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To: LaPointe Town Board of Supervisors
From: Carl Broberg, Chair Town Plan Commission
CC: Town Plan Commission

Attachments: (1) Draft of Proposed Section 6.10: Use of Residential Dwellings and Property for Occupational or Business Uses
(2) Draft of Proposed Section 8.4.2: Conditional Uses

November 8, 2008

Subject: Town Plan Commission Report and Recommendation for Amendment of the Official Zoning Ordinance: Town of LaPointe

The Town Plan Commission, after a Public Hearing held on September 3, 2008 and due consideration, has, by a majority vote at the Special Monthly Meeting held on November 4, 2008, recommended the Town Board of Supervisors adopt the attached amendments to the Official Zoning Ordinance of the Town of LaPointe and concurrently repeal Section 15 as obsolete.

Respectfully,


Carl Broberg

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Town of LaPointe Official Zoning Ordinance
Revision to Section 8.4.2 and Repeal of Section 15

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2. Conditional Uses

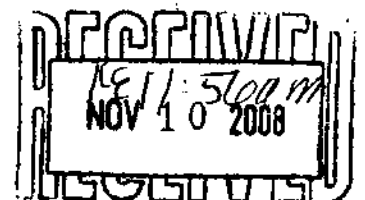
1. Purpose.

- A. One of the purposes of this Ordinance is to divide the Town of LaPointe into districts within which the use of land and buildings, and the bulk and location of buildings in relation to the land are mutually compatible, and substantially uniform.
- B. There are certain uses that may be entirely appropriate and not necessarily incompatible with the basic use permitted in any district, but not at every or any location therein or without restrictions or conditions being imposed by reason of unique problems the use of its particular location presents from a zoning standpoint, including the impact of those uses upon neighboring land, and the public need for the particular use at a particular location. Such uses may be necessary or desirable to be allowed in a particular district provided that due consideration is given to their location, development, and operation. Those uses are hereby classified as Conditional Use but are a matter of discretionary judgment by the Town Board of Supervisors acting upon the recommendation of the Town Plan Commission. Conditional Use is not "as of right". It is within the power of the Town Plan Commission and Town Board of Supervisors to determine that there are no conditions which would allow a use to coexist with its neighbors. The provisions for application, review, approval, and appeal are specified herein.
- C. The Town Plan Commission, Town Board of Supervisors, and Board of Appeals shall consider the overall effect of such grant of Conditional Use on the health, general welfare, safety, and economic prosperity of the town and the immediate area in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical appearance, existing topography, drainage features, erosion potential, vegetative cover, the prevention and control of water pollution, the location with respect to floodplains, the movement of traffic, the demand for related services and the possible hazardous, harmful, noxious, offensive or nuisance effects resulting from the requested use.

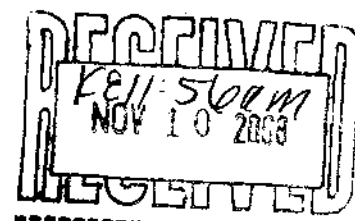
2. Conditional Use Permit.

The following process shall be used where a new Conditional Use Permit (CUP) is sought or where the holder of an existing CUP seeks modification of the existing CUP or a complainant seeks to have a CUP revoked. Modification shall include any amendment, revision, expansion, or any change to the existing CUP.

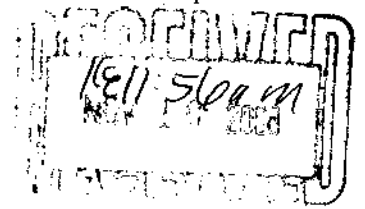
- A. Applications for conditional use approval shall be made on application forms developed and approved by the Plan Commission.
- B. An application fee, as established by the Town Board of Supervisors in the Town Fee Schedule, shall be paid at the time the application is filed and shall not be refundable unless the application is withdrawn prior to consideration by the Plan Commission. Any expense incurred by the Town for publishing notices prior to the withdrawal of the application will be



- deducted from the refund. Applications originated by the Town shall be exempt from the application fee.
- C. Applications and supporting documents shall be submitted in twelve (12 copies) to the Zoning Administrator who shall receive the application and conduct a review and research of the application and documents. The Plan Commission and/or Zoning Administrator may require the applicant to submit other pertinent data and information necessary to properly evaluate the request. Within thirty (30) days the Zoning Administrator shall make a preliminary inspection of the property to confirm the accuracy of the application and identify potential issues or considerations. Within ten (10) days after the completion of the review, the Zoning Administrator shall transmit the application and related materials to the Town Plan Commission for its review and consideration.
- D. The Town Plan Commission shall establish a date for a public hearing on the application to be held within thirty (30) days of receipt of the completed application and related documents. Class 2 notice shall be given prior to such hearing. Notice of the public hearing shall be mailed to all owners of record of lots or parcels within 300 feet of the property, except as may be extended or expanded otherwise at the discretion of the Zoning Administrator and/or the Town Plan Commission. If the property is within 1,000 feet from Lake Superior, the Wisconsin Department of Natural Resources and the Ashland County Zoning Administrator shall be mailed a notice.
- E. All members of the Town Plan Commission shall personally inspect the proposed site before the Public Hearing on the matter.
- F. Unless the applicant waives the right to timely action in writing, within ten (10) days of the public hearing, the Town Plan Commission shall meet to consider the application and make a recommendation to the Town Board of Supervisors. The recommendation shall be in the form of a motion approved by a majority of the Town Plan Commission members. If the recommendation is for approval, the motion shall include any terms or conditions recommended to be included in the Conditional Use Permit. These conditions may address the site plan, timetable of development, operation of the proposed use, surety requirements for performance of required activities, or other considerations relevant to applicable standards. The decision of the Plan Commission shall be recorded in the minutes and shall contain a written statement of reasons specifically related to the standards of this chapter or of documents related to this chapter by each Plan Commission member voting on the matter.
- G. Within five (5) days of a motion taking action on an application, the Commission shall notify the applicant, all owners of record of lots or parcels within 300 feet, any objector of record, and the Town Board of Supervisors of the recommendation and conditions included therein and shall post the recommendation at the designated Town posting sites. The complete file shall be forwarded to the Town Board of Supervisors.



- H. Within twenty-one (21) days of notification, the Town Board of Supervisors shall act on the recommendation of the Town Plan Commission. After review of the application, recommendation and complete file, the Town Board will consider the recommendation under the standards established in this chapter and may approve, approve with modification, or deny the recommendation of the Town Plan Commission. The decision of the Town Board shall be recorded in the minutes and shall contain a written statement of the reasons specifically related to the standards of this chapter or related to this chapter by each Town Board member voting on the matter.
- I. Within five (5) days of the decision by the Town Board, the Town Clerk shall notify the applicant, objectors of record and owners of record of lots or parcels within 300 feet of the decision and conditions included therein and shall post the decision at the designated Town posting sites. If approved by the Town Board, the Town Clerk shall prepare a legal document stating all terms and conditions approved by the Town Board to be signed by the applicant, the Town Board Chairman, and the Town Clerk. After forty-five (45) days the Town Clerk shall then cause the document to be filed in relationship to the property at the Ashland County Register of Deeds and all conditions shall be binding upon the property as if they were specific terms of this Ordinance.
- J. Where an approved conditional use contemplates construction or erection of buildings and structures, failure to substantially commence construction within twelve (12) months after approval of a conditional use shall render the approval void unless otherwise noted. Upon timely application and for good cause, the Plan Commission may grant specified extensions.
- K. Where a conditional use is discontinued for thirty-six (36) consecutive months, the conditional use permit shall be rendered void and any future use shall conform to this Ordinance. Upon timely application and for good cause, the Plan Commission may grant a specified extension.
- L. Any person owning land within one half mile, any member of the Town Board of Supervisors or any Town Plan Commission member may file a signed complaint of violation of the terms and conditions of a CUP. Upon receipt of a reasonable complaint, the Town Plan Commission shall evaluate possible violations of the terms and conditions of a CUP and may hold a public hearing on the matter after notice by means of a Class 1 notice. The Plan Commission may make a recommendation to the Town Board to suspend or revoke the CUP for cause. The Town Board shall, within twenty-one (21) days review the recommendation and act to approve, approve with modification, or reject the recommendation.
- M. A conditional use application which has been denied by the Town Board shall not be accepted for re-submittal within six (6) months from the date of denial, unless there has been a significant change in the proposal or relevant conditions as determined by the Town Plan Commission.
- N. A decision of the Town Board in granting, denying, or revoking a conditional use may be appealed to the Board of Appeals. Application for such appeal shall be signed by the applicant or by persons who have protest



rights under §62.23(7), Wis. Stats., were by the matter one of rezoning, or by any Town Board member. Not with standing any other provisions of this ordinance, an appeal of a decision regarding a conditional use by the Town Board shall be filed within thirty (30) days of the date of the Town Board action. The application for appeal fee, as established by the Town Board in Town Fee Schedule, shall be paid by the applicant for appeal at the time of filing. Upon such filing, the entire Plan Commission and Town Board file along with reproduced copies of the minutes of the Town Plan Commission and Town Board on the matter shall be transmitted by the Town Clerk to the Chair of the Board of Appeals who shall call a meeting of the Board. The Board of Appeals shall deal with the matter after a public hearing, at its discretion. In making its determination, the Board of Appeals shall be guided and controlled by this Section and may either affirm or reverse the action of the Town Board for cause.

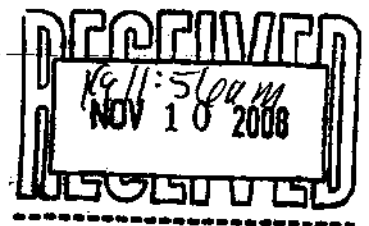
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Town of LaPointe Official Zoning Ordinance
Addition of Section 6.10

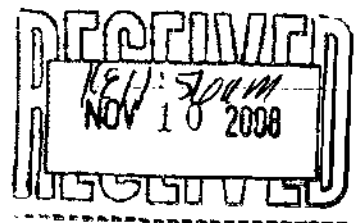
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Section 6.10
Use of Residential Dwellings and Property for Occupational or Business Uses

- A. A Home Office/Studio is an authorized use without a permit in all districts except WP that meet the following criteria:
1. All activities must be conducted entirely within the primary residential dwelling and carried out only by persons residing therein and no others.
 2. There shall be no retail, wholesale or other business activities which require visits from the public.
 3. There shall be no storage of goods, products, inventories of raw materials, animals or vehicles or equipment dedicated to the enterprise stored or used outside of the primary residential dwelling.
 4. There shall be no use of machinery, tools, or appliances that make excessive noise, dust, odors, or exhaust
 5. There shall be no on or off-premises advertising signs.
 6. The area dedicated to this use shall not exceed 25% of the area of the dwelling.
- B. A Home Occupation Enterprise is an authorized use with a permit issued by the Zoning Administrator in all districts except WP that meet the following criteria:
1. All activities at the site must be conducted entirely within the primary residential dwelling or in an accessory building not larger than 25% of the primary dwelling.
 2. Business activities may be carried out by persons residing in the dwelling or by no more than one other person employed by the resident(s) of the dwelling.
 3. There shall be no retail or wholesale of products or displays of products except for those products or services that are actually produced at the site.
 4. There shall be no outdoor storage or display of products, materials, equipment, or machinery except that there may be one vehicle bearing the business insignia and one trailer used in conjunction with the enterprise stored outside provided they are screened from the rights-of-way and neighboring properties. Any such vehicle or trailer must be licensed, operable, and routinely used in the course of the activities of the enterprise.
 5. One off-street parking spot will be provided for an employee or visitors.



6. Only one on-premises advertising sign, not illuminated and not to exceed four (4) square feet in area, shall be permitted. The sign may be located in the lot set-back provided it does not interfere with passage or obstruct the view of vehicles or pedestrians.
 7. No machinery, tools, or appliances shall be used that cause excessive noise, dust, odors, or exhaust.
 8. Sanitary facilities shall be provided in accordance with county and state requirements.
 9. A Conditional Use Permit is required for any exception to these requirements.
- C. A Home Business is an authorized use with a permit issued by the Zoning Administrator upon approval by the Zoning and Planning Commission in all districts except WP, R-1, R-2, R-3, and S-2 that meet the following criteria:
1. The Home Business may occupy 25% of the dwelling and/or an accessory building.
 2. The Home Business may employ up to five (5) employees who may work on or off the site.
 3. No retail or wholesale products may be sold on the site except those products and services that are actually produced on the site.
 4. There shall be no outdoor display of products.
 5. Only one on-premises advertising sign, not illuminated and not to exceed twelve (12) square feet in area, shall be permitted. The sign may be located in the lot set-back provided it does not interfere with the passage of vehicles or pedestrians.
 6. Activities shall not include any machinery, tools, appliances, or equipment that make excessive noise, dust, odors, or exhaust nor shall it include any vehicle or heavy machinery repair or spray painting services.
 7. Outdoor storage of products, materials, equipment, or machinery is permitted if the storage areas are fenced, vegetative screened, or provided with a landscape buffer of trees so that the storage is not visible from rights-of-way or neighboring properties.
 8. Licensed and operable vehicles and trailers related to the business activity may be parked or stored on-site provided no more than one such vehicle and trailer are visible from the rights-of-ways or neighboring property.
 9. Off-street parking must be provided for all employees and visitors.
 10. Sanitary facilities shall be provided in accordance with county and state requirements
 11. A Conditional Use Permit is required for any exception to these requirements.



ALSO:

Insert the following definitions to Section 2:

Home Office/Studio: the secondary and incidental use of a dwelling by a person residing therein conducting business activities that does not include visits from the public to the premises or activities outside of the dwelling. (Examples of activities are telemarketing, writing, drafting, electronic commerce via the internet, and arts and crafts not requiring machinery not normally used in a residential dwelling.)

Home Occupation Enterprise: the secondary and incidental use of a dwelling or accessory structure by a person residing in the dwelling to produce goods and services with limited visits by customers and vehicles and limited activities outside of the dwelling or accessory structure. (Examples include woodworking, pottery, hair care, licensed day care or a tradesman using the home as a base of operations.)

Home Business: a business enterprise carried out by resident(s) of a dwelling that may involve activities on the premises outside of the dwelling including storage and use of equipment and may include activities of employees not residing in the dwelling. (Examples include landscaping and welding but not automotive repair or spray painting.)

