

T H E T O W N O F  
**MERRIMAC**

S6911 State Highway 113 – P.O. Box 115  
Merrimac, WI 53561

**NOTICE OF PUBLIC HEARING  
TOWN OF MERRIMAC**

Notice is hereby given that the Zoning Commission of the Town of Merrimac will hold a public hearing in the Town Hall located at S6911A State Road 113, Merrimac, Wisconsin; Wednesday, November 17, 2010 at 7:00pm to consider the following amendments to the Town of Merrimac Zoning Ordinance:

**Amendments (*italicized in bold*):**

**2.14 Manufactured Homes**

1. Manufactured homes will be permitted only in a Manufactured Housing ***Park or Subdivision approved by the Town Board.***
2. Manufactured Housing Subdivisions shall meet all requirements pertaining to a residential subdivision.
3. ***Manufactured Housing Parks shall meet all requirements of the Conditional Use Permit or Planned Area Development approved by the Town Board.***
4. ***Manufactured homes not located with a Manufactured Housing Park or Subdivision on the effective date of this ordinance are legal non-conforming structures subject to the rules and regulations governing such class of structures.***
5. ***“Manufactured home” has the meaning given in s. 101.91(2) Wis. Stats. and includes any additions, attachments, annexes, foundations, and appurtenances.***
6. ***“Mobile home” has the meaning given in s. 101.91 (10) Wis. Stats. and includes any additions, attachments, annexes, foundations and appurtenances.***

**Additions to the Zoning ordinance:**

**2.30 Conditional Uses; Purpose**

The development and execution of this ordinance is based upon the division of the Town into districts, within which districts the uses of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use at a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in particular districts provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

**2.31 Authority of the Zoning and Planning Commission; Requirements**

The Zoning and Planning Commission, after a public hearing, shall, within a reasonable time, make a recommendation to the Town Board that it grant or deny any application for a conditional use. Prior to making its recommendation regarding a proposed conditional use, the Zoning and Planning Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.

Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Zoning and Planning Commission upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.

Unless specifically excused by the Town Board, as part of its imposition of conditions under a Conditional Use Permit, compliance with all other provisions of this Chapter, and any and all applicable provisions of this Chapter or any other Chapter of the Town Municipal Code, including, but not limited to, provisions regulating lot width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required of all conditional uses.

### **2.32 Application for Conditional Use Permit**

Any person, firm, corporation or organization having a freehold interest of a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought, may file an application to use such land for one or more of the conditional uses provided for this ordinance in the zoning district in which such land is located.

### **2.33 Filing of Application**

An application for a conditional use permit shall be filed with the Town Administrator on a form prescribed by the Town. The application shall be accompanied by such plans and other information as may be prescribed by the Town Administrator, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the applicable standards. The Town Administrator may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types, high-water mark and groundwater conditions and control, bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping, plans of buildings, including site plans, floor plan elevations, sewage disposal facilities, water supply systems and arrangements of operations. The application fee as established by the Town Board shall be paid upon filing of the application.

### **2.34 Application Information**

Applications for Conditional Use Permits shall be made in duplicate to the Building Inspector on forms furnished by the Town and shall include the following:

1. Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
2. Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
3. Additional information as may be required by the Town Board, Zoning and Planning Commission, Town Engineer, Building, Plumbing, or Health Inspectors.

### **2.35 Town Administrator Review**

The Town Administrator shall review the application and supporting materials and determine whether or not the application is complete and whether or not additional information is necessary. After the Town Administrator has determined that the application and supporting materials is complete, the application shall be forwarded to the Town Zoning and Planning Commission for hearing.

### **2.36 Hearing on Application**

Upon receipt of the application and the Town Administrator's statement, the Zoning and Planning Commission shall hold a public hearing on each application for a conditional use permit at such time and place as shall be established by the Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Town Board, shall, by rule, prescribe from time to time.

### **2.37 Notice of Hearing on Application**

Notice of the time, place and purpose of such hearing shall be given by publication as a Class 2 Notice under the Wisconsin Statutes in the official Town paper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Building Inspector, members of the Town Board, and Zoning and Planning Commission, and the owners of record, as listed in the office of the Assessor, who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected,

said notice to be sent at least ten (10) days prior to the date of such public hearing.

### **2.38 Standards-Conditional Uses**

The Zoning and Planning Commission shall not grant a favorable recommendation of an application for a conditional use permit, without the review, and determination of the following:

- a. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- b. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted, shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
- c. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- d. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- e. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- f. That the conditional use shall conform to all applicable regulations of the district in which it is located.
- g. That the proposed use does not violate flood plain regulations governing the site.
- h. That when applying the above standards to any new construction of a building or an addition to an existing building, the Zoning and Planning Commission shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition, at its location, does not defeat the purpose and objective of the zoning district.
- i. That in addition, in reviewing an application for a Conditional Use Permit, the Zoning and Planning Commission shall also evaluate the effect of the proposed use upon:
  1. The maintenance of safe and healthful conditions.
  2. The prevention and control of water pollution including sedimentation.
  3. Existing topographic and drainage features and vegetative cover on the site.
  4. The location of the site with respect to flood plains and floodways of rivers and streams.
  5. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
  6. The location of the site with respect to existing or future access roads.
  7. The need of the proposed use for a shore land location.
  8. Its compatibility with uses on adjacent land.
  9. The amount of liquid wastes to generate and the adequacy of the proposed disposal systems.

### **2.39 Denial of Application for Conditional Use Permit**

- a. When the recommendation of the Zoning and Planning Commission is that a conditional use permit application be denied, the Zoning and Planning Commission shall furnish the applicant, in writing, when so requested, those standards that are not met and enumerate reasons the Commission has used in determining that each standard was not met. The applicant may withdraw the application, resubmit the application with changes to meet the requirements stated by the Zoning and Planning Commission or appeal the decision to the Town Board.
- b. The application shall not be resubmitted to the Zoning and Planning Commission for a period of one (1) year from the date of said denial, except on the grounds that substantial new evidence or proof of change to compliance with the applicable conditions is included in the resubmitted application.

### **2.40 Conditions and Guarantees**

- a. Prior to the granting of any conditional use permit, the Town Board may impose such conditions and restrictions upon the establishment, location, construction, maintenance, public health, safety and general welfare of the community, and to secure compliance with all standards and requirements. 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. Such conditions may include specifications for, without limitation, because of specific

enumeration:

1. Landscaping
  2. Type of construction
  3. Construction commencement and completion dates
  4. Sureties
  5. Lighting
  6. Fencing
  7. Operational control
  8. Hours of operation
  9. Traffic circulation
  10. Deed restrictions
  11. Access restrictions
  12. Setbacks and yards
  13. Type of shore cover
  14. Specified sewage disposal and water supply systems
  15. Planting screens
  16. Piers and docks
  17. Increased parking
  18. Density
  19. Percentage of impermeable area
  20. Structure size
  21. Or any other requirements necessary to fulfill the purpose and intent of this Chapter.
- b. The Zoning and Planning Commission and the Town Board shall evaluate each application and may request assistance from any source, which can provide technical assistance. The Zoning and Planning Commission and Town Board may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use. No alteration of a conditional use permit shall be permitted unless approved by the Zoning and Planning Commission and Town Board.

After evaluating the application, and the recommendation of the Zoning and Planning Commission, the Town Board may authorize the Town Administrator to issue a Conditional Use Permit subject to the requirements of this Chapter and any additional requirements it deems appropriate to comply with the intent of this Chapter.

Any conditional use permit authorized by the Town Board is conditioned upon the full and complete implementation of the plans and specifications submitted to the Zoning and Planning Commission and the Town Board. In the event of a material change in the plans and specifications presented to and approved by the Zoning and Planning Commission, the Town Board shall render the granting of a conditional use permit null and void. The Building Inspector shall not issue any building permit if the state approved building plans are not in substantial conformity with the plans and specifications submitted with the Conditional Use Permit application.

#### **2.41 Expiration of Conditional Use Permit**

Where the Town Board has approved or conditionally approved an application for a conditional use permit, such approval shall become null and void within twelve (12) months of the date of the action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of insurance and which shall not be renewed unless construction has commenced and is being diligently prosecuted.

#### **2.42 Recording of Permit**

The permittee shall record the Conditional Use Permit with the Sauk County Register of Deeds and submit a copy of the recorded permit to the Town Administrator.

#### **2.43 Complaints Regarding Conditional Uses**

- a. The Zoning and Planning Commission shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority

shall be in addition to the enforcement authority of the Building Inspector to order the removal or discontinuance of any unauthorized alterations of any violation of a condition imposed prior to, or after approval or violation of any provision of this Code. Upon written complaint by any citizen or official, the Zoning and Planning Commission shall initially determine whether said complaint indicates a reasonable probability that a violation of the Conditional Use Permit has occurred.

- b. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided above. Any person may appear at such hearing and testify in person or be represented by an agent or attorney. The Zoning and Planning Commission may order that the subject conditional use be brought into compliance with the Conditional Use Permit.
- c. Under circumstances in which it deems proper, the Zoning and Planning Commission may recommend that the Town Board modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use.

In the event that the subject property is not brought into conformance with the requirements of its Conditional Use Permit, or that no reasonable modification of such conditional use can be made in order to assure the standards in s. 2.36 above, the Zoning and Planning Commission may recommend to the Town Board that it revoke the subject conditional approval.

Following any such hearing, the recommendation of the Zoning and Planning Commission shall be furnished to the current owner of the conditional use permit in writing stating the reasons therefore. The Town Board shall review the recommendation of the Commission within thirty (30) days and take whatever action it deems is warranted.

#### **5.05 Conditional Uses**

The following are permitted as conditional uses within this district. Such use shall be subject to the consideration of the Planning & Zoning Commission and the Town Board with regard to such matters as creation of nuisance conditions for the public or for the users of nearby areas, the creation of traffic hazards, the creation of health hazards, or other factors:

- a. Churches, schools, community parks and recreational areas.
- b. Public buildings.
- c. Trap or skeet shooting facilities, target ranges, gun clubs and shooting preserves.
- d. Water storage facilities and power stations.
- e. Large scale farm operations.
- f. Manufactured Housing Parks existing on or before January 1, 2011.

The purpose of the changes is to establish better guidelines as they relate to the issuance of Conditional Use Permits and to clarify the definition of Manufactured Housing Parks and Subdivisions.

All persons are invited to attend said hearing and be heard.

By Order of the Planning & Zoning Commission  
Tim McCumber, Town Administrator & Clerk - Treasurer

For Publication November 3 & 10, 2010  
Posted in Town October 28, 2010