

## SECTION 16 - CONDITIONAL USES

This section presents the conditions that must be met for each possible Conditional Use listed in the various Zoning Districts.

The procedure for review and approval of a Conditional Use Permit is presented in Section 18 of this Ordinance, Administration and Enforcement.

Conditional Uses for the Mississippi Special Use District are governed by Section 15 Subdivision 6 (B).

The following table indicates in which District(s) each Conditional Use is allowed and whether approval is granted by the County Board of Commissioners or the County Planning Commission.

### Subdivision 1: List of Conditional Uses

- Aircraft landing strip, private
- Airport, public use - Airport, private use
- Aquaculture
- Automobile Service Stations
- Bowling Alley
- Car Wash
- Cemetery
- Church
- Commercial development
- Communication Towers & Antennas (See Section 16.5)
- Day care, commercial
- Day care, in-home
- Docks, temporary
- Drive in Restaurant
- Drive in Retail Store
- Farm-related business
- Farm-related bunkhouse for temporary seasonal residence
- Feedlots and/or Manure Storage Areas
- Flood control and watershed structures
- Game refuge and wildlife management area, private
- Golf course
- Grain Elevator
- Historical site
- Industrial development
- Light Industry
- Manufacturing of products and materials

Marinas and boat rentals  
Mini Storage Facilities  
Motel  
Motor sport Facilities - Public  
Multiple Family Residential Building  
Nursery, retail  
Office Buildings  
Parking lot  
Parks, open spaces, wild life refuges (public)  
Pawnbrokers  
Permanent government structure  
Personal Storage Structure  
Planned Unit Development (Residential)  
Planned Unit Development (Shoreland)  
Power generation plant  
Pre-existing non-agricultural activity  
Public Buildings and Facilities  
Radio Facility  
Railroads  
Railroad yards and terminals  
Recycling operations Facility for non-hazardous waste  
Recycling operations Facility for hazardous waste  
Restaurant, Cafe, Tavern  
Retail Sales Business  
Riding stable  
Roads, public  
School, public or private  
School bus service  
Seasonal storage  
Second farm-related dwelling  
Single-family housing  
Truck Terminal  
Utility lines  
Warehousing  
Waste Facility  
Water control structures  
Windpower Management

**Subdivision 2:            Conditions**

1.     **Aircraft Landing Strip**, provided:
  - A.     The airplane landing strip has the approval of the Minnesota Department of Transportation.
  - B.     The use of the airport is limited to the property owner.
  
2.     **Airport, Public Use or Airport, Private Use**
  - A.     The public use airport has the approval of the Minnesota Department of Transportation.
  - B.     The use of the airport will not unduly interfere with the use and enjoyment of other properties, including by the effects of noise.
  
3.     **Aquaculture**. The use of water or a combination of land and water for the growing, raising, feeding, breeding or holding of aquatic plants or animals and activities appurtenant thereto subject to the following criteria:
  - A.     The provisions of Section 13 (Floodplains) and Section 14 (Shorelands) are met if applicable.
  - B.     Any required State or Federal permits are applied for and issued.
  - C.     The activity must be located on a minimum of five acres.
  - D.     The Conditional Use Permit shall establish whether retail sales are permitted and if permitted to what extent.
  
4.     **Cemeteries**
  
5.     **Churches**, including related structures and activities located on the same site which are an integral part of the church proper, and convents or homes for persons related to the religious functions.
  
6.     **Communication Towers & Antennas** shall be allowed if it meets the conditions set forth in Section 16.5 General Standards for Communication Towers.
  
7.     **Day Care** (in-home or commercial), provided:
  - A.     Any state licensing or permitting requirements are met.

8. **Farm-Related Businesses.** Business directly related to the conduct of commercial agriculture, provided:
- A. The business is primarily farm-related under one or more of the following criteria:
    - 1. The business provides a repair or maintenance service for equipment unique and necessary to agricultural operations.
    - 2. The business produces a product or involves a process that utilizes locally grown or produced commodities.
    - 3. The business involves sales and/or purchasing of products of the local agricultural economy or of goods unique and necessary to agricultural operations.
  - B. Sewage is treated by an on-site sewage system and in accordance with Section 17.5 of this Ordinance.
  - C. The business is of a scale that the demand for support services such as sewer, water, police, fire protection, roads or streets, can be accommodated within the context of the service levels available in the Agricultural District.
  - D. The business is operated in conformance with the conditions of an approved plan of operation.
  - E. The applicant submits a copy of Workers' Compensation Insurance or signs an affidavit stating that he will not have any employees.
9. **Farm Related Bunk House for Temporary Seasonal Residence.** Temporary seasonal multi-unit residence allowed solely for the housing of seasonal help for agricultural production needs.
- A. A site plan for each parcel with a multi-unit dwelling is submitted showing the following:
    - 1. The location of the housing unit (s).
    - 2. The access to the housing unit (s).
    - 3. The location of the sewage treatment system.
    - 4. Applicable zoning setbacks for the structure.
    - 5. Adjacent land uses.
    - 6. One multi-unit structure per farming operation.
    - 7. No more than four (4) units per multi-unit structure or a ten bedroom structure.
    - 8. Each unit of the multi-unit structure must contain at least eight hundred (800)

square feet of habitable space for four (4) occupants. *Habitable space for this purpose is defined as square footage of the bedroom(s), living room(s) and kitchen areas, excluding bathrooms, corridors and/or hallway areas.*

9. Adequate emergency storm shelter facility.
  10. Complete set of building plans that are in conformance with all state and local building codes and subject to the approval of the Sherburne County Building Official.
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- B. The employer and all seasonal workers are in compliance with all applicable state and federal laws, including all laws regulating seasonal migrant workers.
  - C. Uniform Building Code capacity load requirements specify a minimum of two hundred (200) square feet of habitable space per occupant. *For example, a unit containing 800 square feet of habitable space would have a maximum occupancy load of four (4) occupants.*
  - D. Each multi-family unit is connected to a sewage treatment system and is designed by an MPCA licensed professional to handle the capacity of all housing units connected.
  - E. All property taxes and personal property taxes are current.
  - F. The applicant shall own a minimum of 160 acres of land.
  - G. 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 15<sup>th</sup> through November 1<sup>st</sup>. A temporary residence shall be occupied by farm workers only and the applicant shall provide written notice to Sherburne County as to when the temporary residence(s) will be occupied each year.
  - H. All solid waste generated by the occupants is disposed of properly in accordance with the Sherburne County Solid Waste Ordinance.
10. **Feedlots and/or Manure Storage Areas**, provided:
- A. All Feedlots shall comply with MN Rule 7020.
  - B. Manure Storage Areas shall be designed, constructed and maintained in compliance with MN Rule 7020.2100.
  - C. All feedlots and/or manure storage areas shall comply with Section 17, Subd 16 and Section 18 Subd 5.
  - D. All proposed feedlots and/or manure storage areas requiring a Conditional Use Permit shall submit an application to the Zoning Department, along with the

required fee and the following information:

1. A complete Conditional Use Permit application with 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.
2. A copy of approval from the MPCA to operate a feedlot.
3. Designation of applicable Tier (e.g. Tier 1, Tier 2, etc.)

11. **Golf Courses** subject to the following criteria:

- A. If the course is proposed to be located in the floodplain, the criteria in the Floodplain District of this Ordinance in addition to these criteria must be complied with.
- B. The course must be located on either a minor collector, a major collector, a minor arterial or major arterial road as identified in the 1990 Transportation Plan.
- C. A permanent club house must be constructed that is adequate in size as per the state building code to serve the proposed number of golfers.
- D. The course must be a minimum of 9 holes.
- E. There must be adequate fencing to deter trespassing on adjacent property.
- F. 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.
- G. There must be an on-site sewer system that is constructed in accordance with Section 17 of this Ordinance. The County may require that the system be designed by a registered engineer.
- H. All buildings must be constructed in conformance with the State Building Code.
- I. 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.
- J. The applicant shall submit an operational plan which, when accepted by the County Board shall become part of the Conditional Use Permit.

- K. Any of the above requirements may be waived by the County Board for golf courses existing at the time of adoption of the subdivision or for golf courses that were once in existence and are being reactivated.
  - L. 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.
    - 1. 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.
    - 2. If these uses are to be permitted they must be addressed in the operational plan. Any changes in use requires an amendment to the conditional use permit.
  - M. 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.
12. **Historical Sites** and activities as recognized by the State Historical Society.
13. **Light Industry, provided:**
- A. 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.
  - B. The proposed business is located within an area of similar land uses and maintains or enhances the character of the immediate neighborhood.
14. **Mini Storage, provided:**
- A. There shall be no exterior storage of any kind.
15. **Motor sport Facilities and Tracks, previously covered under “Activities Requiring Rural Isolation” - Public.** Tracks and sites for dirt bikes, all terrain vehicles, “mud trucks”, race cars and similar vehicles under the following conditions:
- A. The use of the facility is limited to the permitted number.

- B. The facility is not allowed in a residential plat.
  - C. The facility must be located on a minimum of twenty (20) acres.
  - D. The County may limit the days and hours of operation.
  - E. The facility must be located a minimum of 1,000 feet from any residence except that of the landowner and a minimum of ½ mile from ten or more homes existing prior to application for a permit under this provision.
  - F. The facility must be located a minimum of 1000 feet from a livestock facility.
  - G. Sufficient on-site parking must be available.
  - H. Road access must be approved by the road authority.
  - I. Owners of “Public Use Facilities” must furnish proof of adequate liability insurance to cover non-family users.
  - J. 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 (Sec 16, Subd 2-26)
16. **Pawnbrokers.**  
See Section 16.7 Pawnbrokers.
17. **Permanent Municipal, Township or County Structures** or uses of land except roads and their appurtenances and drainage systems established pursuant to Minnesota Statutes Chapter 103E.
18. **Personal Storage Structure**, provided:
- A. An outbuilding without a primary residence defined as a Personal Storage Structure.
  - B. Personal Storage Structures will be limited to personal use and cannot be used for any business operation.
  - C. Only one Personal Storage Structure be allowed per parcel.
  - D. The size of the Personal Storage Structure will be limited to 1800 sq. ft. unless the parcel is less than 2.5 acres and then the size limit will be a 1,200 sq. ft. building.
  - E. A maximum height of the structure is 25 feet from the ground to the peak.



- F. The size and location of the Personal Storage Structure should not impede the placement of a future home, or primary and secondary septic system.
  - G. No plumbing or floor drains shall be allowed.
  - H. Personal Storage Structures will not be allowed in a platted development, unless in a Shoreland District.
19. **Planned Unit Development (Residential)** for development of land for residential housing and located in a designated R-PUD Overlay District. The permit must abide by and meet all of the standards set forth in the Sherburne County Subdivision Ordinance, Section 10.1, Residential Planned Unit Development.
20. **Power Generation Plants**, provided that the County Planning Commission reviews and approves plans for site planning, visual screening, traffic operations, noise control, dust control and surface water ponding and runoff.
21. **Private Game Refuge and Wildlife Management Areas** provided:
- A. A permit is issued by the Minnesota Department of Natural Resources.
  - B. Hunting is allowed only by Conditional Use Permit.
22. **Public Schools** or schools which teach a similar curriculum, provided the school has the approval of the State Department of Education.
23. **Recycling Operations Facility for Non-hazardous Waste**, means provided a plan is approved by the County Planning Commission controlling noise, litter, odors, traffic, air pollution and water pollution.
24. **Recycling Operations Facility for Hazardous Waste**, provided that a plan is approved by the County Board of Commissioners and Minnesota Pollution Control Agency controlling water pollution, air pollution, noise, litter, odors and traffic.
25. **Riding Academies, Stables** and similar uses, provided:
- A. The use must be located on a minimum of ten acres. The number of animal units permitted will be regulated by the permit.
  - B. If the facility has more than ten horses, an MPCA feedlot Certificate of Compliance must be issued.
  - C. If the facility has ten or fewer horses there must be an acceptable manure handling plan.

- D. The facility is operated in conformance with an approved plan of operation.
26. **School Bus Service.** The operation, maintenance and storage of more than two school buses provided the following criteria are met:
- A. The school bus service must be located on a parcel of 10 acres or more.
  - B. The parcel must be on a hard surface road unless access via a gravel road is approved by the Township.
  - C. All buses must be screened from view from the public road by a combination or plantings, berming and/or fencing.
27. **Seasonal Storage,** provided:
- A. Seasonal Storage Business established after January 3, 2006 must be located on a minimum of twenty acres. Businesses established prior to this date may be located on any sized acreage, however the landowner must provide proof of the year established, such as commercial tax records. The business may not be located within a residentially platted parcel.
  - B. The existing facility must consist of agricultural buildings converted for seasonal storage.
  - C. If the buildings used for seasonal storage are damaged or destroyed beyond 50% of their value as determined by the Building Official, they may be rebuilt for the purposes of seasonal storage in accordance with the Minnesota State Building Code.
  - D. An operational plan must be approved by the County as stipulated within the conditions of approval.
  - E. Days and hours of operation shall be included within the “operational plan” with the understanding this is a seasonal storage facility.
  - F. 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.
  - G. There shall be no exterior storage of any kind.
  - H. Pre-existing seasonal storage businesses which may qualify for this Conditional Use Permit shall obtain a Conditional Use Permit by July 11, 2006 or shall be in violation of the Sherburne County Zoning Ordinance.

28. **Second Farm-Related Dwelling.** A second permanent farm-related dwelling may be located on a parcel of at least 80 acres or 2 quarter-quarter sections without subdividing a lot, provided:
- A. The house is occupied by someone employed on the farm at least 20 hours per week.
  - B. The location of the second farm related dwelling on this parcel must be wooded (refer to Definitions Section) and meet the minimum lot size and dimensional regulations of the underlying zoning district.
  - C. An on-site sewer system is installed in conformance with Section 17 of this Ordinance.
  - D. A boundary survey shall be required if the parcel is to become a separate lot of record.
  - E. A site plan must be submitted with the application that shows how the second dwelling could meet platting requirements.
29. **Single-Family Housing,** provided that the housing development requirements of the Agriculture District are followed.
30. **Waste Facility** means all property, real or personal, including negative and positive easements and water and air rights, which is, or may be needed, or useful for the processing or disposal of waste, except for the collection of the waste and property used primarily for the manufacture of scrap metal or paper. Waste facility includes but is not limited to transfer stations, processing facilities, and disposal sites and facilities providing the following standards are met:
- A. The facility/operation is in compliance with the Sherburne County Solid Waste Ordinance and any other applicable ordinance.
  - B. The facility/operation is in compliance with the adopted Comprehensive Plan and the Solid Waste Master Plan.
  - C. The site shall not be located within the Shoreland or Floodplain Districts.
  - D. Any required environmental assessment documents have been developed and required review procedures have been completed.
  - E. Any required County, State, or Federal licenses have been issued.
  - F. The facility/operation is in compliance with all applicable Minnesota Pollution Control Agency and U.S. Environmental Protection Agency rules and regulations.
  - G. An operational plan shall be developed and the activity conducted in accordance with the operational plan.
  - H. The permit shall be subject to annual renewal. Renewal shall occur during the same month as County license renewal.

- I. 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.

**31. Windpower Management**

- A. Purpose: The purpose of this ordinance is to regulate all proposed wind energy facilities with a rated capacity of less than 5 megawatts (5,000 kw) as either a permitted use or a Conditional Use.
- B. Windpower systems shall be divided into two categories; Hobbyist and Commercial.
- C. Compliance with Codes and Standards: All wind turbines shall be in compliance with all applicable state and federal regulatory standards including:
  - 1) Uniform Building Code as adopted by the State of Minnesota.
  - 2) The National Electrical Code as adopted by the State of Minnesota.
  - 3) The National Electric Safety Code.
  - 4) FAA requirements.
  - 5) MPCA / EPA regulation (hazardous waste, construction, storm water, etc.).
- D. Certifications required for all turbines:
  - 1) Equipment shall conform to applicable industry standards for wind turbine design and related standards adopted by the American Standards Institute (ANSI). The equipment shall have a manufacturer's certification that is in compliance with industry standards and all electrical is UAW listed.
  - 2) Additional information may be required for all turbines that are experimental, used or prototype devices. Maintenance record, inspection by qualified wind energy professionals or some other documentation of unit integrity may be requested.
  - 3) A professional engineer registered in the State of Minnesota shall certify that the design, construction and operation and that the tower and foundation are compatible with and appropriate for the turbine to be installed.
- E. Plan Requirements for Commercial: A description of the project including number and capacity of turbines, height and diameter of turbine rotors, turbine color, and rotor direction shall be submitted upon application of a Conditional Use Permit. The description must include the following:
  - 1) A site plan, detailing the location of the project area boundaries, turbines, roads, transformers, power lines, communication lines, interconnection point with transmission lines, and other ancillary facilities or structures. (including support)

- 2) Topographic map of the project site and surrounding area.
- 3) Current land use on the site and of the surrounding area.
- 4) Distance to impacted properties.
- 5) Decommissioning plan.
- 6) Engineering certification of tower and foundation design suitability for turbine and soils.
- 7) Certification by an engineer as to compliance with all codes.
- 8) On experimental turbines, used or prototype devices, additional information may be requested.
- 9) All wind turbines must have a manual and automatic braking system device capable of halting operation in high winds as per the manufacturer's design.

F. Setback Requirements for Commercial:

<u>Object:</u>	<u>Setback:</u>
Residence (except property owner)	550 feet
Project Boundary / Property Line	500 feet
Public Roads (from right-of-way)	300 feet
 Minimum Acreage	 10

G. Hobbyist. This type of system is designed for small load personal use or to supplement commercial grid supplied electricity. The system may be connected to the commercial electrical grid and electricity sold.

- 1) Requires a land use permit including a site plan. Site Plan must include the following:
  - a) Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.
  - b) Manufacturers Certification
- 2) Towers are free standing and guyed, and do not exceed 100 feet in height (exclusive of the rotor blades).
- 3) Total maximum electrical output may not exceed 20 kilowatts. The maximum number of wind turbines allowed on a property will be as follows:
  - a. One (1) wind turbine for less than 5 acres
  - b. Two (2) wind turbines for 5 acres but less than 10 acres.
  - c. Three (3) wind turbines for 10 acres or more.

If a property owner proposed more than listed above, a Conditional Use Permit will be required.

- 4) Systems that directly connect to the commercial electrical grid shall conform to National Electrical Code ((NEC).
  - 5) Applications for wind turbines that directly connect to the commercial electrical grid shall be accompanied by a Net Excess Generation (NEG) contract with the respective electrical power company.
  - 6) Towers shall be setback from all property lines and public road right-of-ways an amount equal to the height of the tower plus 25 feet.
  - 7) Minimum acreage is 2 acres.
  - 8) Allowed only in Commercial District, Industrial District, General Rural District, and Agricultural District. Not permitted in Mississippi Wild and Scenic River District or in Shoreland Overlay District.
  - 9) All Wind Energy Conversion Systems must have a manual and automatic braking system device capable of halting operation in high winds as per the manufacturer's design.
- H. Noise Standards: Noise is regulated by the Minnesota Pollution Control Agency under Chapter 7030. These rules establish the maximum night and daytime noise levels that effectively limit wind turbine noise to 50 db at neighboring residences.
- I. Decommissioning (required for all Commercial Wind Turbines)
- 1) The property owner shall ensure that facilities are properly decommissioned upon end of project life or facility abandonment. Decommissioning shall include: removal of all structures and debris to a depth of four feet; restoration of the soil; and restoration of vegetation (consistent and compatible with surrounding vegetation) shall also be required. A notice of the existing footing and location of the wind facility must be recorded on the property's legal description at the same time the CUP is recorded.
  - 2) The decommissioning plan shall include the following:
    - a) When and how a facility is to be decommissioned.
    - b) Estimated cost of decommissioning.
    - c) Financial guarantee to be used to accomplish decommissioning.
- J. Aesthetics: In the grant of the land use of the issuance of the CUP, the following conditions may be imposed to minimize visual impacts:
- 1) Coatings and Coloring: Non-reflective unobtrusive color. Black blades are acceptable for mitigation of icing.
  - 2) Signage: Including anything on the tower shall be consistent with other county ordinances pertaining to signage and may only be superseded by State or Federal Ordinance.

- 3) Lighting: Projects shall utilize minimal lighting. No tower lighting other than normal ground security lighting shall be permitted except as may be required by the FAA.
- 4) Intra-project Power and Communication Lines: Shall follow codes for all power lines.
- 5) Security shall be addressed for the tower and any ancillary facilities.
- 6) All wind turbines which are part of a Commercial Wind Energy Conversion System, shall be installed with a tubular, monopole type tower.

K. Public Services:

- 1) Roads: Contractor and County will conduct evaluation of current conditions. If damage occurs to road, contractor will be required to pay appropriate amount or repair road to pre-construction condition. Contractor will be required to obtain all required permits.

L. Interference

The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any wind turbines. The applicant shall notify all communication tower operators within two miles of the proposed wind turbine location upon application to the County for permits. No wind turbines shall be constructed so as to interfere with County, State or Federal transmissions of communications for safety. If a tower is found to interfere with the transmission of communications for safety, the landowner shall be responsible for the remediation or removal of the tower at their own expense.