. Minimum Lot Area. The minimum parcel or lot area shall be five (5.0) acres for the first two (2) animal units (see definition of "Animal Unit" in Section 9.0103 of this Ordinance) or fractional animal unit thereof. This minimum lot area shall be increased by one (1) acre for each additional one-half (1/2) animal unit.
2. Required Setbacks. The following minimum setbacks shall also be provided:
 - a. All piles of feed or bedding shall be located fifty (50) feet from any public street right-of-way or lot line of an adjacent nonresidential district and fifty (50) feet from any lot line of an adjacent agricultural or residential district lot line, in order to minimize odor and nuisance problems.
3. Manure Maintenance. Manure piles shall:
 - a. Be stored for removal within an enclosure approved by the Town. The minimum size of the enclosure containing manure stored for removal shall be sixty (60) cubic feet.
 - b. Removed from the premises at least one (1) time per week and/or applied as approved by the Town.
 - c. Any composting of manure on the premises shall be approved by the Town.
 - d. No manure piles shall be stored closer than fifty (5) feet to any lot line.
4. Stable Location. All points on the perimeter of any stable building and/or corral shall be at least fifty (50) feet from the nearest boundary line or right-of-way line of the parcel on which it is located.
5. Maximum Stable Size. (See Section 3.0701(H))

6. Maximum Number of Stables. In the A-1 (“Open Space Subdivision Option Only”), A-4, and A-5 Districts, there shall be no more than one (1) such stable allowed per lot.

F. Detailed Performance Standards and application procedures and requirements specific to **CONCENTRATED ANIMAL FEEDING OPERATIONS** (CAFOs)

1. CAFOs may be allowed as a conditional use only in an A-2 Exclusive Agricultural District. The provisions of the section are applicable to CAFOs as defined in the Wisconsin State Statutes NR 243.11. The provisions shall be applicable to:
 - a. CAFOs existing at the time of adoption of these provisions;
 - b. Animal feeding operations which are proposed to be expanded to become CAFOs
 - c. Newly proposed CAFOs.
2. Water Quality Standards.
 - a. Compliance with State agricultural performance standards, prohibitions and conservation practices for livestock operations, subject to applicable cost sharing requirements. Specific standards enforced through this ordinance are:
 - i) Manure management prohibitions in sec. 281.16(3), Wis. Statutes.
 - ii) Nutrient and manure management standards, including NRCS Nutrient Management Standard 590. (March, 1999 version)
 - iii) Compliance with County regulations for manure storage facilities.
 - b. Approval of construction and management plan by the Town Building Inspector to ensure that the CAFO is designed and operated to prevent construction site erosion and post-construction storm water runoff that may pose a pollution or sedimentation problem.
 - c. Compliance with a monitoring program, if required.
 - d. maintenance and a retention of records regarding manure application, crop history and testing, subject to inspection upon written request and reasonable notice.
3. Setbacks and Separation Requirement. Compliance with requirements set forth in this ordinance, subject to adjustment based on implementation of best management practices to minimize odor, dust and noise under these procedures.
 - a. Minimum Set Back Requirements.
 - i) For livestock structures such as lagoons, feed storage, animal housing and machine sheds:
 - (1) Fifty (50) feet from a lot line where such uses are adjacent to other agricultural-zoned lands;

- (2) One-hundred fifty (150) feet from a lot line where such uses are adjacent to residential zoned lands;
- (3) Seventy-five (75) feet from navigable waters. Specific Shoreland Zoning Requirements are regulated by the Ozaukee County Shoreland/Wetland zoning ordinance;
- (4) Three-hundred (300) feet from wetlands;
- (5) A minimum separation distance to protect private wells (see NR 812.08);
- (6) Three-hundred (300) feet from pre-existing non-farm residences; and
- (7) Seven-hundred fifty (750) feet from pre-existing parks, churches and schools.

ii) For manure applications:

- (1) Shall comply with NRCS Nutrient Management Standard 590 for the setbacks for land applications; and
- (2) Shall not be applied to land within 200 feet of a residence. The setback may be reduced to 100 feet from the residence if the manure is injected or incorporated within 24 hours. Manure may be applied up to the property line provided the adjacent landowner provides written permission to do so.

- b. Odors, dust and noise from animal feeding operations shall be minimized through best management practices and available technology.
- c. Site conditions, including separation distances, prevailing wind, topography, and building orientation may be considered in determining appropriate management practices. Livestock buildings, manure storage facilities, manure application procedures and other site conditions may be assessed to understand the frequency, duration and intensity of odor. In determining suitable practices for a site, the Town of Saukville may seek the recommendations of University of Wisconsin Extension, Natural Resources Conservation Services, and other public agencies having expertise in agricultural matters.
- d. The Town of Saukville may require that a livestock producer enter an agreement to install, modify and maintain management practices effective in mitigating odor and other impacts.
- e. If an operator has adopted appropriate management strategies or technologies, the Town of Saukville may reduce setback distances.

4. Permit Application Procedures and Requirements for CAFOs. Applications for Conditional Use permits shall be made in accord with the procedures and shall be described in Section 7.0103 and accompanied by a nonrefundable fee. In addition to the requirements in Section 7.0103, the following shall be submitted:

- a. A signed statement that includes:

- i) The names and addresses of the owners;
 - ii) The legal name and business address of the facility, if different than the owner;
 - iii) The location of the facility by section, and quarter section; and
 - iv) A list of the maximum number of animals, by type, in the existing and proposed facility.
5. Application Review. Within sixty (60) days of receiving a completed application and fee, the Town shall inform the applicant in writing whether the application is adequate and sufficient for processing. After a public hearing or additional information is required, the Town shall approve or reject the application within sixty (60) days after the close of the public hearing or the receipt of additional information. All decision and based on evidence that is part of the public record.
6. Site Assessment. A site assessment may be conducted prior to the issuance of a Conditional Use permit, at the request of the Town or on the initiative of the permit applicant. An assessment may cover environmental and other concerns. If an assessment is required, the Town will provide written notice describing the precise nature of the items to be assessed.
7. Standards for Approval of Conditional Use Permits for CAFOs. The governing body shall not approve the application for a Conditional Use permit unless it finds that the proposed use:
 - a. Will comply with applicable requirements of this Ordinance. Including the Detailed Performance Standards, which are included herein.
 - b. Will not create an unreasonable level of noise, odor or other adverse impacts on existing uses in the surrounding area as compared to development of the site by a use that is permitted by right. Accompanying this finding there must be the related finding that reasonable mitigation cannot reduce impacts.
 - c. Is compatible with existing or permitted uses on adjacent lands, in terms of building height, setbacks, open spaces, building scale, landscaping drainage, traffic generation or hours of operation.
 - d. Will be served by adequate utilities, access roads, drainage and other necessary facilities and public services.
 - e. Will comply with State agricultural standards.
8. Additional Conditions. The following conditions may be attached to a Conditional Use permit upon specific findings that they are needed to satisfy the purpose of this ordinance, and assure operation of the use in a manner compatible with existing and potential uses of adjoining properties and in the general vicinity:
 - a. Increased setbacks and yards;
 - b. Landscaping, planting screens and other windbreaks;
 - c. Operational controls (including road usage, lighting and signs) and time of operation;

- d. Measures to minimize odor, noise, and dust;
- e. Measures to control erosion and meet water quality standards;
- f. Limits on the number of animals housed in a CAFO based on the capacity of the facility to manage manure and the adequacy of the land based to apply manure; and
- g. Similar requirements found necessary to fulfill the purpose and intent of this ordinance.

Applicants may be provided the opportunity to demonstrate that the implementation of best management practices can alleviate the need for a proposed conditional.

SECTION 3.0603 DETAILED STANDARDS FOR CONDITIONAL USES IN NONRESIDENTIAL DISTRICTS

- A. Animal Hospitals and Veterinary Clinics. Animal hospitals and veterinary clinics shall meet the following requirements:
 - 1. Activities to be Conducted within Enclosed Building All activities, including animal exercise areas, shall be conducted within an enclosed building which allows for adequate ventilation.
 - 2. Minimum Building Distance from Adjoining Residential Use Lot Line. Building housing animal hospitals and veterinary clinics which are fully enclosed, shall be located no closer then seventy-five (75) feet from any adjacent residential use lot line.
 - 3. Enclose Exercise Area. Enclosed exercise areas shall be not less than one-hundred (100) feet from any residential lot line. The operator of the animal hospital or veterinary clinic shall be responsible for using good management practices to discourage undesirable odors, insects, and excessive noise. All exercise areas shall be permanently attached to the principal building and fully enclosed.
- B. Automotive Repair Shops. Automotive repair shops shall meet the following requirements:
 - 1. Direct Access to Arterial Streets Required. All automotive repair shops shall have direct access to an arterial street which is a federal, State, or county designated highway, except where it is part of a nonresidential development where access is provided by a parallel access road or reverse frontage road where nonresidential uses will be on both sides of the street.
 - 2. Required Additional Landscape Bufferyard When Abutting a Residential Portion of a Town-approved "Open Space Subdivision" or Residential Zoning Districts. When abutting a residential portion of a Town-approved "Open Space Subdivision" or residential zoning district, automotive repair shops shall provide one (1) additional bufferyard intensity factor to that already required under the provisions set forth in Section 5.0307 of this Ordinance. Said required bufferyard plant units shall be in addition to those plants required under the provisions of Division 5.0300.

3. Screening of All Loading Docks, Storage, and Garbage or Waste Facilities. All loading docks, storage, and garbage or waste facilities shall be screened from view and fully enclosed within masonry walls eight (8) feet in height. Masonry materials shall be compatible with the materials on the front building wall of the main building. Under no circumstances, however, shall such requirements be less than those specified elsewhere in this Ordinance. The Plan Commission shall determine if the storage, garbage, or waste facility shall be attached to the principal structure. In addition, the following requirements shall be met for trash dumpsters and garbage receptacles;
 - a. Trash Dumpster and Garbage Receptacle Enclosures Required. All garbage cans, trash dumpsters, trash containers, and other storage devices situated on any property shall be closed containers with lids and shall be concealed or suitably screened from public view.
 - b. Trash Dumpster and Garbage Receptacle Maintenance Required. Fencing and landscaping for storage areas shall be maintained in good condition and kept litter-free. All garbage cans, trash containers, and other garbage storage devices shall be emptied and the contents thereof properly disposed of not less than once every seven (7) days; or in the case of recycling materials, every fourteen (14) days.
 - c. Unenclosed Storage of Trash or Waste Prohibited. No portion of the lot shall be used for open or unenclosed storage of trash or waste of any kind.
 - d. Trash Dumpster and Garbage Receptacle Location in Off-Street Parking Space or Drive Prohibited. No trash dumpster or other trash or waste receptacle shall be permitted in any off-street parking space or drive.
 - e. Concrete Slab Requirement. All trash dumpsters and garbage receptacles shall be placed upon a concrete slab that has a thickness of not less than five (5) inches.
 - f. Adequate Size to Accommodate Recycling Materials. All trash dumpster and garbage receptacle areas shall be of an adequate size to accommodate the storage of materials to be recycled.
4. Architectural Design. All automotive repair shops abutting residential uses and zoning districts shall have pitched roofs matching the roof lines of adjoining residential structures. The buildings shall be of an adequate size to accommodate the storage of materials to be recycled.
5. Lighting. The off-street parking and fueling area may be illuminated. Total cut-off of light shall be at an angle of less than ninety (90) degrees and shall be located so that the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer five (5) feet above the ground at the point where the cut-off angle intersects the ground and so that no light can be viewed from any abutting residential portion of a Town-approved "Open Space Subdivision" or residential zoning districts.
6. Repair Services. All repair services shall be done within a completely enclosed building and shall meet the following requirements
 - a. No more than the required off-street parking set forth under the provisions of Division 5.0200 of the Town Zoning Ordinance shall be allowed;

- b. All overnight storage of vehicles awaiting needed parts shall be within the building or in an enclosed or screened-in yard. Said screening shall consist of a masonry wall of a minimum height of six (6) feet;
 - c. All damaged or non-operable parts shall be stored indoors until removed from the premises;
 - d. An automotive repair facility shall store all vehicle parts within a completely enclosed building;
 - e. The maximum allowable number and size of tow trucks which can be parked at the site shall be determined by the Plan Commission as a condition of approval of the Conditional Use Permit.
7. Outdoor Storage and Display of Merchandise Not Permitted. The outdoor storage or display of merchandise shall not be permitted including any ice storage or vending boxes, propane tanks or other flammable materials, and/or vending machines.
8. Window Display and Sales Signs. Window display and/or sales signage, including merchandise used as signage, shall be limited to covering no more than twenty-five (25) percent of the exterior window area. In no case shall fluorescent colors be used for such signage.
9. Hours of Operation. Hours of operation shall be established by the Town Board.
10. Rental Trucks, Automobiles, and/or Trailers. The rental of trucks, automobiles, and/or trailers on the premises shall not be permitted.
11. Prohibited Signs. The following signs are hereby prohibited:
- a. Any sign which, or any part of which, is in motion by any means, including fluttering or rotation, or other signs set in motion by movement of the atmosphere. This includes all flags, pennants, whirling objects, banners, or other entity(s) attached to strings or lines;
 - b. Inflatable advertising devices or signs;
 - c. Changeable copy and portable trailer signs, either fixed or moveable except gas prices consistent with State and/or federal regulations and practice of the industry;
 - d. Banners which are temporary signs or devices of paper, fabric, plastic, or other flexible materials and are suspended by wires or poles to advertise a special event;
 - e. Statues;
 - f. A sign on a motor vehicle or trailer parked on public or private property so as to be seen from the public right-of-way for more than three (3) consecutive hours, which has attached thereto or located thereon any sign for the purpose of advertising a product or directing people to business activity.
12. Other Requirements. Any other requirements and/or conditions deemed appropriate by the Plan Commission and/or Town Board.

- C. Building Moving within Nonresidential Districts. The moving of an existing building from outside the Town to a Site within the Town, or from site to site within the Town, requires a Conditional Use Permit to ensure neighborhood compatibility, structural integrity of the building, architectural quality, and compliance with the requirements of this Ordinance. No building shall be moved into the Town, or moved from site to site within the Town, except through the obtainance of a Conditional Use Permit from the Town. The following specific requirements and standards shall apply to building moving;
1. Compatibility With Existing Structures in the Vicinity of the Site Where the Building is to be Moved. The building to be moved shall be compatible in terms of architecture, floor area, massing, and bulk (as determined by the Plan Commission), with the existing structures in the vicinity of the site where the building is to be moved.
 2. No Detrimental Effects. The building to be moved shall have no detrimental effect on the living environment and property values of the area into which the building is to be moved.
 3. Surety Bond Required. A surety bond shall be posted with the Town to cover and costs incurred to the Town with respect to the movement of the building through public street rights-of-way.
 4. Building Inspection Report Required. A building inspection report shall be submitted to the Town prior to the issuance of a Conditional Use Permit which evaluates the overall condition of the building, as inspected and described in writing by a State of Wisconsin certified building inspector. The report shall include photographs and diagrams as necessary and shall enumerate all changes or alterations necessary to bring the building up to current Town Building Code standards. Said building inspection report shall be reviewed and comment upon made to the Plan Commission by the Town Building Inspector.
- D. Cemeteries, Human. Cemeteries for humans shall meet the following requirements:
1. State Requirements. All requirements of the Wisconsin State Statutes regarding the interment of human dead shall be met;
 2. Minimum Required Site Area. A minimum required site size for the entire cemetery site shall be three (3) acres;
 3. Off-Street Parking and Maneuvering of Funeral Corteges. There shall be adequate space within the site for the parking and maneuvering of funeral corteges;
 4. Minimum Interment Setbacks. No interment shall take place within fifty (50) feet of any adjoining lot line;
 5. Minimum Structure Setback. All structures shall be set back a minimum of fifty (50) feet from any boundary line of the cemetery property plus two (2) feet for each one (1_ foot of structure height more than twenty-five (25) feet to the maximum height permitted by the zoning district in which it is located.
- E. Commercial Communication Towers and Antennas. Except in the case of installation of an antenna(s) on an existing commercial communication tower (which antenna does not increase the height of said existing tower or whether said existing tower is a conforming use or a legal nonconforming use pursuant to the requirements of this Ordinance), all commercial communication towers and antennas in the B-1, M-1, SG, P-1, A-1, A-2, and

A-3 Districts, which exceed a height of fifty (50) feet, shall be conditional uses and shall meet the following conditions and requirements:

1. Utilization of Existing Commercial Communications Towers or Existing Structures. A Conditional Use Permit for a new commercial communication tower shall not be granted unless the applicant for said Conditional Use Permit demonstrates that the proposed antenna planned for the new tower cannot be accommodated on an existing or approved commercial communication tower or other existing structure. Such demonstration may include one (1) or more of the following:
 - a. No existing commercial communication towers or existing structures are located within the geographic area required to meet the applicant's communications facility technical requirements.
 - b. No existing commercial communication tower or existing structure is of a sufficient height to meet the applicant's communications facility technical requirements.
 - c. No existing commercial communication tower or existing structure has the structural capability to support the applicant's proposed antenna and said existing structure cannot practically be reinforced, modified, or replaced to accommodate planned antenna(s) at a reasonable cost (as may be determined by the Town).
 - d. The proposed antenna at the existing tower or existing structure would cause interference which would affect the usability of the other existing or planned antennas of the existing tower or existing structure; or the existing antennas at the existing tower or existing structure would cause interference to the proposed antenna if placed at the existing tower or existing structure; and said interference cannot be prevented at a reasonable cost (as may be determined by the Town).
 - e. The fees, costs, or contractual provisions required by the existing tower owner or existing structure owner to share or adapt said existing tower or existing structure with/for the applicant's proposed antennas are not reasonable (as may be determined by the Town).
2. Interference With Air Traffic Prohibited. The proposed antenna or antenna structure shall not result in restriction or interference with air traffic or air travel to or from any existing or proposed airport and must meet the applicable Federal Aviation Administration regulations.
3. Interference With Radio and Television Reception Prohibited. The proposed antenna or antenna structure shall not result in interference with radio and/or television reception in nearby residential or nonresidential areas based upon the applicable Federal Communications Commission regulations.
4. Minimum Setback Requirements. There shall be a setback of sufficient radius around the antenna structure (as measured from the extremities of the antenna base) equal to the antenna tower height plus twenty-five (25) feet so that its collapse will be entirely contained on the property. This standard may be modified to a lesser requirement if the applicant submits written evidence from a structural professional engineer licensed in the State of Wisconsin which indicates that the tower is so designed that the collapse of the tower would require a lesser setback in order to entirely contain its collapse on the property.

5. On-Site Locational Requirements.
 - a. An antenna shall be located within the side or rear yard of the property except for corner lots. On corner lots, the antenna may be located in the portion of the lot which functions as a side or rear yard, but shall not be located closer to the street than the principal use (that portion of the principal use closest to the street). Any antenna located within a required side yard shall be located behind (further from the street than) the principal structure on any lot abutting the side yard.
 - b. All satellite antennas shall be screened from view from any street by an opaque fence, wall, or hedge or a minimum of six (6) feet in height.
 - c. Adequate space, as determined by the Plan Commission, shall be provided on-site for antenna and antenna structure maintenance vehicles to access and maneuver on the property.
 - d. The antenna shall be placed on the site so as to not be detrimental to any on-site environmental features.
6. Maximum Height. Such antennas and antenna structures shall not exceed a maximum height of two-hundred (200) feet.
7. Antennas and Antenna Structures To Be Structurally Self-Supporting. All antennas and antenna structures shall be structurally self-supporting without the use of guy wires and shall be designed by a structural professional engineer licensed in the State of Wisconsin.
8. Advertising and Signage. No form of advertising or signage (other than warning or equipment information signage) shall be allowed on the antenna, antenna structure, base, or framework. The prohibition shall include all flags, pennants, whirling objects, banners, inflatable devices, or other entity(s) attached to strings or lines.
9. Cable Installation. All cable to and from the antenna and/or antenna structure shall be installed underground unless the antenna is mounted on a building where cable will go directly into the structure.
10. Minimum Distance Between Antennas and/or Antenna Towers. The minimum distance between antennas which exceed a height of fifty (50) feet shall be three-quarters (0.75) of a mile as measured from the exterior base of the antenna or antenna structure.
11. Minimum of Three (3) Service Providers to be Allowed to Use Antenna Facilities. The applicant shall allow the sharing of the antenna support facilities with three (3) or more other service providers through the use of a "Co-Location" agreement. The holder of a Conditional Use Permit for an antenna support facility shall not make access to the antenna support facility and site economically unfeasible. If additional user(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of a Conditional Use Permit for an antenna support facility and site has made access to such antenna support facility and site economically unfeasible, then the Conditional Use Permit for said facility shall become null and void.

All commercial communications structures shall be designed, structurally, electrically, and in all respects to:

- a. Accommodate both the applicant's antennas and comparable antennas;

- b. Allow for the future rearrangement of antennas upon the commercial communication structure.
 - c. Accept antennas mounted at varying heights provided said heights do not exceed the maximum height approved or the height of the approved commercial communication tower or existing structure.
12. Security. The base of the commercial communication tower and its associated accessory structures shall be fenced and secured so that it is not accessible by the general public. All fencing shall meet the applicable fence requirements of this Ordinance.
13. Detailed Site and Landscape Plan Required to be Approved. A detailed Site Plan and Landscape Plan shall be submitted to the Plan Commission for review and recommendation to the Town Board pursuant to the Site Plan submittal requirements of Division 6.0100 and the Landscape Plan requirements of Division 6.0300 of this Ordinance.
14. Removal of Antenna Facilities Upon Abandonment. A bond or irrevocable letter of credit shall be provided the Town for use by the Town for the removal of the antenna facilities if the antenna facilities are abandoned or no longer used. Any commercial communication tower which has not had at least one (1) antenna operated for a continuous period of twelve (12) months shall be considered as abandoned. The property owner shall also sign an agreement and record (with the County Register of Deeds) a deed restriction to remove the tower within twelve (12) months of the discontinuance of its use.
15. Anchoring. All commercial communications towers shall be permanently anchored to the ground.
16. Lighting. Commercial communications towers shall not be artificially lighted unless required by the Federal Aviation Administration or other applicable authority.
17. Color. All commercial communications towers shall be of a color that best allows it to blend into the surroundings. The use of grays, blues, and greens may be appropriate; however, each case shall be evaluated on an individual basis.
18. Tower Appearance and Antenna Placement Within an Enclosed Tower Structure. The Town Board upon recommendation from the Plan Commission, shall determine the overall tower appearance and may require that the antenna be placed upon or within and enclosed tower structure.

F. Farm Labor Housing. Farm labor housing shall meet the following requirements:

- 1. Minimum Parcel Size. The farm labor housing shall be an accessory use to an agricultural use which agricultural use has a minimum parcel size of thirty-five (35) acres.
- 2. Maximum Permitted Density. The maximum density of the farm labor housing shall not exceed one (1) dwelling unit per two (2) acres of the zoning lot devoted to agriculture. The units may be clustered by the area of land used in calculating the density cannot be further subdivided or used for uses other than agriculture. Dormitories, for the purposes of density calculations, shall be calculated at 297 residents equaling one (1) dwelling unit. *(Note: This number is based upon the 1990 U.S. Census of 297 person per occupied rental housing unit in the Town of Saukville.)*

3. Minimum Front, Side, and Rear Yard Requirements. Farm labor housing shall provide front, side, and rear yards of fifty (50) feet.
 4. Minimum Landscaped Bufferyard Requirements. A minimum bufferyard area equal to that required under Section 5.0307 of this Ordinance shall be provided between the farm labor housing and adjacent properties if the farm labor housing is located within two-hundred (200) feet of the zoning lot line of an adjacent property under different ownership.
 5. Minimum Required Distance Between Dwelling Structures and Other Structures. All structures containing dwelling units shall be located a minimum of thirty (30) feet from any other structure.
 6. Adequate Sewage Disposal and Water Supply System to be Provided. All farm labor housing shall provide adequate sewage disposal and water supply system which meet all federal, State and local requirements.
 7. Maintenance. All farm labor housing shall be maintained in a neat, orderly, and a safe manner.
 8. Other Requirements. All federal, State, and local requirements for such uses shall be compiled with.
- G. Firing Range, Small Arms (Shooting Range). Firing ranges (shooting ranges) for small arms shall meet the following requirements:
1. Minimum Parcel Size. The minimum size of this site shall be twenty (20) acres.
 2. Projectile-Proof Backstop Required. A projectile-proof backstop, consisting of concrete, steel, earth or a combination thereof, at least fifteen (15) feet height shall be erected and maintained behind all target areas.
 3. Nuisances Prohibited. The use shall not constitute a nuisance or be a hazard to life or property as determined by the Town of Saukville.
 4. Maximum Noise Level. The noise level shall not exceed fifty-five (55) dBA at the property boundary.
 5. Hours of Operation. The hours of operation shall be between 9:00 A.M. and 9:00 P.M.
 6. Design and Safety Standards. The design and safety standards of the National Rifle Association, the National Skeet Shooting Association, and the Amateur Trap Shooting Association shall be met.
 7. Proximity to Residential Districts. The use shall not abut or be located within one-thousand (1000) feet any residential portion of the Town-approved "Open Space Subdivision" or residential zoning district or any area planned for residential use as set forth in the Town of Saukville Comprehensive Master Plan or component thereof.
 8. Terms of Conditional Use Permit. The Conditional Use Permit shall expire in three (3) years but may be renewed, subject to the same process by which it was approved. Should the area within one-thousand (1000) feet be either rezoned or developed so that fifty (50) percent of the residentially zoned lands have homes placed on them, then the Conditional Use Permit shall not be renewed unless it can be scientifically shown that the noise at the

property line is below forty (40) dBA during firing, in which case the Town may permit a renewal of the Conditional Use Permit for another three (3) year period.

- H. Outdoor Nursery and Garden Sales. Outdoor nursery and garden sales either as a principal use or accessory use shall meet the following requirements.
1. Outdoor Sales of Merchandise to be Accessory to Enclosed Building. There shall be an enclosed building with outdoor sales of merchandise accessory to said building.
 2. No Outdoor Display Permitted Not Accessory to Enclosed Building. No outdoor display shall be permitted which is not accessory to an enclosed building.
 3. Maximum Area of Outdoor Sales. The overall area of any outdoor sales accessory use shall not exceed the area of the principal enclosed building.
 4. Chemicals. The Plan commission shall determine the extent, type, amount, and location of all chemicals located on the premises including fertilizers.
- I. Public Utility Power Generation Facilities. Public utility power generation facilities shall meet the following requirements:
1. District Access to Arterial Streets Required. all power generation facilities shall have direct access to an arterial street which is a federal, state, or county designated highway.
 2. Minimum Required Setbacks. Front, rear, and side yards shall be a minimum of fifty (50) feet from all lot and public street right-of-way lines. When adjacent to a residential portion of a Town-approved "Open Space Subdivision" or residential zoning district, yards shall be a minimum of one-thousand (1,000) feet from said residential portion of a Town-approved "Open Space Subdivision" or residential zoning district.
 3. All Applicable Local, State, and Federal Environmental Standards to be Met. Proof of the ability to meet all applicable local, state, and federal environmental standards shall be provided.
- K. Radio and Television Transmitting and Receiving Facilities. Radio and television transmitting and receiving facilities shall meet the following requirements:
1. Interference With Air Traffic Prohibited. The proposed structure shall not result in restriction or interference with air traffic or air travel to or from any existing or proposed airport.
 2. Interference With Radio and Television Reception Prohibited. The proposed structure shall not result in interference with radio and television reception in nearby residential or nonresidential areas based upon the applicable Federal Communications Commission regulations.
 3. Minimum Setback Requirements. There shall be a setback of sufficient radius around the antenna structure (as measured from the extremities of the antenna base) equal to the antenna tower height plus twenty-five (25) feet so that its collapse will be contained on the property.
 4. On-Site Locational Requirements for Radio and Television Receiving Facilities.
 - a. An antenna structure shall be located within the rear yard of the property except for corner lots. On corner lots, the antenna may be located in the portion of the

lot which functions as a rear yard, but shall not be located closer to the street than the principal use (that portion of the principal use closest to the street). Any antenna located within a required side yard shall be located behind (further from the street than) the principal structure on any lot abutting the side yard.

- b. All satellite antennas shall be screened from view from any abutting street by an opaque fence, wall, or hedge of a minimum of six (6) feet in height.
 - c. Adequate space, as determined by the Plan Commission, shall be provided on-site for antenna and antenna structure maintenance vehicles to access and maneuver on the property.
5. Maximum Height. Such antennas and antenna structures shall not exceed a maximum height of one-hundred (100) feet.
 6. Antennas and Antenna Structures to be Structurally Self-Supporting. All antennas and antenna structures shall be structurally self-supporting without the use of guy wires and shall be designed by a structural professional engineer licensed in the State of Wisconsin.
 7. Advertising. No form of advertising shall be allowed on the antenna, antenna structure, base, or framework.
 8. Cable Installation. All cable to and from the antenna and/or antenna structure shall be installed underground unless the antenna is mounted on a building where cable will go directly into the structure.
 9. Minimum Distance Between Antennas and/or Antenna Towers. The minimum distance between any antennas (or antenna arrays) which exceed a height of fifty (50) feet shall be one-half (0.5) mile as measured from the exterior base of the antenna or antenna structure.
 10. Detailed Site and Landscape Plan Required to be Approved. A detailed Site Plan and Landscape Plan shall be submitted to the Plan Commission for review and recommendation to the Town Board pursuant to the Site Plan submittal requirements of Division 6.0100 and the Landscape Plan requirements of Division 6.0300 of this Ordinance.
 11. More than One (1) Service Provider be Allowed to Use Antenna Facilities. The applicant shall allow the sharing of the antenna support facilities with three (3) or more other service providers through the use of a "Co-Location" agreement. The holder of a Conditional Use Permit for an antenna support facility shall not make access to the antenna support facility and site economically unfeasible. If additional users(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of a Conditional Use Permit for an antenna support facility and site has made access to such antenna support facility and site economically unfeasible, then the Conditional Use Permit for said facility shall become null and void.
 12. Removal of Antenna Facilities Upon Abandonment. A bond or irrevocable letter of credit shall be provided the Town for use by the Town for the removal of the antenna facilities if the antenna facilities are abandoned or no longer used. The property owner shall also sign an agreement and record (with the County Register of Deeds) a deed restriction to remove the antenna facilities within twelve (12) months of the discontinuance of its use.

13. Lighting. Towers shall not be artificially lighted unless required by the Federal Aviation Administration or other applicable authority.
14. Color. All towers shall be a color that best allows it to blend into the surroundings. The use of grays, blues, and greens may be appropriate; however, each case shall be evaluated on an individual basis.

J. Sand and Gravel Removal Operations. Sand and gravel removal operations shall include only the removal of sand and/or gravel from the earth by mechanical means. The quarrying of solid stone is prohibited as are any removal operations which propose to utilize blasting, or ripping, and all on-site processing, including, but not limited to, washing sorting, crushing, screening, sizing, or dewatering.

1. Use Restricted. Sand and gravel removal operations shall include only the removal of sand and/or gravel from the earth by mechanical means. The quarrying of solid stone is prohibited as are any removal operations which propose to utilize blasting, or ripping, and all on-site processing including, but not limited to, washing sorting, crushing, screening, sizing, or dewatering.
2. Conditional Use Permit Required. Conditional use permits for sand and gravel removal operations shall be in effect for such period of time and subject to those conditions set forth in that permit; provided, however, any such conditional use permit shall terminate upon failure of the permittee to comply with the Town Ordinance requiring annual Quarrying Permits.
3. Application for a Conditional Use Permit for Sand and Gravel Removal. Applications for a conditional use permit for a sand and gravel removal operation shall be submitted to the Town Clerk as set forth under Section 7.0103 of this Ordinance. In addition, said application for a Conditional Use Permit shall be accompanied by a fee as set by the Town Board to defray the cost of notification, holding of public hearings, administrative processing and inspection of such applications; a detailed description of all aspects of the proposed operation; a list of equipment, machinery and structures which may be used; the source, quantity, and disposition of water to be used, if any; a legal description of the proposed site; a topographic map of the site and the area abutting the site, to the nearest public road right-of-way or a minimum distance of three hundred (300) feet on all sides of the site drawn at a minimum vertical contour interval of five (5) feet and showing all existing and proposed private access roads, the depth of all existing and proposed excavations, and all pertinent natural features of the proposed site, including but not limited to streams, wetland, forested land; and a restoration plan.
4. Referral and Public Hearing. Application for Conditional Use Permits for sand and gravel removal operations shall be referred to the Town Plan Commission for public hearing and the Commission shall report back to the Town Board with its recommendation within sixty (60) days after referral. The Town Plan Commission shall fix a reasonable time and place for the hearing and publish a Class Two (2) notice thereof. In addition, written notice of the public hearing shall be delivered by the first class mail or shall be hand delivered by courier to all owners of the property within one-half (1/2) mile of the proposed sand and gravel removal operation. Substantial compliance with the notice requirements of this Section shall be deemed sufficient.
5. Town Board Action. The Town Board shall, within sixty (60) days after receipt of the recommendation from the Town Plan Commission issue or deny a Conditional Use Permit for the proposed sand and gravel removal operation. The determination shall be based upon all relevant factors, including but limited to: those standards set forth under Section 3.0601 of this Ordinance as well as the following: the effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety, and

efficiency; the effect of the proposed operation on drainage and water supply; the possibility of soil erosion as a result of the proposed operation; the degree and effect of dust or noise as a result of the proposed operation; the practical possibility of restoration of the site; the effect of the proposed operation on the natural beauty, character, tax base, land value and land uses in the area; and particular consideration for future residential use. Town Board determination regarding the issuance or denial of a renewal of a conditional use permit shall be based particularly on the evaluation of the effect of the continuance of the use in relation to changing conditions in the area. Where renewal is denied, the reason for denial shall be presented to the applicant in writing.

6. Performance Standards.

a. Location.

- (1) A sand and gravel removal use shall take direct access via a road meeting the requirements of Paragraph e. below.
- (2) No sand and gravel extraction operation shall be located in a wetland or 100-year recurrence interval floodplain.
- (3) The exterior wall elevation of a sand or gravel extraction use shall be at least four (4) feet above the 100-year recurrence interval flood elevation.

b. Operations. Sand and gravel removal operations shall meet all development and performance standards of this Ordinance and all other applicable local, state, and federal regulations.

c. Minimum Requirements Setbacks.

- (1) The excavation or extraction use wall shall not be located with one-hundred twenty-five (125) feet from any public street right-of-way.
- (2) The setbacks listed in Table 3.0603(J) are required from the periphery of the subject property to any disposal area, excavation, or extraction use wall, or storage area on the subject property. Setback distance is dependent upon both the zoning and land use district designation of adjacent property as set forth in the Town of Saukville Comprehensive Plan (whichever designation-zoning or planned land use-would impose the stricter requirement).
- (3) No sand and gravel removal operation shall be permitted if thirty (30) or more residents reside within a three-quarter (3/4) of a mile of the proposed site, such measurement to be made for the nearest property line point of the property occupied by the resident to the nearest property line point of the site of the proposed sand and gravel removal operation.

d. Grading. All disposal areas and excavations shall be graded in a way that provides an area which is harmonious with the surrounding terrain and not dangerous to human or animal life.

Table 3.0603(J)

MINIMUM REQUIRED SETBACKS FROM ABUTTING
ZONING AND PLANNED LAND USE DISTRICTS FOR
SAND AND GRAVEL EXTRACTION OPERATIONS

Zoning and/or Planned Land Use District of Abutting Property	Minimum Required Setback from Zoning and/or Land Use District Boundary Line (whichever is greater)
Any private access road or building	1,000 feet
Any building <i>not</i> on-site and <i>not</i> owned by the sand and gravel removal operation	1,000 feet
A-4, A-5, R-1, R-2, R-3, and R-4 Districts (<i>not</i> owned by the sand and gravel removal operations)	1,000 feet
A-4, A-5, R-1, R-2, R-3, and R-4 Districts (owned by the sand and gravel removal operations)	300 feet
B-1 District	300 feet
I-1 District	1,000 feet
P-1 District	1,000 feet
M-1 District	300 feet
A-1, A-2, and A-3 Districts	300 feet
FW, FF, GFP, SW, R-R, and GP Districts	75 feet

- (1) Excavation shall be graded and backfilled to the grades indicated by the site plan. Grading and backfilling shall be accomplished continually and when practicable after excavation. Grading and backfilling may be accomplished by use of construction rubble such as concrete or other material, provided such materials are composed of non-noxious, noncombustible solids.
- (2) Grading and backfilling shall be accomplished so that the slope of the fill or its cover shall not exceed the normal angle of slippage of such material, or thirty-three (33) degrees in angle, whichever is less. During grading and backfilling, the setback requirements in paragraph c. above may be reduced so that the top of the graded slope shall not be closer than twenty-five (25) feet to any lot line, seventy-five (75) feet to any street line, nor within one-hundred (100) feet of any delineated environmental corridors or isolated natural areas or residential portion of a Town-approved "Open Space Subdivision" or residential zoning or land use district boundary line.
- (3) When excavations which provide for a body of water are part of the final use of the tract, the banks of the excavation shall be sloped to a minimum ratio of seven (7) feet horizontal to one (1) foot vertical, beginning at least fifty (50) feet from the edge of the water and maintained into the water to a depth of five (5) feet.
- (4) Drainage shall be provided, either natural or artificial, so that disturbed areas shall not collect nor permit stagnant water to remain.

- e. Access. Truck access to any disposal area or excavation shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties and to ensure the quality of public roads. No extraction facility shall be allowed to take access through a residential street. Approved access streets and highways shall meet Town, County, or Wisconsin Department of Transportation specifications (whichever is applicable based upon the jurisdiction of the street or highway) for base and pavement or shall be improved by the operator to such specifications. There shall be a minimum of five-hundred (500) feet of sight distance at the entrance to the facility.
7. Operational Requirement. The following operational requirements shall be met:
- a. Fencing, Berms, or Other Suitable Barrier Required. Fencing, berms, or other suitable barrier shall be erected and maintained around the site or around portions of the site where in the determination of the Town Plan Commission such fencing or barrier is necessary for the protection of the public, and shall be a type approved by the Town Plan Commission.
 - b. Machinery and Equipment. All machinery and equipment used in sand and gravel removal operations shall be constructed, maintained and operated in such manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in a dust free condition by surfacing or treatment on as directed by the Town Board.
 - c. Landscaping. The planting of trees and shrubs and other appropriate landscaping shall provided where deemed necessary by the Town Plan Commission to screen the operation so far as practical from the public right-of-way, and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding country side. Such planting shall be started as soon as practical, but not later than one year after sand and gravel removal operations have begun. The landscaping standards set forth under Division 5.0300 of this Ordinance are the minimum standards to be met.
 - d. Hours of Operation. Sand and gravel removal operations shall not begin before the hour of 7 a.m., and shall not continue after the hour of 6 p.m., and no operations shall take place on Sundays or legal holidays.
 - e. Damage to Town Roads. The applicant shall route all vehicles in a manner that will not damage Town roads. The applicant shall provide the Town a bond written by a licensed surety company, a certified check, or other financial guarantee satisfactory to the Town Board in an amount sufficient to repair damages to the Town roads caused by vehicles using the sand and gravel removal operation.
8. Plans Required.
- a. Plan of the General Area Required. Plan of the general area (within a six-hundred (600) foot radius of the site) shall be prepared at a scale of one thousand (1,000) feet to the inch or less, with a ten (10) foot contour interval or less, to show:
 - (1) Existing Data.
 - (a) Location of proposed site.

- (b) Land use pattern including all building locations and historical sites.
- (c) The width, weight loads, types of surfaces and traffic data for all public streets.

(2) Site and Geological Data.

- (a) Soil and geology with soil borings on a five-hundred (500) foot grid.
- (b) Surface drainage patterns and watercourses.
- (c) General groundwater movements and aquifer information.
- (d) Aquifer recharge data.
- (e) Vegetation cover in the site and dominant species noted.
- (f) Climate, precipitation, predominant wind direction, and percentage of time.

(3) Proposed Operation of the Site.

- (a) Type of material to be removed.
- (b) Annual removal rate.
- (c) Method of extraction, including types of equipment and use of conveyors.
- (d) Supplementary processes, drying, grading, and mixing.
- (e) Estimated life of the operation and maximum extent of area disturbed, final depths, and side wall slopes.
- (f) Sediment erosion control plan meeting the requirements of this Ordinance.

(4) Other required plans and data.

b.. Plan of the Proposed Site. Plan of proposed site at a scale of one-hundred (100) feet to the inch or less, with a two (2) foot contour interval or less to show:

(1) Basic Data.

- (a) Soils and geology, with soil borings on a one-hundred (100) foot grid for storage facility areas.
- (b) Detailed site-specific surface drainage patterns.
- (c) Detailed groundwater movements and aquifer information.
- (d) Detailed site-specific vegetation, with dominant species noted.

(2) Proposed Usage.

- (a) Interior road pattern, its relation to operation yard and points ingress and egress to local, State and County streets and highways.
- (b) Ultimate use and ownership of the site after completion of operation.

c. Plan of Operation Required. A plan of operation is required showing:

- (1) Proposed tree and earthen berm screen locations as well as landscape plans for all required bufferyards.
- (2) Soil embankments for noise, dust, and visual barriers, and heights of spoil mounds.
- (3) Methods of disposition of excess water during operation.
- (4) Machinery, type and noise levels.
- (5) Safety measures and monitoring of complaints.
- (6) Street, road and drive pattern.
- (7) Final contours of area after extraction or disposal has been completed and prior to restoration.
- (8) Estimated amount and description of aggregate and overburden to be removed.
- (9) Source of water if used.
- (10) Location for storage of aggregate and overburden.
- (11) Sedimentation and erosion control plan during operations.
- (12) A plan for the continued maintenance of the Town roads used.

d. End Use Plan and Restoration Requirements.

- (1) An end use plan for the rehabilitation of the site after the extraction operation is completed shall be submitted and must be approved by the Plan Commission. Such plan shall show and provide for either a final end use or an open space use. If it is to be an open space use, documentation as to who shall own and maintain such site or restrictive easements must be presented as well as a final contour and site plan submittal. If there is an end use other than open space, then engineering data on the length of time needed for restoration work to settle sufficiently to provide a stable base for the proposed end use shall be submitted. For all such uses, proper legal documents must be presented that outline.
 - (a) Post operation maintenance procedures.

- (b) Legal responsibility for any environmental pollution that occurs even if after the facility is closed.
 - (c) Financial ability to clean up any possible pollution that occurs even if after the facility closed.
 - (d) Final contours of area after extraction or disposal has been completed and before restoration.
 - (e) The owner or operator shall submit a plan for progressive restoration as the operation is being carried on.
- (2) To ensure that the area of extraction operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, before the issuance of a Conditional Use Permit, submit to the Plan Commission a plan for such restoration in the form of the following.
- (a) An agreement with the Town of Saukville whereby the applicant contracts to restore the premises to the agreed condition and within a time satisfactory to the Town.
 - (b) A physical restoration plan showing the existing and proposed contours at two (2) feet and at Ozaukee County Vertical Datum after restoration, plantings and other special features of restoration, and the method by which such restoration is to be accomplished.
 - (c) A bond, written by a licensed surety company, a certified check, letter of credit, or other financial guarantee in a form satisfactory to the Town Attorney and in an amount sufficient in the opinion of the Town Engineer to secure the performance of the restoration agreement.
 - i. If the applicant fails to fulfill the agreement, such bond, check, or other financial guarantee shall be deemed forfeited for enabling the Town of Saukville to perform the restoration.
 - ii. Restoration shall proceed when practicable and at the order and direction of the Town Engineer. The required bond in such case may cover progressive stages of the restoration for periods of not less than two (2) years.
 - iii. At any stage during the restoration, the plan may be modified by mutual agreement between the Town of Saukville and the owner or operator.
 - iv. Where there is any backfilling, the material used or method of fill shall not be such as to create a health hazard or which would be objectionable because of odor, combustibility, or unsightliness. In any case the finished condition of the restored area except for rock faces, outcroppings, water bodies, or areas of

proposed building or paving construction, shall be of sufficient depth of earth to support plant growth.

- v. Within one (1) year after the cessation or the operation, all temporary structures (except fences) and equipment shall be removed; stockpiles, rubble heaps or other debris shall be removed or backfilled into excavation, to leave the premises in a neat and orderly condition, and covered with a minimum of two (2) feet of earth including four (4) inches of topsoil.
- vi. In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of three (3) horizontal to one (1) vertical. In no case shall any slope exceed the normal angle of slippage or repose of the material involved.
- vii. In addition, all restoration shall be in conformance with the construction site erosion control requirements of this Ordinance.

(3) Planting.

- (a) When planting is the final use to which the property is put, all that is not covered by water shall be covered with a sufficient amount of arable soil to support vegetation. A landscape planting plan shall be prepared for the entire finished property using various types of plant material that prevent soil erosion and provide vegetative cover.
- (b) When buildings are proposed as part of the final use to which the tract is put, planting in areas adjacent to proposed buildings shall be planted with a vegetative cover in keeping with the requirements of the ultimate building purpose.
- (c) All bufferyards and associated plantings required under the provisions of Division 5.0300 of this Ordinance shall be met.

9. Inspections. The Zoning Administrator, Plan Commission, or a committee appointed by the Plan Commission, may periodically conduct an inspection of sand and gravel removal operations to ascertain whether or not the requirements of this Ordinance and any previously agreed upon conditions are being met.

K. Stables, Public. Public stables shall meet the following requirements:

- 1. Minimum Lot Area. The minimum lot area shall be thirty-five (35) acres. Public Stables are not a permitted use in any zoning district and are a conditional use in A-2 and A-3.
- 2. Required Setbacks. The following minimum setbacks shall be provided:
 - a. Front, rear, and side yard setbacks shall be a minimum of fifty (50) feet.

- b. All piles of feed or bedding shall be located fifty (50) feet from any public street right-of-way or lot line of an adjacent nonresidential district and fifty (50) feet from any lot line of an adjacent agricultural or residential district lot line, in order to minimize odor and nuisance problems.
3. Manure Maintenance. Manure piles shall:
- a. Be stored for removal and disposed of in accord with all applicable county, state and federal regulations. The Ozaukee County Sanitation and Health Ordinance, The Wisconsin Department of Agriculture Trade and Consumer Protection have laws in place that regulate animal housing, manure storage and animal waste runoff.
 - b. No manure piles shall be stored closer than fifty (50) feet to any lot line.
4. Stable Location. All points on the perimeter of any stable building or coral shall be at least fifty (50) feet from the nearest boundary line or right-of-way line of the parcel on which it is located.
5. Plan of Operation Required. The applicant shall submit a plan of operation for the Plan Commission's and Town Board's review and consideration as part of the Conditional Use Permit process.
6. Maximum Number of Equine Allowed Per Stable or Stable Operation. The maximum number of equine allowed per public stable or stable operation shall be determined by the Town Board upon recommendation of the Plan Commission.