

Zoning Ordinance

Town of Utica

Winnebago County

Wisconsin

VOTED & APPROVED BY THE TOWN BOARD

TOWN OF UTICA ZONING CODE

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PREAMBLE

In order to preserve and maintain the rights of individuals and families in the pursuit of life, liberty, and happiness, this Ordinance is enacted to ensure tranquility in the conduct of recreational activities among and between property owners and citizens in their jurisdiction.

Recreational pursuits and activities shall include, by way of enumeration but not limitation, the general field of sports such as soccer, tennis, swimming, golf, baseball or softball, football, skiing and other winter related activities, gymnastics, equestrianism, gardening, activities of track athletics including non-competitive running, jogging or walking, fishing, hunting, boating, four-wheel sports and camping. Where governing safety codes permit firearms sports or the operation of aircraft or ultra-lights are defined as recreation.

The facilities and physical constructs enabling recreational activities on private property shall be supported by the intent of this Ordinance which recognizes that increasing population pressure in state, nation and world requires a codification to protect individuals and families in the use of their private property for privacy of recreational activities, and to ensure harmony in those neighborhoods where diverse recreational activities are practiced.

Recreation enabling facilities and equipment include such constructs as implements of agriculture or farm life, boats, fields of play for physical sports, swimming pools, items of personal transport including motor homes, camping trailers, slide-in campers or tents, and reasonable building constructs for the housing of such recreational items and/or activities.

In order to ensure tranquility in neighborhoods where individuals and families engage in private recreational activities on their private property, it is encouraged that these activities be conducted behind the front line of the principle structure of the property. Noise or lighting necessary to, or generated by, recreational pursuits shall be subject to reasonable hours or regulation to ensure that these private activities be minimally intrusive for neighbors and public rights of ways. Further, activities minimally visible by the nature of the site topography, screening, buildings, or required constructs are not to be considered as differing from activities of more observable nature for any public right-of-way, because of their conduct out of ordinary public view.

In cases of occasional recreational activities held on private property for the benefit of religious, fraternal, educational, political, or governmental groups or agencies, where a local subjunctive permit is required for parcels not permitting such beneficial events because of restrictions on the parcel, then local authority shall give special consideration to the societal benefit in the permit of any individual occasional event, or the denial of such necessary permit.

It is not the intent of this Ordinance to contravene any superior governmental regulation of state, national or international agreement supporting private recreational activities, nor is this Ordinance to be constructed to contravene established rights of private property relative to recreation, collective commerce, or political activity.

ARTICLE I: IN GENERAL

Sec. 1 Scope of Ordinance

A. INTERPRETATION OF ORDINANCE.

An Ordinance of the Town of Utica, Winnebago County, Wisconsin, to promote the health, safety, and general welfare; to regulate, restrict, and determine the areas within which agriculture, forestry, and recreation may be conducted; the location of roads, schools, trades, and industries, the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot which may be occupied, size of yards, courts and other open spaces, the density and distribution of population, and the location of buildings designed for specified uses, and establish districts of such number, shape and area as may be necessary for such purposes; and for the said purposes to divide the Town of Utica, Winnebago County, Wisconsin, into districts of such numbers, shapes and areas as are deemed best suited to carry out the said purposes; to provide a method for its administration and enforcement, and to provide penalties for its violation.

B. MINIMUM STANDARDS.

The provisions of this Ordinance are to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, or agreements between parties or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings or premises, or requires larger open spaces than are required by other rules, regulations or permits, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

C. EXISTING EASEMENTS.

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, or agreements between parties or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings or premises, or requires larger open spaces than are required by other rules, regulations or permits, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

Sec. 2 Districts

A. DISTRICT DESIGNATIONS

For the purpose of this Ordinance, the Town of Utica is hereby divided into eleven (11) districts, as follows:

1. R-1 Rural Residential District (Low-density, non-subdivided).
2. R-2 Suburban Residential District (High-density).
3. R-3 Two-Family Residential District.
4. R-4 Multiple-Family Residential District.
5. R-5 Planned Residential District.
6. P-1 Institutional & Recreational District.
7. A-1 Agricultural District (Farmland Preservation).
8. A-2 Agricultural District (General Farming).
9. RR Rural Recreational and Residential Mixed Use District
10. CD Commercial District.
11. ID Industrial District.

B. BOUNDARIES

The boundaries of the aforesaid districts are hereby established as shown on the map entitled "District Map, Town of Utica, Winnebago County, Wisconsin", which map accompanies and is made part of this Ordinance. All notations and references shown on the District Map are as much a part of this Ordinance as though specifically described herein.

1. The district boundaries are either streets or alleys, unless otherwise shown, and where the designation on the District Map indicates that the various districts are approximately bounded by a street or alley line, such street or alley line shall be construed to be the district boundary line.
2. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the designations on the District Map are approximately bounded by lot lines, said lot lines shall be construed to be the boundary of the district.
3. Where the district boundary lines shown on the District Map are obviously not lot lines, the district boundary lines shall be determined by use of the scale shown on the map.

Sec. 3 Definitions

A. PURPOSE.

For the purpose of this Ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory. Shoreland definitions not found in this section shall be as defined in Chapter NR 115 of the Wisconsin Administrative Code.

1. **Accessory Use or Structure (building).** As used in this Ordinance, an accessory structure shall include, but not be limited to, garages, pole sheds, garden sheds, playhouses, gazebos which are attached to the ground, canopy carports, storage buildings which may be on runners or permanently attached, storage PODS or similar storage containers, semi-trailers which are used for storage and are not intended to be removed from the premises on a regular basis as part of a trucking operation, and tent structures that are intended for use other than for special occasions such as weddings, picnics, parties, and other seasonal limited time activities. Small garden sheds intended only for the storage of gardening or lawn care equipment shall not be considered an accessory building, however, no more than one (1) such structure may be permitted on any residential lot.
2. **Advertising Sign.** A sign, including a billboard, which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such a sign is located, e.g. poster panels or painted bulletins.
3. **Airport.** The Wittman Field Airport terminal, runways, accessory buildings, rental and lease facilities, etc. and all County land area associated with same as located in Sections 34 & 35, T18N, R16E, Winnebago County, Wisconsin; and Sections 2 & 11, T17N, R16E, Winnebago County, Wisconsin.
4. **Airport Hazard.** Any structure, object of natural growth, or use of land which obstructs the air space required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.
5. **Alley.** A special public right-of-way affording only secondary access to abutting properties.

6. **Animal Grooming.** Where not involving any kennel uses, shall be the equivalent of a barbershop, or beauty salon for animals.
7. **Boarding House.** A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four (4) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.
8. **Buildable Area.** The space remaining on a lot after the minimum open-space requirements and yard setbacks have been met.
9. **Building.** Any structure having a roof supported by columns or walls used or intended to be used for shelter or enclosure of persons, animals, equipment, machinery or materials.
10. **Building Area (synonymous with floor area).** The total living area bounded by the exterior walls of a building at each floor level, but not including basement, garages, porches, breezeways, and unfinished attics.
11. **Building Height.** The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and ridges of gable, gambrel, hip and pitch roofs; or to the deck line of mansard roofs.
12. **Business Sign.** A sign pertaining to goods sold or manufactured or services rendered on the premises upon which the sign is located.
13. **By-pass Channel.** A channel formed in the topography of the earth's surface to carry storm water runoff through a specific area.
14. **Campgrounds.** As defined in Wisconsin Administrative Code Chapter HSS178.
15. **Certificate of Compliance.** Official certification that a premise conforms to the provisions of the Zoning Ordinance and, if applicable, to a Town building code.
16. **Channel.** Those flood lands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well established banks.
17. **Clinic - Medical or Dental.** A group of medical or dental offices organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of such offices, but not including bed-patient care.
18. **Clothing Stores.** Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery, and millinery shops.
19. **Conditional Uses.** Use of a special nature as to make impractical their predetermination as a principal use in a district.
20. **Condominium.** A structure having two (2) or more dwelling units, each assigned to individual ownership, but located on a lot having common ownership and use arrangement.
21. **Conservation Standards.** Guidelines and specifications for land and water conservation practices and management enumerated in the Technical Guide prepared by the U.S. Department of Agriculture Land Conservation Service for the County, adopted by the County Land and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities, from which the land owner selects that alternative which best meets his needs in developing his land and water conservation plan.

22. **Conversion.** Changing the original purpose of a building to a different use.
23. **Corridors - Environmental.** Those contiguous lands which contain a significant grouping of sensitive lands, such as woodlots; streams; wildlife areas such as wetlands, marshes, bogs, native vegetation, etc. which form an elongated pattern that tie these lands together into broad corridors having outstanding quality for the enhancement of the scenic and natural environment of the county.
24. **Development.** Any activity which results in an alteration of either land or vegetation, except farming and normal grading and filling, for purposes of changing to or intensifying existing uses in residential, business, recreational, institutional, or industrial property.
25. **Digital Compilation.** An electronic method of mapping and storing map and text data in a raster, vector, text, or similar format within a computerized records system.
26. **Directional Sign.** A sign for the purpose of directing patrons or attendants, without advertising, to a business establishment, club, church, or other such organization, off the main traveled highway.
27. **Ditching.** The creation or maintenance of a channel-like land area designed or used for carrying surface water runoff, including snow melt, from one location to another. Ditching does not include municipal work within public right-of-way, or such things as vegetation removal or planting.
28. **Drainage.** A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied herein to surface water.
29. **Dwelling Unit.** A structure having provisions for living, sanitary and sleeping facilities, arranged for the use of one (1) or more individuals of the same family.
30. **Dwelling — Single (One) Family.** A permanent structure—placed on a permanent foundation, having one (1) or more rooms with provisions for living, sanitary and sleeping facilities arranged for the use of one (1) or more individuals of the same family. The structure shall be located on a private lot and surrounded on all sides by a private yard. These dwellings shall include site built, manufactured, and modular homes.
31. **Dwelling — Two Family (Duplex).** A permanent structure having two (2) dwelling units combined into one structure. The structure shall be located on one (1) private lot and surrounded on all sides by a private yard. These dwellings shall include site built, manufactured and modular homes.
32. **Dwelling — Multi-family (Apartment).** A permanent structure having three (3) or more dwelling units—combined into one (1) structure—for occupancy by three (3) or more families.
33. **Efficiency.** A dwelling unit consisting of one (1) principal room with no separate sleeping room.
34. **Excavation.** Any act by which organic matter, earth, sand, gravel, rock or any other material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting therefrom.

35. **Essential Services (Onsite or Public).** Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water pumps, lift stations, and hydrants; but not including buildings used or intended to be used for human habitation.
36. **Family.** Any number of persons living together and cooking on the premises as a single housekeeping unit together with all necessary employees of the family.
37. **Fence.** Any artificially constructed barrier of any materials or combination of materials erected to enclose or to screen areas of land.
38. **Fill/Filling.** Any act by which earth, sand, gravel, rock or any other materials are deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man to a new location and shall include the conditions resulting therefrom.
39. **Floating (Unmapped) Zone.** A zoning district whose requirements are fully described in the text of the Ordinance, but which is unmapped. It is “anchored” to the land in response to an application for a zoning permit when the standards of the floating district are met. It then overlays the previous zoning designation.
40. **Flood Plain.** The land adjacent to a body of water, which has been or may be hereafter, covered by floodwater.
41. **Floodway.** The channel of a stream and those portions of the flood plain adjoining the channel which are required to carry and discharge the floodwater or flood flows of any river or stream.
42. **Frontage.** The smallest dimension of a lot abutting a public street measured along the street lines.
43. **Grade/Grading.** The alteration of the elevation of the land surface by stripping, excavating, filling, stockpiling of soil materials or any combination thereof and shall include the land from which the material was taken or upon which it was placed.
44. **Grade (House).** The final ground surface elevation, after construction, at the point where the exterior walls of the structure either meet, or emerge from the ground except where floodplain requirements apply. Sloping sites will have more than one grade as appropriate. This point shall normally be the highest elevation of the building site.
45. **Garage (Private).** A structure primarily intended and used for the enclosed storage or shelter of the private motor vehicles, recreational vehicles, boats, yard equipment, etc., of the family’s resident upon the premises. Carports shall be considered garages within this definition.
46. **Garage (Public or Commercial).** Any garage not falling within the definition of “private garage” as herein established; and used for storage, repair, rental or servicing of motor vehicles.
47. **Garage (Attached).** A garage sharing a common wall with the principal structure, or being attached to the principal structure with a fully enclosed breezeway of at least ten (10) feet in length.

48. **Garden Shed.** A garden shed, for purposes of this Ordinance, shall not be considered an accessory structure if the square footage of the base of the shed is one hundred sixty (160) square feet or less and having side walls of eight (8) feet or less. Said sheds shall be allowed in the Rural Recreational and Residential District, but only upon application to and approval by the Zoning Administrator if said garden shed is in conformity with the approved conditional use of the property and does not in any way significantly interfere with the use or expand the use as permitted within the Rural Recreational and Residential District
49. **Household Occupation.** Any business that is not the primary use of a building, including but not limited to: babysitting, millinery, dressmaking, canning, laundering, crafts, short-term rentals, computerized business, internet sales, egg sales, sales of beauty, household and clothing products for national companies where such sales are sometimes made through parties and gatherings, sale of produce and other similar agriculture product sales. The intent is to allow businesses that have little impact on the neighborhood and surrounding properties. Household Occupations shall be allowed provided that such uses meet the following conditions: a) Does not exceed 49% of a single story of the area of the facility, b) Is property licensed and certified by state and federal government if required by state or federal government, c) If land can be leased for legal activities (ie. hunting, etc.), d) does not employ more than 4 employees onsite, e) The person or persons conducting the business must use the dwelling or address as their principal place of residence, f) No motor vehicle may be serviced or repaired for gain, g) No goods manufactured, serviced, or repaired may be displayed so that they are visible from outside the site, h) The business does not interfere with the neighbor's quiet enjoyment of their properties, i) Provide parking for the business entirely on the property. *(updated 9/2016)*
50. **Kenel, Commercial and Animal Hospitals.** An establishment where animal pets not part of the actual household on the lot on which the facility is located are raised, bred or boarded and/or medically treated.
51. **Living Room.** All rooms within a dwelling except closets, foyers, storage areas, utility rooms and bathrooms.
52. **Loading Area.** A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.
53. **Manufactured Home.** A structure substantially constructed off-site meeting minimum provisions for dwellings and meeting all of the following criteria:
- a. transportable in one or more sections.
 - b. built on a permanent chassis.
 - c. placed on a permanent foundation.
 - d. connected to utilities (plumbing, heating, gas, electrical).
 - e. constructed on or after June 15, 1976 in accordance with U.S. Housing and Urban Development standards and identified with a H.U.D. seal of approval.
54. **Minor Structures.** Any small, movable accessory erection or construction such as tool houses; and arbors under six (6) feet ten (10) inches in height with no more than one hundred (100) square feet of building area.
55. **Mobile-mounted Sign.** A temporary sign which is mounted or designed for mounting on wheels or a temporary platform.
56. **Model Home, Garage.** A building which is constructed, or located, and used as an example of other such buildings which are offered for sale. The model itself is customarily not for sale and may in some instances be only temporarily positioned on the site. The model differs from a "spec" building, which is one that is permanently positioned on a site and available for immediate sale.

57. **Modular Home.** A structure substantially constructed off-site meeting minimum provisions for dwellings and meeting all of the following criteria:
 - a. transportable in one or more sections.
 - b. built on a permanent chassis.
 - c. placed on a permanent foundation.
 - d. connected to utilities (plumbing, heating, gas, electrical).
 - e. constructed in accordance with Wisconsin Uniform Dwelling Code and identified with a Wisconsin Insignia.

58. **Navigable Waters.** Means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters which are navigable under the laws of this state. Under section 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland Ordinances required under Section 59.971, Wis. Stats., and Chapter NR115, Wisconsin Administrative Code, do not apply to lands adjacent to farm drainage ditches if:
 - a. Such lands are not adjacent to a natural navigable stream or river.
 - b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - c. Such lands are maintained in nonstructural agricultural use.

59. **Nonconforming Uses or Structures.** Any structure, land, or water lawfully used, occupied, or erected at the time of the effective date of this Ordinance or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

60. **Obstruction.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire fence, rock gravel, refuse, fill, structure or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood-hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by batching or collecting debris carried by such water.

61. **Open Space.** An unoccupied space open to the sky on the same lot as the principal structure or development which is in addition to other required yard areas and which is not used for parking or driveway purposes.

62. **Ordinary High Water Mark.** The water level of a pond, stream, flowage, or wetland referred to on an established datum plan where the presence of the water is so continuous as to leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geologic, or vegetative characteristics.

63. **Outdoor Storage.** The keeping of material, equipment, product(s) or their components, outside of a structure. Customary accessory storage such as waste receptacles, or business vehicle parking shall not be considered outside storage provided the principal structure is present and said storage is directly associated with the principal use.

64. **Overlay Zone.** Zoning requirements that are described in the Ordinance text, mapped, and are imposed in addition to those of the underlying district. Developments within the overlay zone must conform to the requirements of the more restrictive of the two zones.

65. **Parking Lot.** A structure or premises containing ten (10) or more parking spaces open to the public for rent or a fee.

66. **Parking Space.** A graded and surfaced area of not less than one hundred eighty (180) square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.
67. **Parties in Interest.** Includes all abutting property owners, all property owners within three hundred (300) feet, and all property owners of opposite frontages.
68. **Principal Use.** The main use of land or structures as distinguished from a secondary or accessory use.
69. **Private or Quasi-public Club.** An association of persons organized for some common purpose but not including groups organized primarily to render a service, which is customarily carried on as a business.
70. **Professional Home Offices.** Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians, or other recognized professions used to conduct their professions where the office does not exceed one-half (1/2) the area of only one (1) floor of the residence and only two (2) nonresident persons are employed.
71. **Rear Yard.** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard. A corner lot shall have a rear yard opposite one of the street yards.
72. **Recreational Vehicle.** As defined in Wisconsin Administrative Code Chapter HSS178.
73. **Retention Basin.** A pond-type facility which provides for storage of storm water runoff and controlled release of this runoff during and after a flood or storm.
74. **Runoff.** The portion of precipitation on the land which reaches the drainage system.
75. **Runway.** A level portion of an airport having a surface specially developed and maintained for the landing and take-off of aircraft.
76. **Setback.** The required distance between the existing property boundary line and the location of any structure existing or to be constructed on a parcel. Front yard setback is the distance from the right-of-way which is a minimum of thirty-three (33) feet from the center of the road to the location of any structure.
77. **Setback Lines.** The interior limits of the minimum required yard areas of a lot between the existing property boundary line and the location of any structure existing or to be constructed on a lot.
78. **Shore Yard.** A yard extending across the full width or depth of a lot the depth of which shall be the minimum horizontal distance between a line intersecting both side lot lines at the same angle and containing the point of the high water elevation of a pond, stream, or wetland nearest the principal structure and a line parallel thereto containing the point of the principal structure nearest the high-water line.
79. **Shorelands.** Lands within the following distance from the ordinary high-water mark of navigable waters; one thousand (1,000) feet from a pond or flowage; and three hundred (300) feet from a river or stream or to the landward side of a floodplain, whichever distance is greater.

80. **Side Yard.** A yard extending from the street yard setback line to the rear yard or street yard of a through lot setback line of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure. A corner lot shall have a side yard opposite one of the street yards.
81. **Signs.** Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway but not including:
 - a. Usual board notices in or about church property or any educational or public institutions;
 - b. Legal notices required to be posted by municipal, state or federal law; or
 - c. Highway or traffic signs authorized to be erected by municipal, state or federal law.
82. **Site Built Home.** A permanent structure substantially constructed on-site meeting minimum provisions for dwellings and built on a permanent foundation with connections to utilities (plumbing, heating, gas, electrical) and constructed in accordance with Wisconsin Uniform Dwelling Code standards. Also known as a “conventional home” or “stick built home.”
83. **Smoke Unit.** The number obtained when the smoke density in Ringelmann numbers is multiplied by the time of emission in minutes.
84. **Stable.** A building in which domestic animals are sheltered and fed, including animals not owned by the farm owner, or parents or children of the farm owner, up to a maximum of fifty (50%) percent of the animals therein.
85. **Stable (Commercial).** A building, in which the majority of domestic animals located, sheltered, or fed therein are not part of the farm operation.
86. **Storage Capacity.** The volume of space available above a given cross-section of a flood plain for the temporary storage of floodwater. The storage capacity will vary with stage.
87. **Street/Road/Roadway (Public).** The term includes the right-of-way of any street, road, highway, lane, etc., dedicated to the public, which generally provides access to abutting properties. It includes the paved, graveled, or otherwise surfaced area as well as shoulders and legally dedicated right of ways that are a minimum of thirty-three (33) feet from the center of the road.
88. **Street (Private).** The term private street includes the right-of-way of any private road, highway, lane, street, access easement, etc., where the defined street or easement area provides access to more than one parcel or principal structure.
89. **Street Yard.** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between an existing or proposed public or private street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) such yards.
90. **Structure.** Any erection or construction, such as buildings, towers, masts, booms, signs, decorations, carports, machinery and equipment, and opaque fences.
 - a. Structure, Accessory — A building or portion of a building used for a purpose customarily incidental to the permitted principal use of the lot, or to a principal building, and located on the same lot as the principal use.
 - b. Structure, Principal — the building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.
91. **Structural Alterations.** Any change which would increase the floor area or height of a building.

92. **Substandard Lot.** Any lot, with or without structures, having lesser dimension and/or area than required by the districts of this Ordinance.
93. **Surface Water Runoff.** Water which results from precipitation that is not absorbed by the soil or plant material.
94. **Temporary Sign.** Any sign that is not permanently attached to a structure or the ground and which is displayed for a maximum of ninety (90) days in one calendar year.
95. **Temporary Structure.** A movable structure neither designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.
96. **Tree.** Any object of natural growth, except farm crops which are cut at least once a year, and except shrubs, bushes, or plants which do not grow to a height of more than five (5) feet.
97. **Unnecessary Hardship.** That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this Ordinance.
98. **Utilities.** Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, gas regulation stations and sewage disposal plants, but not including municipal incinerators, warehouses, shops and storage yards.
99. **Variance.** An authorization granted by the Board of Adjustment / Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Ordinance.
100. **Wetlands.** Those areas where water is at, near or above the land surfaces long enough to support aquatic or hydrophilic vegetation and which have soils indicative of wet conditions.
101. **Wetland District.** The zoning district created as a part of this Zoning Ordinance, comprised of wetlands on the official zoning maps, which have been adopted and made a part of this Ordinance.
102. **Yard.** An open space on the same lot with the structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.
103. **Zoning Administrator.** A person designated by the Town Chairperson to administer and enforce this Ordinance with the exception of the Uniform State Dwelling and Commercial Building Code, which shall be administered by the Building Inspector. Reference to the Zoning Administrator shall be construed to include duly appointed assistants responsible for enforcing and administering all requirements of this Zoning Ordinance.
104. **Zoning Permit.** An official finding that a proposed use of a property, as indicated by an application, complies with the requirements of the Zoning Ordinance or meets special conditions of a variance or Conditional Use Permit; the Ordinance will specify the building activities that need to have such a permit.

ARTICLE II: ZONING REGULATIONS

Sec. 1 General Provisions

A. JURISDICTION

1. The provisions of this Ordinance shall apply to all structures, land, water and air within all areas of the Town of Utica, Winnebago County, Wisconsin.

B. COMPLIANCE

1. Unless otherwise excepted in other sections of this Ordinance, no structure, land (except for farmland or for normal filling, grading, etc.) or water including manmade impoundments shall hereafter be developed and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, enlarged, extended, converted, or structurally altered without a zoning permit, except one (1) minor structure per lot, and without full compliance with the provisions of this Ordinance and all other applicable Town, County and State regulations. The Town Building Inspector shall accept all applications, issue or deny all zoning permits, investigate all complaints, give notice of violations, and enforce the provisions of this Ordinance. Such permit shall be posted in a prominent place on the premises prior to and during the terms of the permit.
2. However, where a zoning permit has been issued in accordance with law prior to the effective date of this Ordinance and provided that construction is begun within one (1) year of such effective date and diligently pursued to completion, said development may be completed in accordance with the approved plans on the basis on which the permit has been issued, and further may, upon completion, be occupied under a Certificate of Compliance by the use for which originally designated (subject thereafter to the provisions of this Ordinance). Any subsequent text or map amendment shall not affect previously issued valid permits.
3. The Town Building Inspector shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by the Inspector to ensure compliance with this Ordinance. If, however, the Inspector is refused entry after presentation of his / her identification, he / she shall procure a special inspection warrant in accordance with requirements of the Wisconsin Statutes.
4. The Town of Utica, Town Board, or any owner or owners of property within the district affected by a particular regulation may sue, pursuant to Sec. 59.97(11) of the Wisconsin Statutes, to enforce by injunctive order compliance with the Zoning Ordinance.

C. BUILDING PERMIT

1. Applications for a building permit shall be made in triplicate to the Town Building Inspector on forms furnished by the Town Building Inspector. Building permit fees are listed in the Appendix based on the type of construction being requested. Applications shall include the following where applicable: (*See #2*)
 - a. Name(s) and addresses of the applicant, owner of the site, architect professional engineer, or contractor.
 - b. Description of the subject site by lot, block and recorded subdivision or by metes and bounds, references to the U.S. Public Land Survey.
 - c. Address of the subject site.
 - d. Type of structure.
 - e. Existing and proposed operation or use of the structure or site.
 - f. Number of employees if applicable.
 - g. The zoning district within which the subject site lies.

- h. A plot plan provided by the applicant showing the location, property boundaries, dimensions, uses and size of the following: subject site(s); existing and proposed structures; existing and proposed sanitary facilities and well; existing and proposed easements, streets, and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed yards; finished grades and grades of adjacent structures; and a surface water drainage plan where required by this Ordinance.
 - (1) Proposed finish grade for the principal structure shall be a grade twelve (12) inches above the crown of the road at the center of the said structure, or
 - (2) Where an alternative elevation would better suit the existing or proposed uses surrounding the site, the Town Building Inspector shall have authority to set an alternative finished grade elevation pending review of the surface water drainage plan as required by this Ordinance. Said alternative grade shall be noted on the building permit by the Building Inspector.
 - (3) Amended site plans will be accepted without penalty up to six (6) months from the date of the original permit issuance. After the six (6) month period, a modification shall require a new permit application and fee payment.
2. A building permit shall be granted or denied in writing by the Town Building Inspector within thirty (30) days of filing. However, where public sewer is not available, a building permit shall not be issued prior to approval of sanitary plans and issuance of a Sanitary Permit by the County Sanitary Inspector. Furthermore, no building permit shall be issued for any addition, reconstruction, enlargement or conversion of a principal structure where sanitary facilities are not provided in accordance with the Winnebago County Sanitary Ordinance and Chapter ILHR 83 of the Wisconsin Administrative Code. (Barns, silos, etc. as principal uses in the A-1 "Agriculture District" are exempt from sanitary facilities requirements.)
3. The building permit shall consist of a weatherproof card that shall be posted continuously at the construction site during the period of construction. The permit shall be posted in a conspicuous manner, unobstructed from public view, and not more than ten (10) feet above grade.

NOTE: The building permit shall expire within one (1) year of issuance unless substantial work has commenced and has been diligently pursued. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.
4. Permits issued as a result of a violation notice or citation may condition approval by addressing time limits for construction as well as to address requirements dealing with the original complaint.

D. CERTIFICATE OF COMPLIANCE

1. Where a building permit is hereafter required according to this Ordinance, no development or structure shall be used or occupied until a Certificate of Compliance has been issued by the Town Building Inspector. Such certificate shall show that said development or structure is in compliance with the applicable standards of this Ordinance.
2. Application for a building permit shall be deemed an application for a Certificate of Compliance.
3. Upon written request from the owner, the Building Inspector shall issue a Certificate of Compliance for any building or premises existing at the time of the adoption of this Ordinance certifying after inspection, his extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of this Ordinance.
4. A Certificate of Compliance must first be obtained before the use of, or change in use of any nonconforming use.

E. LANDSCAPING.

No landscaping, plantings or other cultivation shall be allowed within any road right of way or within any building setback area so as to obstruct the view of any driveway, path, sidewalk, or any portion of a front yard area or right of way area that is used by individuals or animals to access a public roadway. Obstruction shall include any artificial or organic materials that exceed four (4) feet in height. Under certain circumstances, naturally organic and/or artificial materials may need to be removed from a right of way or building setback area even if those items are less than four (4) feet in height if it is determined by the Town Zoning Officer that said landscaping materials pose an unreasonable risk to individuals or animals using the property or the adjacent roadways. Additionally, no planting shall be allowed in any road right of way that would in any way impede the flow of storm water to an extent that the storm water would back up on an individual's yard or agricultural field during a typical spring thaw or a normal summer rain. It is understood that there may be situations where, because of extraordinary rains, snow melt or other conditions, that flooding may naturally occur.

F. SITE RESTRICTIONS

1. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Town of Utica Town Board or Plan Commission by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility; or any other feature likely to be harmful to the health, safety, aesthetics, and general welfare of the Town of Utica.
2. "Aesthetics" may only constitute grounds from prohibiting the use if such will substantially depreciate the value of property in the neighborhood or impose a visual effect upon neighbors or passerby, which is clearly obnoxious to the prevailing taste of the community. In all cases, the Town Plan Commission shall serve as the Aesthetic Review Board.
3. Requirements of all land use sites:
 - a. All lots shall abut upon a public street, and each lot shall have a minimum frontage, according to the zoning district. All lots shall also have a minimum width at the street yard setback as prescribed for the particular zoning district in which the lot is located.
 - b. All principal residential structures shall be located on a lot; and only the principal structure shall be located, erected, or moved onto a lot.
 - c. No building permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width.
 - d. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive butting districts. The street yards in the less restrictive district shall be modified for a distance of not more than seventy-five (75) feet from the district boundary line so as to equal the average of the street yards required in both districts.
 - e. All street yards shall be measured by the greater of the distance from either the affected public, or private street, or from any road widths shown on a duly adopted street width map.

G. SURFACE WATER DRAINAGE

1. Purpose. The intent of this section is to protect property and structures from damage caused by increased surface water runoff due to commercial, industrial, and residential development of the land.
2. Increased Surface Water Runoff. Surface water runoff after development shall not be at a greater peak rate or flow nor flow at increased velocities which will cause property and structure damage. The twenty-five (25) year return period storm for Winnebago County shall be the basis to determine both pre-construction and post construction surface water runoff.
3. Residential, Commercial and Industrial Development. The developer shall submit a surface water drainage plan for all new commercial, industrial, multi-family and residential developments, and for all additions to commercial, industrial, multi-family and residential developments. The following standards shall be met:
 - a. Unplatted developments
 - (1) Four (4) copies of a drainage plan shall be submitted to the Town of Utica Plan Commission prior to construction on commercial, industrial, and multi-family developments.
 - (2) Drainage plan shall be approved per this Ordinance prior to issuance of a building permit.
 - b. Single lot residential development
 - (1) One (1) copy of a drainage plan shall accompany all building permit applications and shall be submitted to the Town of Utica Plan Commission.
 - (2) The drainage plan shall adhere to the requirements of this Ordinance.
 - (3) Drainage plan shall be approved per this Ordinance prior to issuance of a building permit.
4. Surface Water Drainage Plan
 - a. Industrial, Commercial, Multi-Family and Platted Residential Development - - a drainage plan shall include but not be limited to, the following:
 - (1) Based upon the 25-year return period storm for Winnebago County.
 - (2) Include soil types, infiltration characteristics of the soil, amount of available detention area, type of vegetative cover, amount of impervious cove, and time response to runoff.
 - (3) Compatible with Winnebago County and Town of Utica natural drainage ways and easements.
 - (4) Identify bridges, regional drainage patterns, water boundaries, pipes, culverts, catch basins, waterways, ditches, detention and retention basins; and indicate respective size, dimensions, and grades of each.
 - (5) All drainage ways and associated structures shall lie within the maintenance easements and be so indicated on final plats.
 - (6) Direction of surface water flow by arrows shall be indicated.
 - (7) Designed in accordance with the United States Department of Agriculture Technical Release No. 55 Urban Hydrology for Small Watersheds and Town standards.
 - (8) Calculations showing pre- and post- construction surface water runoff.
 - (9) A statement as to how runoff resulting from construction will affect downstream areas and adjacent property owners.
 - (10) Indicate methods that will be used to protect downstream areas and adjacent property owners from damage caused by increased surface water runoff.

- b. Single Lot Residential Development - - requirements shall include:
 - (1) Site location.
 - (2) General legal description.
 - (3) Existing buildings, utilities and roads.
 - (4) Existing surface and subsurface drainage channels and pipes entering or leaving the site.
 - (5) Lot lines.
 - (6) Proposed ground cover on all areas of plat (pavement, gravel, lawn, field, etc.).
 - (7) Proposed surface and subsurface drainage channels and pipes.

5. Review and Approval. Copies of the drainage plan will be distributed by the Zoning Administrator to the Town of Utica Plan Commission for review and comment by the commission members and shall be subject to review by a professional engineering consultant at the discretion of the Town of Utica Plan Commission. Any comments shall become part of the record for approval or denial. The Town Plan Commission shall review each drainage plan and comments received and render a decision of either approval, denial, or approval with condition(s). A decision shall be made within thirty (30) days from receipt of the drainage plan.

6. Appeal. Appeal(s) from a decision by the Town of Utica Plan Commission concerning literal enforcement shall be in accordance with the Town of Utica Zoning Ordinance.

H. USE RESTRICTIONS.

The following restrictions and regulations shall apply:

1. Principal Uses. Only those principal uses specified for a district, *to allow household occupations in the districts that the town deems appropriate*, their onsite services and the following uses and conditions specified below shall be permitted in that district, except gardening shall be a principal use in all districts. *(updated 9/2016)*

2. Accessory Uses. Unless otherwise specified in other sections, accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of business, trade or industry. Accessory uses include incidental repairs, storage, parking facilities, servants', owner's, itinerant agricultural laborer's, and watchman's quarters not for rent; private swimming pools; and private emergency shelters. Accessory use residential quarters shall be contained within the principal structure.

3. Accessory Use Location. Unless otherwise specified in other sections, accessory uses and detached accessory structures are permitted within the buildable area or in the rear yard only; they shall not be closer than ten (10) feet to the principal structure; shall not exceed eighteen (18) feet in height; shall not occupy more than twenty (20%) percent of the rear yard area of the particular site; shall not be closer than ten (10) feet to any lot line.

4. Conditional Uses.
 - a. Conditional uses and their accessory uses require approval and a public hearing if there is approval, all in accordance with this Ordinance.
 - b. In addition to those stated elsewhere in this Ordinance, the following shall be conditional uses in all zoning districts of this Ordinance.
 - (1) Utilities and Associated Structures. Provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.
 - (2) Government & Cultural Uses. Except Town Hall, Town Offices and the Town Fire Station shall be considered principal uses except in the A-1 District where they shall require Conditional Use approval.

5. Temporary Uses. Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Town Plan Commission.
6. Animal Restriction. Unless otherwise specified, no premises in a residential district shall be used to harbor more than two dogs. Puppies whelped on any such premises as a result of fortuitous mating may be retained on the premises until they are six (6) months old and shall not be taken account of in determining the number not in excess of two (2) dogs herein above permitted on such premises. No premises in a residential district shall be used for breeding or rearing of dogs for sale or hire or for the boarding of dogs for pay.
7. Utilities. Telecommunications/Electronic switching equipment buildings no larger than twelve 12' X 22' are permitted in all districts subject to aesthetic review under Article II, Sec. 4 (5)(b).

I. **SANITARY REGULATIONS**. See Winnebago County Sanitary Ordinance; Chapters ILHR 83; H65 and NR112 of the Wisconsin Administrative Code.

J. **VIOLATIONS**.

1. It shall be unlawful to construct or use any structure, land, or water in violation of any of the provisions of this Ordinance.
2. In case of violation, the Town Board, the Town Plan Commission, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Ordinance. Every structure, fill or development placed or maintained on flood plains in violation of this Ordinance is a public nuisance; and the creation thereof may be enjoined and the maintenance thereof may be abated by an action instituted by the Town or any citizen who lives in or within five hundred (500) feet of the floodland.
3. If the Town Board or Town Plan Commission shall determine at any time that the Ordinance, laws, orders, plans and specifications are not being complied with, or where work is being done without a valid permit, a stop work order shall be posted at the site of the work. When such order has been posted, it shall have the effect of causing the original permit to be revoked and in all cases, it shall be unlawful for any further work to proceed until the permit is either issued or reinstated. It shall further be unlawful to remove such stop work order without the direct authorization of the Town Building Inspector.

K. **PENALTIES**.

1. Any person, firm or corporation who fails to comply with the provisions of this Ordinance or any order of the Town Building Inspector issued in accordance with this Ordinance or resists enforcement shall upon conviction thereof, forfeit not less than Ten Dollars (\$10) nor more than Two Hundred Dollars (\$200) and costs of prosecution for each violation and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense. In addition, the Town of Utica has adopted, pursuant to Sec. 66.119, Wisconsin Statutes, the citation system of enforcement of this Ordinance with the following schedule of cash deposits:
 - a. Failure to obtain a permit as required: \$15.00 plus \$6.00 costs.
 - b. All other violations of this Ordinance: \$75.00 plus \$6.00 costs.

L. FEES

1. Fees for permits and hearing items shall be as established from time to time by the Town of Utica, Town Board. Upon adoption by the Town Board, the current fee shall be noted in the appropriate section of the Ordinance, the appropriate section of all applications and shall also be maintained on a current fee schedule in the Town Hall.
2. Fees for all after the fact permit and hearing applications shall be double.

Sec. 2 Residential Districts

A. RESIDENTIAL DISTRICT INTERPRETATION

1. Scattered Home Sites. Those home sites developed on a scattered basis, disassociated from any recorded subdivision or approved planned unit development shall conform to the lot size and associated standards of the appropriate residential district designated “non-subdivided.”
2. Subdivided Home Sites. The reduced lot size and associated standards which accompany residential districts designated as “subdivided” shall be utilized in determining optimum land use in the process of establishing a duly recorded subdivision. These lot sizes and standards shall not be applied to any unplatted lands or assessor’s plats. Reduction of lot size in an existing plat of record may be by certified survey map or replat approved by the affected Town Board prior to approval by the County.

B. RESIDENTIAL CONDITIONAL USES.

1. Residential conditional uses and their accessory uses are considered as special uses, which require review, public hearing, and approval, if there is approval, all in accordance with this Ordinance.
2. In addition to those stated under this Ordinance, the following shall be conditional uses in all residential districts of this Ordinance:
 - a. Public, private and parochial elementary and secondary schools and all churches.
 - b. Clubs, fraternities, lodges, and meeting places of a noncommercial nature.
 - c. Home occupations and professional offices.
 - d. Model homes and accessory sign according to this Ordinance.
 - e. Community Living Arrangements greater than eight (8) persons as defined in Sec. 59.97(15), Statutes.
 - f. Bed and Breakfasts.

C. RESIDENTIAL ACCESSORY USES. In addition to those accessory uses specified under this Ordinance or under a special district, the following accessory standards shall apply in all residential districts:

1. Fences.
 - a. Fences will be permitted on the property line except that no fence shall be located closer than two (2) feet to any right-of-way. No fence shall exceed six (6) feet in height. In the street yard, fences shall be an open type (50% or less opaque) and shall not exceed four (4) feet in height.
 - b. Fences on the property line of a through lot abutting an access-restricted right-of-way shall be allowed at the rear yard height and opacity standards.
2. Outdoor Lighting. Outdoor lighting installations shall be permitted in all yard areas, but no closer than three (3) feet to an abutting property line and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
3. Parking. Parking is required according to Sec. 20.
4. Signs. According to Sec. 17.

5. Garages. Garages in all residential districts, or on a lot where the principal use is residential, shall conform to the following:
- a. No detached private garage shall exceed a height of eighteen (18) feet.
 - b. In addition:
 - (1) Total floor area for accessory structures in an R-1 residential district with a lot size of forty-three thousand (43,000) square feet or less shall not exceed one thousand two hundred (1,200) square feet.
 - (2) Total floor area for accessory structures in an R-1 residential district with a lot size greater than forty – three thousand (43,000) square feet shall not exceed one thousand two hundred (1,200) square feet plus one (1%) percent of the lot area in excess of forty-three thousand (43,000) square feet.
 - (3) Total floor area for accessory structures in an R-2 residential district shall not exceed nine hundred (900) square feet, except where the lot size exceeds ten thousand (10,000) square feet, the total accessory square footage may be increased by one (1%) percent of the lot area in excess of ten thousand (10,000) square feet.
 - (4) The floor area for an accessory structure with a duplex use, and not accessory to a farm, shall not exceed nine hundred (900) square feet for a single accessory structure nor shall any combined total exceed one thousand seven hundred (1,700) square feet. Single family homes in an R-3 District shall be limited to the R-2 (subdivision) or R-1 (metes and bounds/CSM) standards.
 - (5) Floor area ration for accessory structures in a multiple-family (R-4) district shall not exceed:
 - (a) Three (3) units, eight hundred and seventy (870) square feet.
 - (b) Each additional unit, two hundred and sixty-five (265) square feet.
 - (c) Increased floor area may be granted in a Conditional Use Permit.
 - (6) Two (2) or more accessory structures on any one (1) lot having a residential use shall have a minimum of ten (10) feet of yard area between them.

Sec. 3 R-1 Rural Residential District

- A. STATEMENT OF INTENT. The intent of this district is to provide a lot size and associated standards for home sites developed on a scattered basis. The criteria of this district are designed to provide reliable, single-family home sites in those areas where “neighborhood” and “community” facilities and services are of secondary significance to the location of the home site itself.
- B. PRINCIPAL USES.
1. One-family dwellings and Community Living Arrangements defined in 59.97(15), Wis. Stats.
 2. One-family dwellings shall contain a minimum width of twenty (20) feet, measured from narrowest part of structure, and a minimum area of one thousand (1000) square feet.
 3. One accessory building customarily incidental to any of the above uses when located on the same lot not occupied and not involving the conduct of a business or home occupation.
 4. Only domestic pets shall be kept within the R-1 Zoning District, including:
 - a. Raising and keeping of dogs – not to include breeding or boarding.
 - b. Raising and keeping of other domestic pets – such as cats, guinea pigs, hamsters, etc.
- C. BASIC DISTRICT STANDARDS
1. Building.
 - a. Height – Maximum – 35 ft.
 2. Setbacks.
 - a. Front Yard – Minimum – 50 ft. *(revised 3/2015)*
 - b. Rear Yard – Minimum –10 ft. *(revised 3/2015)*
 - c. Side Yard– Minimum – 10 ft. *(revised 3/2015)*
 - d. Shore – Minimum – 75 ft.
 3. Frontage
 - a. Street – Minimum – 250 ft.
 4. Lot Size.
 - a. Minimum – 2 Acres
 - b. Maximum – 4.99 Acres
- D. CONDITIONAL USES
1. All uses specified under Art. II, S. 1(H)(4).
 2. Manmade impoundments greater than one hundred (100) square feet in area.
- E. ACCESSORY USES
1. As specified in Art. II, S. 1(H)(2).
 2. Accessory Structure Standards.
 - a. Building.
 - (1) Height – Maximum – 18 ft.
 - b. Setbacks
 - (1) Front Yard – Minimum – 50 ft. *(revised 3/2015)*
 - (2) Side Yard – Minimum – 10 ft. *(revised 3/2015)*
 - (3) Rear Yard – Minimum – 10 ft. *(revised 3/2015)*
 - (4) Principal Structure – Minimum – 10 ft.

Sec. 4. R-2 Suburban Residential District

- A. STATEMENT OF INTENT. The intent of this district is to provide a lot size and associated standards for home sites in a duly recorded and legally maintained subdivision. The criteria of this district have been designed to provide reliable, single-family home sites in those developing areas which do not have public sanitary sewer, but which offer a “suburban” arrangement of amenities, services, facilities, etc. The provisions of this district apply to all lots of record within the dimensions of this district.
- B. PRINCIPAL USES.
1. One-family dwellings and Community Living Arrangements defined in S. 59.97(15), Wis. Stats. on lots which have been developed and recorded according to S. 236 of the State of Wisconsin Statutes, the Winnebago County Subdivision Ordinance and Chapter H65 of the Wisconsin Administrative Code when not served by public sanitary sewer.
 2. One-family dwellings shall contain a minimum width of twenty (20) feet, measured from narrowest part of structure, and a minimum area of one thousand (1000) square feet.
 3. One accessory building customarily incidental to any of the above uses when located on the same lot not occupied and not involving the conduct of a business or home occupation.
 4. Only domestic pets shall be kept within the R-2 Zoning District, including:
 - a. Raising and keeping of dogs – not to include breeding or boarding.
 - b. Raising and keeping of other domestic pets – such as cats, guinea pigs, hamsters, etc.
- C. BASIC DISTRICT STANDARDS
1. Building.
 - a. Height – Maximum – 35 ft.
 2. Setback.
 - a. Front Yard – Minimum – 50 ft. *(revised 3/2015)*
 - b. Rear Yard– Minimum – 10 ft. *(revised 3/2015)*
 - c. Side Yard – Minimum – 10 ft. *(revised 3/2015)*
 - d. Shore – Minimum – 75 ft.
 3. Frontage
 - a. Street – Minimum – 150 ft.
 4. Lot Size.
 - a. Minimum – 1 Acre
 - b. Maximum – 4.99 Acres
- D. CONDITIONAL USES
1. All uses specified under Art. II, S. 1(H)(4)
 2. Manmade impoundments greater than one hundred (100) square feet in area.
- E. ACCESSORY USES
1. As specified in Art. II, S. 1(H)(2).
 2. Accessory Structure Standards.
 - a. Building.
 - (1) Height – Maximum – 18 ft.
 - b. Setbacks
 - (1) Front Yard – Minimum –50 ft. *(revised 3/2015)*
 - (2) Side Yard – Minimum –10 ft. *(revised 3/2015)*
 - (3) Rear Yard – Minimum – 10 ft. *(revised 3/2015)*
 - (4) Principal Structure – Minimum – 10 ft.

Sec. 5. R-3 Two-Family Residential District

- A. STATEMENT OF INTENT. The intent of this district is to provide a lot size and associated standards for a home site, which will accommodate the use of a “duplex” housing type. Since the two-family dwelling produces a divergent occupancy pattern from that of the traditional single-family dwelling, duplex zoning, when desired, should be applied on a district basis, adjacent to, but not within the character of the single-family R-2 District neighborhood in which it is to be located.

- B. PRINCIPAL USES. Two-family and single-family dwellings and Community Living Arrangements defined in S. 59.97(15), Wis. Stats. In addition, incidental agricultural activities when such a site is utilized as a farm home site in an A-1 or A-2 District.
 - 1. Two-family dwellings shall contain a minimum width of twenty (20) feet, both units included and measured from narrowest part of structure, and a minimum area of seven hundred fifty (750) square feet for each dwelling unit.
 - 2. One-family dwellings shall contain a minimum width of twenty (20) feet, measured from narrowest part of structure, and a minimum area of one thousand (1000) square feet.
 - 3. Only domestic pets shall be kept within the R-3 Zoning District, including:
 - a. Raising and keeping of dogs – not to include breeding or boarding.
 - b. Raising and keeping of other domestic pets – such as cats, guinea pigs, hamsters, etc.

- C. BASIC DISTRICT STANDARDS
 - 1. Building
 - a. Height – Maximum – 35 ft.
 - 2. Yards
 - a. Front Yard – Minimum – 50 ft. *(revised 3/2015)*
 - b. Rear Yard – Minimum – 10 ft. *(revised 3/2015)*
 - c. Side Yard – Minimum – 10 ft. *(revised 3/2015)*
 - d. Shore – Minimum – 75 ft.
 - 3. Frontage
 - a. Street – Minimum – 150 ft.
 - 4. Lot Size.
 - a. Minimum – 1.5 Acres
 - b. Maximum – 1.99 Acres

- D. CONDITIONAL USES.
 - 1. All uses specified under Art. II, S. 1(H)(4)
 - 2. Nursing homes, medical clinics, boarding houses, Community Living Arrangements greater than eight (8) persons as defined in S. 59.97 (15), Wis. Stats.

- E. ACCESSORY USES.
 - 1. As specified in Art. II, S. 1(H)(2).

Sec.6. R-4 Multiple-Family Residential District

- A. STATEMENT OF INTENT. The intent of this district is to provide residential development of “walk-up” type apartment buildings, which provide rental housing to be built within the economies of scale, while retaining a relatively low density pattern. The use of this district should be applied to those locations in the “neighborhood” in which it will be compatible with surrounding uses; where the increased density would not create a service problem; and where the use will accommodate both the existing or anticipated character of the surrounding area and the needs of the multiple-family development itself.
- B. PRINCIPAL USES.
1. Multiple-family dwellings and Community Living Arrangement defines in S. 59.97(15), Statutes, on lots served by public sanitary sewer.
 2. Only domestic pets shall be kept within the R-4 Zoning District, including:
 - a. Raising and keeping of dogs – not to include breeding or boarding.
 - b. Raising and keeping of other domestic pets – such as cats, guinea pigs, hamsters, etc.
- C. BASIC DISTRICT STANDARDS
1. Building.
 - a. Height – Maximum – 35 ft.
 2. Setbacks.
 - a. Front Yard – Minimum – 50ft. *(revised 3/2015)*
 - b. Rear Yard – Minimum – 10 ft. *(revised 3/2015)*
 - c. Side Yard – Minimum – 10 ft. each *(revised 3/2015)*
 - d. Shore – Minimum – 75 ft.
 3. Lot Size.
 - a. Minimum – 1.5 Acres
 - b. Maximum – 1.99 Acres
 4. Frontage.
 - a. 200 feet – Subdivision
 - b. 300 feet – Rural Environment
- D. CONDITIONAL USES.
1. All uses specified under Art. II, S. 1(H)(4)
 2. All conditional uses specified under R-3 Two-Family Residential.

Sec. 7. R-5 Planned Residential District - Condominium and Cluster Development

- A. **STATEMENT OF INTENT.** The intent of this district is to produce a total residential development area with standards designed to encourage creativity in the arrangement and placement of residential dwellings. To this end, the district allows a diversity of dwelling types, open spaces, and uses conceived and planned as comprehensive and cohesive projects. Furthermore, the application of this district should produce a more rational and economic use of land and public services while encouraging the preservation of open space.
- B. **PRINCIPAL USES.** Attached single-family, clustered single-family, lot development, two-family dwellings and Community Living Arrangements defined in S. 59.97(15), Wis. Stats., and multiple-family dwellings, served by a public sanitary sewer system. All such structures shall be arranged and development organized according to the procedures established under this Ordinance. (Development by individual lots or condominium).
1. Attached single-family and clustered single-family dwellings shall contain a minimum width of twenty (20) feet, measured from narrowest part of structure, and a minimum area of one thousand (1000) square feet.
 2. Two-family dwellings shall contain a minimum width of twenty (20) feet, both units included and measured from narrowest part of structure, and a minimum area of five hundred (500) square feet for each dwelling unit.
 3. Only domestic pets shall be kept within the R-5 Zoning District, including:
 - a. Raising and keeping of dogs – not to include breeding or boarding.
 - b. Raising and keeping of other domestic pets – such as cats, guinea pigs, hamsters, etc.
- C. **BASIC DISTRICT STANDARDS**
1. **Building.**
 - a. Front Yard – Minimum – None
 - b. Rear Yard– Minimum – None
 - c. Side – Minimum – 15 ft. between single-and two-family buildings.
 - d. Other – Minimum – 30 ft. from public street right-of-way; from exterior property lines of the development and between multiple-family and row house buildings. All others according to Conditional Use Permit.
 - e. Shore – Minimum – 75 ft.
- D. **APPROVAL**
1. **Application.**
 - a. In addition to the requirements of Art. II, Section 1(C), there shall be a preliminary plan provided with each application. The data on this plan shall also show:
 - (1) The overall plan for development; including grading, landscaping, exterior design and location of buildings, lots, all common structures, facilities, utilities, access roads, streets, sidewalks, parking and open spaces;
 - (2) Total development area (square feet);
 - (3) Total proposed number of living units;
 - (4) Total proposed building area at ground level including garages, carports, and other community facilities;
 - (5) Total open space area (square feet);
 - (6) Total number of parking spaces.
 - b. In the event the Plan Commission approves the preliminary plan, or tentatively approves it with condition, the applicant shall submit a final plan for final approval within six (6) months. (After six (6) months the applicant must resubmit an original application in order to be eligible for further consideration.)

c. Final Plan Approval.

- (1) Approval of the Final Plan shall be based upon the following:
 - (a) That the final preliminary plan conforms to the conditions for approval of the preliminary plan;
 - (b) That all basic district standards are satisfied;
 - (c) That the overall density of the project is in compliance with the comprehensive plan, or where no such plan has been duly adopted, is, in the committee's judgment, compatible with the surrounding area and/or within the capacity of the community's public services;
 - (d) That public sewer and adequate water is present;
 - (e) That landscaping and grading will be done to assure compliance with this Zoning Ordinance;
 - (f) That the streets to be provided will assure a traffic circulation pattern which minimizes through traffic, allows for adequate turning and parking and provides ample space for the turning and effective use of snow plows, garbage and fire trucks, the loading and unloading of furniture, and other pickups and deliveries without blocking traffic;
 - (g) That there will be a minimum number of conflicts between pedestrian and vehicular traffic;
 - (h) That adequate lighting will be provided;
 - (i) That the final plans include the planting of adequate trees and shrubs where not already present;
 - (j) That the design of the development is in harmony with existing surroundings and will not be detrimental to the character of the neighborhood;
 - (k) That adequate surety bonds and/or scheduling dates are provided to guarantee the improvements shown on the plans;
 - (l) That deed restrictions are included to assure the proper preservation, care, and maintenance, by the original and all subsequent owners of the exterior design and layout of the development and of all common structures, facilities, utilities, accesses, open spaces, and park lands;
 - (m) That the final plan shall be platted and duly recorded according to the standards and procedures of the Winnebago County Subdivision Ordinance and Chapter 236 of the State of Wisconsin Statutes.

E. **CONDITIONAL USES.**

1. All principal, conditional, and approval uses of the B-1 and B-2 Business Districts of the Winnebago County Town/County Zoning Ordinance –Comprehensive Revision 1979- Amended January, 2009, and other business uses which will compliment the density and setting of the residential development.
2. Elevator apartments in excess of thirty-five (35) feet in height when distance between subject building and other structures and/or from property lines is increased at a rate of two (2) feet for each additional five (5) feet of height of the building over the first thirty-five (35) feet of height.
3. All uses specified under Art. II, S. 1(H)(4).
4. All Conditional Uses specified under R-3 Two-Family Residential.
5. Patio, or zero side yard houses
6. Single and two-family residences with onsite sewage disposal systems; providing the overall density of the development does not exceed two (2) dwelling units/acre.
7. Private roads.

Sec. 8. P-1 Institutional & Recreational Park District

- A. PUBLIC AND SEMI-PUBLIC DISTRICT INTERPRETATION.
 - 1. This district enables the identification of areas for use by institutional and recreational activities. It has been designed to provide standards which will ensure their orderly development and operation whether privately or publicly owned.

- B. STATEMENT OF INTENT.
 - 1. The intent of this district is to provide an area for public and private institutional and recreational uses. The area utilized for such a district should be such that it is compatible with and is an asset to the surrounding land uses.

- C. PRINCIPAL USES.
 - 1. Public and private institutional uses. In the Institutional and Recreational District no building or premises shall be used and no building shall hereafter be erected or structurally altered unless otherwise provided in this Ordinance, except for one (1) or more of the following uses:
 - a. Arboretums
 - b. Botanical Gardens
 - c. Cemeteries
 - d. Colleges & Universities
 - e. Conservatories
 - f. Crematories
 - g. Funeral Homes
 - h. Gymnasiums
 - i. Hospitals
 - j. Parks, Playgrounds, etc.
 - k. Religious & Charitable Institutions
 - l. Sanitariums
 - m. Schools
 - n. Public and private landfills licensed by the State of Wisconsin
 - o. Government Buildings

- D. BASIC DISTRICT STANDARDS
 - 1. Buildings.
 - a. Height – Maximum – 50 ft.
 - 2. Setbacks.
 - a. Front Yard – Minimum – 50 ft. *(revised 3/2015)*
 - b. Rear Yard– Minimum – 10 ft. *(revised 3/2015)*
 - c. Side Yard – Minimum – 10 ft. ea. *(revised 3/2015)*
 - d. Shore – Minimum – 75 ft.

- E. CONDITIONAL USES.
 - 1. Airports, airstrips, and landing fields with a minimum area of twenty (20) acres.
 - 2. Public and quasi-public cultural recreational facilities, e.g.:
 - a. Golf Courses
 - b. Campgrounds
 - c. Driving Ranges
 - d. Race Tracks
 - e. Exposition & Fairgrounds
 - f. Riding Academies & Stables
 - g. Sport Fields
 - h. Zoological and Botanical Gardens
 - i. Archery and Firearm Ranges (outdoor)

3. Penal Institutions
4. All Conditional Uses listed under Art. II, S. 1(H)(4).

F. ACCESSORY USES.

1. All accessory uses listed under Art. II, S. 1(H)(2).
2. Clubs, taverns, nightclubs, restaurants, and convenience goods and services, etc. when supportive of the Principal Use.
3. All equipment and improvements used in conjunction with the Principal Use.

Sec. 9. Agricultural Districts in General

- A. AGRICULTURAL DISTRICTS INTERPRETATION.
1. The agricultural districts of this Ordinance have been designed to preserve both prime agricultural lands and stabilize the economic base of farming as well as to allow for needed urban expansion.
- B. AGRICULTURAL CONDITIONAL USES.
1. Agricultural conditional uses and their accessory uses are considered as special uses which require review, public hearing, and approval, if there is approval, all in accordance with this Ordinance.
 2. In addition to those stated under Art. II, S. 1 (H)(4), and unless otherwise specified, the following shall be conditional uses in all agricultural districts of this Ordinance:
 - a. Airports, Airstrips and Landing Fields – when agriculturally related. Compliance: All FAA Regulations.
 - b. Cemeteries and crematories; hospitals; colleges and universities; sanitariums; religious, charitable, penal and correctional institutions.
 - c. Condensaries, creameries, commercial butchering of animals, commercial boarding of stable animals, migratory laborer housing.
 - d. Sludge disposal. Disposal shall be in accordance with Wis. Admin. Code pertaining to Municipal Sludge Management. Additional conditions may be specified for the spreading of sludge, site criteria or application rates based upon land restrictions, site restrictions and total accumulated application.
 - e. Storage and maintenance of construction equipment vehicles and seasonal storage of recreational vehicles, boats, and other related items is permitted in existing structures incidental to the farm operation as a conditional use if the storage area for all such equipment and vehicles is at least six hundred (600) feet from residential and public and semi-public districts.
 - f. Large-scale operations (e.g., pig, cattle, duck, turkey, mink farms) which involve potential nuisance conditions, requiring special waste disposal and treatment facilities (e.g., lagoons and/or overhead irrigation disposal systems).
- C. AGRICULTURAL ACCESSORY USES. In addition to those accessory uses specified in Art. II, S. 1 (H)(2), the following accessory standards shall apply in all agricultural districts:
1. Fences – Security fences are permitted on the property line, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or chain link fencing.
 2. Signs – Signs are permitted according to Art. II, S. 17.
 3. Roadside Stands – One (1) roadside stand on any one (1) farm shall be permitted, providing it will be used only for the sale of farm products raised on said farm.

Sec 10. A-1 Agricultural District. (Farmland Preservation) (updated 2012 & 2015)

A. DEFINITIONS. In this farmland preservation ordinance:

1. “Accessory use” means any of the following land uses on a farm:
 - a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
 - 1) A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 - 2) A facility used to keep *livestock* on the farm.
 - 3) A facility used to store or process inputs primarily for agricultural uses on the farm.
 - 4) A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - 5) A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm.
 - 6) A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 - 7) A waste storage or processing facility used to store or process animal waste produced solely from *livestock* kept on the farm.
 - b. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
 - c. A farm *residence*, including normal residential appurtenances.
 - d. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 - 1) It is conducted on a farm by an owner or operator of that farm.
 - 2) It requires no buildings, structures, or improvements other than those described in par. (a) or (c).
 - 3) It employs no more than 4 full-time employees annually.
 - 4) It does not impair or limit the current or future agricultural use of the farm or other protected farmland.
2. “Agricultural use” means any of the following activities conducted for the purpose of producing an income or livelihood:
 - a. Crop or forage production.
 - b. Keeping *livestock*.
 - c. Beekeeping.
 - d. Nursery, sod, or Christmas tree production.
 - e. Floriculture.
 - f. Aquaculture.
 - g. Fur farming.
 - h. Forest management.
 - i. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

3. “Agriculture-related use” means a facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:
 - a. Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to *farms*, including *farms* in the farmland preservation zoning district.
 - b. Storing, processing or handling raw agricultural commodities obtained directly from *farms*, including *farms* in the farmland preservation zoning district.
 - c. Slaughtering *livestock*, including *livestock* from *farms* in the farmland preservation zoning district.
 - d. Marketing *livestock* to or from *farms*, including *farms* in the farmland preservation zoning district.
 - e. Processing agricultural by-products or wastes received directly from *farms*, including *farms* in the farmland preservation zoning district.
4. “Base farm tract” means all land, whether one parcel or 2 or more contiguous parcels, which is in a farmland preservation zoning district and is part of a single *farm* on May 14, 2012, regardless of any subsequent changes in the size of the *farm*.
5. “Common ownership” means ownership by the same *person* or *persons*, or by *persons* that are all wholly owned by the same *person* or *persons*. “Common ownership” includes joint tenancy and tenancy in common. Solely for purposes of this definition, a parcel owned by one member of a married couple is deemed to be owned by the married couple. *Explanatory note: Land is deemed to be under “common ownership,” for purposes of this ordinance, if it is all owned by the same individual, married couple, joint tenants, tenants in common, corporation, LLC, partnership, estate or trust. If land parcels are owned by separate legal entities, but those legal entities are all wholly owned by exactly the same person or persons, those land parcels are deemed to be under “common ownership” for purposes of this ordinance.*
6. “Contiguous” means adjacent to or sharing a common boundary. “Contiguous” land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of-way. Parcels are not “contiguous” if they meet only at a single point.
7. “Farm” means all land under *common ownership* that is primarily devoted to *agricultural use*. For purposes of this definition, land is deemed to be primarily devoted to *agricultural use* if any of the following apply:
 - a. The land produces at least \$6,000 in annual gross *farm revenues* to its owner or renter, regardless of whether a majority of the land area is in *agricultural use*.
 - b. A majority of the land area is in *agricultural use*.
8. “Farm acreage” means size of a farm in acres.
9. “Farm *residence*” means any of the following structures located on a farm:
 - a. A single-family or duplex *residence* that is the only residential structure on the *farm*.

- b. A single-family or duplex *residence* that is occupied by any of the following:
 - 1) An owner or operator of the *farm*.
 - 2) A parent or child of an owner or operator of the *farm*

- 10. “Gross farm revenue” means gross receipts from *agricultural uses*, less the cost or other basis of *livestock* or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. “Gross farm revenue” includes receipts accruing to a renter, but does not include rent paid to the land owner.

- 11. “Livestock” means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites and farm-raised fish.

- 12. “Nonfarm *residence*” means any *residence* other than a *farm residence*.

- 13. “*Nonfarm residential acreage*” means the total number of acres of all parcels on which nonfarm residences are located.

- 14. “Open space parcel” means a parcel on which no buildings, other than hunting blinds or small sheds, have been constructed or approved for construction.

- 15. “Person” means an individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity.

- 16. “Prime farmland” means all of the following:
 - a. An area with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture.
 - b. Land, other than land described in par. (a), which is identified as *prime farmland* in the county’s certified farmland preservation plan.

- 17. “Prior nonconforming use” means a land use that does not comply with this farmland preservation zoning ordinance, but which lawfully existed prior to the application of this ordinance.

- 18. “Protected farmland” means land that is any of the following:
 - a. Located in a farmland preservation zoning district certified under ch. 91, Wis. Stats.
 - b. Covered by a farmland preservation agreement under ch. 91, Wis. Stats.
 - c. Covered by an agricultural conservation easement under s. 93.73, Wis. Stats.
 - d. Otherwise legally protected from nonagricultural development.

B. LAND USE IN FARMLAND PRESERVATION ZONING DISTRICT; GENERAL.
 Only the following land uses are allowed in a farmland preservation zoning district:

- 1. Uses allowed under section C without a conditional use permit.
- 2. Uses allowed under section D with a conditional use permit.
- 3. *Prior nonconforming uses*, subject to section 60.61(5) Wis. Stats.

C. PERMITTED USES. The following land uses are allowed without a conditional use permit in a farmland preservation zoning district:

1. *Agricultural* uses and *accessory uses on farms*, except that a conditional use permit is required under section D(4) for the following *agricultural* uses and *accessory uses on farms*:
 - a. A new or expanded facility used to keep cattle, swine, poultry, sheep, goats, equines, farm-raised deer, farm-raised game birds, camelids, ratites, farm-raised fish or mink if that facility will have more than 500 animal units.
 - b. A new or expanded facility for on-farm riding stables and boarding facilities, farmstead food processing facilities, farmstead retail outlets, manure storage systems, large on-farm fuel or agrichemical storage facilities.
2. *Nonfarm residences* constructed in a rural residential cluster according to a conditional use permit issued under section D(3) for that cluster.
3. Undeveloped natural resource and open space areas.
4. Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place, or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

D. CONDITIONAL USES.

1. General.
 - a. The town may issue a conditional use permit for a proposed land use identified in this section if the proposed land use meets applicable conditions under this section. The town shall follow the procedures described in Section 19 of the Zoning Ordinance.
 - b. Before issuing a conditional use permit under par. (a), the town shall determine in writing that the proposed use meets applicable conditions under this section. The town may issue the permit subject to any additional conditions which the town deems necessary to carry out the purposes of this ordinance.
2. *Nonfarm residences*. The town may issue a conditional use permit for a proposed *nonfarm residence* if all of the following standards will be met when the approved *nonfarm residence* comes into existence:
 - a. If the *nonfarm residence* will be located in a *base farm tract*:
 - 1) The ratio of *nonfarm residential acreage* to *farm acreage* in the *base farm tract* will not exceed 1:20.
 - 2) There will be no more than 4 dwelling units in *nonfarm residences*, nor more than 5 dwelling units in *residences* of any kind, in the *base farm tract*.
 - 3) The lot created for the *nonfarm residence* shall be a minimum size of five (5) acres.
 - b. Neither the *nonfarm residence*, nor the parcel on which the *nonfarm residence* is located, will do any of the following:
 - 1) Convert *prime farmland*, or cropland other than a woodlot, from *agricultural use* if there is a reasonable alternative available to the permit applicant.
 - 2) Significantly impair or limit the current or future *agricultural* use of any other *protected farmland*.

3. *Nonfarm* residential clusters. The town may issue a single conditional use permit authorizing 2 or more proposed *nonfarm residences* if all of the following apply:
 - a. The conditional use permit includes all of the following information:
 - 1) The total number of *nonfarm residences* authorized by the permit.
 - 2) A legal or survey description of each parcel on which a *nonfarm residence* is authorized.
 - 3) The number of *nonfarm residences* authorized on each parcel under subd. 2., if more than one.
 - 4) The number of dwelling units authorized in each authorized *nonfarm residence*, if more than one.
 - b. Each of the parcels described under par. (a)2. shares a boundary with at least one other parcel described under par. (a)2.
 - c. Each of the proposed *nonfarm residences* will meet all of the standards under sub. (2) when all of the proposed *nonfarm residences* have come into existence.
 - d. The conditional use permit prohibits all of the following:
 - 1) Any further division of any parcel described in par. (a)2.
 - 2) Any *nonfarm residence* or dwelling unit on a parcel identified in par. (a)2., other than a *nonfarm residence* or dwelling unit identified in the permit.
4. Agricultural and accessory uses on farms. The town may issue a conditional use permit for any of the following *agricultural uses* or *accessory uses* for which a permit is required under section C(1):
 - a. A new or expanded facility used to keep cattle, swine, poultry, sheep, goats, equines, farm-raised deer, farm-raised game birds, camelids, ratites, farm-raised fish or mink if that facility will have more than 500 animal units.
 - b. A new or expanded facility for on-farm riding stables and boarding facilities, farmstead food processing facilities, farmstead retail outlets, manure storage systems, large on-farm fuel or agrichemical storage facilities.
5. Agriculture-related uses. The town may issue a conditional use permit for an agriculture-related use if all of the following apply:
 - a. The use supports agricultural uses in the farmland preservation zoning district in direct and significant ways, and is more suited to a farmland preservation zoning district than to an industrial or commercial zoning district.
 - b. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 - c. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - d. The use is reasonably designed to minimize conversion of land, at and around the use site, from agricultural use or open space use.
 - e. The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
 - f. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

6. Compatible infrastructure.
 - a. The town may issue a conditional use permit for any of the following uses if that use meets applicable conditions under par. (b):
 - 1) Transportation uses, including roads, rail facilities, and agricultural aeronautic facilities.
 - 2) Communication uses, including transmission lines, cell towers, antennae and broadcast towers.
 - 3) Oil, gas and other pipelines.
 - 4) Electrical transmission lines.
 - 5) Wind turbines.
 - 6) Solar power generation facilities.
 - 7) Drainage facilities.
 - b. The town may issue a conditional use permit for a proposed use under par. (a) if all of the following apply:
 - 1) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 - 2) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - 3) The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.
 - 4) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
 - 5) Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.
7. Government and nonprofit community uses. The town may issue a conditional use permit for a government use, or for an institutional, religious or community use, if the Town determines that all of the following apply:
 - a. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 - b. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - c. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - d. The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
8. Nonmetallic mineral extraction. The town may issue a conditional use permit for a nonmetallic mineral extraction operation if all of the following apply:
 - a. The operation complies with all of the following:
 - 1) Subchapter I of Ch. 295, Wis. Stats., and rules promulgated under that subchapter.
 - 2) Applicable provisions of county and local ordinances adopted under ss. 295.13 and 295.14, Wis. Stats.
 - 3) Any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mineral extraction sites.

- b. The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 - c. The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.
 - d. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
 - e. The operation does not substantially impair or limit the current or future agricultural use of other protected farmland.
 - f. The conditional use permit requires the landowner to restore the affected land after the nonmetallic mineral extraction operation is completed. The permit shall require the landowner to restore the land to a condition suitable for agricultural use, according to a written restoration plan included with the permit.
9. Migrant Labor Camp. The town may issue a conditional use permit for a migrant labor camp that is certified under s. 103.92, Wis. Stats. if all of the following apply:
- a. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 - b. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - c. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - d. The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

E. REZONING LAND OUT OF A FARMLAND PRESERVATION ZONING DISTRICT.

1. Except as provided in sub. (2), the town may not rezone land out of a farmland preservation zoning district unless the town finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
 - a. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
 - b. The rezoning is consistent with any comprehensive plan, adopted by the town, which is in effect at the time of the rezoning.
 - c. The rezoning is substantially consistent with the county farmland preservation plan, certified under Ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
 - d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

2. Subsection (1) does not apply to any of the following:
 - a. A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under Ch. 91, Wis. Stats.
 - b. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the county farmland preservation plan map, certified under Ch. 91, Wis. Stats., which is in effect at the time of the rezoning.

3. By March 1 of each year, the Town shall report to the Department of Agriculture, Trade and Consumer Protection and Winnebago County the number of acres that the town has rezoned out of a farmland preservation zoning district during the prior year and shall provide a map that clearly shows the location of those acres.

Sec. 11 A-2 Agricultural District (General Farming)

A. STATEMENT OF INTENT.

1. The intent of this district is to allow the development of small-scale farming activities characterized by the mixed crop of the traditional “family farm” along with residential growth. This district can be located in those areas where the occurrence of scattered urban uses are likely to occur. However, the agricultural district is to be recognized as the dominant activity of the area.

B. PRINCIPAL USES – FARM.

1. All uses permitted in the A-1 “Agri-Business District” plus a one- or two-family dwelling, which dwelling must be accessory to the principal farm use. (Dwelling standards according to the applicable residential district).

C. BASIC DISTRICT STANDARDS – FARM

1. Structure.
 - a. Height – Maximum – None.
2. Setbacks.
 - a. Front Yard – Residential Street - Minimum – 50 ft. *(revised 3/2015)*
 - b. Rear Yard – Minimum – 10 ft. *(revised 3/2015)*
 - c. Side Yard – Minimum – 10 ft each *(revised 3/2015)*
 - d. Shore – Minimum – 75 ft.
3. Frontage.
 - a. Street – Minimum – 300 ft
4. Lot Area.
 - a. Every building hereafter erected and structurally altered shall provide a lot area of not less than forty (40) acres (a surveyors quarter –quarter section shall be deemed to satisfy this requirement notwithstanding actual measurement including to center-line of adjacent roads may result in less than forty (40) gross acres, providing it is not less than thirty-five (35) acres) and a width of not less than three hundred (300) feet.

D. CONDITIONAL USES. When developed according to “Basic District Standards – Farms”.

1. All uses specified under Art. II, S.9(B). (When developed according to “Basic District Standards – Farm.”)
2. Use of commercial kennels and animal hospitals.
See Appendix for Chart of Animal Equivalency Factors

E. AGRICULTURAL DISTRICT SUPPLEMENTAL REGULATIONS. A residential farm homestead overlay district may be created over the A-2 District. In a residential farm homestead overlay district, any tract or parcel of land in common contiguous ownership (referred to below as “existing tracts or parcels”) at the time of the adoption of this provision of the Zoning Ordinance, subject to other normally applicable subdivision laws and regulations, hereafter may be subdivided as provided herein.

1. Definitions.

- a. **Buildable lot.** For the purposes of this section, a buildable lot is a lot on which a building or residence may be constructed.
- b. **Residential Farm Homestead Lots.** For the purposes of this section, a residential farm homestead lot is defined as a parcel of land on which there exists a farm residence and associated buildings that were or presently are the residential home and buildings of the owner of the adjacent agricultural land. A residential homestead lot is a type of buildable lot.

- c. **Existing Tracts or Parcels.** For the purposes of this section, any tract or parcel of land in common contiguous ownership and is measured by the total acreage of all existing adjacent parcels in common ownership. "Contiguous" means adjacent to or sharing a common boundary. Contiguous land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of-way. Parcels are not contiguous if they meet only at a single point. For example, if a landowner has two adjacent parcels, one that is ten (10) acres and one that is thirty (30) acres, the calculation for allowable lots would be based on forty (40) acres. The permitted buildable lots may be located on one parcel or distributed between the contiguous parcels in common ownership, so long as they are in conformance with all other applicable standards and regulations.
- 2. **Existing Tracts or Parcels Thirty-five (35) Acres or Greater.** Existing tracts or parcels of land thirty-five (35) acres or greater may be subdivided to split off the "residential homestead" and up two other buildable lots depending on the total acreage of the existing tract or parcel. The lot created by the subdivision shall be at least five (5) acres. The balance of the remnant lot shall not be further subdivided. The entire tract or parcel shall remain zoned as agricultural but shall have a supplemental overlay zoning of Residential Farm Homestead allowing for the preservation of the residential homestead and the creation of up two other buildable lots.
 - a. **Maximum Number of Buildable Lots Permitted.** The total number of buildable lots shall be no more than one (1) per thirty (35) acres of existing tract or parcel and up to a maximum of two (2) total buildable lots together with a residential farm homestead lot. For example, an existing seventy (70) acre tract of land that had an existing residential farm homestead may be subdivided into no more than two (2) buildable lots and the residential homestead lot.
 - b. **Recording of Remaining Permitted Buildable Lots.** As part of a land division review process, the number of remaining buildable lots (i.e., the total number of existing residential homestead lots and subsequent buildable lots permitted minus the number of buildable lots included in past or current land divisions) shall be recorded on the plat or certified survey map (CSM).
 - c. **Subdivision of Land Open Space and Agricultural purposes.** Any parcel of land may be further subdivided for open space and non-residential agricultural purposes provided that the resulting minimum lot size is ten (10) acres. No buildings are permitted on land subdivided for open space or agricultural purposes.
- 3. **Existing Tracts or Parcel Less Than Thirty-five (35) Acres.** Any existing lot in an agricultural district of less than thirty-five (35) acres may become a buildable lot if the Planning Commission recommends and the Town Board approves the overlaying of a residential farm homestead district over the parcel and adjoining property. There can be no subdivision of any parcel or tract of land to create a buildable lot if the total acreage is less than thirty-five (35) acres unless the lot is a residential homestead lot subject to the lot size requirements in section 2 above.

Sec. 12 – RR Rural Recreational and Residential Mixed Use District

A. STATEMENT OF INTENT.

1. The intent of this district is to allow the development of recreational, agricultural, and residential mixed uses on suitable sized parcels where the use is not inconsistent with surrounding properties and contiguous zoning districts. It is intended that this district will be used to accommodate the transition of traditional agricultural land to less intense uses which are normally considered recreational or hobby activities. **The district may be used to allow small scale commercial activities that do not have a detrimental impact on other permitted uses in the area.** The district may also be used to accommodate family farm members who wish to create residential areas within areas currently zoned exclusive agricultural as part of a family farm operation.

B. PRINCIPAL USES. *(revised 6/2013)*

1. Permitted Uses:

- | | |
|---|-------------------------------|
| a. One family dwellings that comply with the regulations in the R-1 District | |
| b. Floriculture | g. Plant Nurseries |
| c. Forestry | h. Sod Farming |
| d. Greenhouse | i. Viticulture |
| e. Hay | j. Wild Crop Harvesting |
| f. Orchards | |
| k. Raising of cash crops, mint, grass, seed crops, silage, nuts, berries and vegetables | |
| l. Beekeeping | r. Keeping and Raising Horses |
| m. Dairying | s. Paddocks |
| n. Fish Farms | t. Pasturage |
| o. Fur Farms | u. Poultry Raising |
| p. Grazing | v. Stables |
| q. Livestock Raising | w. Truck Farming |

2. Conditional Uses:

- a. Non-residential or accessory structures that comply with all ordinances relating to structure size. (Sec. 3 – A:1)
- b. Non-Agricultural Commercial uses shall be allowed which do not unnecessarily interfere with the general nature of the surrounding districts or create a disruptive situation.
- c. The Plan Commission, in recommending a conditional use permit, shall have the ability to designate the extent of use, hours of use, landscaping buffers, utility controls, drainage plans and such other conditions which preserve the quality of the surrounding properties and consistency of the zoned or permitted uses in the area.

C. BASIC DISTRICT STANDARDS

1. Structure.
 - a. Height – Maximum – 35 ft
2. Setbacks
 - a. Front yard – Minimum – 50 ft. *(revised 3/2015)*
 - b. Rear yard – Minimum – 10 ft. *(revised 3/2015)*
 - c. Side yard – Minimum – 10 ft. *(revised 3/2015)*
3. Road Frontage
 - a. Minimum – 150 ft
4. Lot Area
 - a. Minimum - 5 acres – minimum average width of 300 feet
 - b. Maximum - 39.99 acres

Sec. 13 - CD Commercial District In General

COMMERCIAL DISTRICT INTERPRETATION. The uses within this district have been grouped according to the expected intensity of the commercial activity. Also, lot sizes have been adjusted according to service by public sewer or on-site sanitary system.

A. COMMERCIAL CONDITIONAL USES

1. Commercial conditional uses and their accessory uses are considered as special uses which require review, public hearing and approval, if there is approval, all in accordance with this Ordinance.
2. In addition to those stated under Art. II, S. 1(H)(4), the following shall be conditional uses in the Commercial District of this Ordinance.
 - a. Residential apartments may be permitted as a conditional use provided that the quarters are an integral part of the design of the commercial activities not exceeding sixty (60) percent of the floor area of the structure.
 - b. Public passenger transportation terminals, such as heliports, bus and rail depots, except airports, airstrips and landing fields, provided all principal structures and uses are not less than one hundred (100) feet from any residential district boundary.
 - c. Vehicle service, washing, repair stations; garages; taxi stands; public parking lots; and self-service and full-service gas stations.
 - (1) Group 3 Standards
 - (a) Gas Pump Yards - All - Minimum - 30 feet.
 - (b) Canopy Yards - Street - Minimum - 18 feet.
 - d. Planned commercial district with minimum of four (4) acres in one ownership and with a minimum frontage of two hundred (200) feet subject to the Approval procedures for Permit provided under the R-5 "Planned Residential District."
3. Permitted uses meeting all requirements of the Adult Entertainment Overlay District in the B-3 Highway Business (HB) district as described in the Winnebago County Town/County Zoning Ordinance, adopted February 6, 1979, revised January 2009, as amended from time to time.

B. COMMERCIAL ACCESSORY USES. In addition to those accessory uses and standards specified under Art. II, S. 1(H)(2) and (3), the following accessory standards shall apply in the Commercial District.

1. Fences. Security fences are permitted on the property lines, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or chain link fencing. Where commercially zoned property abuts public or residential property, a solid wood fence may be required and administratively approved in the side or rear yard at a maximum height of ten (10) feet. Administrative review and approval may address such things as visual impact on adjacent properties, security needs, additional screening requirements, type of fence construction, etc.
2. Outdoor Lighting. Outdoor lighting installations are permitted in all yard areas, but no closer than three (3) feet to an abutting property line and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
3. Residential Quarters. Residential quarters are permitted within the business structure providing the occupant is an owner, manager or caretaker of the business. Residential quarters must be less than fifty (50%) percent of the square footage of the business structure. Only one such residential quarters is allowed per business or group of businesses under one common ownership.
4. Signs. Signs are permitted according to Art. II, S. 17.
5. Parking. Parking is required according to Art. II, S. 20.
6. Garages and Storage Buildings. Garages and storage buildings for storage of vehicles, supplies, equipment, etc. used in conjunction with the operation of the business.

Sec. 14 - C-1 Commercial District

A. STATEMENT OF INTENT

1. The intent of this district is to provide for an individual or small grouping of retail and customer service establishments which will serve the daily needs of the local area residents. The physical location and arrangement of these facilities should be laid out so as to orient themselves to the local residential population to be served while remaining compatible in appearance and character with the area.
2. Recommended District Sizes: (Per 500-600 families)
 - a. 80,000 - 130,000 sq. ft. (unsewered)
 - b. 40,000 - 65,000 sq. ft. (sewered)

B. PRINCIPAL USES

In the Commercial District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this Ordinance except for one (1) or more of the following uses:

1. Bakery
2. Barber shop and beauty parlor
3. Lunchroom, candy store, confectionery store, ice cream store, soda fountain, soft drink stand
4. Drug store, pharmacy
5. Food Products (retail), grocery store (retail), delicatessen (retail), meat & fish market (retail), fruit & vegetable store (retail), tea & coffee store (retail), package liquor (retail), beer depot (retail)
6. Retail cleaners & dryers
7. Coin operated cleaning & washing
8. Marinas and aquatic nurseries
9. Billboards and poster boards
10. Taverns
11. Private clubs or lodge
12. Art shop, gift shop
13. Clinic or medical office building
14. Music store, radio store
15. Newsstand
16. Photographer's studio
17. Professional services, real estate, insurance
18. Hobby goods stores, kennels
19. Interior decorating studios, picture framing
20. Shoe repair, tailor shops
21. TV repair, appliance repair stores
22. Furniture upholstery, refinishing and repair
23. Jewelry store, optical store
24. Bank
25. Book and stationery store
26. Bowling alley, pool and billiard room, gymnasium, dancing school, dance hall, skating rink, theater except drive-in theater
27. Clinic or medical or dental office building
28. Dress shop, shoe store, clothing store, dry goods store, notion store, hosiery shop, tailor shop
29. Drive-in restaurants
30. Florist shop
31. Restaurant, refreshment stand
32. Motels and hotels
33. Telegraph and telephone office
34. Tobacco and pipe store

35. Retail monument sales
36. Hardware and paint store
37. Household appliance store, furniture store, plumbing, heating and electrical supplies, crockery store
38. Printing and engraving establishments
39. Automobile sales and service establishments
40. Truck or transfer terminal, freight house, or bus garage or repair shop
41. Wholesale or distributing establishment or warehouse or wholesale market
42. Repair service and assembly of vehicles, including the repair and storage of automotive accessories, except the wrecking of motor-propelled vehicles
43. Storage and warehousing of fuel and materials and contractor's yards in accordance with State Regulations

C. **REVIEW AND APPROVAL PROCESS**

The above and similar uses shall be permitted subject to the following process of application, review and approval as set forth in this section.

1. Application.

Application forms for a permit within the C-1 District shall be furnished by the Town Clerk, Town Zoning Administrator or other designated representative. Twelve (12) copies of the application and all attachments shall be submitted to the Town Clerk, Town Zoning Administrator or other designated representative no later than twenty-one (21) days prior to the Town Plan Commission meeting. Permit fees are listed in the Appendix to this Ordinance. Each application shall include the following:

- a. Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all property owners of record within three hundred (300) feet of premises.
- b. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; number of employees; and the zoning district within which the subject site lies.
- c. Additional information may be required, such as ground surface elevations, basement and first floor elevations, utility elevations, roads, contours, historic and probable future flood water elevations, areas subject to inundation by floodwaters, depths of foundation, flood-proofing measures, soil types, slope, and boundaries.

2. Review.

Standards in reviewing commercial use applications to be applied by the Town Plan Commission shall be guided by the following:

- a. All commercial uses must be in accordance with the purpose and intent of this Ordinance and shall not be hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shore land cover, or property values in the Town.
- b. A review of the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation, and improvement upon flood damage protection, water quality, shoreland cover, natural beauty, and wildlife habitat.

- c. Conditions, such as landscaping; architectural design; type of construction; construction commencement and completion dates; sureties; lighting; fencing; location, size and number of signs; water supply and waste disposal systems; higher performance standards; street dedication; certified survey maps; flood-proofing; ground cover; diversions; silting basins; terraces; stream bank protection; planting screens; operational control; hours of operation; improved traffic circulation; deed restrictions; highway access restrictions; increased yards; or additional parking may be required by the Town Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance and the State Water Resources Act of 1965, and to meet the provisions of the State's Flood Plain and Shoreland Management Programs.
- d. Compliance with the provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, and highway access.

D. BASIC DISTRICT STANDARDS

- 1. Building.
 - a. Height - Maximum - 35 ft.
- 2. Setbacks.
 - a. Front Yard - Minimum - 50 ft.
 - b. Side Yards - Minimum - 10 ft.
 - c. Rear Yard - Minimum - 10 ft.
 - d. Shore - Minimum - 75 ft.
- 3. Lot Area
 - a. Minimum – 1.5 Acres
 - b. Width Minimum – 150 ft.
- 4. Lot Coverage/Open Space.
 - a. Not more than seventy (70%) percent of the lot shall be covered by an impervious surface (i.e. buildings, structures, pavement, etc.). The open space configuration shall be an important element in the site plan review process.
- 5. Loading Docks.
 - a. Loading docks shall generally not face a dedicated or reserved public street. Sufficient on-site space shall be provided for each principal use as will enable the maneuvering of trucks to and from loading docks without using public streets.
- 6. Roof-Mounted Equipment.
 - a. All roof-mounted equipment shall be located, screened and/or painted using colors and architectural materials compatible with the principal building in order to minimize its visibility from streets and neighboring properties.
- 7. Landscaping.
 - a. Within one year of receiving approval for building occupancy, all yard areas shall be graded, landscaped and planted with trees, shrubs, ground cover and appropriate natural landscaping materials. Landscaping shall relate to the paved and building areas of the site relative to massing, size, shape and color. At the time of planning, vegetation shall be of sufficient size as to noticeably enhance the site (i.e. whips are inappropriate as primary landscaping elements). Plant material shall be of a hardy quality, preferably native to Wisconsin.

8. Architectural Control.

- a. All exterior building walls shall be of the same color scheme and shall utilize the same architectural materials.
- b. Plain concrete blocks are prohibited on any exterior surface of a building.

E. BASIS FOR APPROVAL OF BUILDING, SITE & OPERATIONAL PLANS

1. Where required In the case of certain uses, the character of which could have substantial adverse effect upon the surrounding environment and general character of the Town by reason of appearance of the structures, arrangement or use of the land; such uses may be required, as a qualifying condition to their permissibility, to submit for approval of the Plan Commission, building, site and operational plans.
2. Principal Use not Infringed - - Such as required approval shall be limited solely to reasonable compliance with design, locational and operational requirements and shall not involve the basic permissibility of the use.
3. Criteria - - In determining the acceptability of the building, site or operational plans, the Plan Commission shall take into consideration the following factors as well as any others they deem appropriate.
 - a. All factors as found in Art. II, S. 13, of this Ordinance.
 - b. The time for the Plan Commission review and approval shall be determined on an individual basis by the Commission.

Where uses are classified as conditional use, and where uses are also classified as requiring approval of building, site and operational plans, and where said uses under the approval of building, site and operational plans provisions require plan and/or permit submittal in conjunction with an agency such as the Department of Natural Resources, or SWCD; the procedures of Art. II, S. 16, shall control.

Sec. 15 - Industrial District In General

A. INDUSTRIAL DISTRICTS INTERPRETATION

1. The districts within this section have been grouped according to activities which generally relate to the production, distribution and assembly of products or which provide large-scale facilities for offices, research or educational center. The location of the districts within this section should be considered carefully so as to maintain the proper balance between providing approximate location to an anticipated work force as well as allowing for accessibility to the transportation routes and supportive facilities necessary for successful marketing of products. Because of these factors, this district should be zoned only according to a planned industrial development program, or in conjunction with the predetermined growth objective of an individual company, activity or institution.

B. INDUSTRIAL CONDITIONAL USES.

1. Industrial conditional uses and their accessory uses are considered as special uses which require review, public hearing, and approval, if there is approval, all in accordance with this Ordinance.
2. In addition to those stated under Art. II, S. 1 (H)(4), the following shall be conditional uses in the industrial districts of this Ordinance:
 - a. Public passenger transportation terminals, such as heliports, bus and rail depots, except airports, airstrips, and landing fields, provided all principal structures and uses are not less than one hundred (100) feet from any residential district boundary.
 - b. Animal hospitals provided all principal structures and uses are not less than one hundred (100) feet from any residential district or use.

C. INDUSTRIAL ACCESSORY USE. In addition to those accessory uses and standards specified under Art. II, S. 1(H)(2) and (3), the following accessory standards shall apply in industrial districts:

1. Fences. Security fences are permitted on the property line, but shall not exceed ten (10) feet in height. Fences shall normally be of an open type similar to woven wire or chain link. Where opaque slats inserted into the fence will serve to prevent visual detriment to adjacent properties, the slats may be administratively allowed provided that vision clearances at driveways and/or intersection are maintained. Where industrially zoned property abuts public or residential property, a solid wood fence may be required and administratively approved in the side or rear yard at a maximum height of ten (10) feet. Administrative review and approval may address such things as visual impact on adjacent properties, security needs, additional screening requirements, type of fence construction, etc.
2. Outdoor Lighting. Outdoor lighting installations are permitted in all yard areas, but no closer than three (3) feet to an abutting property line and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
3. Signs. Signs are permitted according to Art. II, S. 17.
4. Parking. Parking is required according to Art II, S. 20.
5. Storage facilities, power supply buildings and other uses normally supportive of the Principal Use.

Sec. 16 - ID Industrial District

STATEMENT OF INTENT.

1. The intent of this district is to provide for the development of industrial employment centers within the immediate vicinity of residential neighborhoods. As with any activity which draws users from beyond the immediate population which surrounds it, suitable traffic routes and parking facilities must be integral to the location and plot plan design of the district.

PRINCIPAL USES.

The following and similar uses are permitted subject to approval by the Town Plan Commission as to location and operations:

1. General, clerical and professional offices.
2. Research and testing laboratories, schools and training centers.
3. Cleaning, pressing and dyeing establishments.
4. Commercial greenhouses.
5. Wholesalers and distributors.
6. Food locker plants, cold storage warehousing, etc.
7. Light industrial plants such as are required for production of millwork, machine tools, paper containers, light metal fabrication, and similar small industries.
8. Manufacturing, fabrication, packing, packaging, processing and assembly of confections, cosmetics, electrical appliances, electronic devices, foods, instruments, jewelry, pharmaceuticals, tobacco and toiletries.
9. Manufacturing and bottling of non-alcoholic beverages.
10. Painting, printing, publishing establishments.
11. Commercial bakeries and trade and contractor's offices.
12. All principal uses of the C-1 "commercial district".
13. Freight yards, freight terminals, trans-shipment depots, but no garbage transfer stations shall be permitted.
14. Inside storage warehouses.
15. All other manufacturing, assembling or processing not otherwise requiring a Conditional Use Permit.
16. Vehicle shops, body shops, vehicle wholesale and auction centers, but not including the storage of junked or wrecked vehicles.

C. REVIEW AND APPROVAL PROCESS

The above and similar uses shall be permitted subject to the following process of application, review and approval as set forth in this section.

1. Application. Application forms for a permit within the ID District shall be furnished by the Town Clerk, Town Zoning Administrator or other designated representative. Twelve (12) copies of the application and all attachments shall be submitted to the Town Clerk, Town Zoning Administrator or other designated representative no later than twenty-one (21) days prior to the Town Plan Commission meeting. Permit fees are listed in the Appendix to this Ordinance. Each application shall include the following:
 - a. Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
 - b. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; number of employees; and the zoning district within which the subject site lies.

- c. Additional information may be required, such as ground surface elevations, basement and first floor elevations, utility elevations, roads, contours, historic and probable future flood water elevations, areas subject to inundation by floodwaters, depths of foundation, flood-proofing measures, soil types, slope, and boundaries.
2. Review. Standards in reviewing industrial use applications to be applied by the Town Plan Commission shall be guided by the following:
- a. All industrial uses must be in accordance with the purpose and intent of this Ordinance and shall not be hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the Town.
 - b. A review of the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation, and improvement upon flood damage protection, water quality, shoreland cover, natural beauty, and wildlife habitat.
 - c. Conditions, such as landscaping; architectural design; type of construction; construction commencement and completion dates; sureties; lighting; fencing; location, size and number of signs; water supply and waste disposal systems; higher performance standards; street dedication; certified survey maps; flood-proofing; ground cover; diversions; silting basins; terraces; stream bank protection; planting screens; operational control; hours of operation; improved traffic circulation; deed restrictions; highway access restrictions; increased yards; or additional parking may be required by the Town Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance and the State Water Resources Act of 1965, and to meet the provisions of the State's Flood Plain and Shoreland Management Programs.
 - d. Compliance with the provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, and highway access.

D. BASIC DISTRICT STANDARDS

- 1. Building.
 - a. Height - Maximum – 45 ft
- 2. Setbacks.
 - a. Front Yard - Minimum – Building – 50 ft. / Parking Lot - 25 ft.
 - b. Rear Yard - Minimum - 25 ft.
 - c. Side Yard - Minimum -50 ft.
 - d. Shore – Minimum – 75 ft.
- 3. Frontage.
 - a. Street – Minimum – 150 ft.
- 4. Lot Size.
 - a. Minimum – 1.5 acres
 - b. Width - Minimum - 150 ft.

5. Lot Coverage/Open Space.
 - a. No more than seventy (70%) percent of the lot shall be covered by an impervious surface (i.e. buildings, structures, pavement, etc.). The open space configuration shall be an important element in the site plan review process.

6. Loading Docks.
 - a. Loading docks shall generally not face a dedicated or reserved public street. Sufficient on-site space shall be provided for each principal use as will enable the maneuvering of trucks to and from loading docks without using public streets.

7. Roof-Mounted Equipment.
 - a. All roof-mounted equipment shall be located, screened and/or painted using colors and architectural materials compatible with the principal building in order to minimize its visibility from streets and neighboring properties.

8. Landscaping.
 - a. Within one (1) year of receiving approval for building occupancy, all yard areas shall be graded, landscaped and planted with trees, shrubs, ground cover and appropriate natural landscaping materials. Landscaping shall relate to the paved and building areas of the site relative to massing, size, shape and color. At the time of planting, vegetation shall be of sufficient size as to noticeably enhance the site (i.e. whips are inappropriate as primary landscaping elements). Plant material shall be of a hardy quality, preferably native to Wisconsin.

9. Architectural Control.
 - a. All exterior building walls shall be of the same color scheme and shall utilize the same architectural materials.

 - b. Plain concrete blocks are prohibited on any exterior surface of a building.

E. BASIS FOR APPROVAL OF BUILDING, SITE & OPERATIONAL PLANS

1. Where required - - * In the case of certain uses, the character of which could have substantial adverse effect upon the surrounding environment and general character of the Town by reason of appearance of the structures, arrangement or use of the land; such uses may be required, as a qualifying condition to their permissibility, to submit for approval of the Plan Commission, building, site and operational plans

2. Principal Use not Infringed - - Such as required approval shall be limited solely to reasonable compliance with design, locational and operational requirements and shall not involve the basic permissibility of the use.

3. Criteria - - In determining the acceptability of the building, site or operational plans, the Plan Commission shall take into consideration the following factors as well as any others they deem appropriate.
 - a. All factors as found in Art. II, S. 16, of this Ordinance.
 - b. The time for the Plan Commission review and approval shall be determined on an individual basis by the Commission.

* Where uses are classified as conditional use, and where uses are also classified as requiring approval of building, site and operational plans, and where said uses under the approval of building, site and operational plans provisions require plan and/or permit submittal in conjunction with an agency such as the Department of Natural Resources, or SWCD; the procedures of Art. II, S. 16E, shall control.

Sec. 17 - Sign Regulations

- A. **PURPOSE.** The purpose of this Section is to protect the public health, safety, and general welfare by:
1. Promoting well maintained and attractive signage within the Town;
 2. Providing for adequate business identification, advertising, and communication; and
 3. Protecting the safety and efficiency of the Town's transportation network by reducing confusion or distractions to motorists and enhancing motorists' ability to see pedestrians, obstacles, other vehicles and official traffic signs, signals, or devices by minimizing the proliferation of messages for the motorist.
- B. **PERMIT REQUIRED.** No projecting or free-standing sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a building permit except those signs in Art. II, S. 17C, and without being in conformity with the provisions of this Ordinance. Unless otherwise specified, the basic standards shall apply for setback and height standards. Application forms for a sign permit shall be furnished by the Town Clerk, Town Zoning Administrator or other designated representative. Twelve (12) copies of the application and all attachments shall be submitted to the Town Clerk, Town Zoning Administrator or other designated representative no later than twenty-one (21) days prior to the Town Plan Commission meeting. Current sign permit fees may be found in the Appendix to this Ordinance. *Household Occupations do not need a permit as long as the sign is equal to or less than 12 square feet in area. (updated 9/2016)*
- C. **SIGNS ACCEPTED.** All signs are prohibited in all residential, agricultural, and public and semi-public districts except as follows:
1. Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration, only the name and occupation of the proprietor and not to exceed two (2) feet in height and ten (10) feet in length.
 2. Real estate signs which advertise the sale, rental or lease of the premises, and political campaign signs when they are temporarily located.
 3. Name, occupation and warning signs not to exceed two (2) square feet located on the premises.
 4. Bulletin boards and identification signs for public, charitable or religious institutions, apartments, planned residential developments and subdivisions and model homes, in residential districts, provided they:
 - a. Do not exceed thirty-two (32) square feet in area (except model homes not to exceed sixteen (16) square feet in area).
 - b. Are located a minimum of ten (10) feet from the right-of-way.
 - c. Conform to the other yard requirements of the basic district.
 - d. Do not exceed in height ten (10) feet above the crown of the road.
 - e. Memorial signs, tables, names of buildings, and date of erection when cut into masonry surface or when constructed affixed flat against structure.
 - f. Official signs (Municipal), such as traffic control, parking restrictions, information and notices.
 - g. Temporary signs or banners when authorized by the Town Board.
 - h. Farm names and identification signs in all agricultural districts must be at least ten (10) feet outside of the right-of-way and must be no larger than thirty-two (32) square feet per side unless a permit is obtained hereunder.
 - i. Signs in existence before the adoption of this Ordinance which have been damaged or destroyed by vandalism or other malicious acts.
 5. Except signs for Household Occupations which are less than or equal to 12 square feet in area. *(Updated 9/2016)*

D. BUSINESS/AGRICULTURAL SIGNS REQUIRED TO BE PERMITTED (ON-PREMISES)

1. Business signs are permitted in the commercial district, the industrial district and the public and semi-public district upon receipt of a permit and constructed in compliance with permit.
2. Agricultural identification signs are permitted in agricultural districts without a permit if at least ten (10) feet outside of the right-of-way and must be no larger than thirty-two (32) square feet per side otherwise a permit must be obtained under this section.
3. Temporary and mobile mounted signs are permitted in the commercial district and the industrial district.
4. Clearance standards.
 - a. Projecting signs shall not be less than ten (10) feet above the grade nor fifteen (15) feet above a driveway or an alley
 - b. Free standing signs
 - (1) Located above a walkway or driving area shall not be less than ten (10) feet above a walkway nor less than fifteen (15) feet above a driveway or alley.
 - (2) Located within one hundred (100) feet of the intersection of two streets: The bottom of the sign shall not be less than ten (10) feet above existing grade or grade of existing structure at the time of the permit approval.
 - (3) Located within thirty (30) feet of a driveway centerline and road right-of-way the bottom of the sign shall not be less than ten (10) feet above existing grade or grade of existing structure at the time of permit approval.
 - (4) Business Sign Setbacks & Standards.
5. Front Yard.
 - a. Minimum - 50 ft. unless otherwise specified in Conditional Use Approval.
6. All other District Yards.
 - a. Minimum - Same as basic district, unless otherwise specified in Conditional Use Approval.
7. Size.
 - a. Area - Minimum – None
 - b. Area - Maximum - 100 sq. ft. per side of display space
8. Height.
 - a. Maximum - 35 ft. above crown of road.

E. OFF - PREMISE SIGNS.

1. Advertising Signs Permitted. Advertising signs are permitted in the C-1 "Commercial District" and "Industrial District" subject to the following:
 - a. Setbacks & Standards.
 - (1) Front Yard.
 - (a) Minimum - 50 ft., unless otherwise specified in Conditional Use Approval.
 - (2) All Other District Yards.

- (a) Minimum - Same as basic district, unless otherwise specified in Conditional Use Approval.
 - (3) Size.
 - (a) Area - Maximum - 32 sq. ft. per side, including all faces combined.
 - (4) Height.
 - (a) Maximum - 25 ft. above existing grade or grade of existing structure at the time of permit approval.
- 2. Directional Signs Permitted. Directional signs are permitted in the A-1, A-2 and C-1 "Commercial District" subject to the following:
 - a. Standards.
 - (1) Size - Area - Maximum - 32 sq. ft. per side, including all faces combined.
 - (2) Height - Maximum - 25 ft. above existing grade or grade of existing structure at the time of permit approval.
 - (3) Number - no more than four (4) for any single business or organization.
 - b. Setbacks.
 - (1) Front Yard - Minimum - 50 ft.
 - (2) Side Yard - Minimum - 10 ft.
- 3. Advertising And Directional Signs.
 - a. Clearance Standards:
 - (1) Projecting signs shall not be less than ten (10) feet above the grade nor fifteen (15) feet above a driveway or alley.
 - (2) Free - Standing Signs.
 - (a) Located above a walkway or driveway area: Shall not be less than ten (10) feet above the walkway nor less than fifteen (15) feet above a driveway or an alley.
 - (b) Located within one hundred (100) feet of an intersection of a driveway or roadway: Shall not be less than ten (10) feet above existing grade or grade of existing structure at the time of permit approval.
- 4. Vehicle Signage. Vehicles, including semi-trailers, campers, buses, automobiles, and other similar vehicles, which have attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertising of products or directing people to a business activity located off-premises shall not be parked on private property or a public right-of-way so as to be seen from a public right-of-way.

F. **NONCONFORMING SIGNS.** Signs existing at the time of adoption of this Ordinance which do not conform to the provisions of this Ordinance shall become nonconforming. As such, these signs shall adhere to the nonconforming provisions of Art II, S. 21, of this Ordinance and to the following:

- 1. Two (2) or more signs located closer than the distance standards indicated in this Ordinance shall become nonconforming for the purposes of this section, regardless of whether the nearest sign measured from is located within or outside the Town zoning jurisdiction.

- H. **PARKING SIGNS.** Parking area signs are permitted as an accessory use to all parking areas, in all districts, subject to the following:
1. **Standards**
 - a. Size – Area – Maximum – 4 sq. ft.
 - b. Number – Maximum – One sign per entrance and exit.
 - c. Height – Maximum – 7 ft. above crown of road
 2. **Setbacks**
 - a. Yard - All - Minimum - projection must be within property lines.
- H. **FACING.**
No business, advertising or directional sign shall be permitted to face a residential or public and semi-public district within fifty (50) feet of such district boundary.
- I. **SHAPE AND ILLUMINATION.**
Signs shall not resemble, imitate, or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, driveway, or fire escape; and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility. Externally illuminated signs shall be lighted by white light only. No sign shall flash, oscillate, or rotate, except public service time and temperature signs. However, in all cases externally illuminated signs shall be shaded, shielded, or directed from surrounding properties and vehicular traffic.
- J. **DILAPITATED, UNMAINTAINED AND ABANDONED SIGNS.**
1. Dilapidated and Unmaintained Signs. Signs allowed by this Ordinance shall be maintained in a safe, presentable and good structural condition at all times, including replacement of defective parts, painting, repainting, cleaning and other acts required for proper maintenance of the sign. Signs that are determined by the Town Building Inspector, Town Plan Commission and/or Town Board to be dilapidated, un-maintained and/or unsafe shall be subject to the razing provisions of S.66.05, Wis. Stats.
 2. Abandoned signs shall be removed by the owner or lessee of the premises, when, for a business sign, the business it advertises is not longer conducted; and for an advertising or directional sign, when lease payment and rental income are no longer provided. If the owner or lessee fails to remove the sign, the Town shall give the owner sixty (60) days written notice to remove said sign. Upon failure to comply with this notice, the Town may cause removal to be executed, the expenses of which will be assessed to the tax roll of the property on which the abandoned sign is located.
- K. **DISTANCE STANDARDS.**
1. No advertising or directional sign shall be located closer than One Thousand Three Hundred Twenty (1,320) feet to any other advertising or directional sign regardless of municipal boundaries, street classification, topography, etc.
 2. Business signs shall be allowed at a distance of one business sign per lot of record, except that where multiple frontage lot occurs, each frontage shall be allowed one (1) business sign.

Sec. 18 – Special Use Regulations

A. SPECIAL USE PERMITS

1. Certain special uses may be permitted in certain districts under certain conditions as a result of a special use permit being granted by the Town Board after referral to the Town Plan Commission for recommendation.
2. In granting a special permit the Town Board shall take into consideration, in addition to the specific conditions delineated herein, the effect of the proposed use upon neighborhood character, traffic, public utilities, public health, public safety, general welfare, adequate light, pure air, and safety from fire and other damages, the conservation of the taxable value of the land and buildings throughout the Town and the avoidance of congestion in the public streets and highways.
3. The request for a special permit shall be accompanied by plans, detailed to scale, indicating the location and plan of operation for the intended use.
4. Uses for which special permits may be secured, conditions that must be observed, and districts in which use will be allowed are:
 - a. Use: Spreading of Sludge. Allowable in the A-1 and A-2 "Agricultural Districts".
 - (1) Application forms for a permit under this Subsection shall be furnished by the Town Clerk, Town Zoning Administrator or other designated representative. Twelve (12) copies of the application and all attachments shall be submitted to the Town Clerk, Town Zoning Administrator or other designated representative no later than twenty-one (21) days prior to the Town Board meeting. Permit fees are listed in the Appendix to this Ordinance. Each application shall include the following:
 - (a) A copy of the equivalent application to the State, including a contour map.
 - (b) A copy of the applicable permit from the State.
 - (c) A map showing the various types of soils.
 - (2) Applicant shall comply with all applicable Wisconsin State Administrative Code provisions, now or hereafter adopted and promulgated.
 - (3) The pH of the soil and sludge mixture shall be 6.5 or greater at the time sludge is landspread and shall be maintained at 6.5 or greater.
 - (4) All sludge other than liquid sludge shall be incorporated within eight (8) hours of spreading except only if rain occurs unexpectedly in which case it shall be incorporated as soon as reasonably possible but not to exceed seventy-two (72) hours soil conditions permitting.
 - (5) Liquid sludge shall be incorporated within four (4) hours of spreading except only if rain occurs unexpectedly in which case it shall be incorporated as soon as reasonably possible but not to exceed seventy-two (72) hours soil conditions permitting.
 - (6) The sludge spreading vehicle shall operate only under its own power.
 - (7) Sludge shall be dumped or spread only between 7:00 A.M. and 7:00 P.M.; all incorporation or injection shall be accomplished by 7:00 P.M. on the day it is dumped or spread.
 - (8) Sludge shall be landspread in a manner to prevent surface water runoff and to control objectionable odors.
 - (9) The liquid sludge spreading vehicle shall be moving forward at all times while sludge is being spread.
 - (10) Liquid sludge shall be injected on sites with slopes between six (6%) percent and twelve (12%) percent in order to prevent runoff.

- (11) No sludge may be applied when the ground is frozen.
 - (12) No sludge may be land spread on slopes greater than twelve (12%) percent.
 - (13) The sludge shall be applied to the approved site at a rate consistent with the crop nitrogen fertilizer recommendations and shall not exceed annual cadmium limits set forth in Ch. NR204, Wis. Adm. Code.
 - (14) Sludge may not be applied if high groundwater level or depth to bedrock is less than three (3) feet unless it is demonstrated that the soil has an available water capacity greater than five (5) inches above the high groundwater or bedrock.
 - (15) Sludge cannot be land spread in wetlands or in areas subject to flooding (Flood Plain Area) or ponding.
 - (16) Sludge may not be applied within two hundred (200) feet of the nearest private water supply well and one thousand (1,000) feet of the nearest public water supply well.
 - (17) Sludge may not be applied within two hundred (200) feet of a residentially zoned district or within three hundred (300) feet of a residence.
 - (18) Sludge may not be applied within fifty (50) feet of any stream, pond or other channelized waterway; nor within twenty-five (25) feet from a dry run or wetland.
 - (19) In the event of a violation of any of these conditions, the Town Board shall (1) Notify the applicant of the alleged violation in writing, and (2) Call a meeting of the complainant, the alleged violator, and the Town Board to review the alleged violation. If it is determined a violation has occurred and the violation is not corrected at the direction of the Town Board, then the Town Board shall have the right to summarily suspend the permit on a temporary or permanent basis by written notice thereof, subject, however, to a subsequent and timely public hearing before the Town Board, to be held upon request of the applicant, at which time the reinstatement, further suspension, or revocation of the permit shall be considered. The provisions contained in Article II Sec. 1 of this Zoning Ordinance pertaining to penalties for violations of the Zoning Ordinance are in addition to this provision.
- b. Other uses which the Town Board may delineate in the future based on a specific application.

Sec. 19 - Conditional Use Regulations

- A. APPLICATION AND NOTICE OF HEARING. Application forms for a Conditional Use Permit shall be furnished by the Town Clerk, Town Zoning Administrator or other designated representative. Twelve (12) copies of the application and all attachments must be submitted to the Town Clerk, Town Zoning Administrator or other designated representative no later than twenty-one (21) days prior to the Town Board meeting. Permit fees are listed in the Appendix. The Town Board will review the application, refer it to the Town Plan Commission for a recommendation, and make a decision based on that recommendation. Each application 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 may be required, such as ground surface elevations, basement and first floor elevations, utility elevations, roads, contours, historic and probable future flood water elevations, areas subject to inundation by floodwaters, depths of foundation, flood-proofing measured, soil types, slope, boundaries, and plans for proposed structures giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structure or its effects on flood flows.
 4. Public hearing shall follow an application for a Conditional Use Permit. The Town Board shall fix a reasonable time (usually 3 weeks from date of receipt of all required documentation and application papers) and place for a public hearing on the application and give public notice thereof in accordance with the applicable requirements of the Wisconsin Statutes.
 5. Fee Receipt from the Town Clerk or Zoning Administrator.
- B. REVIEW AND APPROVAL.
1. Town Action.
 - a. The Town Plan Commission shall hold the scheduled public hearing and shall then indicate its position with regard to granting, denying, granting in part or conditionally approving the application. The following shall be taken into consideration with regard to granting, denying, granting in part or conditionally approving the application:
 - (1) At a minimum, address duly adopted Comprehensive Plans, or plan elements, adopted Ordinances if any, compatibility or non-compatibility with adjacent uses, specific substantiated objections (if any), plus any other specific finding deemed appropriate for the matter at hand.
 - b. In those cases where this Ordinance required the Town to request a recommendation of a State agency or other planning agency prior to taking action, the approval or disapproval of the request for such a proposed conditional use shall be extended until the meeting at which time the Town Board finally acts on the application based on the information that they receive from the State agency or other planning agency.

- c. Standards in Reviewing Conditional Uses - In reviewing the proposed conditional uses, the Town Plan Commission and Town Board shall be guided by the following standards and requirements:
 - (1) All conditional uses must be in accordance with the purpose and intent of this Ordinance and shall not be hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the Town.
 - (2) A review of the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation, and improvement upon flood damage protection, water quality, shoreland cover, natural beauty, and wildlife habitat.

Conditions, such as landscaping; architectural design; type of construction; construction commencement and completion dates; sureties; lighting; fencing; location, size, and number of signs; water supply and waste disposal systems; higher performance standards; street dedication; certified survey maps; flood-proofing; ground cover; diversions; silting basins; terraces, stream bank protection; planting screens; operational control; hours of operation; improved traffic circulation; deed restrictions; highway access restrictions; increased yards; additional parking may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance and the State Water Resources Act of 1965, and to meet the provisions of the State's Flood Plain and Shoreland Management Programs.
- d. Compliance with Art. II, S. 20, and all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, highway access, performance standards, shall be required of all conditional uses. Variance shall only be granted as provided in Art. III of this Ordinance.
- e. With respect to conditional uses within shorelands, the standards set forth in S.144.26(5)(a), Wis. Stats., in particular as they relate to the avoidance or control of pollution, shall be followed.

C. DECISION AND EXPIRATION OF USE.

- 1. The Town Plan Commission shall deny, approve or give conditional approval on all applications within forty (40) days of the public hearing. In those cases where conditional approval has been granted, the Town Board shall finalize action within ninety (90) days of the public hearing.
- 2. Conditional uses, or temporary uses so granted, shall expire within twelve (12) months unless substantial work has commenced pursuant to such grant.
- 3. A copy of all decisions granting or denying applications for a conditional use or a temporary use for property located in a flood plain or shoreland area shall be transmitted by the County Planning and Zoning Committee to the State Department of Natural Resources.

Sec. 20 - Off-Street Parking Regulations

- A. OFF-STREET PARKING REQUIREMENTS. In all districts there shall be provided at the time any building or structure is erected or structurally altered (to any extent hereafter provided), off-street parking spaces in accordance with the following requirements:
1. Dwellings - Single family and two-family: One (1) parking space for each dwelling unit.
 2. Dwellings - Multiple: Two (2) parking spaces for each dwelling unit.
 3. Rooming or Boarding House: One (1) parking space for each two tenants.
 4. Private Club or Lodge: One (1) parking space for every five members.
 5. Church or Temple: One (1) parking space for each six seats or seating spaces in the main auditorium. Existing churches or Temples and additions to or enlargement of Churches and Temples existing at the time of passage of this Ordinance shall be exempt from this requirement.
 6. Sanitarium, convalescent home, home for the aged or similar institutions: One (1) parking space for each two beds.
 7. Theater or Auditorium (except school): One (1) parking space for each five seats or bench seating spaces.
 8. Motel, Hotel or Tourist Home: One (1) parking space for each sleeping room or suite.
 9. Sports Arena, Stadium, or Gymnasium (except school): One (1) parking space for each four seats or seating spaces.
 10. Restaurant, Cafe, Night Club, Dance Hall or similar recreational or amusement establishment, or an assembly or exhibition hall without fixed seats: One (1) parking space for each one hundred (100) square feet of floor area.
 11. Bowling Alley: Four (4) parking spaces for each alley.
 12. Business or Professional Office, Studio or Bank, Medical or Dental clinic: Five (5) parking spaces plus one (1) additional parking space for each three hundred (300) square feet of floor area over one thousand (1,000) square feet.
 13. Mortuary or Funeral Home: One (1) parking space for each fifty (50) square feet of floor space in parlors or individual funeral service rooms.
 14. Furniture, Appliance or Implement Store, Hardware Store, Wholesale Establishments, Machinery or Equipment Sales and Service, Clothing or Shoe Repair or Service Shop: Two (2) parking spaces plus one (1) additional parking space for each three hundred (300) square feet of floor area over one thousand (1,000) square feet.
 15. Retail Store or Personal Service Establishment not otherwise specified herein: One (1) parking space for each two hundred (200) square feet of floor area.
 16. Printing or Plumbing Shop or similar Service Establishment: One (1) parking space for each three (3) persons employed therein.

17. Manufacturing or Industrial Establishment, Research or Testing Laboratory, Creamery, Bottling Plant, Warehouse, or similar establishment: One (1) parking space for each two (2) employees on the maximum working shift plus one (1) space to accommodate all trucks and other vehicles used in connection therewith.
18. Filling Station: One (1) parking space for each two (2) employees on the maximum working shift (minimum of two (2) spaces) , plus two (2) spaces for each service bay, plus one (1) space to accommodate all trucks and other vehicles used in connection therewith.
19. Swimming Pools: Parking spaces equal to twenty-five (25%) percent of design capacity. The design capacity is defined in Ch. H71.07 and Ch. H71.08, Wis. Adm. Code

B. GENERAL RULES FOR DETERMINING PARKING REQUIREMENTS

In computing the number of off-street parking spaces required, the following rules shall govern:

1. Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.
2. The parking space requirements for a use specifically mentioned herein shall be the same as required for a use of similar nature.
3. Whenever a building or use constructed or established after the effective date of this Ordinance is changed or enlarged, in floor area, number of employees, seating capacity or otherwise, to create a need for an increase of ten (10%) percent or more in the number of existing parking spaces, such space shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this Ordinance is enlarged to the extent of fifty (50%) percent or more in floor area, or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.
4. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
5. There shall be no parking in designated setback areas except private residential driveways.

C. LOCATION AND IMPROVEMENT OF PARKING AREAS.

1. All parking spaces required herein shall be located on the same lot with the building or use served, except in the Commercial and Industrial Districts and where an increase in the number of spaces is required by a change or enlargement of use or where the parking spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located not to exceed three hundred (300) feet from any non-residential building served. In any case, where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement to assure their retention for such purpose shall be properly drawn and executed by the parties concerned, approved as to form and approved by the Town Attorney and shall be filed with the application for a building permit.
2. A parking area plan with stall layout shall be submitted with application for a building permit.

3. All access drives and service areas, and all off-street parking areas for more than five (5) vehicles required herein shall be graded and surfaced so as to be dust free and properly drained. All other areas of the lot shall be landscaped.
4. Any off-street parking area, other than that provided for the residence, shall provide a suitable fence, wall or evergreen shrub border at least five (5) feet high along all property line abutting a Residential District, except in the required front yard.
5. Exterior lighting provided in any parking area shall be arranged and shielded so that it is deflected away from adjacent properties.

D. ADDITIONAL PARKING REQUIREMENTS

In addition to all other requirements listed herein for off-street parking requirements, no recreational vehicle of any type shall be parked for more than twenty-four (24) hours beyond the front plain of any residential dwelling. It is intended that all recreational vehicles including boats, trailers, snowmobiles, ATVs, motor homes, travel trailers and other similar vehicles should be parked and stored in the backyards of properties.

Sec. 21 - Nonconforming Uses, Structures & Lots

A. EXISTING NONCONFORMING USES & STRUCTURES.

A lawful nonconforming structure or use shall begin as of the time it was made nonconforming by the terms of a preceding Ordinance, this Ordinance, or an amendment to this Ordinance. The lawful nonconforming use of a structure, land, or water, or a lawful nonconforming structure existing at the time of adoption or amendment of this Ordinance may be continued even though the structure or use does not conform with the provisions of this Ordinance.

1. Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered if such extension, enlargement, reconstruction or structural alteration would increase the nonconforming nature of the structures, except when required by law or order or so as to comply with the provisions of this Ordinance.
2. It is the intent of this section to allow an existing nonconforming structure subject to the provisions of this section. All nonconforming structures shall be allowed ordinary maintenance and repair, including but not limited to, the following:
 - a. Shingle or similar roof replacement.
 - b. Window and door replacement.
 - c. Cosmetic treatments for exterior walls.
 - d. Installation of insulation, not involving structure demolition.
 - e. Crack patching and waterproofing of foundation walls.
 - f. Cosmetic treatments to interior walls, ceilings and floors.
 - g. Replacement or maintenance of mechanical or utility systems.
 - h. Temporary alterations done under emergency conditions to protect life or property.
3. Substitution of new equipment is permitted if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses. Approval for such substitution must be obtained from the Zoning Administrator or the Board of Appeals.
4. Alterations or additions which change the exterior dimensions of the structure, and which do not conform to this Ordinance but which do not increase dimensional nonconformity beyond that which existed before the work commenced, are allowed.

B. ABOLISHMENT OR REPLACEMENT

1. If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this Ordinance. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy, or other calamity, to the extent of more than fifty (50%) percent of its then current assessed value, it shall not be restored except so as to comply with the use provisions of this Ordinance.
2. A current file of all nonconforming uses shall be maintained by the Town Clerk with the assistance of the Zoning Administrator listing the following:
 - a. Owner's name and address.
 - b. Use of the structure, land or water and dimensional drawings of all structures.
 - c. Assessed value at the time of its becoming a nonconforming use.

C. CHANGES AND SUBSTITUTIONS

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board of Appeals.

ARTICLE III – OVERLAY DISTRICTS

Sec. 1 Surface Water Drainage Overlay District

- A. INTENT.
1. The intent of this District is to preserve and protect surface water drainage ways from any encroachment which would affect the hydraulic (water) carrying capacity of surface water drainage ways.
 2. Since it is not the intent of this District to take lands out of productive use, the Surface Water Drainage way District has been established as an Overlay District to work in conjunction with a basic underlying district.
 3. The district boundaries are determined according to the specific watershed area and hydraulic carrying capacity required.
- B. PRINCIPAL USES. According to the underlying district
- C. BASIC DISTRICT STANDARDS
1. Structures – None.
 2. Lot, Building and Setbacks – according to the underlying district.
- D. CONDITIONAL USES. (According to Art. II, S. 19)
1. According to the underlying district.
 2. Dams, hydropower plants, flowages and ponds.
 3. Any dredging, clearing, cleaning, relocating, etc. of the existing surface water drainage way requiring a permit from a state or federal agency, may be administratively approved per Art. II, S. 19, based upon plans / permits authorized by said agency of jurisdiction.

Sec. 2 Shoreland Overlay District.

A. STATEMENT OF INTENT.

The intent of this district is to protect scenic beauty, shore cover and to prevent erosion, sedimentation and pollution of Winnebago County's water resources in compliance with NR 115 of the Wisconsin Administrative Code. The shoreland areas which pertain to navigable waters, as defined in Section 144.26 (2) (d) of Wisconsin Statutes, are as follows:

1. One thousand (1,000) feet from the ordinary high water mark of a pond or flowage.
2. Three hundred (300) feet from the ordinary high water mark of a river or stream or to the landward side of the flood plain, whichever distance is greater.
3. Lakes, ponds and flowages in Winnebago County shall be presumed navigable if they are listed in Wisconsin Department of Natural Resources publication "Surface Water Resources of Winnebago County" or are shown on United States Geological Survey quadrangle maps or other zoning base maps. Rivers and streams in Winnebago County shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on the United States Geological Survey quadrangle maps.
4. Determination of navigability and ordinary high-water mark locations shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for a final determination of navigability or ordinary high water mark locations. The following maps are hereby adopted and made a part of this Ordinance and are on file in the office of the Zoning Administrator for Winnebago County:
 - a. Zoning base maps adopted February 6, 1979.
 - b. U.S.G.S. quadrangle maps for Winnebago County revised 1980.

B. PRINCIPAL USES.

According to underlying districts, except that uses in shoreland wetlands shall be consistent with this Ordinance.

C.. BASIC DISTRICT STANDARDS.

1. The standards of the underlying district shall apply. However, compliance with Chapter NR 115 requires that no new lot shall have less than:
 - a. Building Structure Setback (sewered).
 - (1) From Ordinary High Water Mark of Navigable Waters –Minimum – 75 ft.
 - b. Building Structure Setback (unsewered).
 - (1) From Ordinary High Water Mark of Navigable Waters – Minimum – 75 ft.
2. In addition to all other applicable use, site or sanitary regulations, the following restrictions and regulations shall apply to shorelands.
 - a. Tree cutting and shrubbery clearing are prohibited except for home and park site development, access roads, path and trail construction, timber stand improvement, customary trimming, and dead tree removal provided that in a strip thirty-five (35) feet inland from the ordinary high water mark no more than thirty (30) feet in any one hundred (100) feet shall be clear cut.
 - c. In other areas, tree and shrub cutting shall be governed by consideration of the effect on water quality and shall be in accord with accepted management practices.

D. **CONDITIONAL USES.**

1. All conditional uses specified in the underlying district.
2. Roads (except roads used primarily for agricultural purposes, path and trail development and all other cutting and trimming.)
3. Filling, grading, lagooning, dredging, ditching and excavating except as provided in (4) below.
 - a. Only filling, grading, lagooning, dredging, ditching or excavating that is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat may be permitted in the shoreland area.
 - b. Filling, grading, lagooning, dredging, ditching or excavating in a wetland district may be permitted only if the requirements of this Ordinance are met.
 - c. A state or federal permit may be required, in addition to a permit under this Ordinance, if state or federal laws are applicable to the filling, grading, lagooning, dredging, ditching or excavating that is proposed.
 - d. The following activities shall be allowed by zoning permit with drainage plan approval:
 - (1) Filling or grading (fill), where the fill area is less than fifty (50%) percent of the square footage of the lot provided the following criteria are set.
 - (a) Maximum height limited to one-half (1/2) the allowable fence height. Depth of fill shall be measured from the existing ground elevation at the point of placement of the fill. Limited areas of bank stabilization, backfilling behind rip rap, "pothole filling", or similar measures may exceed this height.
 - (b) Surface water runoff after fill does not adversely affect upstream, downstream, or adjacent properties.
 - (c) Fill is kept a minimum of one (1) foot off the property line unless both properties are being filled and drainage concerns are met.
 - (d) Conditions addressing height, fill area, slope, erosion control measures, drainage requirements, or similar concerns may be required as conditions of permit or drainage plan approval.
 - (2) Dredging, ditching, or excavating (hereinafter ditching) where the ditching does not adversely affect either upstream or downstream drainage, or drainage onto adjacent properties, and dispositions of spoils material is in compliance with (a) above.
 - (3) Areas of fill four (4) inches or less may be done on a one-time basis without a permit, provided drainage is not adversely affected; except not in Floodway or Wetland.
 - (4) Fill requirements. In all instances where fill is placed by permit, the fill shall consist of the following type material only – clean soil, brick, building stone, concrete, reinforced concrete, broken pavement, provided however, that asphalt pavement or products shall not be allowed.

- E. APPROVAL OF BUILDING, SITE AND OPERATIONAL PLANS.
Where stream and water projects, including rip-rapping and cleaning of existing ditches, have approval by the Department of Natural Resources; the Army Corps of Engineers; and/or the Land & Water Conservation Department, or where managed timber harvesting falls under a State District Forester's Plan, approval shall be based upon plans and/or permits authorized by said agency(s) of jurisdiction.

- F. ACCESSORY USES. All accessory uses specified in the underlying district.

- G. NOTICE AND DECISIONS.
 - 1. Shorelands
 - a. Written notice shall be given to the appropriate District Office of the Department of Natural Resources at least ten (10) days prior to hearings on proposed shoreland variances, special exceptions (conditional uses), appeals for map or text interpretations, and map or text amendments.

 - b. Copies of decisions on shoreland variances, special exceptions (conditional uses), appeals for map or text interpretations, and map or text amendments shall be submitted to the appropriate District Office of the Department of Natural Resources within ten (10) days after they are granted or denied.

- H. NONCONFORMING USES AND STRUCTURES.
Nonconforming uses and structures within the Shoreland jurisdictional area shall adhere to the requirements of this Ordinance.

Sec. 3 – Floodplain Overlay District

Administered By Winnebago County Planning & Zoning Departments
(All references are to Winnebago County Ordinances & Personnel)

F.P. Floodplain Zoning District

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FLOODPLAIN ZONING DISTRICT

A. Introduction

1. Statutory Authorization

This Ordinance is adopted pursuant to the authorization in s. 59.97, 59.971 and 59.99 for counties; and s. 87.30, Wis. Stats.

2. Findings of Fact

Uncontrolled development and use of the floodplains, rivers or streams of this municipality would adversely affect the public health, safety, convenience, general welfare, and impair the tax base.

3. Title

This Ordinance shall be known as the "Floodplain Zoning Ordinance for Winnebago County, Wisconsin".

4. Statement of Purpose

To regulate development in flood hazard areas to protect life, health and property, the governing body does ordain:

The purpose of these rules is to provide a uniform basis for the preparation, implementation and administration of sound floodplain regulations for all floodplains within the municipality to:

- a. Protect life, health and property;
- b. Minimize expenditures of public monies for costly flood controls projects;
- c. Minimize rescue and relief efforts, generally undertaken at the expense of the tax paying public;
- d. Minimize business interruptions which usually result in the loss of local incomes;
- e. Minimize damage to public facilities on the floodplains such as water mains, sewer lines, streets and bridges;
- f. Minimize the occurrence of future flood blight areas on floodplains;
- g. Discourage the victimization of unwary land and home buyers; and
- h. Prevent increases in regional flood heights that could increase flood damage and may result in conflicts of litigation between property owners.

B. General Provisions

1. Areas to be Regulated

Areas regulated by this Ordinance include all areas within the limits of the municipality that would be covered by the “regional flood” as defined in sub-section (L) and include “floodplain islands” as defined in ss. (L), where emergency rescue and relief routes would be inundated by the regional flood.

2. Official Map

The boundary of the floodplain districts including the floodway, flood fringe and other floodplain districts, shall be those areas designated with the official floodplain zoning maps for Winnebago County and all subsequent revisions. The following mapping data are on file in the County Zoning Office;

- a. A-Zones on the Flood Insurance Study Maps, dated February 4, 1981, and all subsequent revisions, and in the Flood Insurance Study, dated August 14, 1980, as approved by the Department of Natural Resources (DNR) and FEMA.
- b. Orthophoto-topographic mapping dated 1976, 1977, and 1978, and all subsequent revisions, as approved by Winnebago County and the Department of Natural Resources.
- c. Topographic mapping of Towns of Algoma, Black Wolf, Menasha, and Oshkosh, dated 1970, 1972, and 1977, and all subsequent revisions as approved by Winnebago County.
- d. Maps/Profiles in Town of Wolf River as identified in October Wisconsin Dept. of Natural Resources Wolf River Floodplain Restudy.
- e. Floodway delineation of Mud Creek tributary, Town of Menasha, as identified in Wisconsin Dept. of Natural Resources July 21, 1988 letter.
- f. SDDF Districts are specifically established in the following locations:
 - (1) Riverview Lane – That portion of Assessors Plat #1, Town of Wolf River lying between the Wolf River and Riverview Lane as annotated on the Orthophoto-topographic map of Section 9, T20N, R14E, Town of Wolf River dated 1977, and as adopted by the County Board on August 20, 1990.
- g. Flood Hazard Study, Eight Mile Creek, prepared by USDA SCS and WDNR, April 1982.
- h. USGS Study and map (panels 1-7) entitled ‘Sawyer Creek, Winnebago County, City of Oshkosh, revised 2/24/92’, to replace that portion of FEMA panel numbers 550537-0150B/0125B dealing only with Sawyer Creek.
- i. One Hundred (100) year Flood Analysis Millbrook Creed – Parkwood Estates, prepared by Martenson & Eisele, Inc., July 6, 1992. Floodplain area to be effective until subsequent flood analysis determines new floodplain limits and new study is adopted in accordance with NR 116.

3. Establishment of Districts

The regional floodplain areas are hereby divided into “four” districts as defined in ss. (L), and as follows:

- a. The Floodway District (FW) consists of the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood waters.
- b. The Shallow Depth Long Duration Floodway District (SDDF) consists of a cohesive developed area within a previously designated floodway where there is existing development, flood depths are less than one (1) foot over the access road, flood flow is generally perpendicular to the main flow in the developed area, low flood velocities exist, duration of flooding exceeds six (6) hours, and an adequate warning and evacuation plan exists.
- c. The Flood fringe District (FF) consists of that portion of the floodplain between the regional flood limits and the floodway.
- d. The general Floodplain District (GFP) consists of all areas which have been or may be hereafter covered by flood water during the regional flood. It includes both the floodway and flood fringe districts.

4. Locating Floodplain Boundaries

Where an apparent discrepancy exists between the location of the outermost boundary of the flood fringe district or general floodplain district shows on the official floodplain zoning map and actual field conditions, the location shall be initially determined by the Zoning Administrator using the criteria in paragraphs (1) or (2) below. Where the Zoning Administrator finds that there is a significant difference between the map and the actual field conditions, the map shall be amended using the procedures established in sub-section (J). Disputes between the Zoning Administrator and an applicant over the location of the district boundary line shall be settled according to Article IV.

- a. Where flood profiles exist, the location of the district boundary line shall be determined by the Zoning Administrator using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the map, and actual field conditions, the regional flood elevations shall govern. A map amendment is required where there is a significant discrepancy between the map and actual field conditions. The Zoning Administrator shall have the authority to grant or deny a land use permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. The Zoning Administrator shall be responsible for initiating any map amendments required under this section within a reasonable period of time.
- b. Where flood profiles do not exist, the location of the district boundary line shall be determined by the Zoning Administrator using the scale appearing on the map, visual on-site inspection and any available information provided by the Department. Where there is a significant difference between the map and actual field conditions, the map shall be amended. Where a map amendment has been approved by both of the municipal governing bodies, the appropriate municipal official shall have the authority to grant or deny a land use permit.

5. Removal of Lands from Floodplain
Compliance with the provisions of this Ordinance shall not be grounds for removing lands from the floodplain district, unless they are removed by filling to a height of at least two (2) feet above the regional flood elevation, the fill is contiguous to land lying outside the floodplain district, and the map is amended pursuant to ss. (J). To remove flood insurance requirements, FEMA must first revise the Flood Insurance Rate Map or issue a Letter of Map Amendment or Revision.
6. Compliance
Any development, as defined in ss. (L), or use within the areas regulated by this Ordinance, shall be in full compliance with the terms of this Ordinance, and other applicable local, state and federal regulations.
7. Municipalities and State Agencies Regulated
Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Ordinance and obtain all necessary permits. State agencies are required to comply when s. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when s. 30.12(4) (a), Wis. Stats., applies.
8. Abrogation and Greater Restrictions
 - a. This Ordinance supersedes all the provisions of any municipal zoning Ordinance enacted under s. 62.23 for cities or s. 61.35 for villages or s. 87.30, Wis. Stats., which relate to floodplains except that where another municipal zoning Ordinance is more restrictive than the provisions contained in this Ordinance, that Ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
 - b. This Ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.
9. Interpretation
In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements liberally construed in favor of the governing body, and shall not be deemed a limitation on or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Ordinance is required by a standard in Ch. NR 116, Wis. Adm. Code, and where the Ordinance provision is unclear, the provision shall be interpreted in light of the Ch. NR 116 standards in effect on the date of the adoption of this Ordinance or in effect on the date of the most recent text amendment to this Ordinance.
10. Warning and Disclaimer of Liability
The degree of flood protection provided by this Ordinance is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Larger floods may occur or the flood height may be increased by man-made, or natural causes, such as ice jams or bridge openings restricted by debris. Therefore, this Ordinance does not imply that areas outside of the delineated floodplain, or permitted land uses within the floodplain, or permitted land uses within the associated flood damages. Nor does this Ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this Ordinance.

11. Severability

Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

C. Standards Applicable to all Floodplain Districts

1. General

- a. No development, except as provided in par. (2) below, shall be allowed in floodplain areas which will:
 - (1) Cause an obstruction to flow, defined in ss. (L) as any development which physically blocks the conveyance of floodwaters by itself or in conjunction with future similar development causing an increase in regional flood height; or
 - (2) Cause an increase in regional flood height due to floodplain storage area lost, which is equal to or exceeding 0.01 feet;
- b. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this Ordinance, the official floodplain zoning maps, including floodway lines and water surface profiles, in accordance with ss. (J), and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than one (1) foot for the affected hydraulic reach of the stream.
- c. The Zoning Administrator shall deny permits where it is determined the proposed development will cause an obstruction to flow or increase in regional flood height of 0.01 foot or greater.
- d. All development must meet the requirements of the underlying district, indicated in this Ordinance, and Ch. 18, County Land Division Ordinance.

2. Watercourse Alterations

Prior to any alteration or relocation of a watercourse, and prior to the issuance of any land use permit which may be required for the alteration or relocation of any watercourse, the local zoning official shall notify in writing, adjacent municipalities, the appropriate district office of the Department of Natural Resources and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

3. DNR Development Permits

Development which requires a permit from the Department of Natural Resources, under Ch. 30 and 31, Wis. Stats., such as docks, wharves, bridges, culverts, dams and navigational aids may be allowed provided the necessary local permits are obtained and necessary amendments to the official floodway lines, water surface profiles, floodplain zoning maps or floodplain zoning Ordinance, are made according to sub-section (J).

D. FLOODWAY DISTRICT (FW)

1. Applicability

The provisions of this section apply to all areas mapped as floodway on the official floodplain zoning maps, and to those portions of the general floodplain district determined to be floodway according to the procedures in ss. (G)(4).

2. Permitted Uses

The following open space uses are allowed in the floodway district, and the floodway period of the general floodplain district, providing they are not prohibited by any other Ordinance; they meet the standards in ss. (D) (3); and all permits or certificates have been issued according to ss. (I)(1):

- a. Agricultural uses, such as: General farming, pasturing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
- b. Nonstructural industrial and commercial uses, such as: Loading areas, parking areas and airport landing strips.
- c. Private and public recreational uses, such as: Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails.
- d. Uses or structures accessory to open space uses, or essential for historical areas, that are not in conflict with the provisions in ss. (D) (3) and (D) (4).
- e. Extraction of sand, gravel or other materials according to ss. (D) (3)(4).
- f. Functionally water-dependent uses such as: docks or wharves, including those used as part of a marina, and other water-related uses, such as dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines, according to Chs. 30. 31, Wis. Stats.
- g. Public utilities, streets and bridges, according to ss. (D) (3)(3).

4. Standards for Developments in Floodway Areas

a. General

- (1) Any development in floodway areas shall meet all of the provisions of ss. (B); and have a low flood damage potential.
- (2) Applicants shall provide the following data for the Zoning Administrator to determine the effects of the proposal according to ss. (C)(1):
 - (a) A cross-section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow; or
 - (b) An analysis calculating the effects of this proposal on regional flood height.
- b. The Zoning Administrator shall deny the permit application where it is determined the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (2) above.

- c. Structures
Only structures which are accessory to permitted open space uses, or are essential for historical areas, or are functionally dependent on a waterfront location may be allowed by permit, providing the structures meet all of the following criteria:
- (1) The structures are not designed for human habitation;
 - (2) The structures are constructed and placed on the building site so as to cause an increase less than 0.01 feet in flood height and offer minimum obstruction to the flow of flood waters. Structures shall be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and approximately on the same line as those of adjoining structures;
 - (3) The structures are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
 - (4) The structures have all service facilities, such as electrical and heating equipment at or above the flood protection elevation for the particular area.
- d. Public utilities, streets and bridges may be allowed by permit provided that:
- (1) Adequate flood proofing measures are provided to the flood protection elevation;
 - (2) Construction does not cause an increase in the regional flood height according to ss. (C)1, except where the water surface profiles floodplain zoning maps and floodplain zoning Ordinance are amended as needed to reflect any changes resulting from such construction.
- e. Fills or deposition of materials may be allowed by permit, provided that:
- (1) The requirements of ss. (C)(1) are met;
 - (2) The fill or deposition of materials does not encroach on the channel area between the ordinary high water mark of each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Ch. 30, Wis. Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334 has been issued, if applicable, and the other requirements of this section are met;
 - (3) The fill or other materials will be protected against erosion by riprap, vegetative cover or sheet piling sufficient to prevent erosion; and provided that;
 - (4) Such fills are not associated with private or public solid waste disposal.

4. Prohibited Uses

All uses not listed as permitted uses in ss. (D)(2) are prohibited within the floodway district and in the floodway portion of the general floodplain district including the following uses which are always prohibited in the floodway:

- a. Structures designed for human habitation, associated with high flood damage potential, or not associated with permanent open-space uses;

- b. The storage of any materials that are capable of floating, flammable, explosive, or injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- c. Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts;
- d. Any private or public sewage systems; except portable latrines that are removed prior to flooding, and systems associated with recreational areas and Department approved campgrounds that meet the applicable provisions of local Ordinances and Cd. ILHR 83, Wis. Adm. Code;
- e. Any public or private wells which are used to obtain water for ultimate human consumption; except those for recreational areas that meet the requirements of local Ordinances and Chs. NR 111 and NR 112, Wis. Adm. Code;
- f. Any solid and hazardous waste disposal sites, whether public or private;
- g. Any wastewater treatment ponds or facilities except those permitted under s. NR 110.15(3) (b), Wis. Adm. Code;
- h. Any sanitary sewer or water supply line except those to service an existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

E. Shallow Depth Long Duration Floodway District

1. Establishment

This district may only be established in accordance with the provisions of NR 116.

2. Applicability

The provisions of this section apply to all areas mapped as SDDF on the official floodplain zoning maps.

3. Permitted Uses.

In addition to the uses listed in ss. (D) (2), the following modifications and additions are allowed subject to the following restrictions:

a. Riverview Lane.

- (1) Replacement structures within the existing structure's footprint.
- (2) Additions between the existing footprint and Riverview Lane, i.e., the hydraulic shadow of the footprint.
- (3) Second story additions.
- (4) Accessory structures between the existing footprint and Riverview Lane, i.e., the hydraulic shadow of the footprint.

4. Prohibited Uses

The following uses are prohibited within the SDDF:

- a. All uses specified in ss (D)(4) except those allowed in ss. (D)(5)(3).
- b. All new construction on vacant property.
- c. Any construction which would further obstruct flood flows.

5. Development Standards

In addition to the standards listed in ss (C)(1) and ss (D)(3) the following standards apply within the specified SDDF:

- a. Additions are limited to fifty (50%) percent of the square footage of the existing footprint.
- b. All additions shall be elevated by means other than fill (i.e., structural flood proofing) such that the lowest floor is two (2) feet above the regional flood elevation. Flood proofing measures are to be in accordance with this Ordinance.
- c. Any addition or modification in excess of the fifty (50%) percent of the assessed value shall require the lowest floor of the entire structure to be elevated to two (2) feet above the regional flood elevation by means other than fill in accordance with this Ordinance.
- d. No additions shall be allowed riverward or parallel to the existing structure.
- e. Setbacks shall adhere to the underlying district or this Ordinance.
- f. All other permit, Ordinance, and elevation requirements not specified herein, or not modified by this section, shall be complied with.

F. Flood Fringe District (FF)

1. Applicability

The provisions of this section apply to all areas within the flood fringe district, as shown on the official floodplain zoning maps, and to those portions of the general floodplain district that are determined to be in the flood fringe area pursuant to ss. (G)(4).

2. Permitted Uses

Any structures, land use, or development, including accessory structures and uses, are allowed within the flood fringe district and flood fringe portions of the general floodplain district, provided that the standards contained in ss. (F)(3) are met, that the use is not prohibited by this or any other Ordinance or any other local, state or federal regulation and that all permits or certificates specified in ss. (I)(1) have been issued.

3. Standards for Development in Flood fringe Areas

- a. All of the provisions of ss. (C)(1) shall apply in addition to the following requirements according to the use requested:
- b. RESIDENTIAL USES: Any structure or building used for human habitation, which is to be erected, constructed, reconstructed, altered, or moved into the flood fringe area shall meet or exceed the following standards:
 - (1) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation (which is a point two (2) feet above the regional flood elevation except where par. (b) is applicable.) The fill elevation shall be one (1) foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure, but the fifteen (15) foot minimum may be modified due to the property line and/or drainageway setbacks. The department may authorize other flood proofing measures where existing street or sewer lines are at elevations which make compliance impractical provided the Board of Adjustment / Appeals grants a variance due to dimensional restrictions.

- (2) The basement or crawlway floor may be placed at the regional flood elevation providing it is flood proofed to the flood protection elevation. No permit or variance shall allow any floor, basement or crawlway below the regional flood elevation.
 - (3) Contiguous dry land access, defined in ss. (L), as a vehicle access route above regional flood elevation, shall be provided from a structure or building to land which is outside of the floodplain, except as provided in par. (d).
 - (4) In existing developments where existing streets or sewer lines are at elevations which make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, provided:
 - (a) The municipality has written assurance from the appropriate local units of police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles, considering the anticipated depth, duration and velocity of the regional flood event; or
 - (b) The municipality has an adequate natural disaster plan concurred with the Division of Emergency Government and approved by the Department.
 - (5) The placement of fill necessary for meeting floodplain building requirements in ss. (F) shall be exempt from the conditional use requirements for fill in a Shoreland District. The fill required in ss. (F) shall be allowed through issuance of the zoning permit provided that preconstruction and post-construction elevation surveys detailing compliance with floodplain requirements are submitted.
- c. **ACCESSORY STRUCTURES OR USES:** An accessory structure or use as defined in ss. (L), not connected to a principal structure, including nonresidential agricultural structures, shall meet all the applicable provisions of ss. (D) (3)(1), (2) and (4), and (D)(4). A lesser degree of protection, compatible with these criteria and the criteria in par. (4) may be permissible for an accessory structure or use providing that the site is not inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second during the regional flood.
- d. **COMMERCIAL USES:** Any commercial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet the requirements of ss. (D)(3)(2). Storage yards, parking lots and other accessory structures or land uses may be at lower elevations, subject to the requirements of par. (6). However, no such area in general use by the public shall be inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second during the regional flood. Inundation of such yards or parking areas exceeding two (2) feet may be allowed provided an adequate warning system exists to protect life and property.

- e. **MANUFACTURING AND INDUSTRIAL USES:** Any manufacturing or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall be protected to the flood protection elevation utilizing fill, levees, floodwalls, adequate flood proofing measures in accordance with this Ordinance or any combination thereof. On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with the criteria in par. (4) and (6) may be permissible for storage yards, parking lots and other accessory structures or uses.
- f. **STORAGE OR PROCESSING OF MATERIALS:** The storage or processing of materials that are buoyant, flammable, explosive, or which in times of flooding could be injurious to property, water quality of human, animal, plant, fish or aquatic life, shall be at or above the flood protection elevation for the particular area or flood-proofed in compliance with this Ordinance. Adequate measures shall be taken to assure that said materials will not enter the river or stream during flooding.
- g. **PUBLIC UTILITIES, STREET AND BRIDGES:** All utilities, streets and bridges should be designed to be compatible with local comprehensive floodplain development plans; and
 - (1) When failure or interruption of public utilities, street and bridges would result in danger to the public health or safety or where such facilities may only be permitted if they are flood-proofed in compliance with this Ordinance to the flood protection elevation;
 - (2) Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations providing they withstand flood forces to the regional flood elevations.
- h. **SEWAGE SYSTEMS:** All on-site sewage disposal systems shall be flood-proofed to the flood protection elevation and shall meet the applicable provisions of all local Ordinances and Ch. ILHR 83, Wis. Adm. Code.
- i. **WELLS:** All public or private wells shall be flood-proofed to other flood protection elevation, pursuant to this Ordinance, and shall meet the applicable provisions of Chs. NR 111 and NR 112, Wis. Adm. Code.
- j. **SOLID WASTE DISPOSAL SITES:** All public or private solid or hazardous waste disposal sites are prohibited in flood fringe areas.
- k. **DEPOSITION OF MATERIALS:** Any materials deposited for any purpose may only be allowed if all the provisions of this Ordinance are met.

G. GENERAL FLOODPLAIN DISTRICT (GFP)

- 1. Applicability
The provisions for this district shall apply to all floodplains for which “regional flood” data, as defined in ss. (L) is not available, or where regional flood data is available but floodways have not been delineated. As adequate regional flood data becomes available and floodways are delineated for portions of this district, such portions shall be designated in the flood fringe district or floodway district, as appropriate.

2. Permitted Uses

The general floodplain district encompasses both floodway and flood fringe areas. Therefore, a determination shall be made pursuant to ss. (G)(4), to determine whether the proposed use is located within a floodway or flood fringe area.

Those areas permitted in floodways (ss. D(2)) and flood fringe areas (ss. F2) are allowed within the general floodplain district, according to the standards of ss. (G)(3) and provided that all permits or certificates required under ss. (I) have been issued.

3. Standards for Development in the General Floodplain District.

Once it is determined according to ss. (G)(4) that a proposed use is located within a floodway, the provisions of ss. (D) shall apply. Once determined that the proposed use is located within the flood fringe, the provisions of ss. (D) shall apply. All provisions of the remainder of this Ordinance apply to either district.

4. Determining Floodway and Floodfringe Limits

Upon receiving an application for development within the general floodplain district, the Zoning Administrator shall:

- a. Require the applicant to submit, at the time of application, two copies of an aerial photograph, or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures.
- b. Require the applicant to furnish any of the following additional information as is deemed necessary by the Zoning Administrator of the effects of the proposal upon flood height and flood flows, the regional flood elevation and where applicable to determine the boundaries of the floodway:
 - (1) A typical valley cross-section showing the channel of the stream, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information.
 - (2) Plan (surface view) showing: Elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
 - (3) Profile showing the slope of the bottom of the channel or flow line of the stream.
 - (4) Specifications for building construction and materials, flood proofing, filling, dredging, channel improvements, storage of materials, water supply and sanitary facilities.
- c. Transmit one copy of the information described in pars. (1) and (2) to the Department District Office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of this Ordinance apply, the applicant shall provide all required information and computations, to delineate floodway boundaries and the effects of the project on flood elevations.

H. NONCONFORMING USES

1. General

a. Applicability

Insofar as the standards in this section are not inconsistent with the provisions of s. 59.97(10), Wis. Stats., for counties, they shall apply to all nonconforming uses and nonconforming structures. These regulations apply to the modification of, or addition to, any structure and to the use of any structure or premises which was lawful before the passage of this Ordinance or any amendment thereto.

b. The existing lawful use of a structure or building or its accessory use which is not in conformity with the provisions of this Ordinance may continue subject to the following conditions:

- (1) No modifications or additions to a nonconforming use or a nonconforming structure shall be permitted unless they are made in conformity with the provisions of this Ordinance for the area of the floodplain occupied. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered modifications or additions; these include internal and external painting, decorating, paneling and the replacement of existing private sewage or water supply systems or connections to public utilities.
- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this Ordinance.
- (3) As requests are received by the municipality for modifications or additions to nonconforming uses or nonconforming structures, a record shall be kept which lists the nonconforming uses and nonconforming structures, their present equalized assessed value, and the cost of those additions or modifications which have been permitted.
- (4) No modification or addition to any nonconforming structure or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed fifty (50%) percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this Ordinance and contiguous dry land access is provided in compliance with ss. (D)(3).
- (5) If any nonconforming structures or any structure with a nonconforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the requirements of this Ordinance. For the purpose of this subsection, restoration is deemed impractical where the total cost of such restoration would exceed fifty (50%) percent of the present equalized assessed value of the structure.

2. Floodway Areas

- a. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - (1) Has been granted a permit or variance; and
 - (2) Meets the requirements of ss. (H)(1); and
 - (3) Will not increase the obstructions to flood flows or regional flood height; and
 - (4) Any addition to the existing structure shall be flood-proofed, pursuant to this Ordinance, by means other than the use of fill, to the flood protection elevation.
- b. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal Ordinances and Ch. ILHR 83, Wis. Adm. Code.
- c. No new well or modification to an existing well, used to obtain water for ultimate human consumption, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal Ordinances and Ch. NR 111 and R 112 Wis. Adm. Code.

3. Flood-Fringe Areas

- a. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality. In addition, the modification or addition shall be placed on fill or flood proofed to the flood protection elevation in compliance with the standards for that particular use in ss.(D)(3) except where ss. (H)(3)(b) is applicable.
- b. Where compliance with the provisions of par. (1) would result in unnecessary hardship, and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment / Appeals, using the procedures established in this Ordinance, may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted as provided:
 - (1) No flood determination line is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, will not be installed;
 - (4) Flood depths will not exceed two (2) feet;
 - (5) Flood velocities will not exceed two (2) feet per second; and
 - (6) The structure will not be used for storage of materials described in ss. 4.3(6).

- c. If neither the provisions of par. (1) nor (2) above can be met, an addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood fringe on a one-time basis only, if the addition:
 - (1) Meets all other regulations and will be granted by permit or variance;
 - (2) Does not exceed sixty (60) square feet in area; and
 - (3) In combination with other previous modifications or additions to the building, does not exceed fifty (50%) percent of the present equalized assessed value of the building.
- d. All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local Ordinances and Ch. ILHR 83, Wis. Adm. Code.
- e. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this Ordinance and Ch. NR 111 and NR 112, Wis. Adm. Code.

I. ADMINISTRATION

This section provides for the appointment of appropriate boards and staff, and the development of necessary policies and procedures, to administer this Ordinance. Where a Zoning Administrator, planning agency or a Board of Appeals has already been appointed to administer a Zoning Ordinance adopted under ss. 59.97 and 59.971, Wis. Stats., for counties, these officials shall also administer this Ordinance.

1. Zoning Administrator

- a. The County Zoning Administrator is hereby authorized to administer the provisions of this Ordinance and shall have the following duties and powers:
 - (1) Advise applicants of the provisions of this Ordinance, assist them in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (2) Issue permits and inspect properties for compliance with provisions of this Ordinance and issue certificates of compliance where appropriate.
 - (3) Keep records of all official actions such as:
 - (a) All permits issued.
 - (b) Inspections made.
 - (c) Work approved.
 - (d) Documentation of certified lowest floor and regional flood elevations for floodplain development.
 - (e) Water surface profiles, floodplain zoning maps and Ordinances, nonconforming uses and structures including appeals, variances, and amendments.

- (4) Submit copies of the following items to the Department district office:
 - (a) Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - (b) Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
- (5) Investigate, prepare reports, and report violations of this Ordinance to the appropriate municipal zoning agency and the municipal attorney for prosecution. Copies of the violation reports shall also be sent to the Department District Office.
- (6) Submit copies of text and map amendments and biennial reports to the regional office of FEMA.

b. Land Use Permit

A land use permit shall be obtained from the Zoning Administrator before any new “development”, as defined in ss. (L), or any change in the use of an existing building or structure including sewage disposal systems and water supply facilities may be initiated. Application shall be made to the Zoning Administrator upon furnished application forms and shall include the following data:

(1) General Information:

- (a) Name and address of the applicant, property owner and contractor – builder;
- (b) Legal description of the property, type of proposed use, and an indication as to whether new construction or a modification to an existing structure is involved.

(2) Site Development Plan:

The site development plan shall be drawn to scale by a licensed surveyor or licensed engineer and submitted as a part of the permit application form and shall contain the following information:

- (a) Location, dimensions, area and elevation of the lot;
- (b) Location of the ordinary high water mark of any abutting navigable waterway;
- (c) Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
- (d) Location of any existing or proposed on-site sewage systems or private water supply systems;
- (e) Location and elevation of existing or future access roads;
- (f) Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps;
- (g) The elevation of the lowest floor of proposed buildings and any fill using Nation Geodetic and Vertical Datum (NGVD);

- (h) Data sufficient to determine the regional flood elevation at the location of the development and to determine whether or not the requirements of ss. (D) or (F) are met;
- (i) Data sufficient to determine if the proposed development will cause either an obstruction to flow or an increase in regional flood height or discharge according to ss. (C)(1). This may include any of the information noted in ss. (D)(3)(a).

(3) Data Requirements to Analyze Developments:

- (a) The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as “subdivision” is defined in s. 236.02(3), Wis. Stats., and other proposed developments exceeding five (5) acres in area or where the estimated cost exceeds One Hundred Twenty-Five Thousand (\$125,000) Dollars. The applicant shall provide:
 1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity.
 2. A map showing location and details of vehicular access to lands outside the floodplain.
 3. A surface drainage plan with adequate details showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping improvements, access and road development, electrical and plumbing, and similar items reasonably applied to the overall development costs, but need not include land costs.

- (b) The Department will determine elevations and evaluate the proposal where the applicant is not required to provide computations as above, and inadequate data exists. The municipality may transmit additional information, such as the data in ss. (G)(4)(b) where appropriate, to the Department with the request for analysis.

(4) Expiration

All permits issued under the authority of this Ordinance shall expire one year from the date of issuance.

c. Certificate of Compliance

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this Ordinance.

- (2) Application for such certificate shall be concurrent with the application for a permit.
- (3) The certificate of compliance shall be issued within ten (10) days after written notification of completion of the work specified in the permit, provided the building or premises or proposed use conforms with all the provisions of this Ordinance.
- (4) The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill, lowest floor, and flood-proofing elevations are in compliance with the permit issued. Flood-proofing measures also require certification by a registered professional engineer or registered architect that flood proofing adequately meets the requirements of this Ordinance.

d. Other Permits

It is the responsibility of the applicant to secure all other necessary permits from all appropriate federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.

J. AMENDMENTS

1. General

The governing body may change or supplement the boundaries of the floodplain zoning districts and the regulations contained in this Ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- a. Any change to the official floodplain zoning map including the floodway line or boundary of any floodplain area;
- b. Correction of significant discrepancies between the water surface profiles and floodplain zoning maps;
- c. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- d. Any fill or encroachment into the floodplain that will obstruct flow causing an increase of 0.01 foot or more in regional flood height;
- e. Any upgrading of floodplain zoning Ordinances text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.

2. Procedures

Amendments to this Ordinance may be made upon petition of any interested party according to the provisions of 59.97, Wis. Stats., for counties. Such petitions shall include all necessary data required by ss. (G)(4) and (I).

- a. Copies of any amendment proposed shall be referred to the Town Plan Commission, described in Article VI, for a public hearing and recommendation to the governing body. Copies of the proposed amendment and notice of the public hearing shall be submitted to the appropriate District office of the Department of Natural Resources for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 59.97, Wis. Stats., for counties.

- b. No amendment to the maps or text of this Ordinance shall become effective until reviewed and approved by the Department.
- c. All persons petitioning for a map amendment which involves an obstruction to flow causing an increase of 0.01 foot or more in the height of the regional flood shall obtain flooding easements, or other appropriate legal arrangements, from all adversely affected property owners and local units of government before the amendment can be approved by the governing body.
- d. When considering amendments to the official floodplain zoning map, in areas where no water surface profiles exists, the zoning agency or board shall consider data submitted by the Department, the Zoning Administrator's visual on-site inspections and other available information. (See ss. (B)(4)).

K. ENFORCEMENT AND PENALTIES

Any violation of the provisions of this Ordinance by any person shall be enforced in accordance with this Ordinance. Every violation of this Ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Wis. Stats.

L. DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and not discretionary.

1. "A ZONES" – Those areas shown on a municipality's "Official Floodplain Zoning Map" (see below) which would be inundated by the "regional flood" as defined below. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
2. "ACCESSORY STRUCTURE OF USE" – A detached subordinate structure or a use which is clearly incidental to and customarily found in connection with the principal structure or use to which it is related, and which is located on the same lot as that of the principal structure or use.
3. "BUILDING" – See STRUCTURE.
4. "CERTIFICATE OF COMPLIANCE" – A certification issued by the Zoning Administrator stating that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this Ordinance.
5. "CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow or water.
6. "DEPARTMENT" – The Wisconsin Department of Natural Resources.
7. "DEVELOPMENT" – Means any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial improvements to building, structures or accessory structures; the placement of buildings or structure; mining, dredging, filling, grading, paving, excavation or drilling operations; and the storage, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities.

8. “DRYLAND ACCESS” – Means a vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
9. “ENCROACHMENT” – Any fill, structure, building, use or development in the floodway.
10. “FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)” – The federal agency that administers the National Flood Insurance Program. This agency was previously known as the Federal Insurance Administration (FIA), or Department of Housing and Urban Development (HUD).
11. “FLOOD” or “FLOODING” - Means a general and temporary condition or partial or complete inundation of normally dry land areas caused by:
 - a. The overflow or rise of inland waters;
 - b. The rapid accumulation or runoff of surface waters from any source; and
 - c. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
12. “FLOOD FREQUENCY” – Means the probability of a flood occurrence. A flood frequency is generally determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.
13. “FLOODFRINGE” – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and generally associated with standing water rather than flowing water.
14. “FLOOD HAZARDS BOUNDARY MAP” – A map prepared by FEMA designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines of regional flood elevations. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program.
15. “FLOOD INSURANCE STUDY” – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood insurance study maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
16. “FLOODPLAIN” – That land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe, and may include other designated floodplain areas for regulatory purposes.
17. “FLOODPLAIN ISLAND” – Means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

18. “FLOODPLAIN MANAGEMENT” – Means the full range of public policy and action for insuring wise use of floodplains. It includes everything from the collection and dissemination of flood data to the acquisition of floodplain lands and the enactment and administration of codes, Ordinances and statutes for land use in the floodplain.
19. “FLOOD PROFILE” – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
20. “FLOOD PROOFING” – Means any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
21. “FLOOD PROTECTION ELEVATION” – An elevation two (2) feet of freeboard above the water surface profile elevation designated for the regional flood. (also see: FREEBOARD).
22. “FLOODWAY” – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge. The floodway also includes the areas mapped as a Shallow Depth Long Duration Floodway.
23. “FLOOD STORAGE” – Means those floodplain areas where storage of floodwaters has been taken into account in reducing the regional flood discharge.
24. “FOOTPRINT” – Means the exterior dimensions of the structure at ground level.
25. “FREEBOARD” – Means a flood protection elevation requirement designed as a safety factor which is usually expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for the effects of any factors that contribute to flood heights greater than those calculated. These factors include, but are not limited to, ice jams, debris accumulations, wave actions, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggradation of the river or stream bed.
26. “HABITABLE BUILDINGS” – Means any building, or portion thereof, used for human habitation.
27. “HEARING NOTICE” – Means publication or posting meeting the requirements of Ch. 985, Wis. Stats. Class 1 notice is the minimum required for appeals: Published once at least one week (7 days) before the hearing. Class 2 notice is the minimum required for all Zoning Ordinance and amendments including map amendments; Published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local Ordinances or by laws may require additional notice, exceeding these minimums.
28. “HIGH FLOOD DAMAGE POTENTIAL” – Means damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
29. “HUMAN HABITATION” – Means a human residence or dwelling.
30. “HYDRAULIC SHADOW” – Means that portion of the property lying within the confines of the footprint extended landward (see illustration).

31. “INCREASE IN REGIONAL FLOOD HEIGHT” – Means a calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, resulting comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
32. “LAND USE” – Any nonstructural use made of unimproved or improved real estate. (also see: DEVELOPMENT)
33. “MUNICIPALITY” or “MUNICIPAL” – Reference to municipality shall mean Winnebago County and shall include any agency, department or committee thereof.
34. “NGVD” or “NATIONAL GEODETIC VERTICAL DATUM” – Means elevations referenced to mean sea level datum, 1929 adjustment.
35. “NONCONFORMING STRUCTURE” – An existing lawful structure of building which is not in conformity with the dimensional or structural requirements of this Ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the flood fringe district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.)
36. “NONCONFORMING USE” – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this Ordinance for the area of the floodplain which it occupies (such as a residence in the floodway).
37. “OBSTRUCTION TO FLOW” – Means any development which physically blocks the conveyance of floodwaters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.
38. “OFFICIAL FLOODPLAIN ZONING MAP” – That map, adopted and made part of this Ordinance, as described in ss. (B)(2), which has been approved by the Department of Natural Resources and FEMA.
39. “OPEN SPACE USE” – Those uses having a relatively low flood damage potential and not involving structures.
40. “ORDINARY HIGHWATER MARK” – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
41. “PERSON” – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
42. “PRIVATE SEWAGE SYSTEM” – Means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the Department of Industry, Labor and Human Relations including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
43. “PUBLIC UTILITIES” – Means those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

44. “REGIONAL FLOOD” – A flood determined to be representative of large floods known to have occurred in Wisconsin or which may be expected to occur on a particular river or stream once in every one hundred (100) years.
45. “STRUCTURE” – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground or stream bed which includes, but is not limited to, such objects as roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
46. “SUBSTANTIAL IMPROVEMENT” – Any structural repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either: (a) any project for improvement of a structure to comply with existing state of local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (b) any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions. Such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows, and other nonstructural components. (For purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.)
47. “UNNECESSARY HARDSHIP” – Means that circumstance where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the Ordinance.
48. “VARIANCE” – Means an authorization by the Board of Adjustment or Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards contained in the floodplain zoning Ordinance.
49. “WATERSHED” – Means the entire region or area contributing runoff or surface water to a particular watercourse or body of water.
50. “WATER SURFACE PROFILE” – Means a graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
51. “WELL” – Means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, for the purpose of obtaining groundwater regardless of its intended use.

Sec. 4 Wetland District.

- A. **PURPOSE.** The purpose of the Wetland District is to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and aquatic life and to preserve shore cover and natural beauty. Development in wetlands should be limited and when development is permitted in a wetland, it should occur in a manner that minimizes the adverse impacts on the wetland.
1. Wetlands are seldom suitable as building sites for the following reasons:
 - a. Septic tank systems will not function because of high groundwater.
 - b. Water supplies are often polluted by septic tank wastes that have not been adequately absorbed by the soil.
 - c. Foundations and roads crack due to poor support capabilities and frost action.
 - d. Flooding is common in spring and other times of high-water.
 2. Wetlands provide fish spawning grounds and wildlife habitat, and the natural plant and animal communities found in wetlands provide ecological balance to a watercourse. Wetlands help to prevent water pollution and flooding problems.
- B. **DESIGNATION.** This district includes all wetlands within the shoreland jurisdictional area subject to regulation under this Ordinance which are designated as wetland on the Revised DNR Wetland Inventory Maps dated July 5, 1986. Revised wetland maps which change the boundaries or classifications based upon a DNR field determination, and are dated after July 5, 1986 shall replace the original wetland maps for regulatory purposes. These maps are on file in the Winnebago County Planning and Zoning Department.
1. Locating wetland boundaries. Where an apparent discrepancy exists between the wetland district boundaries shown on the official zoning maps and actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate field office of the Department to determine if the wetland district as mapped is in error. If the Department staff concur with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a land use permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official zoning map, the Zoning Administrator shall be responsible for initiating a map amendment within a reasonable period of time.
- C. **PERMITTED USES.** The following uses shall be allowed, subject to the general shoreland zoning regulations in this Ordinance, the provisions of Chapters 30 and 31 of the Wisconsin Statutes, and the provisions of other state and federal laws, if applicable.
1. Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without filling, flooding, draining, ditching, tiling or excavating:
 - a. Hiking, fishing, trapping, hunting, swimming, and boating;
 - b. The harvesting of wild crops such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - c. The pasturing of livestock;
 - d. The cultivation of agricultural crops;
 - e. The practice of silviculture, including the planting, thinning and harvesting of timber; and
 - f. The construction and maintenance of duck blinds.

2. Uses which do not require the issuance of a zoning permit and which may include filling, flooding, draining, dredging, ditching, tiling, or excavating only to the extent specifically provided below:
 - a. Temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
 - b. Flooding, dike and dam construction and ditching for the purpose of growing and harvesting cranberries;
 - c. Ditching, tiling, dredging, excavating or filling done to maintain or repair existing agricultural drainage systems only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use and only where permissible under Section 30.20, Wis. Stats. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system, provided that dredged spoil is placed on existing spoil banks where possible and such filling is permissible under Chapter 30, Wis. Stats.;
 - d. Limited excavating and filling necessary for the construction and maintenance of fences for the pasturing of livestock;
 - e. Limited excavating and filling necessary for the construction and maintenance of docks and walkways built on pilings; and
 - f. Limited excavating and filling necessary for the maintenance, repair, replacement and reconstruction of existing Town and county highways and bridges.

3. Uses which are allowed upon the issuance of a zoning permit under this Ordinance and which may include filling, flooding, draining, dredging, ditching, tiling or excavating only to the extent specifically provided below:
 - a. The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation, provided that:
 - (1) The road cannot, as a practical matter, be located outside the wetland;
 - (2) The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland;
 - (3) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - (4) Road construction activities are carried out in the immediate area of the roadbed only; and
 - (5) Any filling, flooding, draining, dredging, ditching, tiling or excavating must be necessary for the construction or maintenance of the road;

- b. The construction and maintenance of non-residential buildings, provided that:
 - (1) The building is used solely in conjunction with a use permitted in the wetland district or for the raising of waterfowl, minnows or other wetland aquatic animals;
 - (2) The building cannot, as a practical matter, be located outside the wetland;
 - (3) Such building does not exceed five hundred (500) square feet in floor area; and
 - (4) Only limited excavating and filling necessary to provide structural support for the building is allowed;

- c. The establishment and development of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, shooting preserves, public boat launching ramps and access roads used in conjunction with a public boat launching ramp, provided that:
 - (1) Any private wildlife habitat area must be used exclusively for that purpose;
 - (2) Filling and excavating necessary for the construction and maintenance of public boat launching ramps and access roads is allowed only where such construction meets the criteria under this Ordinance; and
 - (3) Ditching, excavating, dredging, dike and dam construction in wildlife refuges, game bird and animal farms, fur animal farms and shooting preserves must be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

- d. The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members, provided that:
 - (1) The transmission and distribution lines and related facilities cannot, as a practical matter, be located outside the wetland; and
 - (2) Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetlands.

- e. The construction and maintenance of railroad lines, provided that:
 - (1) The railroad lines cannot, as a practical matter, be located outside the wetland; and
 - (2) Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland.

D. PROHIBITED USES. Any use not listed in this Ordinance is prohibited unless the wetland or a portion of the wetland has been rezoned by amendment of this Ordinance in accordance with Section 59.97(5) (e) Wis. Stats., Chapter NR115, Wisconsin Administrative Code, and this Ordinance.

E. REZONING. Rezoning of wetlands in the shoreland district shall be regulated by this Ordinance.

ARTICLE IV - PLAN COMMISSION

Sec. 1 — Plan Commission

A. HOW APPPOINTED AND TERM

The Plan Commission members shall be appointed by the Town Chairman subject to approval by the Town Board and shall consist of seven (7) members; not more than one (1) Town Board member shall serve on the Plan Commission. Upon creation of the Plan Commission two (2) members shall be appointed for three (3) years, two (2) members shall be appointed for two (2) years; two (2) members shall be appointed for one (1) year, and thereafter each appointment of a member shall be for three (3) years. Two (2) alternates shall also be appointed for a three (3) year term. This Commission was previously referred to in prior ordinances as the Plan Commission. Therefore, any references in any Ordinance of the Town of Utica regarding Planning & Zoning Committee shall now be interpreted as the Plan Commission.

B. DUTIES

1. The duties and functions of the Plan Commission shall be as prescribed S.62.23, Wis. Stats.
2. All matters referred to the Plan Commission, particularly those matters specified in S.62.35, Wis. Stats., shall be acted upon without delay.
3. The Plan Commission may employ expert advice and may have maps showing proposed additions to or change in the plan of the Town.
4. The Plan Commission shall have such further powers and duties as are prescribed in S.62, Wis. Stats.

C. COMPENSATION

The members shall be compensated in a manner and method designed by the Town Board.

D. QUORUM

Five (5) members, present and voting, shall constitute a quorum.

ARTICLE V - BOARD OF APPEALS

Sec. 1 — Board of Appeals

A. CREATION OF BOARD OF APPEALS

1. The Board of Appeals shall consist of five (5) members appointed by the Town Board for three (3) years, except that of those first appointed, one (1) shall serve for one (1) year, two (2) for two (2) years and two (2) for three (3) years. The members shall be compensated in a manner and method designed by the Town Board. The Board shall designate one (1) of the members as chairman. The Town Board shall appoint two (2) alternate members for a term of three (3) years, who shall act with full power, only when a member of the Board of Appeals refuses to vote because of conflict of interest or in a member's absence. Vacancies shall be filled by the Town Chairman for the unexpired terms of members whose terms become vacant.
2. Rules of Procedure. The Board of Appeals shall adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the chairman and at such times as the Board of Appeals may determine. The chairman, or in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
3. Records and Minutes. The Board of Appeals shall keep minutes of its proceedings, showing the action taken upon each question, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be public record.
4. Appeals Procedure. Appeals to the Board of Appeals may be taken by any person aggrieved or affected by any decision of the Building Inspector and or the Zoning Administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Appeals, by filing with the officers with whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof. The officers from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of appeals and give public notice thereof as well as due notice to the parties in interest, and shall decide the same within a reasonable time.

B. POWERS OF THE BOARD OF APPEALS

1. Hear Appeals. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Building Inspector or Zoning Administrator, in the enforcement of this Ordinance.
2. Authorize Variances. To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public health, safety and welfare secured, and substantial justice done.
3. Extend Districts. To permit the extension of a district where the boundary line of a district divides a lot held in single ownership at the time of the passage of this Ordinance.

4. Interpret Ordinance. To interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing several districts accompanying and made part of this Ordinance where the street layout on the ground varies from the street layout as shown on the map aforesaid.
5. Vary Height and Area Regulations. Vary height and area regulations where there is an exceptional or unusual physical condition of a lot, which condition is not generally prevalent in the neighborhood and which condition when related to the height and area regulations of this Ordinance would present a reasonable or sensible arrangement of buildings on the lot.
6. Vary Parking Regulations. Vary the parking regulations where an applicant demonstrates conclusively that the specific use of a building would make unnecessary the parking space required by this Ordinance but providing that such a reduction not be more than twenty-five (25%) percent of the usual requirement.
7. Powers of Board Limited. The Board of Appeals has no other powers than those specified.

C. PUBLIC HEARING & PERMITS ISSUED BY BOARD OF APPEALS

1. When Board to Take Action; Notices. The Board of Appeals shall take no action except in a specific case and after public hearing conducted by such Board. Notices of the time and place of such public hearing shall be posted at the Post Office, the Co-op, the Town Hall, and at some point on or near the site. Notices shall be sent to interested parties as determined by the secretary of the Board of Appeals. There shall be at least a three day (3) period between the time of posting and the time of the meeting excluding the day of posting. Such notice shall contain the particular address or location of the property for which the variation or other ruling by the Board of Appeals is being sought, as well as a brief description of the nature of the appeal, and of what the proposed variance consists.
2. Duration of Board Orders; Building Permit. No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than twelve (12) months, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
3. Duration of Board Order; Establishment of Use; Exception. No order of the Board of Appeals permitting a use of a building or premises shall be valid for a period longer than twelve (12) months, unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
4. Disposition of Appeal by Board. The Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Building Inspector or Zoning Administrator. The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect any variation in the requirements of this Ordinance. In exercising the foregoing powers, the Board of Appeals may in appropriate cases, establish suitable conditions and safe-guards in harmony with the general purpose and intent of this Ordinance.

5. Fee. No appeal requesting a variance shall be accepted unless accompanied by a fee equal to the sum of expenses which the Town will incur for payment to the members of the Board according to the fee schedule from time to time in effect.

D. AMENDMENT PROCEDURE FOR CHANGING BOUNDARIES AND REGULATIONS

1. The Town Board may from time to time on its own motion or on petition after first submitting the proposal to the Plan Commission, amend, supplement, or change the district boundaries or the regulations herein or subsequently establish upon giving at least ten (10) days notice, by publication in the official paper at least three (3) times during the preceding thirty (30) days of the proposed amendment, supplement or change and of hearing thereon, an opportunity to any person interested to be heard.
2. No petition requesting a change of a zoning district as established by the district map, which is made part of this Ordinance, shall be accepted for filing by the Clerk or Zoning Administrator unless accompanied by the sum in current effect to reimburse the Town for its expense in processing said petition.

ARTICLE VI - ORDINANCES

Sec. 1 – Mineral Extraction Provisions

- A. STATEMENT OF INTENT. The intent of this district is to permit resource extraction operations as long term transitional uses. The intent of these regulations is to minimize potential adverse effects of these uses on adjacent lands while operations are active and to restore the site of operations to the maximum extent practicable after operations have been ceased.
- B. PERMITS. An "Extraction Permit" is required for all mineral extraction operations including those lawfully existing prior to the adoption of this section. New mineral extraction operations and expansions of lawfully existing operations shall adhere to conditional use procedures as described in Art. II, S. 19, of this Ordinance. As such, all mineral extraction operations including those lawfully existing prior to the adoption of this section shall adhere to the following permit requirements:
1. No permit shall be issued without submittal of a plan of operation and a plan of reclamation in compliance with the standards and requirements of this section.
 2. Any mineral extraction operation or activity conducted without a permit after one hundred eighty (180) days of the effective date of adoption of this section shall be deemed in violation of this Ordinance.
 3. Permits shall be issued for terms of six (6) years, renewable for terms of six (6) years. Any activity conducted in compliance with a lawfully issued permit which subsequently becomes non-compliant during the term of the permit by reason of surrounding development may continue for the remainder of the term of the permit.
 4. Transfer of the permit. When an operator succeeds to the interest of another in an uncompleted site, the Town shall release the present operator of the responsibilities imposed by the permit only if:
 - a. Both operators are in compliance with the requirements and standards of this section, and
 - b. The new operator assumes the responsibility of the former operators permit requirements.
- C. STANDARDS. The following standards shall apply to all mineral extraction operations and activities including those operations and activities lawfully existing prior to the adoption of this Ordinance.
1. Standards of Operations
 - a. Provisions of Ch. NR415.04 and Ch. NR429, Wis. Adm. Code, regarding air quality emissions shall be administered by the Wisconsin Department of Natural Resources. Provisions of Ch. ILHR7.60 et sq., Wis. Adm. Code, regarding blasting shall be administered by the Wisconsin Department of Industry, Labor and Human Relations.
 - b. Roads, machinery and equipment shall be located, constructed and used in such a manner as to minimize noise, dust and vibrations.

- c. No operations or activities may be commenced before 6:00 a.m., Monday through Saturday or continue past 6:00 p.m., Monday through Friday or 2:00 p.m. on Saturday where any residence or commercial establishment open to the public is located within five hundred (500) feet of the exterior boundary of the site. The Town Plan Commission may authorize specific activities past 6:00 p.m., Monday through Friday and past 2:00 p.m., on Saturday for limited or temporary periods taking into account the proximity and nature of adjoining uses and the extent of noise, dust and vibration associated with the activity. In no event shall any operation within five hundred (500) feet of a residence be authorized to conduct activities past 10:00 p.m., Monday through Friday or 7:00 p.m. on Saturdays.
2. Setback Requirements
 - a. No operations or activities, including berm construction, shall be conducted within two hundred (200) feet of any right of way line or within two hundred (200) feet of any exterior boundary of the site where a residence is located within five hundred (500) feet of the exterior boundary of the tract.
 - b. The Town Plan Commission may authorize berm construction and related site preparation as a temporary activity, for a specific time period, to within twenty-five (25) feet of any exterior boundary of the tract for sites lawfully existing before the effective date of this Ordinance.
 - c. The Town Plan Commission may authorize continued vertical removal of materials to within fifty (50) feet of the exterior boundary of the site for sites lawfully existing before the effective date of this Ordinance.
 - d. In no event shall any operations or activities, except berm construction and related site preparation activities, be conducted within fifty (50) feet of any exterior boundary. In exercising their authority under this subsection, the Town Plan Commission may attach reasonable conditions including but not limited to more stringent hours of operation, landscaping, and fencing.
 3. Standards of Reclamation. Every owner/operator shall reclaim the site within two (2) years after operations have ceased. There shall be a presumption that operations have ceased if the permit required under this section is not renewed by the operator or approved by the Town Plan Commission within one (1) year from the date of expiration of the previous permit. The Town Plan Commission may defer required reclamation activities for up to five (5) years after operations have ceased upon a showing by the owner/operator that materials remain of such quantity and quality as to be economically feasible to recover and that the site will be reactivated within five (5) years after operations have ceased. Required reclamation activities are as follows:
 - a. Removal of all machinery, equipment and temporary structures from the site.
 - b. Removal or backfilling of stockpiles and debris.
 - c. Filling and grading of suitable soil to a sufficient depth to support vegetation on the site and consistent with adaptability of all or a majority of the site for another use, except for rock faces, rock outcroppings, and permanent water bodies.

- d. Re-vegetation of areas adjacent to water bodies and water courses to minimize erosion and sedimentation.
 - e. Grading of materials such that remaining slopes do not exceed the minimal or expected angle for subsidence or slippage of the materials involved.
 - f. Every owner/operator shall submit a performance bond or other financial guarantee in the amount of Four Thousand (\$4,000) Dollars per acre identified in the permit. The Town Plan Commission may authorize a reduction in the per acre cost based on detailed evidence provided by the operator or owner.
- D. **CONDITIONAL USES.** New mineral extraction operations, expansions of lawfully existing operations, and bio-remediation or other similar sites shall be a conditional use in all zoning districts. Conditional use procedures, as described in Art. II, S. 19, of this Ordinance, shall be adhered to as well as to the requirements of this section.
- E. **PLAN OF OPERATION.** All mineral extraction operations including those operations and activities which lawfully existed prior to adoption of this section shall prepare a plan of operation for the site which shall include the following information:
- 1. Statement of ownership of the parcel and control of the operations.
 - 2. A site plan, drawn to scale, showing the lateral extent of existing and proposed excavations; the location and width of all easements and right of way on or abutting the site; existing water bodies, water courses and drainage ways and proposed modifications; estimated direction of flow or groundwater; the location of existing and proposed buildings, structures, machinery and equipment; and the location of all existing and proposed storage and stockpiling areas.
 - 3. Cross sections of the site, drawn to scale, showing the vertical extent of existing and proposed excavations.
- F. **PLAN OF RECLAMATION.** All mineral extraction operations including those operations and activities which lawfully existed prior to adoption of this section shall prepare a plan of reclamation which shall include the following information:
- 1. A narrative statement describing the planned reclamation of the site including the intended use or adaptability of the site for a particular use after operations have ceased and the reclamation completed.
 - 2. The method of disposing of materials on the site.
 - 3. A site plan to scale showing areas of cut and fill, fill depths and materials; final contours sufficient to determine slopes; the location and expected seasonal depths of water bodies; the location and width of water courses and drainage ways; and vegetative planting.
 - 4. A statement of estimated reclamation costs.
- G. **DEFINITIONS.**
- 1. Expansions of Lawfully Existing Operation(s) — Progression of mineral extraction operations onto a contiguous parcel or parcels of land purchased, owned or leased after the effective date of this section.

2. Lawfully Existing Mineral Extraction Operation — A mineral extraction operation existing before the effective date of this section, including any contiguous parcels purchased, owned or leased by the same operator before the effective date of this section and said operation and contiguous parcels are devoid of any present County permit violations at the time of adoption of this section.
3. Mineral Extraction Operation — Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates. Mineral aggregates shall include, but are not limited to, rock, stone, sand and gravel and other nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc. Also constituting mineral extraction operations are such related operations and activities as excavation, grading or dredging, if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending. Additionally, storage and stockpiling of materials produced on site only, shall constitute mineral extraction operation. The definition for Mineral Extraction Operation shall not apply to the following activities:
 - a. Operations affecting less than five (5) acres and for the exclusive use of the property owner provided no material is removed from the property(s).
 - b. Pre-mining activities such as site surveying, coring, mapping and other functions necessary solely for proper preparation of the permit.
 - c. Excavation in conjunction with utility installation, which is to be backfilled.
 - d. Excavation in conjunction with road construction, within the limits of the right-of-way, when construction plans have been approved by the Wisconsin Department of Transportation and/or other governmental bodies.
 - e. Excavation which by nature is of limited duration such as graves, septic tanks, and swimming pools.
 - f. Agricultural drainage work incidental to agricultural operations and irrigation/stock watering ponds, if no material is removed from the property.
 - g. Excavation for structures, parking areas, and stripping of up to one and one-half (1.5) feet of topsoil for the development of subdivisions, following subdivision approval.
 - h. Regrading of property for aesthetic purposes that does not affect existing drainage, if no material is removed from the property.
 - i. Dredging operations under the jurisdiction of the U.S. Army Corps of Engineers and/or other governmental bodies.
 - j. Ponds developed for wildlife purposes in conjunction with the Soil Conservation Service or Land and Water Conservation Department.
 - k. Excavation related to sod farming.
 - l. Any mining operation, the reclamation of which is required in a permit obtained under Sections 144.80 to 144.94, Wis. Stats., pertaining to metallic mining.

- m. Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate, or close a solid waste disposal facility under ss. 144.435 to 144.45, Wis. Stats., or a hazardous waste disposal facility under ss. 144.60 to 144.74, Wis. Stats., for the exception of mineral extraction operations conducted for the purpose of lining, capping, or covering of said disposal sites.
 - n. Any other uses determined to be exempt by the Town Plan Commission.
4. New Material Extraction Operation — A mineral extraction activity on one or more parcels that are separated by a public road or are not contiguous to a lawfully existing mineral extraction operation, including land purchased, owned or leased before the effective date of this Ordinance without prior extraction activity.
5. Operator — Any person who is engaged in a mineral extraction operation or who applies for or holds a mineral extraction permit issued under this section whether individually, jointly, or through subsidiaries, agents, employees, contractors, or subcontractors.

Sec. 2 Wireless Communications Facilities Ordinance

- A. STATEMENT OF INTENT. The purpose of this Ordinance is to establish general guidelines for the siting of towers and antennas. The intent of this Ordinance is to:
1. Encourage the location of towers in nonresidential areas and to minimize the total number of towers throughout the Town.
 2. Encourage co-location of new and existing tower sites.
 3. Encourage users of towers and antennas to locate them to the extent possible, in areas where the adverse impact on the community is minimal.
 4. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and
 5. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
- B. DEFINITIONS. As used in this Ordinance, the following terms shall have the meanings indicated:
1. “Alternative Tower Structure” shall mean man-made towers, water towers, buildings, bell steeples, light poles, electric transmission and distribution structures, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
 2. “Antenna” shall mean any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves, digital signals, radio frequencies and wireless telecommunications signals, including but not limited to directional antennas, such as panel(s), microwave and satellite dishes, and omni-directional antennas such as whip antennas.
 3. “Co-location” shall mean the location of multiple antennas of more than one commercial wireless communication service provider or governmental entity on a single tower or alternative tower structure.
 4. “FAA” shall mean the Federal Aviation Administration.
 5. “FCC” shall mean the Federal Communications Commission.
 6. “Governing Authority” shall mean the governing authority of the Town. (Town Board, Town Plan Commission, Zoning Administrator).
 7. “Height” shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point of an antenna.
 8. “Personal Communications Service (PCS)” shall mean a provider of personal wireless service facilities as now defined in Section 704 of the Telecommunications Act of 1996, 47 U.S.C. par. 332, and as the same may be amended from time to time.
 9. “Personal Wireless Facilities” shall mean transmitters, antenna structures and other types of installations used to provide personal wireless services.

10. “Preexisting Towers and Antennas” shall have the meaning set forth in Section C (4) of this Ordinance.
11. “Tower” shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes personal communication service towers, radio and television transmission towers, alternative tower structures, and the like.
12. “Tower Site” shall mean the area encompassing a tower and all supporting equipment, structures, paved or graveled areas, fencing and other items used in connections with said tower.

C. **APPLICABILITY.** No permit is required for the following uses:

1. Minimum Height Exceptions. Installing an antenna or tower on any existing structure (such as a tower, building, sign, light pole, water tower, electric transmission and distribution structure, or other free-standing nonresidential structure), and provided the other additional antenna or tower adds no more than twenty (20) feet to the height of said existing structure.
2. Public Property. Antennas or towers located on property owned, leased or otherwise controlled by the governing authority shall be exempt from the requirements of this Ordinance, provided a license or lease authorizing such antenna or tower has been approved by the governing authority.
3. Amateur Radio and Receive-Only Antennas. This Ordinance shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas.
4. Pre-existing Towers and Antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance. Any such towers or antennas shall be referred to in this Ordinance as “preexisting towers” or “preexisting antennas.”

D. **GENERAL PROVISIONS.**

1. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed and antennas that are installed in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure. Notwithstanding anything to the contrary above that they may be allowed as a conditional use if they meet the requirements of s. 91.46(4).
2. Aesthetics; Lighting.
 - a. Towers shall either maintain a galvanized steel finish or subject to any applicable standards of the FAA, be painted a light gray or other neutral color, or as specified by local Town requirements, so as to reduce the visual obtrusiveness and blend into the natural setting and built environment.

- b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
- c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- d. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding areas.

3. Federal Requirements. All towers shall meet or exceed current standards and regulations of the FAA, the FCC, or any other agency of the Federal Government with the authority to regulate towers and antennas.

E. **CONDITIONAL USES.** Locating a tower, subject to permitting under this Ordinance in Section C, including the placement of additional buildings or other supporting equipment used in connection with said tower zoning districts shall require a Conditional Use Permit.

F. **PERMITTING REQUIREMENTS.** Applications for Conditional Use Permits shall adhere to the following requirements:

- 1. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.
- 2. Information Required. Each applicant requesting a permit under this Ordinance shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and scaled by appropriate licensed professionals, showing:
 - a. Name of the applicant, property owner, and statement of the terms of any lease agreement except the amount of compensation may be withheld,
 - b. The location and dimensions of all improvements both existing and proposed, including information concerning topography,
 - c. Radio frequency coverage,
 - d. Tower height requirements,
 - e. Setbacks,
 - f. Drives and parking areas including the specifications of the same,
 - g. Fencing with dimensions, description of materials, samples of materials and maintenance plan,
 - h. Landscaping plans describing the foliage to be used, the location of plantings, and copies of maintenance agreements,
 - i. Description of adjacent uses and property owners, and

- j. Other information deemed by the governing authority to be necessary to assess compliance with this Ordinance.
3. Factors Considered in Granting Permits. The governing authority shall consider the following factors in determining whether to issue a permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the intent of this Ordinance is better served thereby:
- a. Height of the proposed tower.
 - b. Proximity of the tower to residential structures and residential district boundaries.
 - c. Nature of uses on adjacent and nearby properties.
 - d. Surrounding topography.
 - e. Surrounding tree coverage and foliage.
 - f. Design of the tower, with particular reference to design characteristics that have the effect of accommodating other users, reducing or eliminating visual obtrusiveness, and potential fall areas.
 - g. Proposed ingress and egress, parking areas, accessibility to emergency vehicles.
 - h. Availability of suitable existing towers and other structures as discussed in this Ordinance.
 - i. Availability of suitable alternative sites which meet the coverage needs of the applicant and concerns of the Commission.
 - j. Completeness of the application and the agreements required to be included in application.
4. Availability of Suitable Existing Towers or Other Structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure may consist of any of the following:
- a. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
 - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the proposed applicant's antenna.
 - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

- f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
5. Accommodation of Other Users (Co-location).
 - a. Any proposed telecommunication tower and tower site shall be designed structurally, electrically, and in all respects to accommodate co-location of both the applicant's antenna(s) and comparable antenna(s) for at least two (2) additional users, including monopoles which shall be of sufficient height to allow co-location of at least two (2) additional users. Lattice and guyed towers and tower sites shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights, and to accommodate supporting buildings and equipment.
 - b. The holder of a permit for a tower shall allow co-location for at least two additional users and shall not make access to the tower and tower site for the additional users economically unfeasible. If additional user(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of a tower permit has made access to such tower and tower site economically unfeasible, then the permit for that tower shall become null and void.
6. Setbacks and Separation. The following setbacks and separation requirements shall apply to all towers and to any antennas for which a Conditional Use Permit is required, provided, however, that the governing authority may reduce the standard setbacks and separation requirements if it can be shown that the intent of this Ordinance would be better served thereby:
 - a. Towers shall be set back a distance equal to the height of the tower from any residential structure including but not limited to residences.
 - b. Towers and accessory facilities must satisfy the minimum zoning district setback requirements.
 - c. Guy wires must satisfy minimum setback of ten (10) feet from property and thirty (30) feet from any right-of-way.
 - d. Towers over ninety (90) feet in height shall not be located within one-quarter (0.25) of a mile from any existing tower that is over ninety (90) feet in height.
7. Security Fencing. Tower sites shall be enclosed by security fencing and shall be equipped with an appropriate anti-climbing device sufficient to deter the general public from obtaining access to the site. The fencing need not be continual if there is a main tower site and ancillary guy wire anchoring sites, but all sites must be enclosed as provided for herein.
8. Landscaping. The following requirements shall govern the landscaping requirements at the tower site including guy wire anchor sites. In unique circumstances the governing authority may waive such requirements if the intent of this Ordinance would be better served thereby:
 - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower site from adjacent property. The standard buffer shall consist of a landscaped strip of at least four (4) feet outside the perimeter of the security fencing.
 - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.

- c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
 - d. All landscaping requirements detailed here shall be properly maintained in perpetuity.
 - e. Landscaping and related construction shall be completed so as not to interfere or change existing waterways, drainage, or other topographical concerns.
9. Removal of Abandoned Antennas and Towers. In such circumstances, the following shall apply:
- a. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of such antenna or tower or owner(s) of the property where the tower site is located shall remove said antenna and or tower including all supporting equipment and building(s) within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment. If removal to the satisfaction of the governing authority does not occur within said ninety (90) days, the governing authority may remove and salvage said antenna or tower and all supporting equipment and buildings at the property owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
 - b. Financial Security for Removal. A minimum Ten Thousand (\$10,000) Dollar bond, letter of credit, or similarly approved financial guarantee shall be filed with the Town at the time of permit application and shall be maintained until the tower and tower site is removed or at a time that is mutually agreed to by the applicant or owner and the Town.
 - c. The applicant for a permit under this Ordinance shall submit a copy of a signed agreement in recordable form between the property owner and owner of the tower, antenna(s) and supporting equipment and building(s) detailing requirements for abandonment and subsequent removal based on the provisions of 9(a) and 9 (b). Said agreement shall also identify that said agreement shall be binding on future property owner(s) and future owner(s) of a tower, antenna, and all supporting equipment and building(s).

Sec. 3 - Driveways and Culverts

A. DRIVEWAY PERMITS; CULVERT REQUIREMENTS.

1. **Purpose.** For the safety of the general public, the Town of Utica shall determine the location, size, construction and number of access points to public roadways within the Town limits. It is the Town's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.
2. **Culvert Requirements.** No person shall construct any driveway or private road in a public right-of-way of the Town of Utica without installing a culvert in full compliance with this section. Included within the scope of this requirement are commercial driveways.
3. **Driveway Permit Required; Application; Fee.**
 - a. **Permit Requirement.** No person shall locate, establish, or construct a private driveway, road, or other access from a private property line to the traveled portion of any public Town road without first filing an application with the Town Clerk or Town Zoning Administrator and obtaining a driveway permit from the Town of Utica.
 - b. **Application.** Application forms for such permit shall be made available by the Town Clerk, Town Zoning Administrator or other designated representative. Twelve (12) copies of the application and all attachments must be submitted to the Town Clerk, Town Zoning Administrator or other designated representative, who will forward the application to the Town Zoning Administrator or his designated representative for review. The request for such permit shall be in writing, signed by the owner of the real estate affected or his agent, and shall include design specifications and a drawing depicting the location and orientation of the proposed culvert in relationship to the real estate involved and the adjacent road, street, or highway.
 - c. **Review.** The Town Zoning Administrator or his representative shall review all applications using this Section and the data and findings from a Driveway Inspection Report in issuing driveway and culvert permits.
 - d. **Fee.** At the time of making application for a driveway permit, the applicant shall pay a fee of Two Hundred Dollars (\$200.00).
4. **Application Provisions.** All driveway permit applications shall contain the applicant's statement that:
 - a. The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to this property and not for the purpose of parking or servicing other vehicles, advertising, storage or merchandising of goods within the dedicated portion of the Town road or street, or for any other purpose.
 - b. The Town, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the Town Road or street at any tie, including relocation, reconstruction, widening and maintaining the street without compensating the owner of such private driveway for the damages or destruction of such private roadway.

- c. The permittee, his successors or assigns, agrees to indemnify and hold harmless the Town of Utica, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
- d. The Town does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windows of such material upon such portion of such driveway within the dedicated portion of the Town road or street.

B. DRIVEWAY AND CULVERT LOCATION, DESIGN AND CONSTRUCTION REQUIREMENTS.

1. General Requirements. The location, design and construction of driveways shall be in accordance with the following:
 - a. General Design. Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least ten (10) feet apart except by special permission from the Town Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.
 - b. Number. The number of driveways to serve an individual residential or commercial property fronting on a street shall be one (1), except where deemed necessary and feasible by the Town Board for reasonable and adequate service to the property, considering the safety, convenience and utility of the street, and driveways may be approved for commercial and other use areas where deemed reasonable.
 - c. Island Area. The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection (5).
 - d. Drainage. The surface of the driveway connecting with street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed. No driveway apron shall extend out into the street further than the road edge or face of the curb, and under no circumstances shall such driveway apron extend into the gutter area where there is curbing. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches, or roadside areas or with any existing structure on the right-of-way. All driveways and parking lots shall be graded in such way that no storm water reaches the roadway.
 - e. Restricted Areas. The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:
 - (1) The filling or draining shall be to grades approved by the Town Zoning Administrator and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.

- (2) Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate catch basins are required where the total culvert length is greater than three hundred (300) feet and/or where a bend or curve in the pipe is required.
 - (3) Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Town Board.
- f. Relocation of Utilities. Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Town Board before any utility may be relocated and the driveway installed.
 - g. Variations. Any of the above requirements may be varied by the Town Board in such instances where the peculiar nature of the property or the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.
2. Special Requirements for Agricultural, Commercial and Industrial Driveways. The following regulations are applicable to driveways:
- a. Width of Drive. No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width greater than thirty (30) feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Town Board in its discretion may permit a driveway of additional width.
 - b. Angular Placement of Driveway. The angle between the center line of the driveway and the road edge shall not be less than seventy (70) degrees.
 - c. Driveway Height Clearance. The driveway shall have a minimum height clearance of fourteen (14) feet.
3. Special Requirement for Residential Driveways. The following regulations are applicable to driveways serving residential property:
- a. Width. Unless special permission is first received from the Town Board, or committee thereof, a residential driveway shall be no greater than twenty-six (26) feet wide at the right of way line and not less than eighteen (18) feet wide at the right of way with a minimum of no less than ten (10) feet at any point on the drive;
 - b. Angular Placement. The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the road edge but in no case less than seventy (70) degrees.
 - c. Driveway Height Clearance. The driveway shall have a minimum height clearance of fourteen (14) feet.

4. Appeal from Permit Refusal. Any person feeling himself aggrieved by the refusal of the Zoning Administrator to issue a permit for the private driveway may appeal such refusal to the Town Board within twenty (20) days after such refusal to issue such permit is made.

5. Prohibited Driveways.
 - a. No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the Town of Utica except as permitted by this section. As used herein the word "structure" includes private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.

 - b. No driveway shall be closer than fifteen (15) feet to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Town for effective traffic control or for highway signs or signals.

 - c. The grade of that portion of any private driveway located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.

6. Culvert Construction Standards.
 - a. Size. Culverts shall be installed prior to construction work being commenced on the property served. No pipe smaller than fifteen (15) inches in diameter (or equivalent elliptical or arch pipe) will be allowed. All culverts shall be constructed of galvanized steel or reinforced concrete, and shall be of new manufacture, unless specifically accepted by the Town Zoning Administrator.

 - b. Gauge. The minimum wall thickness for the galvanized steel pipe culverts shall be in accordance with the following:

Pipe Diameter	Gauge
15 - 24 inch	16
30 - 36 inch	14
42 - 54 inch	12
60 - 72 inch	10
78 - 84 inch	8

The class of reinforced concrete pipe shall be in accordance with the following:

Height of Cover (in feet)	Class of Pipe
0	IV
2	III
3	II

- c. Drainage. The culverts shall be placed in the ditch line at elevations that will assure proper drainage.
- d. Endwalls. All end walls shall have at least a 2 to 1 slope (horizontal measure to vertical measure) from the top of the driveway to the end of the apron.
- e. Backfill Material. Material used for backfill shall be of a quality acceptable to the Town Zoning Administrator and shall be free from frozen lumps, wood, or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six (6) inches.
- f. Erosion Control. Erosion control measures shall be implemented as necessary to control erosion, or as directed by the Town Zoning Administrator.
- g. Cost. The property owner shall install the culvert and be responsible for the cost thereof.
- h. Appeal. Persons may request a variance from the culvert requirements of this Section by filing a written appeal with the Town Zoning Administrator to be heard by the Board of Appeals.

ARTICLE VII

Sec. 1 — Amendments

A. GENERAL REQUIREMENTS.

1. This Ordinance may only be amended by action of the Town Board upon a recommendation of the Plan Commission. No Plan Commission recommendation shall be made without proper notice and public hearing on any proposed amendment to this Ordinance. Any amendment to this Ordinance must be made in conformity with the Town's Comprehensive Plan.

B. PROCEDURE

1. The Plan Commission, during its regularly scheduled meetings, may from time to time discuss and recommends changes to the Ordinance.
2. If changes are recommended by the Plan Commission, they shall be forwarded to the Town Board for review and discussion at the next regularly held Town Board meeting.
3. After discussing the Plan Commission's recommendations, the Town Board will vote on whether to approve the changes to the Ordinance.
4. Regardless of whether the changes are approved or denied, the Town Attorney will be sent a copy of the Plan Commission's meeting minutes recommending the changes and the Town Board's meeting minutes regarding said changes. If changes are approved by the Town Board, the Town Attorney will draft a resolution amending the Ordinance based on the meeting minutes provided to him. Said resolution will be forwarded to the Town Clerk for posting in at least three (3) public places within the Town, one of which shall be the Town Hall.
5. At the next regularly scheduled Town Board meeting, the Town Board shall vote on the proposed resolution regarding amendments to the Ordinance. If a unanimous vote is received, the Town Clerk shall sign the resolution, which shall be attested to by the Town Chairman, and a copy shall be forwarded to the Town Attorney.
6. Upon receipt of the signed resolution, the Town Attorney will make the appropriate amendments to the Ordinance in conformity with the resolution. The amended Ordinance sections, or the entire amended Ordinance when appropriate, will be forwarded to the Town Clerk and Plan Commission Secretary.

TOWN OF UTICA BUILDING CODE

ARTICLE I - BUILDING INSPECTOR

A. BUILDING INSPECTOR

1. It shall be the duty of the Building Inspector to enforce the provisions of this Ordinance, adopting the State's Uniform Dwelling Code and Commercial Building Code.
2. A Building Inspector shall be appointed by the Town Board to serve at the pleasure of the Town Board during the term of office of such Town Board, not for a fixed term, but subject to removal at any time by the Town Board with or without cause. The compensation of the Building Inspector shall be determined at the time of such appointment.
3. The Building Inspector shall examine all plans' blueprints, etc., of all new buildings to be constructed and of all construction classified as remodeling, reconstruction, or the moving of any building into the Town of Utica.
4. The Building Inspector shall make an inspection for compliance of any building constructed, proposed to be constructed or remodeled, or moved into the Township, before such work is commenced and prior to the time that footings or walls are poured.
5. An occupancy inspection shall be conducted at the owner's request.

B. BUILDING PERMITS

1. No building or structure or any part thereof shall hereafter be moved, built, enlarged, altered, or demolished within the Town (except as hereinafter provided) unless a permit therefore shall first be obtained by the owner, or his agent, from the Building Inspector.
2. The term "Building" as used in this Article shall include any building or structure, and any enlargement, alteration, moving or demolishing of any building or structure.
3. It shall be unlawful to commence work on any building or alteration before the building permit has been issued.
4. All applications for a building permit shall be accompanied by seven (7) copies of the plans, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered, or moved, the existing and/or intended use of each building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots of buildings as may be necessary to determine and provide for the enforcement of this Ordinance.
5. After being approved, the plans and specifications shall not be altered in any respect which involved any Ordinances, laws or orders, or which involves the safety of the building, except with the written consent of the Building Inspector.
6. If in the opinion of the Building Inspector, the character of the work is sufficiently described in the application, he/she may waive the filing of plans.

7. This Ordinance shall not be construed to require a permit for any repairs or minor alterations which do not change the occupancy area, structural strength, fire protection, exits, lights or ventilation of the building, and which do not cost more than One Thousand (\$1,000.00) Dollars; nor to the moving into or within town structures which are constructed so as to make them moveable.
8. With every permit issued, the Building Inspector shall issue to the applicant a weatherproof card, properly filled out. It shall be the duty of such applicant to place such card in a conspicuous place on the premises where the building is to be erected; the card to be unobstructed from public view and not more than fifteen (15) feet above the grade.
9. A building permit shall have lapsed and be void unless building operations are commenced within six (6) months from the date thereof. A building permit for a residential structure shall lapse and be void from and after twenty-four (24) months from its date of issuance; a building permit for all other non-residential structures shall lapse and be void from and after eighteen (18) months from its date of issuance.
10. If the Building Inspector shall find at any time that the Ordinances, laws, orders, plans and specifications are not being complied with, he shall revoke the building permit by written notice posted at the site of the work. When any such permit is revoked it shall be unlawful to do any further work upon such building until the permit is reissued, excepting such work as the Building Inspector shall order to be done as a condition precedent to the reissuance of the permit.
11. In case adequate plans are presented the Building Inspector may, at his discretion, issue a permit for a part of the building before receiving the plans and specifications for the entire building.
12. Any person feeling himself aggrieved by any order or ruling of the Building Inspector may appeal from such order or ruling to the Town Board within five (5) days after written notice of such order or ruling shall have been delivered to him, such appeal to be in writing, setting forth the order appealed from, and filed with the Town Clerk. Where a situation requires an immediate decision, that of the Building Inspector, shall be final and conclusive.
13. Before receiving a building permit the owner or his agent shall pay into the Treasury the following fee as per schedule. A list of building permit fees may be found in the Appendix to this Ordinance.
14. Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of this Ordinance and the construction of which shall have been started within (6) months from the date of such permit.
15. The Building Inspector shall issue a notice to the Town Clerk and the Assessor whenever a building permit is issued. Such notice shall be made by the Building Inspector on a form furnished by the Town, and shall contain all required information that is pertinent to the construction for which the building permit has been issued.

16. No person shall interfere with the Building Inspector while he is in the performance of the duties of his office.
17. Each applicant for a Town building permit shall further comply with all applicable laws, rules and regulations of Winnebago County and the State of Wisconsin.

C. **BUILDING CODE**

The Commercial Building Code and the Uniform Dwelling Code for the State of Wisconsin are hereby made part of this Ordinance; said Codes shall include all provisions thereof which have been adopted and published before the effective date of this Ordinance notwithstanding any provision thereof has a delayed effective date for purposes of the State of Wisconsin.

D. **VIOLATION AND PENALTIES**

Any person who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this Ordinance shall, upon conviction, forfeit not less than nor more than fees on schedule for each offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, may be imprisoned in the County Jail of Winnebago County until said forfeiture and costs are paid, but not to exceed thirty (30) days for each violation. Each day that a violation continues to exist shall constitute a separate offense.