

TOWN OF KAUKAUNA, OUTAGAMIE COUNTY
ZONING ORDINANCE

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1.0 Introduction

1.1 Authority

- A. This Ordinance is adopted under the authority granted by Wisconsin Statutes Chapter 60, 61, and 62, and amendments thereto. The Town Board of Supervisors of the Town of Kaukauna, Outagamie County, Wisconsin do ordain as follows:

1.2 Purpose

- A. The purpose of this Ordinance is to promote the health, safety, morals, prosperity, aesthetics and general welfare of the Town.

1.3 Intent

- A. It is the general intent of this Ordinance to provide guidelines for the use of structures, lands and waters; to regulate lot coverage, population distribution and density, and the size and location of all structures so as to: promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic, and other dangers; provide adequate light, air, sanitation and drainage; prevent overcrowding; avoid undue population concentration; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the Town. It is further intended to secure safety from flooding, water pollution, contamination, and other hazards; prevent flood damage to persons and other property and minimize expenditures for flood relief and flood control projects; obtain the wise use, conservation, development, and wildlife resources according to their capabilities; further maintenance of safe and healthful water conditions; prevent and control erosion, sedimentation and other pollution of surface and sub-surface waters; preserve shore ground and cover and promote the natural beauty of the Town; protect fish and animal life, including their spawning, nestling, nursing, and feeding areas.

1.4 Abrogation and Greater Restrictions

- A. It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws. However, wherever this ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

1.5 Interpretation

- A. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Ordinance and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.6 Severability

- A. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

1.7 Title

- A. This Ordinance shall be known as, referred to, or cited as, the “Town of Kaukauna Zoning Ordinance,” Town of Kaukauna, Outagamie County, Wisconsin.

1.8 Adoption and Effective Date

- A. This Ordinance shall be effective after a Town public hearing; recommendation by the Town Zoning Advisory Committee; adoption by the Town Board of Supervisors; review and adoption by the County Board of Supervisors; and publication or posting as provided by law.

2.0 General Provisions

2.1 Jurisdiction

- A. The provisions of these Ordinances shall apply to all structures and land within the Town of Kaukauna, Outagamie County, Wisconsin.

2.2 Compliance, Violations, and Penalties

- A. The provisions of this Ordinance shall be enforced by or under the direction of the Town Board. Any persons, firm or corporation who violates, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this Ordinance shall upon conviction, forfeit not less than \$200.00 or more than \$500.00 for each offense, together with the cost of prosecution, shall be imprisoned until said forfeiture and cost 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. Compliance herewith may also be enforced by injunction order at the suit of the Town or the owner or owners or real estate within the district affected by the regulations of this Ordinance.
- B. No structure or land shall hereafter be used, and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a land use permit, and without full compliance with the provisions of this Ordinance and all other applicable local, County and State regulations.
- C. Nothing herein contained shall require any changes in plans, construction, size, or designated use of any building, or part thereof, for which a land use permit has been issued before an effective date of this Ordinance.

2.3 Zoning Administrator Powers

- A. The Zoning Administrator shall accept all applications, issue or deny all land use permits, investigate all complaints, give notice of violations, and enforce the provisions of this Ordinance, other than new residences. All violations of this Ordinance shall be reported to the Town Board, who shall see to it that action is brought to enforce the provisions of this ordinance.
- B. The Town Board and their deputies shall have access to premises and structures during reasonable hours to make those inspections as they deem

necessary to ensure compliance with this Ordinance.

2.4 Town Planning Commission and Board of Appeals

- A. There is hereby recommended an on-going Planning Commission, to preserve, protect, and promote the ideals set forth in this Ordinance, using the handbooks from the Center for Land Use Education on Zoning Boards and Plan Commissions as guides.
1. Town Planning Commission
 - a. The Board shall establish and appoint a Town Planning Commission comprised of one member of the Board of Supervisors, one member of the Board of Appeals, and five Town citizens. Two alternates shall also be appointed by the Town Board to serve in the absence of any members. The Planning Commission shall at all times have seven members. The Town Supervisor will be appointed by a two-thirds vote of the Town Board and Elected at each annual Town meeting in April. The five citizens shall be appointed by the Town Board upon creation of the Town Planning Commission, to hold office; one (1) for one (1) year, two (2) for two (2) years and two (2) for three (3) years. The terms shall be from the succeeding May 1 and thereafter, annually during the Annual Town meeting expired terms shall be appointed for a three year term. The Board of Appeals shall be appointed as stated in the State Statutes (60.65).
 - b. The functions of the Town Planning Commission shall be as specified in Wisconsin State Statute 60.61(3) and (4) as amended, at the enactment of this Ordinance.
 - c. It shall be the duty of the Town Planning Commission to advise the Town Board on all zoning and related land use matters. A copy of the application for Conditional Use or rezone or Site Plan Permit shall be provided to the Town Planning Commission at the time of the application. The Town Planning Commission shall advise the Town Board on any such application prior to action by the Town Board. Such action is merely advisory and is not binding upon the Town Board.
 2. Board of Appeals
 - a. The Town Board shall appoint a Board of Appeals consisting of five members. Two members from the Town Board, who shall serve for a two year term, one member from the Planning Commission, who shall serve for a one year term and two Town citizens, who shall serve for a three year term, 1 for a two year term and 1 for three year term. The Board of Appeals shall be compensated as fixed by

the Town Board. The Board of Adjustment may employ a secretary for the purpose of keeping records and minutes during its meeting and public hearings. The Town Board may appoint, for a staggered term of three years, two alternate members of such Board of Appeals in addition to the five members. Annually the Town Board shall designate one of the alternates as the first alternate, and the other as the second alternate. The first alternate shall act with full power only when a member of the Board of Appeals refuses to vote because of conflict of interest or is absent. The second alternate shall act in a like manner only if the first alternate so refuses or is absent or more than one member of the board so refuses for conflict of interest or is absent.

- b. The Board of Appeals shall function as specified in 60.65 of Wisconsin State Statutes, as amended, at the time of enactment of this Ordinance and according to any additional rules of procedure as fixed by this Ordinance or by the Board of Adjustment. The Board of Appeals has the power, in addition to those specified in the aforementioned statute and as otherwise enumerated in this Ordinance:
 - (1) To grant a permit for a temporary building for commerce or industry in a Residential or Agriculture district, consistent with Ch. 91 state statutes, which is incidental to the residential development, but no such permit shall be granted for a period of more than one year.
 - (2) To grant a permit for the erection and use of a building or premise in any location to a public service corporation or for a public utility purpose which the Board of Adjustment finds reasonably necessary for the public convenience, safety, or welfare.
 - (3) To grant a permit for the location of uses listed in the Light and Heavy Industrial district, when the Board of Adjustment determined that the proposed location and use will not be detrimental, hazardous or injurious to the community, nor noxious by reason of the emission smoke, dust, gas, noise or odors.
 - (4) After public hearing, to designate areas in the General Agriculture District to be used for sanitary landfill. The boundaries of such areas shall be defined and they shall be located not less than one-half mile from any residence and a reasonable distance from any Federal, State, County trunk highway or town road. The location of such public dumping grounds may be changed from time to time by the same method by which they were originally established.

- (5) To consider and rule upon requests for variances under the terms of this Ordinance and relevant State Statutes.
- (6) To consider and rule upon appeals of decisions made by the Town Board, Planning Commission, or any other duly designated representative of the Town of Kaukauna.

2.5 Use Regulations

- A. Only the following uses and their essential services may be allowed in any district:
 1. Permitted Uses specified for a district.
 2. Accessory Uses when primary use is present or under construction. Uses accessory to residential developments may not involve the conduct of any business, trade, or industry except for home and professional occupations as provided herein.
 3. Conditional Uses and their accessory uses may be permitted in specified districts after review, public hearing, and approval by the Board of Adjustment in accordance with procedures and standards established in Sec. 4.0 of this Ordinance.
 4. Uses Not Specified in this Ordinance may be permitted by the Town Board after the Town Planning Commission has made a review and written recommendation and provided that such uses are similar in character to the permitted uses in the district.
 5. 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 Planning Commission provided such uses are treated as Conditional Uses in the “Rural Development District.”

2.6 Site Regulations

- A. All lots shall front on a public street or other officially approved way; all principal structures shall be located on a lot; and only one principal structure shall be located, erected, or moved onto a lot for residential use.
- B. All lots created for residential use shall have a minimum lot size of one-half acre of useable land.
- C. Every Split or Division of Land in the Town of Kaukauna shall require a certified survey map and a copy of such survey map shall be filed with the Town Clerk and recorded in the office of the Outagamie County Register of

Deeds. Exemptions from the certified survey map requirement include transfers of interest in land by will or pursuant to court order, leases not to exceed ten years, creation or realignment of an easement, lien, mortgage, deed of trust, or any other security instrument, or other situations as determined under Outagamie County's Subdivision and Land Division ordinance.

- D. A Subdivision is created when the division of a lot, parcel or tract of land creates more than four new parcels from the parent parcel. Subdivisions in the Town of Kaukauna currently fall under the jurisdiction of the Outagamie County Subdivision Ordinance. The Town may adopt its own land division and subdivision regulations in the future.
- E. Width and Area of all lots shall be as follows:
1. The width of all lots shall not be less than one hundred and fifty (150) feet with the exception for a lot on a cul-de-sac shall not be less than seventy five (75) feet frontage with rear lot minimum of 150 ft.
 2. The area of all such lots shall not be less than one (1) acre of useable land per dwelling unit to be constructed on the lot.
 3. The side and rear yard of all lots shall not be less than twenty (20) feet in width.
 4. Setbacks for unattached accessory building in the rural development district shall not be less than seven (7) feet from side and rear lot lines, but only if adequate vehicle access to the rear yard is provided.
- F. Setback Lines Established. For the purpose of this chapter, all highways in Outagamie County outside the limits of incorporated cities and Villages are divided into Class "A" highways and Class "B" highways.
1. All State, Federal and County highways are hereby designated as Class "A" highways.
 2. The setback for Class "A" highways shall not be less than fifty-five (55) feet from the highway right-of-way line or forty-five (45) from a service road right-of-way line, provided the service road runs parallel and is adjacent to the Class "A" highway.
 3. All highways not classified as Class "A" highways, except streets in platted subdivisions, are hereby designated as Class "B" highways.
 4. The setback for Class "B" highways shall not be less than sixty- five (65) feet from the centerline of the highway or thirty-two (32) feet from the right-of-way line, whichever is greater.
 5. The setback for streets in platted subdivisions shall be as

specified for the district in which the street is located.

6. Where the locations of two or more highways of different classifications are coincidental, the greater setback shall apply.

2.7 Public Streets

- A. All lots not of public record as of the effective date of this Ordinance shall abut upon a public street or other officially approved way. No Land Use Permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width, and no Land Use Permit shall be issued for a lot which abuts a street which is not built to Town specifications and officially deeded to and accepted by the Town Board.
- B. All improvement costs necessary to bring proposed streets to Town specifications shall be borne entirely by the land developer.
- C. All dead-end streets shall end in a cul-de-sac and said cul-de-sac shall have a minimum roadway radius of fifty (50) feet. No dead-end street shall exceed one thousand (1000) feet in length.

2.8 Sanitary Regulations

- A. No private water supply or sewage disposal system or parts thereof shall be located, installed, moved reconstructed, extended, enlarged, converted, substantially altered or their use changed without a Sanitary Permit and without full compliance with the County Sanitary Code.
- B. No Land Use Permit shall be issued until a safe and adequate water supply and sewage disposal system is assured and a sanitary permit is issued.
- C. Holding Tanks and Mound Type sewage absorption systems are allowed in the Town as approved by County Sanitary Code.
- D. Disposition of Waste Material in the Town is restricted by the "Ordinance Regulating Disposition of Wastes Material," contained in this Ordinance as Appendix A.

2.9 Pet and Animal Regulations

- A. Household Pets shall be permitted in all zoning districts; provided that not more than four dogs are kept on any one premises, and provided further that no animal, fowl, or pets are bred or reared on such premises

for commercial purposes or sold therefore. Notwithstanding the foregoing, however, offspring of permitted household pets may be kept and sold from the premises for a period of up to eight (8) months. A dog license must be applied for in the Town of Kaukauna for each dog owned and shall be applied for from the Town Treasurer. Proof of shots is required to apply for a dog license.

- B. All Animals Other Than Household Pets shall be permitted only in the Agricultural and Conservation Districts.
- C. Ownership of all exotic pets shall be reviewed through the Conditional Use Permit process outlined in Section 4.1.
- D. All exotic pets shall stay confined to the owner's property.

2.10 Reduction or Joint Use

- A. No lot, yard, parking area, building area, sanitary sewage disposal area, or other space shall be reduced in area or dimensions so as not to meet the provisions of this ordinance. No part of any lot, yard, parking area, sanitary sewage disposal area, or other space required for a structure or use shall be used to meet the requirements for any other structure or use.

2.11 Regulation of Lagooning, Dredging, and Excavating

- A. The regulation of lagoons, dredging, and excavation is necessary to protect the citizens of the Town of Kaukauna.
- B. Land Use Permits and Conditional Use Permits.
 - 1. A land use permit shall be required for all lagoons, dredging, or excavation within the Town.
 - 2. Extraction Operations and Land Reclamation
 - a. At the time of site operation, discontinuation, or abandonment, a horizontal to vertical slope of 3:1 or flatter must be stabilized to prevent erosion. The top of the slope should be no closer than ten (10) feet from the property line.

2.12 Non-Conforming Uses of Structures and Land

- A. Applicability and Intent. Any use of land or structures, or any lot or structure which existed legally at the effective date of adoption or amendment of this ordinance which would not be permitted or

permissible by the provisions of this ordinance as adopted or amended, shall be deemed nonconforming. It is the intent of this ordinance to permit such legally existing nonconformities to continue, subject to restrictions.

- B. Nonconforming Uses of Land and Structures. No such nonconforming use of any land or structure shall be extended or enlarged. If such nonconforming use is discontinued for a period of 12 consecutive months or for 18 accumulative months during any three-year period, any future use of such land or structure shall conform to the ordinance.
- C. Nonconforming Structures. No such structure shall be altered in any manner, which would increase the degree of nonconformity.
- D. Nonconforming Lots of Record. In any residential district, a single-family dwelling and customary accessory structure may be erected on a single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements of lot size, lot width or both for the district in which it is located, provided such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership. Variance of yard requirements shall be obtained only through action of the Zoning Board of Appeals. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the effective date of adoption or amendment of this ordinance, the lands involved shall be considered to be an individual parcel for the purpose of this ordinance and no portion of such parcel shall be used, divided or sold which does not meet the lot size and lot width requirements for the district in which it is located.
- E. Repairs and Maintenance. Nothing in this ordinance shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structure declared to be unsafe.
- F. Existing Conditional Uses. Any use or structure existing at the effective date of adoption or amendment of this ordinance which is or was classified as a conditional use in the district in which it is located shall be deemed to have been granted approval by the Plan Commission, subject to maintaining the character and intent of such use or structure existing on that date. Any extension, enlargement or change in such use or structure shall require approval of the Plan Commission as provided in this ordinance.

2.13 Site Plan Review

- A. Purpose. The Town Board recognizes that zoning, by itself, does not guarantee that new development will integrate into the community. Often, a legally allowable use may, nonetheless, be incompatible with its proposed environment due to various design factors. Site plan review provides the Town with an opportunity to regulate development to ensure that structures and sites fit harmoniously into the surrounding environment.
- B. Applicability. Except for buildings and accessory structures consistent with agricultural uses, a site plan permit shall be required for any of the following activities:
1. New construction of a building or other structure, except as provided below.
 2. Expansion of an existing use that involves a floor space increase of twenty (20) percent or more within any 10-year period.
 3. Change of business or other activity that requires an increase of ten (10) percent or more in the number of off-street parking spaces.
 4. Alteration or expansion of an existing parking lot that affects greater than ten (10) percent of the total number of parking spaces.
 5. Remodel or exterior alteration of any building or other structure, the cost of which exceeds five (5) percent of the structure's total fair market value as determined by the Permit Issuer.
- C. Initiation of Process; Payment of Fee. The site plan review process shall be initiated prior to the commencement of any site disturbing activities such as grading, filling, vegetation removal, etc. associated with the proposed activity. Payment of the appropriate fee, as set forth by the Town Board's schedule of fees, shall be made at the time of the pre-application conference.
- D. Pre-application Conference. To assist the Town and the applicant in the site plan review process, an applicant for site plan review may arrange for a pre-application conference with the Town Board Chair, Permit Issuer, and/or selected Planning Commissioners by submitting forms and sketch plans as prescribed by the Permit Issuer prior to submission of a formal application. A pre-application conference need not include extensive field inspection or correspondence. The purposes of the pre-application

conference are to bring about an informal discussion regarding a proposed project, and to assist the applicant by identifying the following:

1. Requirements for submittal, including any other types of permits necessary to complete the proposal.
 2. Applicable community plans, goals, policies, codes or guidelines and possible revisions to the proposed project that will enhance the proposal with respect to these requirements.
 3. Required plans, studies, reports, and/or other materials specific to the proposal that will provide necessary information for staff to review the project.
 4. The discussion at the pre-application conference shall not bind or prohibit the community's future enforcement or application of its codes and ordinances.
- E. Formal Application. Application for site plan review shall include the documents described under "Submission Requirements" below as may be required by the Planning Commission at its discretion. A copy of the site plan shall be given by the applicant to the Town Clerk to be kept on file for public inquiry. After the application is determined to be complete for purposes of further processing, the Commission may transmit copies of the site plan documents to the Permit Issuer, Zoning Administrator or other consultant(s), official(s) as deemed necessary, in order to solicit comments. The reviewing officials shall then submit written comments to the Commission within 21 days concerning the potential impacts of the proposed development on the objectives listed under "Standards of Review" below, and any recommended conditions or remedial measures to accommodate or mitigate these expected impacts. Failure of any of the aforementioned parties to respond within the allotted time shall be interpreted as approval of the site plan as proposed.
- F. Submission Requirements. A site plan shall be prepared on standard 24" x 36" sheets, with continuation on 8 1/2" x 11" sheets as necessary for written narrative. The Permit Issuer or other decision-making body may require any of the following items as part of the formal site plan submission:
1. Name of the project, boundaries, and location maps showing the site's location in the community, date, north arrow and scale of the plan.
 2. Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
 3. Names and addresses of all owners of record of abutting parcels and those within three hundred feet (300') of the parcel line.

4. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses and the location and use of structures within three hundred feet (300') of the site.
5. The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
6. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping walls and fences.
7. Location, type, and screening details for all waste disposal containers shall also be shown.
8. The location, height, intensity and coverage area of all external lighting fixtures.
9. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
10. The location, height, size, materials, and design of all proposed signage.
11. The location of all present and proposed utility systems including sewage system; water supply system; telephone, cable and electrical systems; storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes and drainage swales.
12. Soil logs, percolation tests and storm runoff calculations for large or environmentally sensitive developments.
13. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties as applicable.
14. Existing and proposed topography at two-foot (2') contour intervals. If any portion of the parcel is within the 100-year floodplain, the area shall be shown, and base flood elevations given. Indicate areas within the proposed site and within fifty feet (50') of the proposed site, where ground removal or filling is required, and give its approximate volume in cubic yards.
15. A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features including size and type of plant material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains and drainage retention areas.
16. Zoning district boundaries within five hundred feet (500') of the site's

perimeter shall be drawn and identified on the plan.

17. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred feet (100') of the site.
 18. For new construction or alterations to any existing building, a table containing the following information:
 - a. Area of building to be used for a particular use such as retail operation, office, storage, etc.
 - b. Maximum number of employees.
 - c. Maximum seating capacity, where applicable.
 - d. Number of parking spaces existing and required for the intended use.
 - e. Elevation plans at a scale of 1/8" = 1' for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of signs to be used.
- G. Procedure. For proposals not requiring a Conditional Use Permit, the Commission shall issue its decision on the application within thirty (30) days after the determination that the application is complete. For proposals also requiring a Conditional Use Permit, the Commission shall issue its decision on the site plan application no later than seven (7) days after the hearing held by the Board of Appeals on the proposed Conditional Use Permit if such Conditional Use Permit is granted.
- H. Decision of Planning Commission. The Commission's decision shall consist of either:
1. Approval of the site plan.
 2. Approval of the site plan subject to any conditions, modifications or restrictions as imposed by the Commission.
 3. Disapproval of the site plan.
- I. Criteria for Review. During the site plan review process, the Commission shall review the site plan and supporting documents to assess the reasonable fulfillment of the following listed objectives:
1. Legal. Conformance with the provisions of the ordinances and rules of the State of Wisconsin, Outagamie County and the Town.
 2. Traffic. Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.

3. **Parking.** Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic control.
4. **Services.** Reasonable demands placed on community services and infrastructure.
5. **Pollution Control.** Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.
6. **Nuisances.** Protection of adjacent and neighboring properties and community amenities from any undue disturbance caused by excessive or unreasonable noise, fumes, smoke, dust, odors, glare, stormwater runoff, etc.
7. **Existing Vegetation.** Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.
8. **Amenities.** The applicant's efforts to integrate the proposed development into the existing landscape through design features such as consistent and complimentary architectural design, vegetative buffers and/or the retention of open space.
9. **Character.** The building setbacks, area and location of parking, architectural compatibility, signage and landscaping of the development, and how these features harmonize with the surrounding built environment and natural landscape.

2.14 Uniform Dwelling Code

- A. **Authority.** These regulations are adopted under the authority granted by s. 101.65, Wisconsin Statutes.
- B. **Purpose.** The purpose of this ordinance is to promote the general health, safety and welfare and to maintain required local uniformity with the administrative and technical requirements of the Wisconsin Uniform Dwelling Code.
- C. **Scope.** The scope of this ordinance includes the building structure of new construction and any HVAC, electrical or plumbing systems and shall comply with the Uniform Dwelling code.
- D. **Wisconsin Uniform Dwelling Code Adopted.** The Wisconsin Uniform Dwelling code, Chs. SPS 320-325 of the Wisconsin Administrative Code, and all amendments thereto, is adopted and incorporated by reference

and shall apply to all buildings within the scope of this ordinance.

- E. Building Inspector. There is hereby created the position of Building Inspector, who shall administer and enforce this ordinance and shall be certified by the Division of Safety & Buildings, as specified by Wisconsin Statutes, Sec. 101.66(2), in the category of Uniform Dwelling Code Construction Inspector. Additionally, this or other assistant inspectors shall possess the certification categories of Soil Erosion Inspector, UDC HVAC, UDC Electrical, and UDC Plumbing.
- F. Building Permit Required. No person shall alter, in excess of \$10,000 value in any twelve month period, build, add onto or alter any building within the scope of this ordinance without first obtaining a building permit for such work from the building inspector. Restoration or repair of an installation to its previous code compliant condition as determined by the building inspector is exempted from permit requirements. Residing, re-roofing, normal repairs to maintain the structure, finishing of interior and exterior surfaces and installation of cabinetry shall be exempted from permit requirements.
- G. Building Permit Fee. The building permit fees shall be determined by resolution.
- H. Penalties. The enforcement of this section and all other laws and ordinances relating to building shall be by means of the withholding of building permits, imposition of forfeitures and injunctive action. Forfeitures shall be not less than \$200.00 nor more than \$1,000.00 for each day of noncompliance. Failure to obtain a valid building permit prior commencing any activity covered by this code will result in double fees being assessed.
- I. Effective Date. This ordinance shall be effective upon passage and publication as provided by law.

2.15 Planned Unit Development (PUD)

- A. Intent. The intent of the planned unit development provisions is to encourage quality and desirable development by allowing for greater flexibility and design freedom than that permitted under basic district regulations. These regulations are established to permit and encourage diversification, variation and imagination in layout of development; to encourage the preservation of open space; and to encourage more

rational, economic development with respect to the provisions of public services.

- B. Unified Control. All land included for development as a PUD shall be under the legal control of the applicant, whether that applicant be an individual, partnership, or corporation or group of individuals, partnerships or corporations. Applicants requesting approval of a PUD shall present firm evidence of unified control of the entire area within the proposed PUD together with evidence that the developer has the unrestricted right to impose all the covenants and conditions upon the land as are contemplated by the provisions of this chapter. The applicant shall state agreement to:
1. Proceed with the proposed development according to the provisions of these zoning regulations and such conditions as may be attached to the Conditional Use for PUD.
 2. Provide agreements, contracts and deed restrictions necessary for completion of the development according to the approved plans.
 3. Bind their successors in title to any commitments made in the approval process.
- C. Permitted Uses. All the permitted uses of the Rural Development District, Institutional District, Commercial District, Light Industrial District, Industrial District, and Heavy Industrial District in which the PUD is located, to allow for additional development flexibility.
- D. General Requirements. All permitted uses shall be subject to the accessory use and structure, sign, height, and parking requirements of the district in which it is located.
- E. Area and Density Requirements. A tract of land proposed for development as a planned unit development shall contain a minimum area of five acres and a maximum density of two dwelling units per net acre.
- F. Internal Lots and Frontage. Within the boundaries of the PUD, no minimum lot size or minimum yards shall be required; provided, however, that no structure shall be located closer to any peripheral property line than a distance equal to the height of such structure.
- G. Access. Every dwelling unit shall have access to a public street either directly or via an approved private road, pedestrian way, court or other area dedicated to public or private use or common element guaranteeing access. Permitted uses are not required to front on a dedicated public street.
- H. Engineering Design Standards. Normal standards or operational policy

regarding right-of-way widths, provision for sidewalks, streetlighting and similar environmental design criteria shall not be mandatory in a planned unit development, but precise standards shall be made a part of the approved plan and shall be enforceable as a part of this chapter.

- I. Procedures for Approving Planned Unit Developments.
 1. Pre-application review.
 - a. Before submitting an application for a PUD, an applicant shall confer with the Planning Commission and Zoning Administrator in connection with the preparation of the application for a planned unit development.
 - b. The purpose of the pre-application conference shall be to familiarize both the applicant and the Planning Commission with each other's intentions with respect to the PUD before the applicant enters into binding commitments or incurs substantial expense.
 - c. At the pre-application conference, the Planning Commission shall familiarize the applicant with the PUD process and explain to the applicant issues that should be considered in planning the project. The applicant shall inform the Planning Commission of his development concept through general outlines and sketch plans. Any statement made by either the Planning Commission or the applicant concerning potential disposition of a PUD application, or the final form of the development shall not be legally binding.
 2. Development plan. A development plan shall accompany the application for a Conditional Use permit and contain the following information:
 - a. Names of the owners and developer.
 - b. Scale, date, North arrow.
 - c. Existing streets, buildings, watercourses, easements and utility lines.
 - d. Proposed pattern of public and private streets, accessways and parking areas.
 - e. Locations and arrangements of lots,
 - f. Buildings by dwelling types, open space areas and recreational facilities, if any.
 - g. Architectural drawings and sketches illustrating the design and character of the various buildings proposed.
 - h. Appropriate statistical data on the size of the development, number of dwellings by type, percentage of open space and other data pertinent to review.
 - i. General outline of deed restrictions and other documents pertaining to the development, operation and maintenance of the

project.

3. Plan approval. Upon approval of a development plan, a Conditional Use permit shall be issued. All terms, conditions and stipulations made at the time of approval shall be binding upon the applicant or any successors in interest.
 4. Preliminary and final plans. Approval of a development plan for a Conditional Use does not constitute preliminary or final plat approval. Preliminary and final plats shall be submitted and processed in accordance with standard subdivision review procedures.
 5. Changes in plan. Minor changes in plans shall be made by application. Minor changes shall not be considered a reapplication for Conditional Use permit. Substantial changes in plans shall be made by application and processed as a new application for a Conditional Use permit.
 6. Deviations from approved plans. Deviations from approved plans or failure to comply with any requirement, condition or safeguard during approval or platting procedures shall constitute a violation of these zoning regulations.
- J. Building Permits. Final approval does not constitute approval for the construction of individual buildings or structures in the development. Application for building permits shall be submitted and processed in accordance with standard procedures.

2.16 Mobile Tower Siting

- A. This section regulates by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.
1. The town board has the specific authority under ss. 62.23 and 66.0404, Wis. Stats., to adopt and enforce this ordinance.
 2. All definitions contained in s. 66.0404(1) are hereby incorporated by reference.
- B. Siting and Construction of Any New Mobile Service Support Structure and Facilities
1. Application Process
 - a. A town zoning permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and

facilities is a conditional use in the town obtainable with this permit.

- b. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
 - (1) The name and business address of, and the contact individual for, the applicant.
 - (2) The location of the proposed or affected support structure.
 - (3) The location of the proposed mobile service facility.
 - (4) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 - (5) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - (6) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- c. A permit application will be provided by the town upon request to any applicant.
- d. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant

may resubmit an application as often as necessary until it is complete.

- e. Within 90 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90-day period:
 - (1) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
 - (2) Make a final decision whether to approve or disapprove the application.
 - (3) Notify the applicant, in writing, of its final decision.
 - (4) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- f. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under 2.16 B. 1. b. (6).
- g. If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.
- h. The fee for the permit is \$3,000.

2. Limitations.

- a. The Town Board may impose additional conditions on the permit pursuant to the Town of Kaukauna Zoning Ordinance except for conditions prohibited by Wis. Stat. § 66.0404.

C. Class 1 Collocation

1. Application Process

- a. A town zoning permit is required for a class 1 collocation. A class 1 collocation is a conditional use in the town obtainable with this permit.
- b. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:

- (1) The name and business address of, and the contact individual for, the applicant.
 - (2) The location of the proposed or affected support structure.
 - (3) The location of the proposed mobile service facility.
 - (4) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 - (5) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - (6) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- c. A permit application will be provided by the town upon request to any applicant.
 - d. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
 - e. Within 90 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider

the application approved, except that the applicant and the town may agree in writing to an extension of the 90-day period:

- (1) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
- (2) Make a final decision whether to approve or disapprove the application.
- (3) Notify the applicant, in writing, of its final decision.
- (4) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- (5) The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under 2.16 C. 1. b. (6).
- (6) If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.
- (7) The fee for the permit is \$3,000.

2. Limitations.

- a. The Town Board may impose additional conditions on the permit pursuant to the Town of Kaukauna Zoning Ordinance except for conditions prohibited by Wis. Stat. § 66.0404.

D. Class 2 Collocation

1. Application Process

- a. A town zoning permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the town but still requires the issuance of the town permit.
- b. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
 - (1) The name and business address of, and the contact individual for, the applicant.
 - (2) The location of the proposed or affected support structure.
 - (3) The location of the proposed mobile service facility.

- c. A permit application will be provided by the town upon request to any applicant.
 - d. A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject under the Town's Ordinances.
 - e. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If any of the required information is not in the application, the town shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
 - f. Within 45 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 45-day period:
 - (1) Make a final decision whether to approve or disapprove the application.
 - (2) Notify the applicant, in writing, of its final decision.
 - (3) If the application is approved, issue the applicant the relevant permit.
 - (4) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
 - g. The fee for the permit is \$500.
- E. Penalty Provisions
- 1. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$200 nor more than \$500, plus the applicable surcharges, assessments, costs, and attorneys' fees, for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the town may seek injunctive relief from a court of record to enjoin further violations.
- F. Severability
- 1. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect

without the invalid provision or application, and to this end the provisions of this ordinance are severable.

2.17 Solar Energy Systems

- A. Purpose. The purpose of this Section is to provide a regulatory scheme for the construction and operation of Solar Energy Systems, other than those excluded in 2.17 B. and 2.17 C. below, in the Town of Kaukauna, Outagamie County, Wisconsin. All regulations contained herein are adopted to preserve and protect the public health and safety.
- B. Definitions for this section.
1. Account balance refill: An amount set by the Fee Schedule that increases the minimum account balance to a sufficient level where the Town has assurance the costs relating to the permit review can continue to be debited against the permit fee deposit.
 2. Minimum account balance: The lowest tolerable remnant from the solar energy system permit fee deposit that is acceptable to the Town as assurance for project completion, as set within the Fee Schedule.
 3. Solar Energy System: Equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy. "Solar Energy System" excludes solar powered light fixtures that are ground or wall mounted and solar powered electric fences.
 4. Solar Energy System, Free-Standing: An accessory use that is the installation of equipment mounted on the ground that uses sunlight to produce electricity or provide heat or hot water to a building. (In contrast see Solar energy system).
 5. Solar Energy System, Building-Mounted: An accessory use that is the installation of equipment mounted on a building or incorporated into the exterior building materials that uses sunlight to produce electricity or provide heat or water to a building.
 6. Solar Energy System Permit Fee: A deposit amount set by the Fee Schedule which shall be used as a funding account provided by the applicant, against which all costs incurred by the Town relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts shall be billed. Submission of this permit fee does not constitute approval of the application unless and until all applicable regulations are satisfied.
- C. Permit Required. No Solar Energy System may be installed or maintained in the Town of Kaukauna without a Solar Energy System Permit granted pursuant to this ordinance, except that no permit is required for a free-standing solar energy system or a building-mounted solar energy system if it meets the following criteria:

1. Building-Mounted Solar Energy Systems are allowed without obtaining a permit as an accessory use on the following conditions:
 - a. No portion of a panel used to collect solar energy may extend beyond the roof surface or the wall surface to which it is attached by more than 48 inches.
 - b. The solar energy system shall comply with the maximum height requirements of the zoning district in which the building is located.
 - c. The panels of the solar energy system that are mounted on a pitched roof may be either fixed or movable and may be placed at an angle to optimize efficiency of the system.
 - d. The solar energy system may be mounted on the façade of a commercial building provided the installation does not project more than four feet from the face of the wall.
 - e. All solar panels shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the Town Board.
 - f. If the Town determines that more than fifty percent of the panels (measured by total area) have not been operational for a continuous period of twelve months, the solar panels shall be removed.
2. Free-Standing Solar Energy Systems are allowed without obtaining a permit as an accessory use on the following conditions:
 - a. The surface area of the solar energy system shall not exceed 250 square feet when located in any residential district. There is no maximum surface area in all other districts. The surface area of the solar energy system shall not be included when determining the total accessory structure area allowed on the lot.
 - b. There shall be no more than one Free-Standing Solar Energy system when located in any residential district. There is no maximum number in all other districts.
 - c. The solar energy system shall meet the maximum height restriction for an accessory structure for the zoning district in which it is located.
 - d. The solar energy system shall meet all setback requirements for an accessory structure for the district in which it is located.
 - e. All solar panels shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the Town Board.
 - f. If the Town determines that more than fifty percent of the panels (measured by total area) have not been operational for a continuous period of twelve months, the solar panels shall be removed.

- D. Application. Every application for a Solar Energy System Permit shall be made in writing and shall include the following information:
1. Name and address of the applicant.
 2. Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.
 3. Scaled drawing of the Solar Energy System and its dimensions, its location, its height above ground level, orientation, and slope from the horizontal.
 4. Site plan showing lot lines and dimensions of the Solar Energy System user's lot and neighboring lots that will be affected by the Solar Energy System.
 5. Documentation showing that no reasonable alternative location exists for the Solar Energy System that would result in less impact on neighboring lots.
 6. Documentation showing that removing or trimming vegetation on the applicant's lot will not permit an alternative location for the Solar Energy System that would result in less impact on neighboring lots.
 7. Such additional information as may be reasonably requested.
 8. Any of the information required by this section may be waived by the Town at its discretion.
 9. An applicant for a solar energy system exceeding 5 MW shall deposit an application fee as per the Fee Schedule with the Town at the time the application is filed. All costs incurred by the Town relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts shall be billed against the deposit. The applicant shall maintain a minimum account balance as per the Fee Schedule until the review process and construction (if approved) is completed. If the balance in the account drops below the relevant minimum account balance, the applicant shall deposit additional money to bring the account balance to the correlating account balance refill amount within five (5) business days. The Town will refund any remaining balance in the account within 60 days after the final inspection of the constructed solar energy system or after denial of the application, as applicable. The Town reserves the right to refuse review of an application in the event an applicant fails to comply with this subsection.
 10. An applicant for a solar energy system up to 5 MW shall deposit an application fee as per the Fee Schedule with the Town at the time the application is filed. All costs incurred by the Town relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts shall be billed against the deposit. The applicant shall maintain a minimum account balance as per the Fee Schedule in the account until the review process and construction (if approved) is completed. If the balance in the account drops

below the listed minimum account balance, the applicant shall deposit additional money to bring the account balance to the correlating account balance refill amount within five (5) business days. The Town will refund any remaining balance in the account within 60 days after the final inspection of the constructed solar energy system or after denial of the application, as applicable. The Town reserves the right to refuse review of an application in the event an applicant fails to comply with this subsection.

- E. Review of Solar Energy System Permit Application. The Town will consider each Solar Energy System on a case-by-case basis following the procedures in Section 16.1 except as modified in this Section. In addition to the notice requirements set forth in Section 16.1, the applicant shall provide written notice of its application to the owners and occupants of all properties located with 1,000 feet of any parcel upon which any portion of the proposed solar energy system will be located. The Town may deny a permit for a Solar Energy System or may impose restrictions on a Solar Energy System if the Town finds that the denial or restrictions satisfy one of the following conditions:
1. The denial or restriction serves to preserve or protect the public health or safety.
 2. The denial or restriction does not significantly increase the cost of the system or significantly decrease its efficiency.
 3. The denial or restriction allows for an alternative system of comparable cost efficiency.
- F. Solar Energy System Restrictions. The Town may impose restrictions on a Solar Energy System relating to any of the following:
1. Location of the Solar Energy System.
 2. Setbacks from inhabited structures, property lines, public roads, communication and electrical lines, and other sensitive structures and locations.
 3. Wiring and electrical controls of the Solar Energy System.
 4. Reimbursement for emergency services required as a result of the Solar Energy System.
 5. Solar Energy System ground clearance.
 6. Solar Energy System height.
 7. Decommissioning and reclamation.
 8. Any other matters that the Town finds appropriate.
- G. Revocation. Any permit granted for the installation or maintenance of a Solar Energy System may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provisions of this ordinance or the provisions of a permit granted pursuant to this ordinance.

2.18 Wind Energy Systems

A. Purpose

The purpose of this Ordinance is to provide a regulatory scheme for the construction and operation of Wind Energy Systems in the Town of Kaukauna, Outagamie County, Wisconsin. This Ordinance is adopted pursuant to Wis. Stat., § 66.0401 and PSC 128 and pursuant to the Town's general police powers. All regulations contained herein are adopted to preserve and protect the public health and safety.

B. Definitions

Wind Energy System: Has the meaning given in Wis. Stat., § 66.0403(1)(m) and is used to convert wind energy to electrical energy. "Wind Energy System" includes Small Wind Energy Systems.

Small Wind Energy System: A Wind Energy System that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.

Other Definitions: The remaining definitions set forth in PSC 128.01 are incorporated by reference as though fully set forth herein.

C. Permit Required

No Wind Energy System may be installed, constructed or expanded in the Town without a Wind Energy System Permit granted pursuant to this ordinance.

D. Application

Every application for a Wind Energy System Permit shall be made in writing and shall include the following information:

- (1) Wind Energy System description and maps showing the locations of all proposed wind energy facilities.
- (2) Technical description of wind turbines and wind turbine sites.
- (3) Timeline and process for constructing the Wind Energy System.
- (4) Information regarding anticipated impact of the Wind Energy System on local infrastructure.
- (5) Information regarding noise anticipated to be attributable to the Wind Energy System.
- (6) Information regarding shadow flicker anticipated to be attributable to the Wind Energy System.
- (7) Information regarding the anticipated effects of the Wind Energy System on existing land uses within 0.5 mile of the Wind Energy System.
- (8) Information regarding the anticipated effects of the Wind Energy System on airports and air space.
- (9) Information regarding the anticipated effects of the Wind Energy System on line-of-sight communications.
- (10) A list of all state and federal permits required to construct and operate the Wind Energy System.
- (11) Information regarding the planned use and modification of roads within the Town during the construction, operation, and decommissioning of the Wind Energy System, including a process for assessing road damage caused by Wind Energy System activities and for conducting road repairs at the owner's expense.
- (12) A copy of all emergency plans developed in collaboration with

- appropriate first responders under PSC 128.18(4)(b). An owner may file plans using confidential filing procedures as necessary.
- (13) A decommissioning and site restoration plan providing reasonable assurances that the owner will be able to comply with PSC 128.19.
 - (14) A representative copy of all notices issued under Section 7 and PSC 128.105(1)(a) and 128.42(1).
 - (15) Any other information necessary to understand the construction, operation or decommissioning of the proposed Wind Energy System.

E. Accuracy of Information.

The owner shall certify that the information contained in an application is accurate.

F. Duplicate Copies.

The applicant shall file an original and ten copies of the application with the Town. One copy shall be an electronic copy. Each copy shall include, but is not limited to, all worksheets, maps, and other attachments included in the application.

G. Notice to Property Owners and Residents.

- (1) On the same day an owner files an application for a Wind Energy System, the owner shall, under s. 66.0401(4)(a)3., Stats., use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any wind energy system facility. At the same time, a copy shall be provided to the Town. The notification shall include all of the following:
 - a. A complete description of the Wind Energy System, including the number and size of the wind turbines.
 - b. A map showing the locations of all proposed Wind Energy System facilities.
 - c. The proposed timeline for construction and operation of the Wind Energy System.
 - d. Locations where the application is available for public review.
 - e. Owner contact information.
- (2) After the Town receives an application for a Wind Energy System, the Town shall publish the notice required by Wis. Stat., § 66.0401(4)(a)(l), which shall include a brief description of the proposed Wind Energy System and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the Town, and the approximate schedule for review of the application by the Town.

H. Public Participation.

- (1) The Town shall make a copy of an application for a Wind Energy System available for public review at a local library and at the Town Hall and the Town website.
- (2) The Town shall accept written public comments on an application for a Wind Energy System filed with the Town Clerk and shall make them part of the record at the public hearing held pursuant to subsection (3).

- (3) The Town shall hold at least one public meeting to obtain comments on and to inform the public about a proposed Wind Energy System.

I. Joint Application Review Process.

If a Wind Energy System is proposed to be located in the Town and at least one other municipality with jurisdiction over the Wind Energy System, the Town may participate in the joint application review process set forth in PSC 128.30(7).

J. Application Completeness:

(1) COMPLETE APPLICATIONS.

- a. An application is complete if it meets the filing requirements set by this ordinance and PSC 128.50(1).
- b. The Town shall determine the completeness of an application, and shall notify the owner in writing of the completeness determination, no later than 45 days after the day the application is filed. An application is considered filed the day the owner notifies the Town in writing that all the application materials have been filed. If the Town determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination.
- c. The owner may file a supplement to an application that the Town has determined to be incomplete. There is no limit to the number of times that an owner may re-file an application. For incomplete applications, the owner shall provide additional information as specified in the notice under par. b.
- d. An additional 45-day completeness review period shall begin the day after the Town receives responses to all items identified in the notice under par. b.
- e. If the Town does not make a completeness determination within the applicable review period, the application is considered to be complete.

(2) REQUESTS FOR ADDITIONAL INFORMATION.

The Town may request additional information necessary to understand the wind energy system after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete and accurate manner.

K. Owner Requirements

Pursuant to PSC 128.10(1), the Town incorporates by reference all owner requirements set forth in Subchapter II of PSC 128.

L. Written Decision.

- (1) The Town shall issue a written decision to grant or deny an application. The Town shall provide its written decision to the owner and to the Public Service Commission of Wisconsin. If the Town approves an application for a Wind Energy System, the Town shall provide the owner with a duplicate original of the decision.
- (2) The owner shall record the duplicate original of a decision approving an application with the Register of Deeds for Outagamie County, Wisconsin.
- (3) The Town shall keep a complete written record of its decision-making relating to an

application for a Wind Energy System. The record of a decision shall include all of the following:

- a. The approved application and all additions or amendments to the application.
 - b. A representative copy of all notices issued under ss. PSC 128.105(l)(a), 128.30(5) and 128.42(1).
 - c. A copy of any notice or correspondence that the Town issues related to the application.
 - d. A record of any public meeting under s. PSC 128.30(6)(c) and any hearing related to the application. The record shall include any documents or evidence submitted by meeting or hearing participants.
 - e. Copies of any correspondence or evidentiary material that the Town considered in relation to the application, including copies of all written public comments filed under s. PSC 128.30(6)(b).
 - f. Minutes of any Town Board or committee meetings held to consider or act on the application.
 - g. A copy of the written decision under s. PSC 128.32(3)(a).
 - h. Other materials that the Town prepared to document its decision-making process.
 - i. A copy of any Town ordinance cited in or applicable to the decision.
- (4) If the Town denies an application, the Town shall keep the record for at least seven (7) years following the year in which it issues the decision.
 - (5) If the Town approves an application, the Town shall keep the record for at least seven (7) years after the year in which the Wind Energy System is decommissioned.
 - (6) The Town may deny without a hearing an application for approval of a Wind Energy System with a nominal capacity of at least one megawatt if the proposed site of the Wind Energy System is in an area primarily designed for future residential or commercial development as shown on a map adopted as part of the Town's comprehensive plan prior to June 2, 2009 or on such maps adopted by the Town after December 31, 2015 under Wis. Stat., § 66.1001(2)(1).

M. Effect of Ownership Change on Approval

Approval of a Wind Energy System remains in effect if there is a change in ownership of the Wind Energy System. However, a Wind Energy System owner must provide timely notice to the Town of any change of ownership of the Wind Energy System.

N. Fees

- (1) The Town requires at the time of the application a deposit of \$5,000. All costs incurred by the Town relating to the review and processing of the application shall be billed against the deposit and a minimum of \$2,000 shall remain in the account until the review process and construction (if approved) is completed. The Town will refund any remaining balance in the account within 60 days after final inspection of the constructed wind energy system.
- (2) The Town's fee or reimbursement requirement under par. (1) is based on the actual and necessary cost of the review and processing of the Wind Energy System application, and may include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts.

O. Additional Requirements

The Town requires the following as conditions for approval of an application to construct a

Wind Energy System:

- (1) **INFORMATION.** The owner shall inform the Town in writing whether the owner has consulted with and received any non-binding recommendations for constructing, operating or decommissioning the Wind Energy System from a state or federal agency, and whether the owner has incorporated such non-binding recommendations into the design of the Wind Energy System.
- (2) **STUDIES.** The owner shall cooperate with any study of the effects of Wind Energy System coordinated by a state agency.
- (3) **MONETARY COMPENSATION.** The owner of a Wind Energy System shall offer an agreement that includes annual monetary compensation to the owner of a nonparticipating residence, if the residence is located within 0.5 mile of a constructed wind turbine. For one turbine located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$600. For two turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$800. For three or more turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$1,000. The initial monetary compensation under this subsection shall apply to agreements entered into in 2011. For agreements entered into in 2012 and thereafter, the initial annual amounts shall increase each year by the greater of two percent or the increase in the Consumer Price Index, as described in Wis. Stat., § 196.374(5)(bm)2.b., from the previous year. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under PSC 128 and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under PSC 128.
- (4) **AERIAL SPRAYING.** The owner of a Wind Energy System shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within 0.5 mile of a constructed wind turbine if the farm operator demonstrates all of the following:
 - a. Substantial evidence of a history, before the wind energy system owner gives notice under s. PSC 128.105(1), of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans or sweet corn on all or part of a farm field located within 0.5 mile of a constructed wind turbine.
 - b. A material reduction in potato, pea, snap bean or sweet corn production or a material increase in application costs on all or part of a farm field located within 0.5 mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.
- (5) **PERMITS.** The owner shall submit to the Town copies of all necessary county, state, and federal permits and approvals.
- (6) **ANNUAL REPORTS.** The owner shall file an annual report with the Town documenting the operation and maintenance of the Wind Energy System during the previous calendar year.

P. Post-Construction Filing Requirement

Within 90 days of the date a Wind Energy System commences operation, the owner shall file

with the Town an as-built description of the Wind Energy System, an accurate map of the Wind Energy System showing the location of all Wind Energy System facilities, geographic information system information showing the location of all Wind Energy System facilities and current information identifying the owner of the Wind Energy System. An owner shall in the filings under this subsection label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under s. PSC 128.18(l)(g).

Q. Modifications to an Approved Wind Energy System

a. MATERIAL CHANGE.

- i. An owner may not make a material change in the approved design, location or construction of a wind energy system without the prior written approval of the Town, unless the Town automatically approves the material change by taking either of the steps specified in s. PSC 128.32(2)(b) 1. or 2.
- ii. An owner shall submit to the Town an application for a material change to an approved Wind Energy System.

b. REVIEW LIMITED.

- i. The Town, upon notice of receiving an application for a material change to a Wind Energy System under Section 17(2) shall not reopen the merits of the earlier approval but shall consider only those issues relevant to the proposed change.
- ii. An application for a material change is subject to ss. PSC 128.30(1), (3) to (5), (6)(a) and (b) and (7) and 128.31 to 128.34.
- iii. An application for a material change shall contain information necessary to understand the material change as determined by the Town.
- iv. The Town may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved wind energy system.

R. Monitoring Compliance

- a. MONITORING PROCEDURE. The Town may establish a procedure to monitor compliance by the owner with any condition on an approved Wind Energy System or to assess when Wind Energy System facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public. Such procedures shall be included in the permits granted under this ordinance.
- b. THIRD-PARTY INSPECTOR DURING CONSTRUCTION. The Town may require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the Town regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request.

S. Notice of Complaint Process

- (1) NOTICE OF PROCESS FOR MAKING COMPLAINTS. Before construction of a Wind Energy System begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within 0.5 mile of any Wind Energy System facility. An owner shall include in the notice the requirements under PSC 128.40(1) for submitting a complaint to the owner, a

petition for review to the Town, and an appeal to the Commission, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning.

- (2) NOTICE TO TOWN. An owner shall provide a copy of the notice provided under subsection (1) to the Town, and the owner shall keep the contact person and telephone number current and on file with the Town.

T. Small Wind Energy Systems

The provisions of Subchapter VI of PSC 128 are incorporated by reference and shall apply to Small Wind Energy Systems.

U. Revocation

Any permit granted for the installation, construction or expansion of a Wind Energy System may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provision of this ordinance or the provisions of a Wind Energy System Permit granted pursuant to this ordinance.

V. Severability

If any section, subsection, sentence or phrase of this Ordinance shall be held invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance; and there shall be substituted for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue.

W. Effective Date

This ordinance shall take effect and be in force upon its passage and publication as required by law.

3.0 Zoning Districts

3.1 Establishment

- A. For the purpose of this Ordinance, the Town of Kaukauna, Outagamie County, State of Wisconsin, outside the limits of incorporated villages and cities is hereby divided into the following zoning districts, namely:
1. Exclusive Agricultural/Farmland Preservation District
 2. General Agricultural District
 3. Reserved.
 4. Rural Development District
 5. Mobile Home Exception
 6. Commercial District
 7. Light Industrial District
 8. Heavy Industrial District
 9. Institutional
- B. The boundaries of these districts are hereby established as shown on maps entitled “Kaukauna Zoning Maps, Town of Kaukauna, Outagamie County, Wisconsin” which accompanies and is a part of this Ordinance. All notations, references and other information shown upon the said zoning map shall be as much a part of this Ordinance as if the matter and things set forth by the said map were fully described herein.

3.2 Zoning Map

- A. The official copy of the Town of Kaukauna Zoning Maps shall be adopted as part of this Ordinance and shall be available to the public through the Town Clerk. The Town Planning Commission shall from time to time update the Town of Kaukauna Zoning Map as necessary to reflect changes in zoning district boundaries brought about by rezoning proceedings.

3.3 Exclusive Agricultural/Farmland Preservation District

- A. Purpose. The purpose of the Exclusive Agricultural/Farmland Preservation District is to:
1. Preserve productive agricultural land for food and fiber

production.

2. Preserve productive farms by preventing land use conflicts between incompatible uses and controlling public service costs.
3. To maintain a viable agricultural base to support agricultural processing and service industries.
4. To prevent conflicts between incompatible uses.
5. To reduce costs of providing services to scattered non-farm uses.
6. To pace and shape growth.
7. To implement the provisions of the county Farmland Preservation Plan as adopted and revised.
8. To comply with the provisions of the Working Lands Program to permit eligible landowners to receive tax credits under the appropriate sections of the law.

B. Permitted Uses. Within the Exclusive Agricultural/Farmland Preservation District the following uses are permitted:

1. Agricultural uses.
2. The following accessory uses occurring on a farm:
 - a. A building, structure or improvement that is an integral part of, or is incidental to, an agricultural use.
 - b. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
 - c. A farm residence.
 - d. A business, activity, or enterprise whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in Sec. 3.3B.2.A or 3.3 B.2.B, that employs no more than four full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
 - e. Roadside stand, consistent with Sec. 3.3 B.2.
 - (1) Not to exceed 200 square feet in size.
 - (2) Products must be produced on site.
 - f. Horse boarding, consistent with Sec. 3.3 B.2.d.
 - g. Bed and Breakfast, consistent with Sec. 3.3 B.2.d.
 - h. Nonfarm residences constructed prior to January 1, 2014.
3. Agriculture-related uses.
4. Undeveloped natural resource and open space areas.
5. A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is 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.

6. Other uses that may be identified by the Wisconsin Department of Agriculture, Trade, and Consumer Protection by rule.

C. Conditional Uses. Within the Exclusive Agricultural/Farmland Preservation District the following uses may be allowed through a conditional use permit:

1. The following accessory uses:
 - a. Agri-tourism related businesses.
2. Oil and gas exploration or production that is licensed by the Wisconsin Department of Natural Resources under Subchapter II of Chapter 295, Wisconsin Statutes.
3. Other uses that may be allowed by the Wisconsin Department of Agriculture, Trade, and Consumer Protection by rule.
4. Fish hatcheries.
5. Artificial lakes or ponds.
6. Transportation, Communications, Pipeline, Electric Transmission, Utility, or Drainage Use. Mobile Tower Siting shall also follow regulations listed in Sec. 2.16. A transportation, communications, pipeline, electric transmission, utility, or drainage use qualifies for the purposes here if the Planning Commission determines that all of the following apply:
 - a. The use and its location in the Exclusive Agricultural/Farmland Preservation district are consistent with the purposes of the Exclusive Agricultural/Farmland Preservation district.
 - b. The use and its location in the Exclusive Agricultural/Farmland Preservation 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 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 surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
7. Governmental, Institutional, Religious, or Nonprofit Community Use. A governmental, institutional, religious, or nonprofit community use qualifies for the purposes here if the Planning Commission determines

that all of the following apply:

- a. The use and its location in the Exclusive Agricultural/Farmland Preservation District are consistent with the purposes of the Exclusive Agricultural/Farmland Preservation district.
 - b. The use and its location in the Exclusive Agricultural/Farmland Preservation 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 surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
8. Nonmetallic Mineral Extraction. Nonmetallic mineral extraction qualifies for the purposes here if the Planning Commission determines that all of the following apply:
- a. The operation complies with subchapter I of Chapter 295 and rules promulgated under that subchapter, with applicable provisions of the local ordinance under s. 295.13 or 295.14, and with any applicable requirements of the Wisconsin Department of Transportation, Outagamie County, and/or East Central Wisconsin Regional Planning Commission concerning the restoration and reclamation of nonmetallic mining sites.
 - b. The operation and its location in the Exclusive Agricultural/Farmland Preservation District are consistent with the purposes of the Exclusive Agricultural/Farmland Preservation District.
 - c. The operation and its location in the Exclusive Agricultural/ Farmland Preservation District are reasonable and appropriate, considering alternative locations outside the Exclusive Agricultural/Farmland Preservation 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 surrounding parcels of land that are zoned for or legally restricted to agricultural use.

- f. The owner must restore the land to agricultural use, consistent with any required locally approved reclamation plan, when extraction is completed.

D. Standards for Rezoning.

1. By March 1st of each year the Town of Kaukauna shall provide to DATCP and the Outagamie County Zoning Department a report of the number of acres zoned out of the Exclusive Agricultural / Farmland Preservation District during the previous year.
2. Decisions on petitions for rezoning areas zoned for farmland preservation use shall be made following a public hearing and shall be based on findings which consider the following:
 - a. The land is better suited for a use not allowed in the Exclusive Agricultural/Farmland Preservation District.
 - b. The rezoning is consistent with any applicable comprehensive plan.
 - c. The rezoning is substantially consistent with the county certified farmland preservation plan.
 - d. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

E. Height.

1. The maximum height of a farm residence shall be thirty-five (35) feet.
2. The maximum height of other structures shall be two times their distance from the nearest lot line.

F. Yards.

1. The maximum side yard and setback for dwellings shall be as specified by the Town of Kaukauna Ordinances for residential development.
2. The minimum rear yard for farm accessory structures shall be twenty-five (25) feet from the nearest lot line. Side yards shall be fifty (50) feet from the nearest lot line.
3. Highway setbacks for dwellings and structures shall be as specified in sec 2.6 of the Town of Kaukauna Zoning Ordinance.

3.4 General Agricultural District

A. Purpose. The intent of this district is to maintain open land areas predominantly devoted to farming and agricultural related uses. It is anticipated that while certain areas within this district will eventually be used for non-agricultural uses; the intensity of development will remain significantly limited due to a lack of urban facilities and services. It is also intended that this district provide for small-scale, family-oriented businesses on a case-by-case basis.

B. Permitted Uses.

1. Permitted uses within Exclusive Agricultural/Farmland Preservation District.
2. Public and semi-public non-profit institutional uses of a similar nature.
3. Floriculture (cultivations of ornamental flowering plants).
4. Grazing.
5. Livestock raising (maximum of one animal unit per acre).
6. Poultry raising.
7. Plant nurseries and orchards.
8. Raising of grain, grass, mint, seed crops.
9. Raising of tree fruit, nuts and berries.
10. Sod Farming.
11. Vegetable raising.
12. Viticulture.
13. Forest and game management.
14. Nature trails and walks.
15. Greenhouses.
16. One roadside stand per farm, or not more than three hundred square feet, used solely for the sale of products on the premises or adjoining premises.
17. Facilities used in processing agricultural products including creameries, cheese factories, canneries, sawmills, and alcohol manufacturing.
18. Drainage.
19. Flood overflow, movement of water, and stream bank protection.
20. Wilderness and wildlife preservations areas.
21. Parks, preserves and golf courses.

C. Permitted accessory uses.

1. One garage or carport.

2. One garden shed.
3. General farm buildings, including: barns, silos, sheds, and storage bins.
4. Home occupations as defined in Sec. 5.0 WW.
5. Forest and game management.
6. Roadside stand.
 - a. Not to exceed 200 square feet in size.
 - b. Products must be produced on site.

D. Conditional Uses.

1. Agricultural uses.
2. Accessory uses, including:
 - a. Uses specified in Sec. 3.3.B.2.
 - b. Agri-tourism related businesses.
3. Agriculture-related uses.
4. Two family dwellings.
5. Cemeteries.
6. Veterinary offices.
7. Outdoor commercial recreational uses including recreational camps, campgrounds, golf, archery and rifle ranges, sledding and skiing facilities and uses of a similar nature.
8. Commercial exhibits of historical or natural significance.
9. The following uses provided the owner or proprietor resides on the premises: Automobiles, farm equipment and small engine repair shops; offices and/or shops in connection with skilled tradesman including plumbers, electricians, carpenters, welders and the like; and production and/or sales of crafts produced on the premises provided mechanical or chemical processes are incidental or non-existent.
10. Taverns existing before the effective date of adoption of this ordinance.
11. Sales of lawn and garden equipment in connection with a plant nursery.
12. Airports, public or private.
13. Dog Kennels.
14. Bed and breakfast establishments.
15. Boarding stables (maximum one animal unit per acre).
16. Fish hatcheries and aquaculture.
17. Artificial lakes or ponds.
18. Charitable institutions.

19. Microwave radio relay structures and mechanical appurtenances.
20. Public hospitals, when such hospital building shall be located not less than 100 feet from any lot in a Residential District.
21. Public utility or public service corporation building or structures, provided that the Board of Appeals shall find that the proposed location of such buildings or structures is reasonably necessary for the public convenience, safety or welfare.
22. Storage garage or parking lot in connection with a housing development project.
23. Agricultural-related, religious, utility uses that are not permitted uses, institutional or governmental uses which are consistent with agricultural uses and are found necessary in light of alternative locations for such uses.
24. Sanitary landfill.
25. Nonmetallic mineral extraction consistent with Sec. Sec. 3.3.H.

E. Regulations and Standards.

1. Minimum lot area - Five (5) acres.
2. Minimum lot width - 150 feet.
3. Minimum front yard - 25 feet.

3.5 Reserved.

3.6 Rural Development District

- A. Purpose.** The Purpose of the Rural Development District is to designate those areas where unsewered home sites could be developed on a scattered basis.
1. **Permitted Uses.** No building or premises shall be used, and no building shall hereafter be erected or structurally altered, unless for one or more of the following uses:
 - a. Single Family Dwellings
 - b. Churches, schools, colleges, libraries, museums, hospitals, and community buildings
 - c. General farming and truck gardening, except farms operated for the disposal or reduction of garbage, sewage, rubbish or offal and fur farms.
 - d. Nurseries and greenhouses.
 - e. Parks, playgrounds, golf courses and private clubs, except those

whose principal activity is a service customarily carried out as a business.

- f. Telephone offices, telephone, telegraph, television and power transmissions lines and substations.
- g. Accessory buildings.
- h. Uses customarily incident to the above permitted uses when located on the same lot and not including the conduct of business, including the office of a physician, lawyer, architect, engineer, surgeon, dentist, musician or similar profession, when situated with the dwelling provided that no name plate exceeding one square foot in area shall be permitted.
- i. Home occupations not involving the conduct of business on the premises.
- j. Signs pertaining to the lease, hire or sale of the premises, not more than two square feet in area.

B. Conditional Uses. The following uses, when the location of each use shall have been approved by the Board of Appeals, shall be a permitted Conditional Uses. Such approval shall be consistent with the general purpose and intent of this chapter and shall be based upon the desirability or understandability for the proposed location from the standpoint of public interest because of such factors as, without limitation because of enumeration, smoke, dust, noxious or toxic gases and odors, noise, vibration, heavy vehicular traffic and increased traffic on public streets, such uses shall also be required to meet the specific conditions attached below.

- 1. A combination residence and professional office of a doctor, dentist, chiropractor, professional engineer, architect or similar profession provided:
 - a. No more than one principal and one assistant employed on the premises.
 - b. Off-street parking shall be provided for at least five cars. Such parking area shall be shielded from view of adjoining residences by a decorative fence at least five feet high.
 - c. One sign, no more than four square feet in area, may be permitted indicating the name and nature of the profession only. Such sign shall be attached to the building or shall comply with set-back regulations specified in Highway Setback Lines.
- 2. Two family residences.
- 3. Manufactured and/ or Mobile home.
- 4. Telecommunication Towers.

C. Height and Area

1. Height. Buildings may not exceed 35 feet or 2½ stories in height.
2. Setback. Shall not be less than twenty-five (25) feet from all roads, alleys, and service roads except for U.S. Highway “41” and all class “A” Highways which shall require a setback of fifty-five (55) feet from the highway right-of-way line unless such highways are provided with service roads, in which case the setback shall be twenty-five (25) feet from the service road right-of-way line, otherwise as provided in Highway Setback Lines. Setbacks for on premise signs shall not be less than five (5) feet from the road right of way and seventy-five (75) feet from an intersection and no less than ten (10) feet from the ground.
3. Rear Yard. There shall be a rear yard of not less than twenty-five (25) feet.
4. Side Yard. Structures shall be located no less than 5 feet from any side lot line.

D. Lot Regulations and Standards.

1. Minimum lot area - One (1) acre.
2. Minimum lot width - 150 feet.

3.7 Mobile Home Exception when not in a Mobile Home Park

- A. Single Mobile Home may be parked in any district for a period not exceeding thirty (30) days without securing a permit from the Town Board provided that the location of such mobile home shall comply with the regulations for accessory buildings in that district. Single trailers parked for longer than thirty (30) days shall be considered a residence, and the owner thereof shall apply for a permit from the Town Board and comply with all the other regulations set out in this chapter.
- B. Under no circumstances, unless the owner of the mobile home owns the land on which the mobile home is located, may a mobile home be occupied as a residence for a period of more than ninety (90) days, without securing an extension of time from the Town Clerk, who will only issue such extension subject to the approval and conditions as determined by the Town Board.
- C. Mobile and/or manufactured homes must meet manufacture housing codes after 1976.

3.8 Commercial District

A. Permitted 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 chapter, except for one or more of the following specified uses:

1. All uses permitted in the Single-Family Residence District.
2. Two-family residences.
3. Retail business and service establishments providing:
 - a. There shall be no manufacture, compounding or treatment of products other than that which is clearly incidental and essential to a retail store or business and where all such products are sold at retail on the premises.
 - b. Such uses, operations or products shall not be objectionable due to odor, dust, smoke, vibrations or other similar causes.
4. A temporary structure only on approval of the Town Board and a time element shall be placed on such structure for removal or completion.
5. Contractor's storage yards employing not more than five persons.
6. Motor vehicle sales, service and repairs provided that no entrance or exit from such establishment shall be located within two hundred feet (200') of an entrance to or exit from a public or a private school, park, playground, public library, church, hospital, home for children, or the aged or other similar public or semi-public institution.
7. Billboards and signs providing such structures, regardless of size, comply with setback regulations.
8. Clinic

B. Conditional Uses. The following uses when the location thereof has been approved in writing by the Board of Appeals and such approval shall be consistent with the general purpose and intent of this chapter and shall be based upon such evidence as may be presented at the public hearing tending to show the desirability or undesirability of specific proposed use from the stand point of the public interest, because of such factors as, without limitation because of enumeration, dust, noise, glare, odor, vibration and increased traffic on the public streets:

1. Animal hospital, pet shop, veterinary.
2. Auction house, provided that there is sufficient off-street parking.

3. Automobile sales room, garage, service station and storage yard for vehicles, equipment or sales supplies, including used car lots, but not including automobile wrecking yards and truck yards.
4. Dance hall, skating rink and commercial recreational center.
5. Go-Kart and other similar racetracks.
6. Taverns, beer depots, liquor stores.
7. Wholesaler, distributor.
8. Tourist camps when such camps provide not less than 3,800 square feet of lot area for each cabin, trailer, tent, or house car, provided however, that no person other than the owner shall occupy any tourist camp for more than ninety (90) days in any one year.
9. Telecommunication Towers.

C. Height and Area

1. Height. Buildings hereafter erected or structurally altered shall exceed neither four stories nor fifty (50) feet in height.
2. Setback. Shall not be less than twenty-five (25) from all roads, alleys, and service roads except for U.S. Highway "41" and all class "A" Highways which shall require a setback of fifty-five (55) feet from the highway right-of-way line unless such highways are provided with service roads, in which case the setback shall be twenty-five (25) feet from the service road right-of-way line, otherwise as provided in Highway Setback Lines. Setbacks for on premise signs shall not be less than five (5) feet from the road right of way and seventy-five (75) feet from an intersection and no less than ten (10) feet from the ground in Commercial and Light Industrial District. Billboard signs shall refer to the Billboard Ordinance.
3. Rear Yard. There shall be a rear yard of not less than twenty-five (25) feet.
4. Side Yard. For buildings or parts of buildings hereafter erected or structurally altered for residential use, the side yard regulations of the Rural Development District shall apply. In all other cases a side yard of five feet is required unless adequate vehicle access to the rear yard is provided and is approved by the Town Board, in which case the Town Board may eliminate the side yard requirement.
5. Lot Area. For building or parts of buildings hereafter erected, moved or structurally altered for residential purposes, the lot area requirements of the Rural Development shall apply, otherwise there shall be no minimum lot area for this district.

3.9 Light Industrial District

- A. Permitted Uses. In the Light Industrial District, no premises shall be used and no building shall be erected or structurally altered, unless otherwise provided in this chapter except for one or more of the following uses:
1. All uses permitted in the Commercial District.
 2. Printing and Publishing.
 3. Paper products manufacturing except for manufacture of paper.
 4. Repair, service and assembly of vehicles.
 5. Storage and warehousing, except the storage of old iron, bottles, rags or junk, or so-called automobile wrecking garage or business of wrecking and parking automobile wrecks on the premises or in garages.
 6. Bottling works and non-alcoholic beverage manufacture.
 7. Food processing and packing.
 8. Contractor's storage yards.
 9. Fuel and material yards.
 10. Wood products manufacture and repair.
 11. Office, home appliance and sporting goods manufacture.
 12. Wholesale business.
 13. Leather goods manufacture.
 14. Manufacture of products from woven goods.
 15. Cleaning, dyeing, pressing and laundry establishments.
 16. Laboratories.
 17. Jewelry and cosmetic manufacture.
 18. Telecommunication Towers.
 19. Enameling and painting.
 20. Sheet metal works and tinsmith.
 21. Ice plant.
 22. Warehousing.
 23. Bakeries.
 24. Any kind of processing or treatment which is clearly incidental to the conduct of a wholesale business conducted on the premises.
 25. Power Plant.
- B. Automotive Salvage yards. No automotive salvage on the property.
- C. Height and Area. For buildings or parts of buildings hereafter

erected, moved or structurally altered, the height and area requirements shall be the same as for the Commercial District.

D. Noise Ordinance. Loud Noises prohibited.

1. Purpose. Noise is a serious hazard to the public health, welfare, safety and quality of life. Continued exposure to noise above 85 decibels over time will cause hearing loss. In general, the louder the noise, the less time required before hearing loss will occur. According to OSHA standards, hearing loss begins to occur after eight (8) hours of exposure of sound at 85 decibels. In addition, noise pollution causes other health problems including increased heart rates, blood pressure, cholesterol, respiratory, digestive and mental health problems. It also negatively impacts real estate values, land use, wildlife and farm animals. The citizens of the Town have a right to an environment free from excessive sound that may jeopardize their health, welfare, safety, and/or degrade their quality of life.
2. Maximum Permissible Sound Levels. No person shall exceed the maximum permissible sound levels:
 - a. Between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday. 85 decibels.
 - b. All other times, 70 decibels.
3. Sound levels measurements.
 - a. Sound levels shall be measured by a Sound Level Pressure Meter or a Decibel Meter.
 - b. Sound measurements shall be made at the nearest lot line of the premise from which a sound complaint is received.
 - c. The Meter shall be placed at a height of at least three feet above the ground and at least three feet away from walls, barriers, obstructions and all other sound reflexive surfaces.
4. Mitigation of Sound. Any person engaging in an industrial activity that produces more than 85 decibels must mitigate the sound. Methods of mitigation may include:
 - a. Design and fabrication of silencing devices for the sound producing equipment used.
 - b. Changing the design or operation of machines adding vibration control, soundproof enclosures, and/or use of sound absorbing materials.
 - c. Location of the sound producing machinery or operation as far away from the lot lines.
 - d. Use of vegetative buffers such as shrubs, trees, berms to absorb sound.
 - e. Any other sound mitigation method approved by the Board of

Appeals.

5. Exemption. This provision shall not be applicable to:
 - a. Any Town vehicle while engaged in necessary public business.
 - b. Excavations or repairs of streets or other public construction by or on behalf of the Town, County or State.

3.10 Heavy Industrial District

- A. Permitted Uses. In the Heavy Industrial District, a building or premises may be used for any use except the following:
 1. Residential, educational and institutional uses.
 2. Uses which are hazardous and uses which are noxious by reason of the emission of smoke, dust, gas, odors, or noise, unless the location of such use has been approved by the Board of Adjustment after a Public hearing.
 3. Wrecking or storage yard, unless it shall be fenced in by a tight board fence or equal, at least eight (8) feet high and such fence shall comply with the setback regulations. The location shall be approved by the Plan Commission after a public hearing.
 4. Telecommunication Towers shall be permitted.
- B. Height and Area. Same as Commercial District.
 1. Side and Rear Yards. Same as Commercial District.
 2. Setback. Same as Commercial District.
- C. Noise Ordinance. Loud Noises prohibited. Same as 3.9(D).

3.11 Institutional District

- A. Purpose. The intent of this district is to designate and allow for uses of a public and quasi-public nature such as municipal storage, fire stations, public utility buildings, cemeteries and gathering locations such as community centers, churches, and parks.
- B. Permitted Uses. In the Institutional District no building or premises shall be used, and no building shall hereafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following specified uses:
 1. Town buildings
 2. Churches, provided accessible parking of sufficient size and number

is available

3. Parks and playgrounds
4. Public and semi-public non-profit institutional uses of a similar nature.
5. Any use similar to other permitted uses as determined by the Town, Planning Commission, or Zoning Administrator.

C. Conditional Uses.

1. Telecommunication Towers.
2. Renewable Energy Systems.
3. Other uses as determined by the Conditional Use Permit process.

D. Height and Area

1. Height. Buildings hereafter erected or structurally altered shall exceed neither four stories nor fifty (50) feet in height.
2. Setback. Shall not be less than twenty-five (25) from all roads, alleys, and service roads except for U.S. Highway "41" and all class "A" Highways which shall require a setback of fifty-five (55) feet from the highway right-of-way line unless such highways are provided with service roads, in which case the setback shall be twenty-five (25) feet from the service road right-of-way line, otherwise as provided in Highway Setback Lines.
3. Rear Yard. There shall be a rear yard of not less than twenty-five (25) feet.
4. Side Yard. A side yard of five feet is required unless adequate vehicle access to the rear yard is provided and is approved by the Town Board, in which case the Town Board may eliminate the side yard requirement.

E. Lot Area Regulations and Standards.

1. Minimum lot area - One (1) acre.
2. Minimum lot width - 150 feet.
3. Minimum front yard - 25 feet.

4.0 Applications and Approvals

4.1 Conditional Use Permits.

- A. Ten (10) copies of the Application for Conditional Use permits shall be submitted to the Town Clerk for distribution to the Planning Commission and Town board, and shall include the following where pertinent and necessary for proper review by the Planning Commission:
1. Name and Address of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners on record.
 2. Description of the subject site; by lot, block, and recordable 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. Plat of Survey Prepared by a land surveyor registered in Wisconsin or other map drawn to scale showing the location of property boundaries, dimensions, elevations, uses and size of the following: subject site; existing and proposed structures existing and proposed easements, streets and other public ways; off- street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side and rear yards. In addition, the plat if survey shall show the location, elevation and use of any abutting lands and their structures within forty (40) feet of the subject site; soil mapping unit lines; mean and historic high water lines, on or within forty (40) feet of the subject premises, and existing and proposed landscaping.
 4. Any Additional Information may be required by the Planning Commission which is pertinent and necessary for proper review.
 5. Fee shall be set by the Town Board.
- B. Review and Approval.
1. The Planning Commission shall review the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway location, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the efforts of the proposed use, structure, operation, and improvement upon flood damage protection, water quality, shore land cover, natural beauty and wildlife habitat, and shall hold a public hearing after publishing a Class 2 notice thereof under Chapter 985, Wisconsin Statutes. Following the public hearing, the Planning Commission shall

- make a recommendation to the Town Board to approve, approve with conditions, or deny the application for a Conditional Use Permit.
2. If the applicant meets or agrees to meet all of the requirements and conditions specified in the ordinance and/or those imposed by the Board, the Town shall grant the conditional use permit. Any condition imposed must be related to the purpose of this ordinance and be based on substantial evidence.
 3. Approval shall be granted by the Town Board provided that such Conditional Use and structures are in accordance with the purpose and intent of this Ordinance and are found to be not hazardous, harmful, offensive or otherwise not adverse to the environmental quality, water quality, shore land cover or property values in the Town.
 - a. 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, setting 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 Planning Commission and Town Board upon finding that these are based on substantial evidence and necessary to fulfill the purpose and intent of this Ordinance, the State Water Resources Act of 1965, and to meet the provisions of the Wisconsin and Outagamie County Floodplain and Shoreland Management Programs.
 - b. These requirements and conditions must be reasonable and, to the extent practical, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the Town relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence.
 - c. Compliance with all other provisions of this ordinance, such as lot, width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required of all conditional uses.
 4. Existing Uses all uses existing at the effective date of this Ordinance which would be classified as conditional uses in the particular zoning district concerned if they were to be established after the effective date of this ordinance, are hereby declared to be conforming Conditional Uses to the extent of the existing

operation only. Any addition, alteration, extension, or other proposed change in the existing operation shall be subject to the Conditional Use procedures as if such use were being established anew.

4.2 Rezone Request

- A. Application for rezoning shall be made in triplicate to Town Board, with one copy furnished to the Town Planning Commission, and shall include the following where pertinent and necessary for proper review by the Town Board.
1. Name and Address of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners on 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. Plat of Survey prepared by a land surveyor registered in Wisconsin or other map drawn to scale showing the location of property boundaries, dimensions, elevations, uses and size of the flowing: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side and rear yards. In addition, the plat of survey shall show the locations, elevations, and use of any abutting lands and their structures within forty (40) feet of the subject site; soil mapping unit lines; mean and historic high water lines, on or within forty (40) feet of the subject premises, and existing and proposed landscaping.
 4. Any Additional Information may be required by the Town Board which is pertinent and necessary for proper review.
 5. Fees Receipt fees shall be set by the Town Board.
- B. The Planning Commission shall make its recommendation to the Town Board at the public hearing. This recommendation is advisory only. If no recommendation is made at the public hearing, the Town Board may act without it. If the rezone application is approved by the Town Board, a resolution shall accordingly be adopted. The applicant shall thereafter pay all filing fees and expenses required for a petition to the County Board for

approval of the rezone application, the zoning ordinance and town zoning maps shall be amended accordingly effective upon the date of approval by the County Board.

- C. All rezones of Exclusive Agricultural/Farmland Preservation District parcels must be consistent with Sec. 3.3 I-N and Ch. 91 state statutes.

4.3 Non-Conforming Structures

- A. An ordinance enacted under this section may not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure, per Sec. 60.61(5e)(b), state statutes.
- B. The lawful non-conforming use of the structure, existing at the time of the adoption or amendment of this ordinance, may be continued although the use does not conform with the provisions of this ordinance, except that:
 - 1. Only that Portion of the Structure in actual use may be so continued and the non-conforming use may not be extended, enlarged, substituted or moved except existing commercial and industrial uses may be enlarged to fifty percent (50%) of their square footage at the time of adoption of this ordinance.
 - 2. Repair and Alterations permitted under the provisions of this ordinance to non-conforming structures on flood lands shall be flood proofed.
 - 3. If Such Non-Conforming Use is Discontinued or terminated for a period of twelve (12) months, any future use of a structure, land or water, shall conform to the provisions of this ordinance.
 - 4. Once a Non-Conforming Use of Structure has been Changed or Altered so as to comply with the provisions of this ordinance, it shall not revert back to a non-conforming use or structure.
 - 5. No such structure shall be altered in any manner which would increase the degree of nonconformity. No such structure shall be extended or enlarged. Any nonconforming structure which is damaged or destroyed on or after March 2, 2006, by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation may be restored to the size, location and use that it had immediately before the damage or destruction occurred. Any other non- conforming structures which are hereafter destroyed or damaged beyond repair may not be replaced unless the new structure conforms to the existing zoning regulations.

5.0 Definitions

5.1 Applicability.

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 "building" includes the word "structure"; the word "shall" is mandatory and not directory. Any words not herein defined shall be construed as defined in the state building code.

Accessory Use or Structure - A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.

Adjacent - located on land parcels that touch each other, or on land parcels that are separated only by a river, stream, or transportation or utility right-of-way.

Agricultural Use - Any of the following activities conducted for the purpose of producing an income or livelihood:

1. Crop or forage production.
2. Keeping livestock.
3. Beekeeping.
4. Nursery, sod, or Christmas tree production.
5. Floriculture.
6. Aquaculture.
7. Fur farming.
8. Forest management.
9. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

Agriculture-related Use - 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:

1. Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the Exclusive Agricultural/Farmland Preservation district.
2. Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the Exclusive Agricultural/Farmland Preservation district.
3. Slaughtering livestock, including livestock from farms in the Exclusive Agricultural/Farmland Preservation district.
4. Marketing livestock to or from farms, including farms in the Exclusive Agricultural/Farmland Preservation district.
5. Processing agricultural by-products or wastes received directly from farms, including farms in the Exclusive Agricultural/Farmland Preservation district.

Airport, Public - Any airport which complies with the definition contained in Sec. 114.002 (7), Wisconsin Statutes, or any airport which serves or offers to serve common carriers engaged in air transport.

Animal Units - Has the meaning that was given in s. NR 243.03(3) as of April 27, 2004.

Aquaculture - See Fish Hatchery.

Automobile Wrecking Yard - Any premises on which three or more automotive vehicles, not in operating condition, are stored in the open.

Basement - A story partly underground which, if occupied as living quarters, shall be counted as a story for purposes of height measurements.

Boarding House - A building other than a hotel where meals, or lodging and meals, are furnished for compensation for five or more persons not members of a family.

Building - Any structure used, designed or intended for the protection, shelter, enclosure, or support of persons, animals or property. When a building is divided into separate parts by solid walls extending from the ground up, each part shall be deemed a separate building.

Building, Accessory - A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises.

Building, Height of - The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a gambrel, hip or pitch roof.

Building Inspector - A government official or designated agent which administers and enforces the Uniform Dwelling Code Town of Kaukauna Zoning Ordinance and land development regulations, including the issuance of building permits.

Building, Main - A building constituting the principal use of a lot.

Center Line - A line connecting points on highways from which setback lines shall be measured, at any point on the highway.

Channel - A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of the defined channel.

Common ownership - 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.

Community Based Residential Facility (CBRF) - A place where 3 or more unrelated adults reside in which care, treatment, or services above the level of room and board, but not including nursing care, are provided in the facility. A CBRF is subject to State-level licensing and operational limitations as set forth in Chapter 50, Wis. Stats.

Conditional Uses - Uses of a special nature that make it impractical to predetermine as a permitted use in a district.

Contiguous - 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.

Development - Any man-made change to improved or unimproved real estate, including but not limited to construction of or addition or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.

Developers Agreement - An agreement by which the Town and the developer agree in reasonable detail as to all of those matters to which the provisions of this Code apply and which does not come into effect unless and until an irrevocable letter of credit or other appropriate surety has been issued to the Town.

Driveway - A private route of ingress and egress from any public right-of-way, which provides access to one (1) residential dwelling/ unit, commercial building, or property.

Dwelling, One Family - A detached building designed for or occupied exclusively by one family.

Dwelling, Two Family - A detached or semidetached building designed for and occupied exclusively by two families.

Dwelling, Multiple - A building or portion thereof designed for and occupied by more than two families including tenement houses, row houses, apartment houses and apartment hotels.

Election Campaign Period - In the case of an election for office, the period beginning on the first day for circulation of nomination papers by candidates, or the first day on which candidates would circulate nomination papers were papers to be required, and ending on the day of the election. In the case of a referendum, the period beginning on the day which the question to be voted upon is submitted to the electorate and ending on the day on which the referendum is held.

Encroachment - Any fill, structure, building, use or development in the floodway.

Erosion - The detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

Essential Services - 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 storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

Exotic Pet: Any companion animal other than a dog, domestic cat, ferret, hedgehog, pet bird, hen chicken, rabbit, domestic rodent (gerbil, guinea pig, hamster, or domestic mouse or rat). Any small pets that exceed 12 inches in height or length.

Family - For the purposes of the Town of Kaukauna zoning ordinance, a family shall be considered any of the following:

1. An individual.
2. Two or more persons related by blood, marriage, or adoption.
3. A maximum of five persons not so related, maintaining a common household in a dwelling unit or lodging unit.

Farm - 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:

1. 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.

2. A majority of the land area is in agricultural use.

Farm Operator - Any person who owns land and raises crops or livestock on that land or a person who rents land to another for agricultural purposes and who lives on the land having day-to-day contact with the farm operation or a person who lives on land that he has historically farmed. For the purpose of this chapter, any person who has farmed land for five consecutive years is deemed to have farmed it historically.

Farm residence - Any of the following structures located on a farm:

1. A single-family [or duplex] residence that is the only residential structure on the farm.
2. A single-family [or duplex] residence that is occupied by any of the following:
3. An owner or operator of the farm.
4. A parent or child of an owner or operator of the farm
5. An individual who earns more than 50 percent of his or her gross income from the farm.
6. A migrant labor camp that is certified under s. 103.92, Wis. Stats.

Farmers' Market - The temporary sale of farm products at a site other than where they were grown. The sale of farm produce grown on the premises or the sale of not more than five bushels per day of farm produce grown off the premises is not considered a farmers market.

Fence, Open - A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Open fences are those with more than 50% of their surface area open for free passage of light and air. Examples of such fences include barbed wire, chain link, picket, and rail fences.

Fence, Ornamental - A fence intended to decorate, accent, or frame a feature of the landscape. Ornamental fences are often used to identify a lot corner or lot line; or frame a driveway, walkway, or planting bed. Ornamental fences are those with more than 80% of their surface area open for free passage of light and air. Ornamental fences are often of the rail, or wrought iron type.

Fence, Security - A fence intended to guard property against unauthorized entry, and to protect stored goods and products from theft and other unauthorized handling. Security fences usually exceed 6 feet in height, are often made of wrought iron or woven wire, and may incorporate additional security features such as barbed wire.

Fence, Solid - A structure of boards, rails, planks, stakes, slats, or similar material erected as an enclosure, barrier, or boundary. Solid fences are those with 50% or less of their surface area open for free passage of light and air. Examples of such fences

are stockade, board-on-board, board and batten, basket weave, and louvered fences.

Fish Hatchery - The establishment, operation, and maintenance of a facility for the purpose of breeding and propagating fish for sale, transfer, or fee fishing pursuant to Ch. 29, Wis. Stats., and Wis. Adm. Code NR 19.

Frontage - All the property abutting on a road or street.

Game Farm - The establishment, operation, and maintenance of a game bird or animal farm for the purpose of breeding, propagating, killing, and selling of game birds and animals pursuant to Ch. 29, Wis. Stats., and Wis. Adm. Code NR 16 and 19.

Garage, Private - An accessory building or space for the storage of not more than two motor-driven vehicles.

Garage, Public - Any building or premises, other than a private, or a storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.

Garage, Storage - Any building or premises used for the storage only of motor-driven vehicles or motor-driven machinery, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold.

Gross Farm Revenue - 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 landowner.

High-water Mark or Elevation - The average annual high water level of a pond, lake, river, stream, or flowage usually distinguished by a line where the presence of 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.

Home Occupation - A gainful occupation conducted by members of the family only, within their place of residence; provided that no article is sold or offered for sale on the premises except such as is produced by such occupation, that no mechanical equipment is used other than such as is ordinarily used for domestic purposes, that no sign other than one unlighted name plate no more than 2 feet square is installed, and that no person other than a member of the immediate family living on the premises is employed.

Hotel - A building in which lodging, with or without meals, is offered to transient

guests for compensation and in which there are more than five sleeping rooms with no cooking facilities in any individual room or apartment.

Household Pet - An animal from a traditional companion animal species: dog, domestic cat, ferret, hedgehog, pet bird, hen chicken, rabbit, domestic rodent (gerbil, guinea pig, hamster, or domestic mouse or rat), and small pets as defined herein. Household pets can inhabit primary and accessory structures plus the premise yard.

Junk Yard - A lot, land, building, or structure, or part thereof used primarily for the collecting, storage, and/or sale of waste paper, rags, scrap metal, or discarded material or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition and for sale of parts therefrom.

Kennel - A use of land in which more than 3 dogs over 6 months of age are kept on the premises.

Landmark - Any structure or improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the community, State, or nation and which has been designated as a landmark pursuant to the provisions of this chapter.

Landmark Site - Any parcel of land of historical significance due to substantial value in tracing the history of aboriginal man, or upon which a historic event has occurred, and, which has been designated as a landmark site pursuant to the provisions of this chapter; or a parcel of land, or part thereof, on which is located a landmark and any abutting parcel, or part thereof, used as and constituting part of the premises on which the landmark is situated.

Land Owner - Any person holding title to or having an interest in land.

Land User - Any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his land.

Livestock - Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.

Lodging House - A building other than a hotel where lodging only is provided for compensation for three or more persons not members of the family.

Lot, Zoning - A single property, parcel, unit, tract, plot or otherwise designated to be used, as a unit under single ownership or control, and which may be occupied by 1 or

more structures and the accessory structures, or uses customarily incidental to it, including such open spaces as are arranged and designed to be used in connection with such structure. A "zoning lot" may or may not coincide with a lot of record.

Lot, Corner - A lot located (a) at the junction of and abutting 2 or more intersecting streets; or (b) at the junction of and abutting a street and the nearest shoreline or high-water line of a storm or floodwater runoff channel or basin; or (c) at the junction of and abutting 2 or more storm or flood water runoff channels or basins; or (d) at and abutting the point of abrupt change of a single street where the interior angle is less than 135 degrees and the radius of the street is less than 100 feet.

Lot Depth - The average distance from the front to the rear lot lines measured in the general direction of the side lot lines.

Lot, Interior - A lot other than a corner lot.

Lot Width - The distance between sides of the lot at the building line. In the case of a shoreland lot, the lot width is the width of the lot at both the building line and the waterline.

Mobile or Manufactured Home - That which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway, and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; including any additions, attachments, annexes, foundations and appurtenances. In the purpose of this ordinance, a mobile home shall remain classified as a mobile home regardless of whether its wheels or other rolling devices have been removed or not, and even though assessable value of additions, attachments, annexes, foundations and appurtenances or other added investments to the mobile home equal or exceed 50% of the assessable value of the mobile home.

Mobile Home Park - Any plot or tract of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

Motel - A building or group of buildings containing rooms which are offered for compensation for the temporary accommodations of transients.

Nonconforming Structure - A dwelling or other building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance.”
Wis. Stat. §60.61(5e)(a)2.

Nonconforming Use - A use of land, a dwelling, or a building that existed lawfully

before the current zoning ordinance was enacted or amended, but that does not conform with the use restrictions in the current ordinance. Wis. Stat. § 60.61(5)(ab).

Nonfarm Residence - Any residence other than a farm residence.

Overlay District - Overlay districts provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirement shall apply.

Person - An individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity.

Planned Unit Development - The PUD Planned Unit Development is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures, diversified building types, and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The PUD will allow for flexibility and overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements set forth in the underlying basic zoning district. All provisions for PUD shall be complied with as stated in the Zoning Code.

Prime Farmland - All of the following:

1. 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.
2. Land, other than land described in par. (a), which is identified as prime farmland in the county's certified farmland preservation plan.

Principal Use or Structure - The main use of land or structures as distinguished from a secondary or accessory use.

Professional Office - The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician, beauty parlor or barbershop or other recognized profession.

Protected Farmland - Land that is any of the following:

1. Located in a farmland preservation zoning district certified under ch. 91, Wis. Stats.
2. Covered by a farmland preservation agreement under ch. 91, Wis. Stats.
3. Covered by an agricultural conservation easement under s. 93.73, Wis. Stats.
4. Otherwise legally protected from nonagricultural development.

Roadside Stand - A structure not permanently fixed to the ground that is readily removable in its entirety covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises.

Sanitary Sewer - A constructed conduit for the collection and carrying of liquid and solid sewage wastes from 2 or more premises, other than storm water, to a sewage treatment plant, and which is approved by the Wisconsin Division of Environmental Protection, Department of Natural Resources.

Setback - Lines established along highways at specified distances from the center line, which permitted buildings or structures shall be set back of, or outside of, and within which they may not be placed except as hereinafter provided. "Within the setback lines" means between the setback line and the highway.

Shorelands - Those lands lying within 1,000 feet from a lake or pond of flowage, and 300 feet from a river or stream or to the landward side of the floodplain, from the ordinary high water mark of navigable waters, whichever distance is greater. Shorelands shall not include those lands adjacent to farm drainage ditches where such lands are not adjacent to a navigable stream or river, those parts of such drainage ditches adjacent to such lands were non-navigable streams before ditching or had no previous stream history, and such lands are maintained in nonstructural agricultural use.

Sign - Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or any civic, charitable, religious, patriotic, fraternal or similar organization, or any sign indicating address. Each display surface of a sign shall be considered a sign.

Sign, Directional - A sign erected for the purpose of directing persons to a place of business, recreation or public building, school or church.

Small Pet - Includes hamsters, chinchillas, mice, gerbils, guinea pigs, reptiles and tropical birds. Small pets exceeding 12" in height or length shall be considered "exotic" for purposes of this ordinance.

Stable - "Stable" shall have the same meaning as "garage", one draft animal being considered the equivalent of one self-propelled vehicle.

Street - All property dedicated or intended for public or private street purposes or subject to public easements therefor and 21 feet or more in width.

Street Line - A dividing line between a lot, tract or parcel of land and a contiguous street.

Structure - Anything constructed or erected, the use of which requires a more or less permanent location on or in the ground. Includes but is not limited to objects such as buildings, factories, sheds, cabins, wells, septic tanks, and disposal fields.

Temporary Structure - A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term and not to be habitable.

Structural Alteration - Any change in the bearing walls, columns, beams, girders, or supporting members of a structure; and change or rearrangement in the floor area of a building, any enlargement of a structure whether by extending horizontally or by increasing in height, and/or any movement of a structure from 1 location or position to another.

Traffic Lane - A strip of roadway intended to accommodate a single line of moving vehicles.

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, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.

Variance - An authorization granted by the Board of Zoning Appeals to construct, alter, or use a building or structure in a manner that deviates from the dimensional standards of this chapter.

Yard - An open space, other than a court, on the same lot with a structure, lying between the structure and the nearest lot line, and is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.

Yard, Front - A yard extending the full width of a lot and situated between the front lot line and the nearest line of a structure located on said lot. Where a lot is located such that its rear and front lot lines each abut a street right-of-way line both such yards shall be classified as front yards. Every yard of a corner lot facing a street right-of-way line shall be classified as a front yard.

Yard, Rear - A yard extending the full width of a lot and situated between the rear lot line and the nearest line of a structure located on said lot.

Yard, Side - A yard situated between the side lot line and the nearest line of a structure located on said lot and extending from the rear line of the front yard to the front line of the rear yard.

Zoning Administrator - A person appointed by the Town Board Chairman who may direct a designated town agent to perform supporting tasks associated with the duties and powers of the position.

Zoning Administrator, Town Agent - A person who conducts tasks as directed by the Zoning Administrator, such as but not limited to on-site inspections and photo documentation of such for administrative review, issuance of orders to cease and desist, intake of public hearing applications, and meeting with landowners and permit applicants.

APPENDIX A: ORDINANCE REGULATING DISPOSITION OF WASTE MATERIAL

The Town Board of the Town of Kaukauna, Outagamie County, Wis. does ordain as follows:

That it shall be unlawful for any person, corporation, partnership, or other type of organization to deposit waste on lands in the Town of Kaukauna, Outagamie County, Wisconsin unless there is first obtained from the Town Board of Kaukauna, a permit authorizing such disposition. A separate permit must be obtained by each property owner upon whose land such disposal of waste shall take place and such permit shall be valid for three (3) months after date of issuance. The Town Board reserves the right to revoke and permit with due cause. A permit shall not be required for deposit of waste on a duly licensed landfill site.

Waste defined for the purposes of this Ordinance shall mean garbage, sludge from waste water treatment plants, sludge from paper mills, and other organic wastes but excluding from this definition animal manure commonly used by farmers for fertilizer. The permit shall be obtained by applying to the Town Board of Kaukauna and such application shall be in writing and shall state the dates that the disposal shall take place; and adequate description of the lands upon which such disposal shall take place; the source from which the waste material is acquired; the name and address of the party transporting or delivering such waste material to the property owner in the event the property owner is not such transporting party. A fee of twenty dollars (\$20.00) shall be charged for each permit. No permit shall be issued until the fee has been first paid to the Town Board. Applications for permit shall be made by the property owner upon whose land the disposal is to take place. A permit so acquired shall be displayed publicly on the premises upon which the waste disposal is being applied.

It shall be unlawful for the property owner upon whose land such disposal of waste occurs to store or stockpile such waste delivered to the property. The application of the waste upon the property shall be not over two (2) inches in depth in anyone place and may not be applied on the same property more often than once every four years. The property owner must work such waste into the soil within the time limits as may be prescribed by any regulations by the Department of Natural Resources of the Sate of Wisconsin but in no event shall said waste be on the property without being worked into the soil for a period of longer than twenty-four (24) hours after the same has been applied.

The property owner, for the purposes of this Ordinance, is defined as being any person, partnership, corporation, or other type of organization owning, renting, or otherwise using or controlling the use of lands within the boundaries of the Town of Kaukauna, Outagamie County, Wisconsin and upon whose land waste is disposed of or distributed requiring a permit under the terms of this Ordinance.

A transporter, for the purposes of this Ordinance, is defined to be any person, partnership, corporation or other type of organization who, by truck or other conveyance, hauls waste subject to the provisions of this Ordinance within the boundaries of the Town of Kaukauna, Outagamie County, Wisconsin.

The Town of Kaukauna may require any transporter of waste materials in the Town of Kaukauna, for dispositions on lands in the Town of Kaukauna pursuant to this Ordinance,

to present an adequate analysis of the waste material so being transported for disposition so as to enable the determination as to whether bacteria or material harmful or injurious to the general public exists in such wastes. Failure on the part of a transporter to produce an adequate analysis upon request of the Town Board of the Town of Kaukauna shall constitute a violation of this ordinance. The Town of Kaukauna reserves the right to take random samples of waste disposed of on lands in the Town of Kaukauna pursuant to this Ordinance, at any time, and if such samples disclose bacteria or material harmful or injurious to the health of the general public, then the transporter of said waste material shall be in violation of this Ordinance and subject to prosecution hereunder.

The storage and disposition of solid animal manure commonly used by farmers for fertilizer shall not be regulated by this Ordinance. It is hereby declared to be the intention of the Town Board of the Town of Kaukauna that the several provisions of this Ordinance are separable in accordance with the following:

- (a) If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgement shall not affect any other provision of this Ordinance not specifically included in this judgement.
- (b) If any court of competent jurisdiction shall adjudge any invalid the application of any provision of this Ordinance to a particular property, such judgment shall not affect the application of said provision to any other property not specifically included in said judgment.

Any person, partnership, corporation or other entity, convicted of a violation of any section of this Ordinance, shall be fined not less than two hundred dollars (\$200.00), nor more than five hundred dollars (\$500.00) together with the costs of prosecution for each offense and when in default of the payment of such forfeiture and costs of prosecution, shall be confined in the county jail until said forfeiture and costs are paid but for a period not exceeding thirty (30) days. Every calendar day of violation shall be deemed to be a separate offense.

APPENDIX B: MINIMUM ROAD SPECIFICATIONS

Right of Way - No less than four (4) rods or 66 feet wide

Pavement Design - Asphaltic Surface - 2-1/2"
3/4" Crushed Aggregate - 6"
2-1/2" Breaker Run - 6"

Roadway - Stone width of 30 feet. Stone width of 90 feet for cul-de-sac

Road Surface - Minimum specifications shall be 22' wide pavement, gradation 3, constructed according to the Wisconsin Department of Transportation "Standard Specifications for Road and Bridge Construction", latest edition. The pavement must be installed in a minimum of one 2-1/2" lift.

Shoulders - Must be no less than four (4) feet wide from road bed to top edge of ditch.

Drainage/Ditching - One ditch on each side of road properly dug to drain road. Side slopes at a minimum of 3:1. Open ditch flow line grade 0.25% or 3" per 100' minimum slope.

Drainage/Culverts - Permit must be obtained from the Town Board for proper size cover installation and maintenance of culverts.

Special Notes - The base shall be brought to an acceptable grade as set forth in the plans submitted by the landowner.

The developer is responsible for obtaining a permit to access onto a public highway from the appropriate maintaining authority. It will also be the developer's responsibility to conform to all regulations of the approved permit.

Surface layer shall be applied not less than nine (9) months, nor more than one and one-half (1-1/2) years after the Town Board accepts the street with all costs of such work born by the developer.

The developer must pay all costs of road engineering, construction, street lighting, street signing, etc. and must dedicate road by Certified Survey Map or plat with Chapter 6.16(e) performance guarantee included for road and/or Cul-De-Sac at the time the road is accepted.

Approved by the Town Board this _____ day of _____,
20____. Town of Kaukauna, Outagamie County, State of WI.

Town Chair

Supervisor 1

Supervisor 2

Clerk