

Title 18

ZONING

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SUBTITLE I. ZONING REGULATIONS

Chapter 18.01

PURPOSE, INTENT AND INTERPRETATION OF THE ZONING CODE

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18.01.001 Authority.

The Town Board of the Town of Lincoln has the specific authority, powers and duties, pursuant to Sec. 60.61, 60.62, 61.35 and 62.23, (2021-22) Wisconsin Statutes, pursuant to the specific statutory sections noted in this ordinance and by the adoption of village powers under Sec. 60.10, Wisconsin Statutes, by the electors of said Town on; and by the granting (to said Board) of powers to zone under the above statutory provisions by the electors of said Town (at a legally called and noticed Special Town Meeting on May 8, 2024) to zone areas in the Town of Lincoln and to regulate, prohibit, and restrict construction, alteration, erection and enlargement of certain structures and buildings in the Town of Lincoln and to regulate and control certain uses, activities, businesses and operations in the Town of Lincoln.

18.01.010 Purpose.

The purpose of this Ordinance is to protect and promote the health, safety and general welfare of the Town of Lincoln, Eau Claire County, Wisconsin and its residents through the establishment of minimum regulations governing use and development and providing penalties for the violation of its provisions. This Ordinance shall divide the Town into districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land

18.01.020 Abrogation and Greater Restrictions.

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, or permits already issued. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

18.01.030 Interpretation.

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 Town and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statutes

18.01.040 Nature of the Zoning Code.

The Zoning Code shall consist of original official zoning maps and current official zoning maps designating various use districts in conjunction with this subtitle, the combination of which shall control the uses of land, the height and bulk of structures and dimensions of lots or building sites and yards, the location and size of signs and the number and location of off-street parking and loading facilities.

A. Original Official Zoning Maps.

The initial town zoning district maps shall be entitled the "Town of Lincoln, Original Official Zoning Map," and dated. Each map shall be signed and dated by the town chair and the chair of the commission. The original official zoning map shall be kept in the commission, and shall not be changed. Such maps shall be used for reference purposes only when there is a need to determine the original applicable zoning.

B. Current Official Zoning Maps.

One or more sets of zoning maps entitled "current official zoning maps," shall be made available for public reference. All amendments to the district boundaries shall be placed upon such maps by the commission promptly after each amendment has been adopted by the board.

Chapter 18.02

RULES AND DEFINITIONS

Sections:

18.02.010 Rules of general construction.

18.02.020 Definitions.

18.02.010 Rules of general construction.

The following rules of construction shall be applied in this subtitle:

A. All measured distances shall be to the nearest integral foot or meter and increments of one-half or more of a foot or meter shall cause the next highest foot or meter to be applied.

B. As to the herein contained words, the following construction shall apply. The term "structure" shall include any part thereof; the phrase "use for" shall include "arrange for"; the word "lot" shall include the words "parcel," "plot," "site," "zoning lot," and "tract," unless the context clearly dictates otherwise.

18.02.020 Definitions.

A. The following definitions shall apply in this title unless the context dictates otherwise:

1. "A zone" means those areas shown on the official floodplain zoning map as inundated by the regional flood. These areas may be numbered or unnumbered A Zones. A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area

2. "Adult cabaret" means a nightclub, bar, theater, restaurant or similar establishment which frequently features live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers or similar entertainers where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas or which regularly feature films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons. An adult cabaret does not include theaters, performing arts centers, civic centers and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

3. "Adult book store" means an establishment having as a predominant portion of its stock in trade, books, magazines and other periodicals or video cassettes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein).

4. "Adult motion picture theater" means an enclosed building which is significantly or substantially used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons therein.

5. "Agricultural-related business" means a business or activity that is consistent with or secondary to the primary agricultural use of the property or that is an integral support service of agriculture as provided in Wis. Stat. ch. 91.

6. "Agri-tourism" means an educational or recreational activity that takes place on a farm, ranch, grove, or other place where agricultural, horticultural, or silvicultural crops are grown or farm animals or farmed fish are raised, and that allows visitors to tour, explore, observe, learn, participate in, or be entertained by an aspect of agricultural production, harvesting, processing, or husbandry that occurs on the farm, ranch, grove, or other place.

7. "Alley" means a public way used as a secondary vehicular access to the side or rear of abutting property.

8. "Alteration" means an enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

9. "Animal unit" has the meaning given in Wis. Admin. Code ch. NR 243.03 (3).

10. "Apartment" means a room or rooms in a multiple dwelling structure or multiple use structure intended to be used as a separate housing unit.

11. "Automotive gasoline station" means a business whose principal activity is the sale of gasoline, oil and other automotive products and the accessory performance of minor tune-up and repair work.

12. "Automotive repair service" means a business whose principal activity is body or engine repairs or painting of motor vehicles.

13. "Automotive sales and service" means a business whose principal activity is the sale of new or used motor vehicles and the performance of repair work as an integral part of the business.

14. "Base flood elevation" means an elevation equal to that which reflects the height of the base flood.

15. "Basement" means a portion of a building with the floor located below the mean grade level. For the purpose of this Subtitle, any such basement with more than 4 feet above grade level shall be counted as a story.

16. "Bed and breakfast establishment" means any place of lodging that provides 8 or fewer rooms for rent for more than 10 nights in a 12-month period, is owner-occupied and in which the only meal served to guest is breakfast.

17. "Block" means a platted tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.

18. "Boarding house" means an owner-occupied dwelling where lodging and meals are furnished for compensation for 3 or more persons not members of the same family.

19. "Boathouse" means a structure at or near the water to houseboats or boating accessories.

20. "Brew Pub" means a facility for the production of 31,000 gallons or less per

year of fermented malt beverages in accordance with Wis. Stat. § 125.295 in which a license to operate a restaurant has also been issued under Wis. Stat. § 97.30 on the same premises.

21. "Brewery" means a facility for the production of fermented malt beverages, as defined in Chapter 125 of the Wisconsin Statutes, that are sold wholesale and/or off premises directly to retailers as authorized by statute.

22. "Building" means a structure, including a roof supported by walls designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind.

23. "Brewery premises" means all land and buildings used in the manufacture or sale of fermented malt beverages and covered by a permit issued under Wis. Stat. § 125.295

24. "Bulkhead line" means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the DNR pursuant to Wis. Stat. § 30.11, and which allows complete filling on the landward side except where such filling is prohibited by the floodway provisions of this subtitle.

25. "Campground" means any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

26. "Camping unit" means any portable device, no more than 400 square feet in area used as a temporary shelter including, but not limited to, a camping trailer, motor home, bus, van, pick-up truck or tent that is fully licensed, if required, and ready for highway use.

27. "Certificate of compliance" means a certification by the zoning administrator that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

28. "Certificate of occupancy" means a certificate issued by the commission, stating that the use of land, and the use and location of structures conforms to the provisions of this Subtitle and any additional requirements placed on the property through the special exception or variance procedure.

29. "Channel" means a natural or artificial watercourse with definite bed and banks which confine and conduct normal flow of water.

30. "Church" means a building designed or used as the principal place of worship of a religious organization or congregation along with associated uses such as fellowship rooms, and Sunday School rooms. The term church includes temple or synagogue, but does not include elementary or secondary schools, day care centers or seminaries.

31. "Clinic" means an establishment of physicians or dentists for the examination and treatment of persons on an outpatient basis.

32. "Clinic, veterinarian" means an establishment for the examination and treatment of animals.

33. "Club" means an association of persons using a structure for a common purpose, but not including groups organized primarily to render a service which is customarily carried on as a business.

34. "Commercial composting facility" means a facility capable of processing source separated compostable materials for the purpose of engineering soil amendments commonly referred to as compost, which can be made available for sale on and off the facility site.

35. "Commission" means the Town of Lincoln Planning Commission or commissions agent.

36. "Community living arrangement" means any of the following facilities

licensed or operated, or permitted under the authority of the commission: child welfare agencies under Wis. Stat. § 48.60, group homes for children under Wis. Stat. § 48.02(7), community based residential facilities under Wis. Stat. § 50.01, and adult family homes under Wis. Stat. § 50.01; but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails.

37. "Consistent with agricultural use" means a use of land, other than an agricultural use, that will do none of the following:

- a. Convert, to a nonagricultural use, land that has been in agricultural use for at least 12 consecutive months during the last 36 months.
- b. Limit the potential for agricultural use of surrounding lands.
- c. Conflict with any current agricultural use of land.

38. "Cottage industry" means a small business or service operation located entirely within a dwelling, or as an accessory structure located on the same lot or tract as a dwelling, which complies with the requirements of local code. The use is clearly incidental and secondary to the use of the property and is compatible with adjacent land uses. A cottage industry will have less than 5 employees, generate low traffic volumes, and have little or no noise, smoke, odor dust glare, or vibration detectable at any property line.

39. "Crawlways" or "Crawl space" means an enclosed area below the first usable floor of a building, generally less than 5 feet in height, used for limited access to plumbing and electrical utilities.

40. "Day care center" means a facility used for the care of preschool or school age children which meets the requirements of a day care center formulated by the Wisconsin Department of Health and Family Services.

41. "Deck" means an unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

42. "Development" means any artificial change to improved or unimproved real estate including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings or structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

43. "District" means a specific area designated with reference to this code and the official zoning maps within which the regulations governing the use and erection of structures and the use of premises are uniformly applied.

44. "DNR" means The Wisconsin Department of Natural Resources.

45. "Drainageway" means a natural or artificial watercourse including, but not limited to, streams, rivers, creeks, ditches, channels, canals, conduits, culverts, waterways, gullies, ravines or washes in which water flows in a definite direction or course, either continuously or intermittently, or in which runoff water accumulates permanently or temporarily, including any adjacent area subject to inundation by overflow or floodwater.

46. "Dryland access" means a vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

47. "Dwelling unit" means a residential structure or portion thereof, containing a separate and complete living area, for one family, not including boarding houses, camping trailers, hotels, motor homes, or motels.
- a. "Dwelling, single family" means a residential structure containing only one dwelling unit.
 - b. "Dwelling, two family" means a residential structure containing 2 dwelling units.
 - c. "Dwelling, multiple family" means a residential structure containing more than 2 dwelling units.
 - d. "Dwelling, accessory" means a residential structure which is secondary to the principal structure on a lot and which houses guests on a temporary basis.
48. "Encroachment" means any fill, structure, building, use or development in the floodway.
49. "Essential services" means services provided by public and private utilities, necessary for the exercise of the principal, accessory, or special exception or service of a principal, accessory or conditional 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, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings. Telecommunications facilities as defined and regulated under Chapter 18.50 and Wind Energy Conversion System Facility and Solar Energy System facilities as defined and regulated in Chapters 18.30.260 and 18.30.300, respectively, shall not constitute essential services.
50. "Equal degree of hydraulic encroachment." The effect of any encroachment into the floodway must be computed by assuming an equal degree of hydraulic encroachment on the other side of a river or stream for a significant hydraulic reach. This computation assures that property owners.
51. "Exploratory boring" means an excavation or opening deeper than it is wide that extends more than 10 feet below the ground surface for the purpose of obtaining information on the physical, chemical, radiological or biological characteristics of geological formations or depth to groundwater. This definition does not include drillholes regulated by Wis. Admin. Code chs. NR 132 and NR 141.25.
52. "Family" means an individual or two or more persons related by blood, marriage or adoption, or not more than 5 persons who are not so related, living together in one single-family dwelling and are not charged for provisions and needs.
53. "Family day care home" means a dwelling licensed as a day care center by the department of health and social services where care is provided for not more than 8 persons.
54. "Farm" means all contiguous land under common ownership that is primarily devoted to agricultural use.
55. "Farming" includes operations required to produce \$6,000 of agricultural products per year and shall include accessory uses such as treating or storing of produce provided that the operation of an accessory use is secondary to the normal farming activities.
56. "Federal Emergency Management Agency (FEMA)" means the federal agency that administers the National Flood Insurance Program.
57. "Farm consolidation" means farm structures and dwellings existing prior to the adoption of this ordinance and separated from a farm through acquisition or consolidation

of farm land in order to be held under separate ownership from the remaining property.

58. "Farm residence" means residences which include single-family or two family dwellings that are occupied by: an owner or operator of the farm, a parent or child of an owner or operator of the farm, or an individual who earns more than 50 percent of his or her gross income from the farm.

59. "FIA" means the Federal Insurance Agency.

60. "Flea market" means where goods and services are sold by different proprietors in an open area.

61. "Flood" or "Flooding" means a general or temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- a. The overflow or rise of inland waters.
- b. The rapid accumulation or runoff of surface waters from any source.
- c. The sudden increase caused by an unusually high water level in a

natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

62. "Flood frequency" means the probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent chance of occurring in any given year.

63. "Flood fringe" means that portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than rapidly flowing water.

64. "Flood hazard boundary map" means a map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

65. "Flood insurance rate map" (FIRM) means a map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the FEMA.

66. "Flood insurance study" (FIS) means a technical engineering examination, evaluation and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and BFE and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. FIRMs, that accompany the FIS, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

67. "Floodplain" means land which has been or may be covered by floodwater during the regional flood. It includes the floodway and the flood fringe and may include other designated floodplain areas for regulatory purposes.

68. "Floodplain island" means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

69. "Floodplain management" means the policies and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

70. "Flood profile" means a graph or a longitudinal profile line showing the

relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

71. "Flood proofing" means any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities, and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

72. "Flood protection elevation" means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood.

73. "Flood storage" means those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

74. "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

75. "Floor Area" means the sum of the usable horizontal area of the several floors of a building as measured from the exterior walls, including interior balconies and mezzanines, elevator shafts, stairwells and utility rooms, but not including basements, garages, breezeways, and unenclosed porches.

76. "Foundation" means a basement or crawlspace meeting the state uniform dwelling code.

77. "Freeboard" means a factor of safety expressed in terms of a certain amount of feet above a calculated flood level, Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

78. "Frontage" means the width of a lot as measured on a public street, road or highway and having access to said street, road or highway.

79. "Garage, private" means an accessory structure or portion of a principal structure utilized for the private storage of motor vehicles.

80. "Garage, public" means a structure or portion thereof where motor vehicles are stored for compensation.

81. "Greenhouse" means a structure exclusively used for the cultivation of plants in which natural sunlight is allowed to enter through transparent material and temperature and humidity are controlled.

82. "Greenhouse, commercial" means a structure from which plants, seedlings, seeds, trees and those items related to cultivation are sold, traded or bartered to the public.

83. "Habitable structure" means any building or portion thereof used or designed for human habitation.

84. "Habitation" means a fixed place of residence.

85. "High flood damage potential" means damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

86. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

87. "Home business" means a business activity for financial gain carried on by a resident of a property within a residential structure or in an accessory structure that has little or no impact on the character of the neighborhood beyond that typically expected from residential use.

88. "Home occupation" means any occupation for gain or support conducted entirely within a residential structure by its occupant.

89. "Historic Structure" means any structure that is either: Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register, Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historical district or a district preliminarily determined by the Secretary to qualify as a registered historic district, Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

90. "Increase in regional flood height" means a calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

91. "Junk yard" shall mean any establishment or premises where worn out or discarded materials, whether purchased, donated or abandoned are kept, or where two or more unlicensed motor vehicles, operable or inoperable, are kept or stored either for purposes of sale or otherwise.

92. "Junkyard materials" include, without limitation because of enumeration hereunder, waste paper, scrap metal, rags, bottles, machines and machine parts, motor vehicles and motor vehicle parts, and uses or secondhand items.

93. "Kennel" means a place where 4 or more dogs over the age of 4 months are boarded, bred or offered for sale.

94. "Land use " means any nonstructural use made of unimproved or improved real estate.

95. "Livestock facility" means a feedlot or facility, other than a pasture, where animals used in the production of food, fiber, or other animal products are or will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12 month period. "Livestock facility" does not include an aquaculture facility.

96. "Lot" means a parcel of land, legally created, which is occupied or designed to provide space for one principal structure and approved uses, including the open spaces required by this subtitle. A lot includes all contiguous property under one owner and may consist of multiple deeds, abstracts, and tax statements.

a. Lot, corner. "Corner lot" means a lot situated at the intersection of 2 streets, roads or highways.

b. Lot, interior. "Interior lot" means a lot with frontage on only one street, road or highway.

c. Lot, through. "Through lot" means a lot other than a corner lot with frontage on two streets, roads or highways.

97. "Lot area" means that area located within lot lines, not including any part of a street, highway, alley or railroad right-of-way or access easement.

98. "Lot depth" means the shortest horizontal distance between the front lot line and the rear lot line measured at a 90° angle from the road right-of-way.

99. "Lot width" means the horizontal distance between the side lot lines at the building setback line.

100. "Lot of record" means a lot which has been legally created prior to the effective date of this Subtitle.

101. "Lowest adjacent grade" means an elevation of the lowest ground surface that touches any of the exterior walls of a building.

102. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

103. "Maintenance" means the act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

104. "Medical waste facility" means any facility involved in the handling, storage, disposal, transport, or other manipulation or handling of "medical waste" as defined in the Wisconsin Statutes or Administrative Code and the U.S. Code or Code of Federal Regulations and shall include "infectious waste" as therein defined.

105. "Metallic mineral extraction" the extraction processing, for sale or use by the operator, of mineral aggregate such as iron ore, taconite, copper, lead, zinc, cadmium and other metalliferous minerals.

106. "Micro-brewery" means a facility for the production of 100,000 gallons or less per year of fermented malt beverages, as defined in Chapter 125 of the Wisconsin Statutes, that are sold wholesale and/or off premises directly to retailers as authorized by statute. On premise sales will be allowed only where permitted by the zoning code.

107. "Micro-winery" means a facility for the production of 25,000 gallons or less per year of wine, as defined in Chapter 125 of the Wisconsin Statutes, that are sold wholesale and/or off premises directly to retailers as authorized by statute. On premise sales will be allowed only where permitted by the zoning code.

108. "Mine operator" means any person or business entity engaged in nonmetallic mining who/which applies for or holds a nonmetallic mine reclamation permit issued under a nonmetallic mining reclamation ordinance whether individually, jointly, or through subsidiaries, agents, employees, contractors, or subcontractors.

109. "Mining operation" means operations or activities for the extraction from the earth of mineral aggregates and nonmetallic minerals and related operations or activities, including, but not limited to, excavation, grading, or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes including, but not limited to, stockpiling, crushing, screening, scalping, dewatering, and blending. It does not include removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic mining minerals such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.

110. "Mining and reclamation plan" means the operator's proposal for the mining and reclamation of the project approved by the commission prior to the issuance of the mining permit.

111. "Mobile/manufactured homes" means the following:

a. Mobile home means a vehicle manufactured or assembled before

June 15, 1976; designed to be towed as a single unit or in sections upon a highway and equipped and used or intended to be used primarily for human habitation; with walls of rigid uncollapsible construction; and which has an overall length in excess of 45 feet.

b. Manufactured home means a structure constructed after 1976 which is transportable in one or more sections; which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or when erected is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required facilities.

112. "Mobile home park" means an area of land on which is provided the required space for the accommodation of two or more mobile homes, together with the necessary accessory buildings, driveways, screening, and other requirements of Chapter 18.29.

113. "Mobile recreational vehicle" means a vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

114. "Model, corrected effective" means a hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

115. "Model, duplicate effective" means a copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

116. "Model, effective" means the hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

117. "Model, existing (pre-project)" means a modification of the Duplicate Effective Model or Corrected Effective Model to reflect any manmade modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

118. "Model, revised (post-project)" means a modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

119. "Motel and hotel" means a structure or group of structures containing rooms which are offered to travelers for temporary accommodations in exchange for compensation.

120. "Motor vehicle" shall include with limitation because of enumeration hereunder, any watercraft, automobile, truck, motorcycle, trailer, semi-trailer, travel trailer, snowmobile, all terrain vehicle, bus or other motorized or mobile vehicle.

121. "NGVD or national geodetic vertical datum" means elevations referenced to mean sea level datum 1929 adjustment.

122. "Nano-brewery" means a facility for the production of less than 10,000 gallons of fermented malt beverages per year that may be bottled, packaged, possessed, stored, sold, shipped, transported, delivered and/or consumed on premise in accordance with the

provisions of Wis. Stat. §125.29. A nano-brewery may operate a restaurant on the brewery premises as provided in Wis. Stat. § 125.29(6).

123. "Nano-winery" means a facility for the production of less than 10,000 gallons of wine per year that may be bottled, packaged, possessed, stored, sold, sampled, shipped, transported, delivered and/or consumed on premise in accordance with the provisions of Wis. Stat. ch. 125.53. A nano-winery may also operate a restaurant on the winery premises in accordance with county and state permitting requirements.

124. "Navigable waters" means all natural inland lakes, flowage and other waters within the territorial limits of this county. Under Wis. Stat. § 281.31, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stat. § 59.692, and Wis. Admin. Code ch. NR 115 do not apply to farm drainage ditches if:

- a. Such lands are not adjacent to natural navigable stream or river;
- b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- c. Such lands are maintained in nonstructural agricultural use.

125. "New construction" means, for floodplain management purposes, structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purposes of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

126. "Nonconforming lot" means a lot of record which does not meet the minimum area, depth, width, or frontage required by this Subtitle.

127. "Nonconforming structure" means a structure which existed on the date of adoption of Subtitle 18 or amendments thereto, which does not conform to the yard, parking, loading, height, and access requirements of the subtitle. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

128. "Nonconforming use" means the use of land, water, or structures existing at the time of the adoption of Title 18 or amendments thereto, which does not meet the requirements of this Subtitle and which has been continually maintained.

129. "Non-metallic mineral" means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.

130. "Nonmetallic mining site, project site, or site" means the location where a nonmetallic mining operation is proposed or conducted including all surface areas from which minerals are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation and by activities, including but not limited to, the construction or improvement of roads or haulage ways.

131. "Nonmetallic mining reclamation or reclamation" means the rehabilitation of a nonmetallic mining site to achieve a land use specified in an approved nonmetallic mining reclamation plan, including removal or reuse of nonmetallic mining refuse, grading of the nonmetallic mining site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater,

prevention of environmental pollution and if practicable the restoration of plant, fish and wildlife habitat.

132. "Obstruction to flow" means any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in the regional flood height.

133. "Official floodplain zoning map" means that map, adopted and made part of this subtitle, which has been approved by the DNR and the FIA Office of FEMA.

134. "Official letter of map amendment" means the official notification from the Federal Insurance Administration office of FEMA that a flood hazard boundary map or flood insurance study map has been amended.

135. "Open sales lot" means an area used for the purpose of buying and selling automobiles, trucks, motorcycles, boats, trailers, recreational vehicles, mobile/manufactured homes and similar products.

136. "Open space use" means those uses having a relatively low flood damage potential and not involving structures.

137. "Ordinary high water mark" means the point on a bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognizable characteristic.

138. "Owner" or "property owner" means the fee-simple title holder or the beneficial owner of land whose interest is primarily one of ownership or possession, and enjoyment on contemplation of ultimate ownership. The term includes, but is not limited to mortgagees and vendors under contract for deed.

139. "Parking area" means a portion of a lot with access to a street or alley, which is suitably surfaced and maintained for the temporary storage of motor vehicles, but not including the display of vehicles for sale.

140. "Parking space, off-street" means a space containing parking area or a stall in a private garage.

141. "Performance standards" means criteria established by this subtitle to regulate certain uses.

142. "Person" means an individual, or group of individuals, corporation, partnership, association, municipality or state agency.

143. "Planned commercial development" means a lot or tract of land that contains one principal building with two or more uses in a commercial district and which uses share common amenities such as but not limited to parking, loading, storage, and signage.

144. "Planned development" means the development of a tract of land created by one landowner into two or more lots. Development shall be allowed at densities permitted in the A-R and A-3 districts.

145. "Planned unit development" means a lot or tract of land containing 2 or more principal buildings or uses developed as a unit where such buildings or uses may be located in relation to each other rather than to a lot line or zoning district boundaries.

146. "Private sewage system" means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

147. "Private swimming pool" means a receptacle of water or an artificial pool of water having a depth capacity at any point of more than 2 feet, intended for the immersion or partial immersion of human beings, and including all appurtenant equipment.

148. "Professional office" means the office of one engaging in a calling requiring specialized knowledge and often long and intensive academic preparation, including but not limited to offices of doctors of medicine or dentistry, or ministers, architects, engineers, attorneys, musicians or artists.

149. "Public utilities" means those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

150. "Quarter section and quarter-quarter section" means a division of a section of land according to the rules of the original United States Government Public Land Survey.

151. "Quasi-public uses" means those facilities which are partially public in nature such as churches, schools, cemeteries.

152. "Race track" means a use of land for the purpose of operating a motorcycle, all terrain vehicle, automobile, or similar motorized vehicle over a constructed track or course or where the continuous use of the land creates a track or course.

153. "Reach, hydraulic." "Hydraulic reach" means that portion of the river or stream extending from one significant change in the hydraulic character of the river or stream to the next significant change, usually associated with breaks in the slope of the water-surface profile, and may be caused by bridges, dams, expansion and contraction of the water flow, and changes in stream-bed slope or vegetation.

154. "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

155. "Reconditioned mobile/manufactured home" means a mobile/manufactured home which has been rebuilt, restored or reconditioned to habitable condition.

156. "Recycling drop-off station" means a facility consisting of appropriate storage containers designed to accept a limited volume of recyclable materials from households, including aluminum food and beverage containers, glass food and beverage containers, magazines or other materials printed on similar paper, newspapers or other material printed on newsprint, kraft paper (e.g. grocery bags), corrugated cardboard, office paper, plastic food and beverage containers, steel or bimetal food or beverage containers, and waste tires, that are intended to be stored temporarily in the containers provided before being taken to a resource recovery facility or resource recovery processing facility. Sorting, shredding, crushing, baling or other separation, other than that required by residents using a recycling drop-off station to separate recyclable materials for placement in appropriate containers, shall be prohibited. A recycling drop-off station can be a permitted or an accessory use except when the facility accepts waste tires and then it shall be a special exception.

157. "Regional flood" means a flood determined to be representative of a large flood known to have occurred in Wisconsin. A regional flood is a flood with a 1 % chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the Regional Flood Elevation is equivalent to the Base Flood Elevation.

158. "Repair shop" means a place where motor vehicles or other materials are restored to a sound or good or operable state after decay, injury, dilapidation or partial destruction.

159. "Resource recovery facility" means a building in which collected

recyclables from residential and commercial sources, including aluminum food and beverage containers, glass food and beverage containers, magazines or other materials printed on similar paper, newspapers or other material printed on newsprint, kraft paper (e.g. grocery bags), corrugated cardboard, office paper, plastic food and beverage containers, steel or bimetal food or beverage containers, or other incidental recyclable items that may be delivered from time to time provided no dismantling is necessary according to market requirements and in which the incoming recyclables are sorted, shredded, crushed, baled or otherwise separated using equipment not to exceed 15 horsepower, for later shipment to markets. All activities that take place at a resource recovery facility shall take place inside the building including recyclables. Dismantling, salvaging, crushing, or storage of motor vehicles, machinery, or appliances, or the processing or storage of putrescible, hazardous or toxic wastes are prohibited. A resource recovery facility is also called a material recovery facility or MRF.

160. "Resource recovery processing facility" means a resource recovery facility which collects from residential, commercial, and industrial sources where equipment of any horsepower may be used, outdoor storage may be allowed, and where dismantling of separate motor vehicles parts or components and separate machinery parts or components may be allowed. Resource recovery processing facilities may be allowed in conjunction with salvage yards.

161. "Restaurant" means any building, room or place at which the predominant activity is the preparation, service, or sale of meals to transients or the general public as defined in Wis. Stat. § 97.01(14g).

162. "Restaurant, drive-in" means a business establishment consisting of a kitchen, with or without a dining room, where a portion of the food sold is eaten either off the premises or within automobiles on the premises.

163. "Salvage yard" means any establishment or premises where motor vehicles or other materials are collected for the purposes of dismantling, salvaging or demolition.

164. "Seasonal structure" means a structure used occasionally or periodically for a period not to exceed six months of a calendar year.

165. "Setback lines" means lines established parallel to rights-of-way, lot lines, or water bodies for the purpose of defining limits within which structures, buildings, or uses must be constructed, maintained or confined.

166. "Shorelands" means lands within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, pond or flowage; 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

167. "Sign" means the use of any words, numerals, pictures, figures, devices or trademarks by which anything is made known to show an individual, firm, profession or business and are visible to the general public.

a. "Advertising (off-premise)" means a billboard, poster panel, painted bulletin board, or other sign which is used to advertise products, goods, or services which are not exclusively related to the premise on which the sign is located.

b. "Agriculture test plot" means a sign used to mark test plot areas on a farm and includes a sign identifying the manufacturer of the seed being tested.

c. "Area identification" means a freestanding sign which identified a subdivision, a multiple residential complex consisting of 3 or more structures, a shopping center consisting of 3 or more separate business concerns, an industrial area, an office complex consisting of 3 or more structures or any combination thereof.

d. "Business (on-premise)" means any sign which identifies a

business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used in the identification of promotion of any principal commodity or service, including entertainment, offered or sold upon the premise where such sign is located.

e. "Campaign sign" means a sign erected for the purpose of soliciting support for or application to a candidate or a political party or relating to a referendum question in an election held under the laws of the State of Wisconsin.

f. "Construction" means a temporary sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.

g. "Directional" means a sign which bears the address and name of a business, institution, church, or other use or activity plus directional arrows or information on location.

h. "Flashing" means an illuminated sign upon which the artificial light is not kept constant in terms of intensity or color at all times when the sign is illuminated, (not including time, temperature and public information signs).

i. "Free-standing" means a stationary or portable, self-supported sign not affixed to any other structure.

j. "Illuminated" means a sign which is lighted by an artificial light source either directed upon it or illuminated from an interior source.

k. "Information" means a sign giving information to employees, visitors of delivery vehicles, but containing no advertising or identification.

l. "Monument" means a freestanding sign having a low profile with no open space between the ground and the sign and having a sign structure constructed of masonry, wood, or materials similar in appearance.

m. "Name plate" means a sign indicating the name and address of a building and its functions or the name of an occupant thereof and the practice of a permitted home occupation or an agricultural related business.

n. "Portable" means a sign so designed as to be movable from one location to another and which is not permanently attached to the ground, sales display or device or structure.

o. "Projecting" means a sign other than wall sign, which is affixed to a building and which extends in a perpendicular manner from the building wall.

p. "Roof" means a sign which is erected, constructed or attached wholly or in part upon the roof of a building and which projects completely above the parapet wall.

q. "Seasonal agricultural product" means a sign which identifies a seasonal agricultural business such as but not limited to strawberry farms, apple orchards, or truck farms and the direction to that business.

r. "Temporary" means any sign which is erected or displayed for a specified period of time.

s. "Wall" means a sign which is affixed to the exterior wall or mansard roof of a building and which is parallel to the building.

168. "Sign alteration" means any structural change to a sign but shall not include routine maintenance, painting or change of copy of an existing sign.

169. "Sign area" means that area within the marginal lines of the surface which bears the advertisement or, in the case of messages, figures or symbols attached directly to the part of a building; that area which is included in the smallest connecting geometric figures which

can be made to circumscribe the message, figure or symbol displayed thereon. Only changeable copy areas of canopy sign shall be considered in determining the total sign area.

170. "Sign Structure" means the supports, uprights, bracing and framework for a sign including the sign area.

171. "Single family dwellings" means a residential structure which is meant to house a single family and which is a minimum of 24 feet in width, has a roof with a minimum slope of 3:12, is on a permanent foundation meeting the state one and two family dwelling code, and has a minimum of an 8 inch eave attached to at least 50% of the perimeter of the structure. This definition includes manufactured homes but excludes mobile homes..

172. "Special event" means any occasional or periodic assembly or gathering of people at a predetermined and fixed location, requiring the use and/or construction of temporary structures and facilities such as but not limited to stages or tents or booths, having a duration of up to 7 days within any 30 day time period and occurring not more than 4 times within any 12 month period excluding time for set-up and take-down, for entertainment and/or other leisure purposes. Special events include, but are not limited to the following: fairs, carnivals, music or other types of festivals, runs, walks or bicycle tours. Special events shall not include gatherings for activities such as neighborhood garage/thrift sales, neighborhood parties, or other similar activities.

173. "Special exception" means a use, either public or private, which because of its unique characteristics, cannot properly be classified as an approved or permitted use in a particular district. Based on the facts in each case, the impact of the proposed use upon neighboring lands and the public need for the particular use at the particular location, the commission may discretionarily grant such a use, subject to standards and conditions as may be deemed appropriate and necessary.

174. "Specified anatomical areas"

- a. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola;
- b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

175. "Specified sexual activities"

- a. Human genitals in a state of sexual stimulation or arousal; or
- b. Acts of human masturbation, sexual intercourse or sodomy; or
- c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

176. "Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling floor or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

177. "Storage capacity of a floodplain" means the volume of space above an area of floodplain land that can be occupied by floodwater of a given stage at a given time, regardless of whether the water is moving

178. "Story" means that part of a building between a floor and either the next floor above, or the ceiling. A basement shall constitute a story if it is more than 4 feet above grade level.

179. "Streets, Roads or Highways" means a thoroughfare which may either provide the principal means or movement of pedestrian and vehicular access to abutting property.

180. "Streets, roads or highways, private" means a thoroughfare which is owned and maintained by a private entity for the use by a limited membership.

181. "Streets, roads or highways, public" means a thoroughfare which is owned and maintained by a governmental entity for use by all members of society.

182. "Structural alteration" means any change in the supporting members of a building such as bearing walls, columns, rafters, beams, girders, footings and piles.

183. "Structure" means any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

a. "Accessory structure" means a subordinate structure which is clearly and customarily incidental to and located on the same lot as a principal structure except that mobile/manufactured homes are not allowed as storage structures.

b. "Principal structure" means the main structure on a lot.

184. "Structure height" means the vertical distance measured from the mean grade level to the highest point of a flat surface roof, to the deck line of a mansard roof, or to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

185. "Structure setback" means the minimum distance between structure or use and property line or a road right-of-way line or high water mark of a water body.

186. "Subdivision" has the meaning given in Wis. Stat. § 236.02(12).

187. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50% of the equalized assessed value of the structure before the damage occurred.

188. "Substantial improvement" means any repair, reconstruction rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50% of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

189. "Tailing ponds" means those areas where liquified accumulations of waste from the processing of mining are placed on the land surface.

190. "Travel trailer" means a vehicular portable structure built on a chassis, with or without complete kitchen, toilet, such facilities designed to be used for temporary habitation for travel or recreation.

191. "Tourist or transient" means a person who travels to a location away from

his or her permanent address for a short period of time for vacation, pleasure, recreation, culture, business or employment.

192. "Tourist Rooming House" means all lodging places and tourist cabins and cottages as regulated by the department of health and human services pursuant to Wis. Admin. Code ch. DHS 195, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients. It does not include private boarding or rooming houses not accommodating tourists or transients, or bed and breakfast establishments regulated under Wis. Admin. Code ch. DHS 197.

193. "Unnecessary hardship" means where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

194. "Utilities" means any public facilities such as water wells, water and sewage distribution systems, power and communications transmission lines, pipelines, microwave radio relays, telephone and telegraph exchanges, and their attendant facilities. Battery energy storage systems shall not constitute Utilities

195. "Violation" means the failure of a use, structure or other development to be fully compliant with Title 18. For floodplain regulations, structures or other developments that have not been issued permits, do not have the lowest floor elevation documented, a floodproofing certificate, or the required floodway encroachment calculations are presumed to be in violation.

196. "Waste dump" means all accumulations of unprocessed waste mine rock and overburden placed on the land surface.

197. "Water surface profile" means a graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

198. "Watershed" means the entire region or area contributing runoff or surface water to a particular watercourse or body of water.

199. "Well" means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, for the purpose of obtaining groundwater regardless of its intended use.

200. "Wetlands" means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation, and having soils indicative of wet conditions.

201. "Wine Pub" means a tavern, cocktail lounge, restaurant, grocery store, liquor store, or other similar retail establishment that includes a facility for the production 20,000 gallons or less per year of wine as defined by state statute, that are sold for consumption on premises, or that are sold directly to the consumer as carry out items.

202. "Winery" means a facility for the production of fermented malt beverages that may be bottled, packaged, possessed, stored, sold, sampled, shipped, transported, delivered and/or consumed on premise in accordance with the provisions of Wis. Stat. § 125.53.

203. "Yard" means open space on a lot not occupied by structures.

a. "Yard, front" means a yard extending the full width of the lot between the front lot line and the nearest part of the minimum front yard setback.

b. "Yard, rear" means a yard extending the full width of the lot between the rear lot line to the nearest part of the structure.

c. "Yard, side" means a yard on each side of the structure extending from the structure to the lot line and from the front yard line to the rear yard line.

DRAFT

Chapter 18.03

GENERAL PROVISIONS

Sections:

- 18.03.010 Scope of regulations.
- 18.03.020 Interpretation.
- 18.03.030 Relation to other ordinances and regulations.
- 18.03.040 Severability.
- 18.03.050 Rules for determining district boundaries.
- 18.03.060 Lot provisions.
- 18.03.070 Determination of uses not listed.
- 18.03.080 Compliance

18.03.010 Scope of regulations.

No structure, or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, converted, enlarged, constructed, moved or structurally altered, unless in conformity with all the regulations specified in subtitle for the district in which it is located.

18.03.020 Interpretation.

In interpreting and applying the provisions of subtitle, the provisions shall be held to be the minimum requirements for the public health, safety, comfort, convenience and general welfare of the citizens of the town, and shall be liberally construed in favor of the town.

18.03.030 Relations to other ordinances and regulations.

Where the provisions of this subtitle impose greater restrictions than those of any statute, regulation, or other ordinance, the provisions of this subtitle shall be controlling, except that the shoreland provisions under Eau Claire County Shoreland Overlay supersede all the provisions of any town zoning ordinance adopted, which relate to shorelands. Where the provisions of any statute, regulation or other ordinance impose greater restrictions, those provisions shall be controlling.

18.03.040 Severability.

If any section, clause, provision, or portion of this subtitle is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this subtitle, if severable therefrom, shall not be affected thereby.

18.03.050 Rules for determining district boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the official zoning maps, the following shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, railroads, or lakes, streams and other water bodies, shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines, quarter-quarter section lines, or municipal boundaries, shall be construed to follow such lines.
- C. Boundaries indicated as being parallel to or an extension of the features listed in A. or B. shall be so construed. Distances not specified on the map shall be determined by the map scale.
- D. In situations not covered by 18.03.050 A. through C., or when there is a dispute over a determination of district boundaries made by the commission, the Town Board shall determine district boundaries when the physical or cultural features existing on the ground differ with those shown on the map.

18.03.060 Lot provisions.

- A. Except where permitted by the zoning code, not more than one principal building or use and its accessory buildings or uses may be located on a lot.
- B. Any lot in existence at the time of adoption of this subtitle, and legally created, other than by platting or certified survey map procedures as set forth in 18.03.060 shall be considered a lot of record and shall be considered legally buildable even though the lot may not meet the minimum lot area and lot width requirements, provided that the lot is in separate ownership from abutting land further provided that the lot is developed with a use that is permitted and at the setback requirements by the district in which it is located under this subtitle.
- C. No yard or other open space existing on the effective date of the ordinance codified in this subtitle shall be reduced below the minimum required by this subtitle.
- D. Lots which were created through platting or certified survey map procedures and which are under single contiguous ownership are to be considered as separate lots of record. All restrictions or setbacks placed on the lots by the county or towns through the subdivision review process shall be enforceable under this subtitle.
- E. All lots shall have a minimum frontage on a public road equivalent to the minimum width of the district in which it lies, except for lots created through the subdivision review procedures.
- F. When a structure or use is proposed to be constructed or created across a property line, within the required setbacks, or on a contiguous lot, the 2 parcels must be replated by certified survey map procedures prior to issuance of any permits.
- G. The minimum lot area shall exclude road right-of-ways, navigable bodies of water, and ingress and egress easements except for lots in the A-1, A-3, F-1, and F-2 Districts, which may include road rights-of-ways.
- H. All land disturbing activity that meets the requirements of Eau Claire County Code 17.05.070 A. requires a construction site erosion control plan approval from the land conservation division.
- I. All land development activity that meets the requirements of Eau Claire County Code 17.05.070 B. requires a storm water management permit from the land conservation division.

18.03.070 Determination of uses not listed.

In any zoning district, whenever a use is neither specifically permitted or denied, the use shall be considered to be prohibited. In such a case, the commission, on its own initiative or upon the request of a specific property owner, may conduct a study to determine which zoning district, if any, is most appropriate for the use contemplated and which, if any, performance standards are appropriate to govern said use.

18.03.080 Compliance.

No permit or approval pursuant to this chapter shall be issued where the applicant is in violation of this or any code administered by the Town Board nor for any parcel(s) of land which have an outstanding violation until the violation has been corrected. A request for waiver of these provisions may be made, to grant a permit or approval on the merits of the application, to the Town Board.

Chapter 18.04

A-1 EXCLUSIVE AGRICULTURAL DISTRICT

Sections:

- 18.04.001 Purpose.
- 18.04.010 Permitted principal uses.
- 18.04.015 Permitted principal structures.
- 18.04.020 Permitted accessory uses.
- 18.04.025 Permitted accessory structures.
- 18.04.030 Special exceptions.
- 18.04.035 Structures allowed under special exception permits.
- 18.04.040 Standards for approval of special exception uses.
- 18.04.045 Notification of special exception uses.
- 18.04.050 Lot, height and yard requirements.
- 18.04.055 Standards for rezoning.
- 18.04.060 Notification of rezoning.

18.04.001 Purpose.

The A-1 exclusive agricultural district is established to:

- A. Preserve those areas best suited for farming or agricultural use;
- B. Protect the agricultural economic base of the town;
- C. Minimize urban sprawl and its associated public expense; and minimize land use conflicts between farms and nonfarms. The standards set out in this chapter shall apply in this district.

18.04.010 Permitted principal uses.

The following principal uses are permitted in the A- 1 district:

- A. Agriculture, including commercial beekeeping, dairying, floriculture, forestry, general farming, grazing, horticulture, nurseries, orchards, paddocks, pasturage, stabling, truck farming and viticulture;
- B. Housing to be occupied by a person who, or a family at least one member of which earns a substantial part of his or her livelihood from farm operations on the farm parcel.
- C. Owner occupied single family dwelling where the use is consistent with agriculture

use.

D. Livestock Facility.

1. Not closer than 1,000 feet from a residential district; fencing or screening
2. The facility has an approved nutrient management plan;
3. No structure shall be placed within 100 feet of any lot line, except when adjacent to A-1; then the structure may be 50 feet from a lot line.

18.04.015 Permitted principal structures.

The following principal structures are permitted in the A-1 district:

- A. Single family dwellings and other buildings;
- B. Farm structures utilized in the business of agriculture, including but not limited to barns, plant greenhouses and stables;
- C. Farm structures, including houses existing prior to the adoption of this subtitle and separated from a farm through acquisition or consolidation of farm land.
- D. Structures for the housing of the owner where the use is consistent with agricultural use.

18.04.020 Permitted accessory uses.

The following accessory uses are permitted in the A-1 district:

- A. Private storage or motor vehicles and agriculture equipment;
- B. Home occupations, as defined in Chapter 18.23;
- C. Temporary seasonal roadside sales of agricultural products primarily produced upon the premises;
- D. Sales of agricultural-related products such as feed, seed, fertilizer, herbicides and pesticides by a farmer to supplement farm income and customarily carried on as a part of the farm operation;
- E. A second housing unit for a parent or child of the farmer, or persons earning a substantial part of their livelihood on the farm.

18.04.025 Permitted accessory structures.

The following accessory structures are permitted in the A-1 district:

- A. Private garages;
- B. Private recreational structures, as allowed in Chapter 18.30;
- C. Single family dwellings.
- D. Private greenhouses and storage sheds;
- E. Temporary seasonal roadside stands.

18.04.030 Special exception uses.

The following uses are special exception uses in the A-1 district, and subject to the provisions of Chapter 18.21:

- A. Temporary housing for seasonal farm help;
- B. Sawmill operations;
- C. Game farms, fisheries, hatcheries and the commercial raising of fur-bearing animals, provided the following criteria are met:
 1. Not closer than 1,000 feet from a residential district;
 2. Animal waste handling plan;
 3. Fencing or screening;
 4. No structure shall be placed within 100 feet of any lot line;

- D. Religious and government uses;
- E. Utility buildings and structures not covered by Chapter 18.30;
- F. Agriculture-related businesses which are secondary to the use of the premises, provided they meet the following criteria:
 - 1. The use shall be conducted entirely within the residence or an accessory structure customarily located on a farm or rural homestead;
 - 2. Crafts and other related products are allowed if they are incidental to the ag-related business;
 - 3. There shall be no outside storage of materials or equipment. Outside display or storage of products shall be allowed on a seasonal basis with approval of the Town Board;
 - 4. There shall be no excessive noise, odor, dust, glare, vibrations or electrical disturbances noticeable beyond a lot line;
 - 5. One on premise sign shall be allowed stating the name of the business, the owner/operator and the product being sold or service offered. The sign shall not exceed 24 sq. feet in area, shall be non-illuminated, and shall not be placed within a vision triangle.
- G. Housing for more than two units when the person or family to be housed earns a substantial part of their livelihood on the farm operation.
- H. Seasonal structures provided that they meet the following criteria:
 - 1. The dwelling is consistent with agricultural use.
 - 2. The structure meets the criteria of 18.17.035 C.
 - 3. There shall be no outside storage on the property.
- I. Temporary asphalt and concrete batching or ready mix operations or concrete crushing provided they meet the following criteria:
 - 1. The operation is used solely for a specific Wisconsin Department of Transportation project.
 - 2. A restoration plan for the site is provided which describes or illustrates measures taken to restore the site to its original land use. The restoration plan will describe methods for establishing vegetative cover on all exposed soil.
 - 3. The temporary concrete or asphalt batch plants shall be removed from the premises within 60 days of completion of project.
 - 4. The maximum area devoted for facility operations shall not be larger than 5 acres, including, but not limited to, the stockpiling of materials, equipment and vehicle storage, associated buildings, access roads, batch plants, storm water facilities and crushers.

18.04.035 Structures allowed under special exception permits.

In the A-1 district, the following structures may be allowed under special exception permits, issued pursuant to the provisions of Chapter 18.21:

- A. Temporary structures for the purpose of seasonal housing;
- B. Sawmills;
- C. Governmental structures, for police, fire and highway purposes; landfill site improvements; schools; parks and playgrounds;
- D. Structures used for religious purposes;
- E. Utility structures not covered by Chapter 18.30;
- F. Single family dwellings, seasonal structures, and duplexes.
- G. Temporary structures associated with temporary asphalt and concrete batching or ready mix operations or concrete crushing operations.

18.04.040 Standards for approval of special exception uses.

When reviewing special exception use permit requests for the A-1 district, the Town Board shall consider the following factors:

- A. The statements of purpose of the zoning code and this chapter;
- B. The compatibility with adjacent land uses and potential for conflict with agricultural use;
- C. The need for the proposed use in the A-1 district, and the availability of alternate locations;
- D. The productivity of the land involved and efforts to minimize the amount of productive land converted to non-farm use;
- E. The need for public services created by the proposed use;
- F. The availability of local units of government to provide services without unreasonable burden;
- G. The effect of the proposed use on water and air pollution, soil erosion, sedimentation and other possible environmental damage.
- H. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor diminish and impair property values within the neighborhood

18.04.050 Lot, height and yard requirements.

The following lot, height and yard requirements are established for the A-1 district:

- A. Lot Size.
 1. The minimum lot size is 35 acres.
 2. The minimum lot size for a farm residence or structure, which existed prior to the adoption of the ordinance codified in this subtitle, or which is situated upon a parcel or lot separated and distinct from a principal parcel acquired through farm consolidation or acquisition, shall be one acre, with a minimum frontage of 150 feet.
 3. Where a farm consolidation or acquisition creates a lot greater than 5 acres, a special exception permit shall be required. The minimum amount of usable agricultural land shall be incorporated into the lot.
 4. The minimum lot width shall be 150 feet.
- B. Height.
 1. The maximum height of a residential structure shall be 35 feet.
 2. The maximum height of accessory structures shall be 25 feet.
 3. Agricultural structures are exempt from the height requirements per 18.30.020 E.
- C. Setbacks.
 1. The minimum highway setback shall be regulated under Chapter 18.22.
 2. The minimum side-yard setback for residential structures and private garages shall be 20 feet, and for all other structures shall be 50 feet.
 3. The minimum rear-yard setbacks for all structures shall be 50 feet.
 4. No accessory structures shall be located within the required front yard.
- D. Lot, Height and Yard Requirements for special exceptions. Lot, height and yard requirements shall be established at the time of special exception-permit approval, but in no case shall the minimum lot size be less than one acre.

18.04.055 Standards for rezoning.

Rezoning from the A-1 district shall be based on findings which consider the following factors:

- A. The land is suitable for the proposed use by review of soil types including productivity, location and adjacent land uses;
- B. The potential for conflict with remaining agricultural uses;
- C. Adequate public facilities to serve the development are present or will be provided, without placing an unreasonable burden on local government;
- D. The development will not cause undue environmental degradation.

Chapter 18.05

A-2 AGRICULTURE-RESIDENTIAL DISTRICT

Sections:

- 18.05.001 Purpose.
- 18.05.010 Permitted principal uses.
- 18.05.015 Permitted principal structures.
- 18.05.020 Permitted accessory uses.
- 18.05.025 Permitted accessory structures.
- 18.05.030 Special Exceptions.
- 18.05.035 Structures subject to special exception permits.
- 18.05.040 Lot, height and yard requirements.

18.05.001 Purpose.

The A-2 agriculture-residential district is established to:

A. Provide an area for limited residential and hobby farm development in a rural atmosphere;

B. Preserve the town's natural resources and open space;
The standards set out in this chapter shall apply in this district.

18.05.010 Permitted principal uses.

The following principal uses are permitted in the A- 2 district:

- A. Agriculture, including those agricultural uses under 18.04.010 A;
- B. Housing for the family;
- C. Parks and playgrounds.
- D. Livestock facility not exceeding 150 animal units provided the following:
 - 1. Not closer than 1,000 feet from a residential district;
 - 2. The facility has an approved nutrient management plan;

3. Fencing or screening;
4. No structure shall be placed within 100 feet of any lot line, except when adjacent to A-1; then the structure may be 50 feet from a lot line.

18.05.015 Permitted principal structures.

The following principal structures are permitted in the A-2 district:

- A. Single-family dwellings;
- B. Agricultural structures including but not limited to barns, plant greenhouses, and stables;
- C. Structures associated with parks and playgrounds.

18.05.020 Permitted accessory uses.

The following accessory uses are permitted in the A-2 district:

- A. Home occupations, as defined in Chapter 18.23;
- B. Horticulture;
- C. The sale of agricultural products primarily produced on the premises;
- D. Sale of agriculture-related products such as feed, seed, fertilizer, herbicides and pesticides by a farmer to supplement farm income and customarily carried out as part of the farm operation;
- E. The private storage of motor vehicles and farm-related equipment;
- F. Private recreational activities, including but not limited to swimming, tennis and playground activities.
- G. A second housing unit for a person who is employed on the farm and who earns a substantial part of their livelihood from the farm.
- H. The private outside storage of one commercial tractor-trailer for a maximum time limit of one week. The trailer can not be used for personal storage but may be loaded for transit.

18.05.025 Permitted accessory structures.

The following accessory structures are permitted in the A-2 district:

- A. Private garages;
- B. Private recreational structures, as allowed in Chapter 18.30;
- C. Noncommercial greenhouses, playhouses and storage sheds;
- D. Temporary seasonal roadside stands.
- E. Single family dwellings.

18.05.030 Special Exceptions.

In the A-2 district, the following uses are special exceptions, and are subject to the provisions of Chapter 18.21:

- A. Religious and government uses;
- B. Commercial outdoor recreation areas inclusive of but not limited to golf courses, stable ring, rifle ranges, gun clubs, and campgrounds;
- C. Airport operations;
- D. Non-farm bulk storage, processing and distribution of local agricultural products;
- E. Non-farm storage and sale of seed, feed, fertilizer, herbicides, and pesticides;
- F. Sawmill and woodchipping operations;
- G. Animal kennel operations and cemeteries;
- H. Livestock sales;

- I. Utility uses not covered under Chapter 18.30;
- J. Agricultural-related businesses which meet the requirements of 18.04.030 F.1. through 5.
- K. Game farms, fisheries, hatcheries and the commercial raising of fur-bearing animals, provided the following criteria are met:
 - 1. Not closer than 1,000 feet from a residential district;
 - 2. Animal waste handling plan;
 - 3. Fencing or screening;
 - 4. No structure shall be placed within 100 feet of any lot line.
- L. Two-family housing (duplexes);
- M. Nursery schools and day care centers.
- N. Commercial radio, television and microwave transmission towers.
- O. Seasonal structures provided that they meet the following criteria:
 - 1. The minimum lot size is 35 acres.
 - 2. The structure meets the criteria of 18.17.035 C.
 - 3. There shall be no outside storage on the property.
- P. Commercial auctions, flea markets, and farmers markets provided the following criteria are met:
 - 1. The use involves the sale of products that are not produced on the property or owned by the applicant prior to the sale or auction.
 - 2. The auctions and flea markets are limited to 5 times per year, for a 48 hour period, and no more than once a month. Farmers markets are limited to twice a week from July to October.
 - 3. The sales area shall be a minimum of 250 feet from adjoining residences.
 - 4. Parking for the event shall meet the requirements of Chapter 18.25 except hard surfacing is not required. No parking shall be allowed on a public right-of-way.
 - 5. Hours of operation shall be limited to sunrise to sunset
 - 6. All storage of products or materials prior to or after an event shall be within a building.

18.05.035 Structures subject to special exception permits.

In the A-2 district, the following structures are special exception and are subject to the provisions of Chapter 18.21:

- A. Structures used to house churches, public and private elementary and high schools, park facilities, and cemetery uses;
- B. Accessory structures utilized in connection with commercial outdoor recreational areas, as cited at 18.05.030 B;
- C. Structures utilized for government purposes, as cited at 18.05.030 A.;
- D. Airport structures;
- E. Structures for the bulk storage, processing and distribution of local agricultural products;
- F. Structures for the non-farm storage and sale of seed, feed, fertilizer, herbicides and pesticides;
- G. Sawmills;
- H. Kennels;
- I. Livestock sales barns;
- J. Structures associated with mines and quarries;
- K. Utility structures not covered under Chapter 18.30;

- L. Structures associated with agriculturally related businesses, secondary to use of premises as a farm or a residence and meeting the requirements of 18.04.030 G.;
- M. Game farms, fisheries, hatcheries and the commercial raising of fur-bearing animals, provided criteria listed in 18.04.030 D. are met:
- N. Duplexes and seasonal structures;
- O. Nursery schools and day care centers.
- P. Commercial radio, television and microwave transmission towers.

18.05.040 Lot, height and yard requirements.

The following lot, height and yard requirements are established for the A-2 district:

- A. Lot Size and Area.
 - 1. The minimum lot size is 5 acres, excepting duplexes which minimum lot size shall be 10 acres.
 - 2. Minimum width for all lots shall be 250 feet.
- B. Height.
 - 1. The maximum height of a residential structure shall be 35 feet.
 - 2. The maximum height of accessory structures shall be 25 feet.
 - 3. Agricultural structures are exempt from the height requirements per 18.30.020 E.
- C. Setbacks.
 - 1. The minimum highway setback shall be regulated under Chapter 18.22.
 - 2. The minimum side-yard setback for residential structures and private garages shall be 20 feet, and for all other structures 50 feet.
 - 3. The minimum rear-yard setbacks for all residential structures and private garages shall be 20 feet, and for all other structures 50 feet.
 - 4. No accessory structure shall be located within the required front yard.
- D. Lot, Height and Yard Regulations for special exceptions.

Lot, height and yard requirements shall be established at the time of - special exception permit approval.

Chapter 18.06

A-R FLOATING AGRICULTURAL-RESIDENTIAL DISTRICT

Sections:

- 18.06.001 Purpose.
- 18.06.010 Permitted principal uses.
- 18.06.015 Permitted principal structures.
- 18.06.020 Permitted accessory uses.
- 18.06.025 Permitted accessory structures.
- 18.06.030 Special exception.
- 18.06.035 Structures subject to special exception permits.
- 18.06.040 Density regulations.
- 18.06.045 Height and yard requirements.

18.06.050 Standards for rezoning.

18.06.001 Purpose.

The A-R agricultural-residential district is established to allow for limited residential development within the exclusive agricultural district and is not intended to be part of a farming operation.

18.06.010 Permitted principal uses.

The following principal uses are permitted in the district:

- A. Housing for the family.

18.06.015 Permitted principal structures.

The following structures are permitted in the district:

- A. Single-family dwellings

18.06.020 Permitted accessory uses.

The following accessory uses are permitted in the district:

- A. Home occupations as defined in Chapter 18.23;
- B. Horticulture;
- C. The sale of agricultural products produced on the premises;
- D. The private storage of motor vehicles;
- E. Private recreational activities including but not limited to swimming, tennis and playground activities.

18.06.025 Permitted accessory structures.

The following accessory structures are permitted in the district:

- A. Private garages;
- B. Private recreational structures as allowed in Chapter 18.30;
- C. Noncommercial greenhouses, playhouses and storage sheds;
- D. Temporary seasonal roadside stands.

18.06.030 Special exception.

18.21: The following uses are special exceptions and are subject to the provisions of Chapter

- A. Religious and government uses;
- B. Animal kennel operations;
- C. Planned developments;
- D. Noncommercial raising of livestock and poultry.

18.06.035 Structures subject to special exception permits.

Chapter 18.21: The following structures are special exceptions and are subject to the provisions of

- A. Structures used to house churches, public and private schools, cemeteries, town halls, shops and fire stations;
- B. Kennels;
- C. Utility structures not covered under Chapter 18.30;

- D. Housing and accessory structures associated with planned developments;
- E. Livestock and poultry structures and noncommercial purposes.

18.06.040 Density regulations.

A. It is the intent of this chapter to set a density limitation for building sites at one per government protracted quarter-quarter section for limited residential development in the A-I district. All newly created lots must meet the eligibility criteria outlined in 18.06.050 B., C. and D.

B. Each government protracted quarter-quarter section under one ownership is eligible for one building site. Building site eligibility is used either by existing buildings or through the creation of a lot by a certified survey map. If a building lot is created from a quarter-quarter section, the remainder of the parcel shall not be eligible for building purposes.

C. Building site creations authorized under this section shall be accomplished by certified survey and shall meet the following criteria:

1. Lots shall contain a minimum of one acre with 150 feet of frontage on a public road.
2. Lots shall have a maximum width to depth ratio of two to one (2:1).
3. Lots shall contain soils adequate for a private sanitary system.

18.06.045 Height and yard requirements.

The following height and yard requirements are established:

A. Height.

1. The maximum height of a residential structure shall be 35 feet.
2. The maximum height of accessory structures shall be 25 ft.

B. Setbacks.

1. The minimum highway setback shall be regulated under Chapter 18.22.
2. The minimum side yard setback for residential structures and private garages shall be 20 feet and for all other structures, 50 feet.
3. The minimum rear yard setbacks for all residential structures shall be 20 feet and for accessory structures, 50 feet.
4. No accessory structures shall be located within the required front yard.

C. Lot, Height and Yard Regulations for Special Exceptions. Lot, height and yard requirements shall be established at the time of special exception permit approval.

18.06.050 Standards for rezoning.

Rezoning from the A-I district to the A-R district shall be based on findings under 18.04.055. The following requirements shall also be met:

- A. A substantial part of the site shall not be located on class I, II or III soils.
- B. Location shall be on a public road with electric and telephone service immediately available.

C. Site cannot reduce a lot to less than 35 acres so as to make it potentially ineligible for the farmland preservation credit. The maximum lot area shall be 5 acres.

D. Natural or manmade conditions which will act as a buffer between adjacent farming units and the A-R district shall be utilized.

Chapter 18.07

RH RURAL HOMES DISTRICT

Sections:

- 18.07.001 Purpose.
- 18.07.010 Permitted principal uses.
- 18.07.015 Permitted principal structures.
- 18.07.020 Permitted accessory uses.
- 18.07.025 Permitted accessory structures.
- 18.07.030 Special Exceptions.
- 18.07.035 Structures allowed under special exception permits.
- 18.07.040 Lot, height and yard requirements.
- 18.07.045 Additional requirements.

18.07.001 Purpose.

The RH rural homes district is established to provide for suburban large-lot development with individual on-site water and sewage disposal facilities. The standards set out in this chapter shall apply in the district.

18.07.010 Permitted principal uses.

The following principal uses are permitted in the RH district:

- A. Single-family housing;
- B. Plant crop farming, excluding commercial greenhouses and nurseries;
- C. Public parks and playgrounds.

18.07.015 Permitted principal structures.

The following principal structures are permitted in the RH district:

- A. Single-family dwellings;
- B. Farm structures utilized for the business of crop farming;
- C. Playground and park-related structures

18.07.020 Permitted accessory uses.

The following accessory uses are permitted in the RH district:

- A. Private storage of motor vehicles;
- B. Home occupations, as defined in Chapter 18.23;
- C. Private recreational uses including but not limited to swimming, tennis, horticulture and playground activities.
- D. Beekeeping subject to Chapter 8.25.

18.07.025 Permitted accessory structures.

The following accessory structures are permitted in the RH district:

- A. Private garages;
- B. Private recreational structures as allowed in Chapter 18.30;
- C. Noncommercial greenhouses, storage sheds and play-houses.

18.07.030 Special Exception.

In the RH district, the following uses are special exceptions and are subject to the provisions of Chapter 18.21:

- A. Two-family housing;
- B. Noncommercial raising of animals and birds as defined in 18.30.240;
- C. Governmental and religious uses;
- D. Public recreational uses, including golfing, tennis, swimming and archery;
- E. Cemeteries;
- F. Public and private schools;
- G. Nursery schools and day care centers;
- H. Plant greenhouses.

18.07.035 Structures allowed under special exception permits.

The following structures may be allowed in the RH district under special exception permits issued pursuant to the provisions of Chapter 18.21:

- A. Duplexes;
- B. Structures utilized in connection with public or recreational uses;
- C. Cemetery structures;
- D. Governmental structures, such as police and fire stations, libraries, and town halls;
- E. Utility structures not covered by Chapter 18.30;
- F. Livestock and poultry structures for noncommercial purposes;
- G. Structures utilized for religious purposes, including convents, parish houses and other buildings integral to the functioning of religious organizations;
- H. Schools and their accessory structures;
- I. Nursery schools and day care centers.
- K. Greenhouses

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18.07.040 Lot, height and yard requirements.

The following lot, height and yard requirements are established for the RH district:

- A. Yard Requirements.
 - 1. Lot area shall be a minimum of 1 acre, except where required by other code minimum standards, and for duplexes, which shall be a minimum of 2 acres.
 - 4. The minimum width for all lots shall be 100 feet.
 - 5. Approved mobile homes may be developed on 1-acre sites.
- B. Maximum Height.
 - 1. The maximum height of a residential structure shall be 35 feet.
 - 2. The maximum height of accessory structures shall be 20 feet with a maximum of 14 feet to the eaves.
- C. Setbacks.
 - 1. The minimum highway setbacks shall be regulated under Chapter 18.22.

2. The minimum side-yard setbacks shall be 10 feet for all principal structures and 5 feet for all accessory structures.
 3. The minimum rear yard setback shall be 25 feet for all principal structures, and 10 feet for all accessory structures.
 4. No accessory structure may be placed in a required front yard.
 5. Side-yard setback on corner lots shall be 25 feet for all principal structures, and 10 feet for all accessory structures.
- D. Lot, Height and Yard Regulations for special exceptions. Lot, height and yard requirements shall be established and incorporated within the special exception permit approval

18.07.045 Additional requirements.

The following regulations shall apply within the RH district:

- A. Chapter 18.25 pertaining to parking;
- B. Chapter 18.26 pertaining to the placement and use of signs.
- C. All accessory structures shall meet the following criteria:
 1. The cumulative area of all accessory structures shall not exceed 1,200 square feet without the approval of a special exception permit. Private swimming pools and structures 150 square feet or less in size shall not count towards the cumulative area of all accessory structures.
 2. They shall not contain any living area within the structure which shall include but not be limited to bedrooms, living rooms, bathrooms, or kitchens.
 3. The appearance of the structure shall be compatible with the design, style and appearance of the principal structure on the property.

Chapter 18.13

C-2 GENERAL BUSINESS DISTRICT

Sections:

- 18.13.001 Purpose.
- 18.13.010 Permitted principal uses.
- 18.13.015 Permitted principal structures.
- 18.13.020 Accessory uses.
- 18.13.025 Permitted accessory structures.
- 18.13.030 Special Exception.
- 18.13.035 Structures allowed under special exception permits.
- 18.13.040 Lot, height and yard requirements.
- 18.13.045 Additional requirements.

18.13.001 Purpose.

The C-2 general business district is established to provide an area for retail businesses of a community-wide range. The standards set out in this chapter shall apply in the district

18.13.010 Permitted principal uses.

- A. The following principal uses are permitted in the C-2 district:
1. Adult book store or adult motion picture theater (provided provisions of Chapter 18.30 are met);
 2. Advertising signs as regulated in Chapter 18.26;
 3. Antique stores;
 4. Apparel and accessory stores;
 5. Appliance stores, sales and service;
 6. Art supply stores, art galleries, artist studios or schools;
 7. Baker, retail;
 8. Banks;
 9. Barber and beauty shops;
 10. Bookstores;
 11. Business machines and supply stores;
 12. Camera and photographic supply stores;
 13. Candy, ice cream and confectionery stores;
 14. Clinics, dental and medical;
 15. Dairy stores;
 16. Delicatessen stores;
 17. Department stores;

18. Dressmaking, seamstress;
19. Drugstores;
20. Floral sales;
21. Frozen food lockers;
22. Furnace and woodburning stove stores;
23. Furniture stores and home furnishings;
24. Garden supplies stores;
25. Gift, novelty or souvenir stores;
26. Government uses, such as police and fire stations and libraries;
27. Grocery stores;
28. Hardware stores;
29. Health equipment stores;
30. Hobby shops;
31. Indoor health clubs;
32. Interior decorators;
33. Jewelry stores;
34. Laboratories, dental or medical;
35. Laundromats.
36. Liquor stores (off-sale);
37. Locksmiths;
38. Luggage stores;
39. Meatmarkets;
40. Mortuaries;
41. Motels, hotels or boardinghouses;
42. Music stores, accessories and studios;
43. Nursery and day care centers;
44. Offices of any type;
45. Opticians;
46. Optical goods;
47. Paint and wallpaper stores;
48. Pet stores;
49. Photographic studio or picture processing;
50. Public and private parking lots;
51. Repair, rental and servicing of any article, the sale of which is permitted in this district;
52. Restaurants;
53. Sporting goods stores;
54. Stationery stores;
55. Tailors;
56. Taxidermy shops;
57. Telephone exchanges;
58. Theaters, not including drive-in theaters;
59. Toy stores;
60. Travel bureaus or agencies;
61. Upholstery shops;
62. Variety stores;
63. Veterinarian clinics, without outside runs.

64. Brew Pubs and Wine Pubs

18.13.015 Permitted principal structures.

The following principal structures are permitted in the C-2 district:

- A. Structures as may be appropriate for permitted principal uses of this district.

18.13.020 Accessory uses. The following accessory uses are permitted in the C-2 district:

- A. Owner-occupied living quarters;
- B. Parking of trucks or delivery vehicles used in conjunction with principal or allowed special exception uses;
- C. Activities and uses which are customarily associated with principal or allowed special exception uses.

18.13.025 Permitted accessory structures.

The following structures are permitted:

- A. Structures which are used in conjunction with principal or special exception uses;
- B. Owner-occupied living quarters when attached to or incorporated within a structure utilized for a principal or an allowed special exception use;
- C. Parking lot structures.

18.13.030 Special Exception.

In the C-2 district, the following uses are special exceptions, and are subject to the provisions of Chapter 18.21:

- A. Planned unit and commercial developments, including shopping centers;
- B. Clubs and fraternal organizations;
- C. Community centers;
- D. Motor vehicle sales, services, and wholesaling;
- E. Recreation facilities such as, but not limited to, bowling alleys, roller rinks, health spas, marinas, and racquetball clubs;
- F. Taverns and cocktail lounges;
- G. Duplexes and multifamily dwellings;
- H. Drive-in business;
- I. Apartments;
- J. Miniwarehousing for storage of personal goods such as furniture, boats and recreational vehicles.
- K. Resource recovery facility.
- L. Public and private schools subject to the following:
 - 1. The property of the school shall be located at least 300 feet from:
 - a. Any premises licensed for the sale of fermented malt beverages of alcohol for on or off premises consumption (including but not limited to taverns, cocktail lounges, liquor stores, restaurants, and grocery stores);
 - b. An adult book store or adult motion picture theater.
 - 2. No school shall be placed in a location which shall create an undue health or safety concern on behalf of the students due to its proximity to pre-existing land uses of types other than those specified in 1.
- M. Museums.

- N. Micro-breweries and Micro-wineries. On premise sales is also allowed in a tavern, cocktail lounge, restaurant, or liquor store that is also located on the premises.
- O. Convenience stores with fuel sales, including car washes.

18.13.035 Structures allowed under special exception permits.

The following structures may be allowed in the C-2 district under special exception permits issued pursuant to the provisions of Chapter 18.21:

- A. Utility structures not covered by Chapter 18.30;
- B. Multifamily residences;
- C. Structures whose heights will exceed 35 feet;
- D. Structures used in connection with special exceptions allowed under 18.13.030;
- E. Apartments, if located on or above the second floor of an approved structure utilized for a principal or allowed special exception.
- F. Miniwarehouses or minigarages.

18.13.040 Lot, height and yard requirements.

The following lot, height and yard requirements are established for the C-2 district:

- A. Yard Requirements.
 - 1. Lot area shall be a minimum of 8,000 sq. feet.
 - 2. The minimum width for all lots shall be 80 feet.
- B. Maximum Height.
 - 1. The maximum height of a principal structure shall be 35 feet.
 - 2. The maximum height of an accessory structure shall be 20 feet
- C. Setbacks.
 - 1. The minimum highway setbacks shall be regulated under Chapter 18.22.
 - 2. The minimum side yard setback for all structures shall be one of the following:
 - a. Zero feet
 - b. 10 feet if a setback is provided
 - c. 20 feet if abutting a residential district
 - 3. The minimum rear yard setback for all structures shall be one of the following:
 - a. Zero feet
 - b. 10 feet if a setback is provided
 - c. 20 feet if abutting a residential district
 - 4. No accessory structure may be placed in a required front yard.
 - 5. Side yard setback on a corner lot shall be one of the following:
 - a. Zero feet
 - b. 10 feet if a setback is provided
 - c. 20 feet if abutting a residential district

D. Lot, Height and Yard Requirements Under Special Exception. Lot, height and yard requirements shall be established and incorporated within the special exception permit.

18.13.045 Additional requirements.

The following regulations shall apply within the C- 2 district:

- A. Chapter 18.25 pertaining to off-street parking and loading;
- B. Chapter 18.26 pertaining to the placement and use of signs;
- C. 18.31.030 with respect to the requirement of a site plan review.

Chapter 18.14

C-3 HIGHWAY BUSINESS DISTRICT

Sections:

- 18.14.001 Purpose.
- 18.14.010 Permitted principal uses.
- 18.14.015 Permitted principal structures.
- 18.14.020 Permitted accessory uses.
- 18.14.025 Permitted accessory structures.
- 18.14.030 Special Exception.
- 18.14.035 Structures allowed under special exception permits.
- 18.14.040 Lot, height and yard requirements.
- 18.14.045 Additional requirements.

18.14.001 Purpose.

The C-3 highway business district is established to provide an area for the development of those commercial activities that require large lots or attract concentrations of automobile traffic which make the uses incompatible with the predominantly retail uses in other commercial districts. The standards set out in this chapter shall apply in the district.

18.14.010 Permitted principal uses.

The following principal uses are permitted in the C- 3 district:

- A. Advertising signs as regulated in Chapter 18.26;
- B. Automotive repair service;
- C. Automobile sales and service;
- D. Building materials, lumberyards;
- E. Farm implement sales and service;
- F. Grain storage;
- G. Machinery sales and service;
- H. Marine sales and service;
- I. Mobile home or travel trailer sales;
- J. Motor vehicle sales and service of all types;
- K. Nurseries, commercial greenhouses, and garden centers;
- L. Open sales lots;
- M. Restaurants;
- N. Warehousing;
- O. Wholesaling;

- P. Hotels and motels.
- Q. Micro-breweries and Micro-wineries. On premise sales is also allowed in a tavern, cocktail lounge, restaurant, or liquor store that is also located on the premises.

18.14.015 Permitted principal structures.

The following principal structures are permitted:

- A. Structures as may be appropriate for permitted principal uses of the C-3 district.

18.14.020 Permitted accessory uses.

The following accessory uses are permitted in the C-3 district:

- A. Apartments;
- B. Parking for trucks and delivery vehicles;
- C. Activities and uses which are customarily associated with and incidental to principal or allowed special exceptions.
- D. Outside storage of equipment and vehicles except open sales lots shall be enclosed by a sight-obscuring fence or screening approved by the commission.

18.14.025 Permitted accessory structures.

The following accessory structures are permitted in the C-3 district:

- A. Apartments, if located on or above the second floor of an approved structure utilized for a principal or on allowed special exception;
- B. Parking structures for trucks and delivery vehicles used in conjunction with a principal or allowed special exception;
- C. Structures which are used in conjunction with principal or special exceptions.

18.14.030 Special Exceptions.

In the C-3 district, the following uses are special exceptions, and are subject to the provisions of Chapter 18.21:

- A. Planned commercial developments;
- B. Taverns and cocktail lounges;
- C. Museums;
- D. Drive-in restaurants;
- E. Drive-in theaters;
- F. Indoor recreational activities such as, but not limited to, bowling alleys, roller rinks, health spas and racquetball clubs;
- G. Outdoor commercial recreational uses including go-carting, archery, miniature golfing and golf driving ranges;
- H. Contractor's offices and storage yards;
- I. Single Family Housing;
- J. Government uses.
- K. Flea markets.
- L. Fuel sales and storage.
- M. Resource recovery facility.
- N. Uses that are listed as permitted principal uses in 18.13.010.
- O. Kennels.
- P. Medical waste facility

18.14.035 Structures allowed under special exception permits.

The following structures and limitations upon the dimensions of structures may be allowed in the C-3 district under special exception permits issued pursuant to the provisions of Chapter 18.21:

- A. Utility structures not covered by Chapter 18.30;
- B. Structures whose uses are defined and allowed under 18.14.030.
- C. Single family dwellings which house the manager or owner of a permitted or special exception.

18.14.040 Lot, height and yard requirements.

The following lot, height and yard requirements are established for the C-3 district:

- A. Yard Requirements.
 - 1. Lot area shall be a minimum of 43,560 sq. feet.
 - 2. The minimum width for all lots shall be 200 feet.
- B. Maximum Height. The maximum height of all structures shall be 30 feet or 1/2 times the distance to the nearest property line for structures exceeding 30 feet.
- C. Setbacks.
 - 1. The minimum highway setbacks shall be regulated under Chapter 18.22.
 - 2. The minimum side-yard setback shall be 20 feet for principal and accessory structures, and the minimum side yard setback for a principal structure abutting a residential district shall be 50 feet.
 - 3. The minimum rear-yard setback shall be 20 feet for principal and accessory structures, and the minimum rear yard setback for a principal structure abutting a residential district shall be 50 feet.
 - 4. No accessory structure may be placed in a required front yard.
 - 5. Side yard setbacks on a corner lot shall be 20 feet for principal and accessory structures, and the minimum side yard setback for a principal structure abutting a residential district shall be 50 feet.
- D. Lot, Height and Yard Requirements Under Special Exceptions. Lot, height and yard requirements shall be established and incorporated within the special exception permit.

18.14.045 Additional requirements.

The following regulations shall apply within the C- 3 district:

- A. Chapter 18.25 pertaining to off-street parking and loading;
 - B. Chapter 18.26 pertaining to the placement and use of signs;
- 18.31.030 with respect to the requirement of a site plan review.

Chapter 18.17

F-1 EXCLUSIVE FORESTRY DISTRICT

Sections:

- 18.17.001 Purpose.
- 18.17.010 Permitted principal uses.
- 18.17.015 Permitted principal structures.
- 18.17.020 Permitted accessory uses.
- 18.17.025 Permitted accessory structures.
- 18.17.030 Special Exceptions.
- 18.17.035 Structures allowed under special exception permits.
- 18.17.040 Lot, height and yard requirements.
- 18.17.045 Additional requirements.

18.17.001 Purpose.

The F-1 exclusive forestry district is established to preserve and protect the forestry resource of the town and to limit those uses that are incompatible with or have a detrimental effect upon good forestry practices. The standards set out in this chapter should apply in the district.

18.17.010 Permitted principal uses.

The following principal uses are permitted in the F- 1 district:

- A. Forestry;
- B. Growing and harvesting of wild crops such as marsh hay, ferns, moss, berries, or tree fruits and seeds;
- C. Fire-control functions;
- D. Production of agricultural crops;
- E. Game management.

18.17.015 Permitted principal structures.

The following principal structures are permitted in the F-1 district:

- A. Structures as may be appropriate with permitted principal uses of this district.

18.17.020 Permitted accessory uses.

Uses, customarily associated with and secondary to permitted principal uses shall constitute permitted accessory uses in the F-1 district.

18.17.025 Permitted accessory structures.

Structures customarily associated with and secondary to permitted principal structures shall

constitute permitted accessory structures in the F-1 district.

18.17.030 Special Exceptions.

In the F-1 district, the following uses are special exception; and are subject to provisions of Chapter 18.22:

- A. Privately or publicly owned parks, campgrounds and recreational areas;
- B. Sawmills;
- C. Flowages;
- D. Gas and oil pipelines;
- E. Seasonal structures.
- F. Governmental uses.

18.17.035 Structures allowed under special exception permits.

The following structures may be allowed in the F-1 district under special exception permits issued pursuant to Chapter 18.22:

- A. Structures whose uses are defined and allowed under 18.17.030;
- B. Utility structures not covered by Chapter 18.30;
- C. Seasonal structures, provided that:
 - 1. The size of a seasonal structure shall be limited to a maximum of 400 square feet and a loft area not exceeding half of the firstfloor area excluding open decks and porches;
 - 2. The parcel be adjacent to a public road;
 - 3. No interior plumbing is allowed in the seasonal structure or in an accessory structure;
 - 4. Site shall not be in a floodplain or wetland;
 - 5. The cumulative area of accessory structures shall be limited to 400 square feet, in addition to the seasonal structure.
- D. No other structures shall be permitted in the district.

18.17.040 Lot, height and yard requirements.

The following requirements are established for the F-1 district:

- A. Yard Requirements.
 - 1. Lot area shall be a government quarter-quarter section or 40 acres.
 - 2. Minimum lot width shall be 660 feet.
- B. Maximum Height. The maximum height of all structures shall be 16 feet.
- C. Setbacks.
 - 1. The minimum highway setbacks shall be regulated under Chapter 18.22.
 - 2. The minimum side-yard setback shall be 20 feet for all structures.
 - 3. The minimum rear-yard setback shall be 20 feet for all structures.
 - 4. No accessory structure shall be located in a required front yard.
 - 5. The side yard setback on a corner lot shall be 20 feet.
- D. Lot, Height and Yard Regulations for Special Exceptions. Lot, height and yard requirements shall be established and incorporated within the special exception permit.

18.17.045 Additional requirements.

The following regulations shall apply within the F-1 district:

- A. Chapter 18.25, pertaining to parking;
- B. Chapter 18.26, pertaining to the placement and use of signs.

C.

Chapter 18.18

F-2 FORESTRY DISTRICT

Sections:

- 18.18.001 Purpose.
- 18.18.010 Permitted principal uses.
- 18.18.015 Permitted principal structures.
- 18.18.020 Permitted accessory uses.
- 18.18.025 Permitted accessory structures.
- 18.18.030 Special Exceptions.
- 18.18.035 Structures allowed under special exception permits.
- 18.18.040 Lot, height and yard requirements.
- 18.18.045 Additional requirements.

18.18.001 Purpose.

The F-2 forestry district is established to protect the integrity of the forest land by preserving land adjacent to its borders in a relatively natural state, and to preserve the natural character of the land along the Eau Claire River. The standards set out in this chapter should apply in the district.

18.18.010 Permitted principal uses.

The following principal uses are permitted in the F- 2 district:

- A. Single-family housing;
- B. Crop farming;
- C. Forest and game management;
- D. Growing and harvesting of any wild crop such as marsh hay, ferns, moss, berries, or tree fruits and seeds;
- E. Fire-control functions.

3

18.18.015 Permitted principal structures.

The following principal structures are permitted in the F-2 district:

- A. Single family dwellings and structures as may be appropriate with permitted principal uses of this district.

18.18.020 Permitted accessory uses.

Uses customarily associated with and secondary to permitted principal uses shall constitute

permitted accessory uses in the F-2 district.

18.18.025 Permitted accessory structures.

Structures customarily associated with and secondary to permitted principal structures shall constitute permitted accessory structures in the F-2 district.

18.18.030 Special Exceptions.

In the F-2 district, the following uses are special exception, and are subject to the provisions of Chapter 18.21:

- A. Private or publicly owned parks, campgrounds and recreational areas;
- B. Sawmills;
- C. Game and fur farms;
- D. Kennels;
- E. Flowages;
- F. Day care centers and nursery schools;
- G. Noncommercial raising of livestock and poultry.
- H. Governmental uses.

18.18.035 Structures allowed under special exception permits.

The following structures may be allowed in the F-2 district under special exception permits issued pursuant to Chapter 18.21:

- A. Structures whose uses are defined and allowed under 18.18.030;
- B. Utility structures not covered by Chapter 18.30;
- C. Structures for day care centers and nursery schools;
- D. Livestock and poultry structures for noncommercial purposes.

18.18.040 Lot, height and yard requirements.

The following lot, height and yard requirements are established for the F-2 district:

- A. Yard Requirements.
 - 1. Lot area shall be twenty acres.
 - 2. The minimum lot width shall be 330 feet.
- B. Maximum Height. The maximum height shall be 35 feet for a principal structure and 20 feet for an accessory structure.
- C. Setbacks.
 - 1. The minimum highway setbacks shall be regulated under Chapter 18.22.
 - 2. The minimum side-yard setback shall be 20 feet for all structures.
 - 3. The minimum rear-yard setback shall be 50 feet for a principal structure and 20 feet for an accessory structure.
 - 4. No accessory structure shall be located in a required front yard.
 - 5. Side yard setback on a corner lot shall be 25 feet.
- D. Lot, height and Yard Regulations for Special Exceptions. Lot, height and yard requirements shall be established and incorporated within the special exception permit.

18.18.045 Additional requirements.

The following regulations shall apply within the F-2 district:

- A. Chapter 18.25 pertaining to parking;
- B. Chapter 18.26 pertaining to the placement and use of signs.

18.20 Sound.

A. Loud and Unnecessary Noise Prohibited. It shall be unlawful for any person to make, continue, or cause to be made or continued any loud and unnecessary noise. It shall be unlawful for any person to knowingly or wantonly use or operate, or to cause to be used or operated, any mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in any public or private place in such manner that the peace and good order of the neighborhood is disturbed or that persons owning, using, or occupying property in the neighborhood are disturbed or annoyed.

B. Types of Loud and Unnecessary Noises. The following acts are declared to be loud and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive:

1. Radios, phonographs, similar devices. The playing, using, or operating, or permitting to be played, used, or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, loudspeaker, sound amplifier, machine, or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the property line of the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.
2. Construction or repair of buildings. The erection (including excavation), demolition, alteration, or repair of any building by the operation of any pile driver, pneumatic hammer, derrick, mechanical or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 6:00 p.m.

C. Exceptions. The provisions of this section shall not apply to:

1. Any vehicle of the Town while engaged in necessary public business.
2. Excavations or repairs of streets or other public construction by or on behalf of the Town, county, or state at night when public welfare and convenience renders it impossible to perform such work during the day.
3. As stated in Wis. stats. 66.0411(1), sound producing device does not include a piece of equipment or machinery that is designed for agricultural purposes and that is being used in the conduct of agricultural operations."

D. Penalties.

1. 1st Offense. Any person who violates this ordinance shall, upon conviction, forfeit \$250 together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until the forfeiture and costs are paid, but not exceeding 90 days.
2. Second and Subsequent Offenses; Penalty. Any person guilty of violating this ordinance or any person who has previously been convicted of a violation of this ordinance shall, upon conviction, forfeit \$500 for each offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until the forfeiture and costs of prosecution are paid, but not exceeding 6

months.

3. Separate Violations. Each day of violation of this ordinance constitutes a separate offense.

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.

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Chapter 18.21

SPECIAL EXCEPTION PERMIT

Sections:

- 18.21.001 Purpose.
- 18.21.010 Permit required.
- 18.21.020 Preliminary conference.
- 18.21.030 Application.
- 18.21.040 Referral to the commission.
- 18.21.050 Action by the commission.
- 18.21.060 Standards for special exception permit approval.
- 18.21.070 Authority to impose conditions.
- 18.21.080 Lapse of special exception permit.
- 18.21.090 Revocation of special exception permit.
- 18.21.100 Term of a special exception permit.

18.21.001 Purpose.

Within each district certain uses which are deemed mutually compatible are permitted. In addition to such permitted uses, it is recognized that there are other uses which may be desirable within a given district, but because of their potential influence upon neighboring uses, public facilities or the environment, these uses need to be carefully regulated with respect to their location and operation. Such uses are classified as special exceptions, and are governed by this chapter.

18.21.010 Permit required.

Prior to the establishment and maintenance of a special exception of the types cited in Chapters 18.04 through 18.20, the commission must grant a special exception permit allowing the same, in accord with the substantive and procedural rules set forth in this chapter.

18.21.020 Preliminary Conference.

The commission may discuss with the applicant the suitability of a special exception application.

18.21.030 Application.

Applications for special exception permits shall be made on forms furnished by the commission,

and shall include the following information:

- A. Name and address of the applicant, owner of the site, architect, professional engineer and contractor;
- B. Legal description of the property;
- C. Site plan drawn to scale, showing parcel and building dimensions, driveways, access roads, parking spaces, offstreet loading areas and sidewalks;
- D. Landscape and screening plans;
- E. Drainage plans, including engineering plans for hookup to storm sewers, if available;
- F. Sanitary sewer and water plans with estimated use per day;
- G. Detailed description of the nature of the use, including products to be manufactured or sold, number of employees, estimated traffic generation, or other information as required.
- H. Erosion control and storm water management plans in compliance with Eau Claire County 17.05.
- I. Building elevation and floor plans, including attics, are required for all non-agricultural accessory structures and be drawn to scale.

18.21.040 Referral to the Town Plan Commission.

- A. The Town shall refer the application to the Town Plan Commission. The commission shall hold at least one public hearing on the proposed special exception permit. Notice of the hearing shall be published as a class 1 notice as regulated by Wis. Stat. ch. 985. In addition, the following interested parties shall be notified in writing at least 10 days prior to the meeting:
 - 1. All property owners within 660 feet of the property;
 - 2. The clerk of any municipality with extraterritorial jurisdiction;
 - 3. The appropriate district officer of the DNR as to areas subject to the shoreland or floodplain districts (Eau Claire County's jurisdiction).
- B. Failure of A.1.- 3. to receive the notice or attend the hearing shall not invalidate the proceedings.
- C. The public hearing notice for a special exception permit for a nonmetallic mining operation under Chapter 18.28, shall include the proposed transportation haul route(s).

18.21.050 Action by the Town Board.

Within 30 days of the public hearing, the Town Board shall act on the application for a special exception permit. The Town Board shall act on the application by:

- A. Approval of the issuance of a special exception permit as presented by the applicant, provided the standards of 18.21.060 are met;
- B. Approval of the issuance of a special exception permit with conditions as deemed necessary by the Town Board;
- C. Denial of the special exception permit. In the case of denial, the reasons therefore shall be stated in the minutes of the meeting and the applicant shall be notified in writing;

18.21.060 Standards for special exception permit approval.

Standards for special exception permit approval are:

- A. The proposed use is in conformance with the purpose of the zoning district in which it is located;
- B. The use will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted;
- C. That the use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor diminish and impair property values within the neighborhood;
- D. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;
- E. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use;
- F. Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result;
- G. Soil conditions are adequate to accommodate the proposed use;
- H. Proper facilities and access points are provided which would eliminate any traffic congestion or hazard which may result from the proposed use.

18.21.070 Authority to impose conditions.

The Town Board in order to achieve the standards of 18.21.060, may attach certain conditions to the permit. These conditions include, but are not limited to, changes in building design, lot or building setback lines in excess of district regulations, landscaping, screening, hours of operation, number of employees, sign and lighting limitations, increased parking, and sedimentation and erosion control measures.

18.21.080 Lapse of special exception permit.

A special exception permit will lapse and become void one year after approval of the Town Board unless a certificate of occupancy has been issued or a land use permit issued.

18.21.090 Revocation of special exception permit.

If, in the opinion of the commission or a member of the Town Board, the terms of a special exception permit have been violated, or that the use is substantially detrimental to persons or property in the neighborhood, the Town Board shall hold a public hearing on the revocation of the permit. Such a public hearing shall be held in accordance with 18.21.040 through 18.21.060. If, upon written findings of fact that the terms of the permit have been violated, the commission may revoke, modify or leave the permit unchanged.

18.21.100 Terms of a Special Exception Permit.

A. Unless otherwise specified in the permit, a special exception permit issued under this section shall remain in effect as long as the authorized use continues. Any use which is discontinued for 12 consecutive months shall be deemed to be abandoned. Prior to the reestablishment of an abandoned use, a new special exception permit shall be obtained under the terms of this chapter.

B. Any alteration of a site plan or established conditions of an approved special

exception permit shall require the approval of the Town Board after a public hearing has been held. Minor alterations can be approved by the Town Board.

DRAFT

Chapter 18.22

HIGHWAY ACCESS AND SETBACKS

Sections:

<u>18.22.001</u>	<u>Purpose.</u>
<u>18.22.010</u>	<u>Compliance.</u>
<u>18.22.015</u>	<u>Structures permitted within setback lines.</u>
<u>18.22.020</u>	<u>Highway setbacks and access requirements.</u>
<u>18.22.025</u>	<u>Traffic visibility.</u>
<u>18.22.030</u>	<u>Driveway standards</u>
<u>18.22.040</u>	<u>Additional requirements.</u>

18.22.001 Purpose.

The purpose of this chapter is to promote the public safety, welfare and convenience by easing congestion on the public highways through a system of standards and regulations for limiting access to public highways and establishing setbacks from highway right-of-way.

18.22.010 Compliance.

No structure shall be erected, constructed or moved within the setback lines established in this code, nor shall more frequent access points be permitted than allowed in this chapter along any class of highway described in 18.22.030.

18.22.015 Structures permitted within setback lines.

The following structures and signs may be placed between the setback lines and the adjacent highway:

- A. Open fences;
- B. Telephone, telegraph and power transmission lines, together with all attachments;
- C. Wells, septic tanks and similar structures;
- D. Frontage and service roads constructed according to plans approved by the jurisdiction having authority over the highway;
- E. Signs, as regulated by Chapter 18.26;
- F. Unless otherwise prohibited in 18.22.025, trees, shrubbery and field crops;
- G. Where buildings are proposed to be erected between existing buildings less than 150 feet apart, the proposed building may be constructed at a setback no less than the average setback of the adjacent buildings on either side of the proposed building.

18.22.020 Highway setbacks and access requirements.

A. Class A Highways. The following highways in Eau Claire County are designated as Class A highways: Interstate Highway 94; USH 53 from I-94 northwesterly to USH 12; USH 53 from Main Street in Eau Claire northerly to the north county line; and STH 37-85 from I-94 northeasterly to USH 12.

1. Setbacks. The setback for all structures from a Class A highway shall be 150 feet from the centerline or 100 feet from the right-of-ways line, whichever is greater.

2. Access Driveways. There shall be no direct access to Class A highways.

B. Class B Highways. All federal or state highways not designated as Class A highways are designated as Class B highways.

1. Setbacks. The setback for Class B highways shall be 150 feet from the centerline or 100 feet from the right-of-way line, whichever is greater.

2. Access Driveways. A minimum distance of 500 feet shall be required between access driveways along the same side of a Class B highway.

C. Class C Highways. All lettered county highways and town roads are designated as Class C highways.

1. Setbacks. The minimum setback from a Class C highway shall be 83 feet from the centerline or 50 feet from the right-of-way line, whichever is greater, in the A-P, A-1, A-2, A-3, A-R, RH, C-3, F-1, and F-2 districts and shall be 63 feet from the centerline or 30 feet from the right-of-way line, whichever is greater in the C-2 district.

2. Access Driveways. A minimum distance of 100 feet shall be required between access driveways along the same side of a Class C highway.

D. Class D Highways. All roads located within subdivisions are hereby designated as Class D highways.

1. Minimum setbacks from Class D highways shall be 50 feet from the right-of-way line for districts A-P, A-1, A-2, A-3, A-R, R-H, C-3, F-1 and F-2, and shall be 30 feet from the right-of-way line for district C-2.

2. Driveway Access. There shall be no minimum distance for driveway access along Class D highways.

E. Driveway separations are calculated by measuring between the center lines of existing driveways and the proper driveways.

F. All highways: The minimum setback from all highways shall be 20 feet from the right-of-way in the C-2 District that is located within the Urban Mixed Use planning area as shown on Future Land Use Map (map 9) of the Eau Claire County Comprehensive Plan.

18.22.025 Traffic visibility.

A. At every intersection of two public roads or a public road and a railroad right-of-way, there shall be a traffic-visibility triangle. Within the triangle, no obstructions such as structures, parking or vegetation shall be allowed between 2 ½ feet and 10 feet above the elevation of the roadway.

B. Such traffic-visibility triangles shall be formed by the intersecting centerlines and a line connecting points on the centerlines of the intersecting highways or railroad right-of-way at the following distances:

1. On Class A and B highways, 300 feet from the intersecting centerlines;
2. On Class C and D highways, 100 feet from the intersecting centerlines;
3. On railroad rights-of-way, 200 feet from the center of the highway along

the center of the railroad right-of-way.

C. Use of public highway right-of-way by plowing, cultivating and growing of field crops shall be governed by Wis. Stat. § 86.021.

D. Planting of trees and shrubs on highway right-of-way shall be governed by Wis. Stat. § 86.06.

18.22.030 Driveway standards. The following standards shall apply to the portions of all driveways within the jurisdiction of Title 18 located within the right-of-way of all Class B, C, and D highways.

A. Access/Driveway Permits.

A permit shall be obtained from the jurisdiction having control over the highway prior to issuance of a land use permit. The Wisconsin Department of Transportation and the Eau Claire County Highway Department require a permit, pursuant to Wis. Stat. ch. 86.07, for construction or modifications on or across any highway right-of-way under their jurisdiction. Individual municipalities may also require a permit for roads under their jurisdiction. Applications for these permits are available at the Wisconsin Department of Transportation, 718 W. Clairemont Avenue, Eau Claire, WI 54701 for state highways and at the Eau Claire County Highway Department, 1000 Spooner Avenue, Altoona, Wisconsin 54720 for county highways. Township permits can be acquired from the town business office or the town chair where applicable.

B. All new driveways proposed to be installed or any existing driveway or alleged existing driveway on which the landowner proposes improvements or changes in use shall be subject to these requirements.

C. The driveway requirements set forth by the issuing agency shall govern. As a minimum these will include:

1. Driveway surface width shall be as required on the access permit.
2. The driveway shall slope down and away from the road at a minimum 2% grade and a maximum 5% grade for the first 10 feet from the edge of the shoulder to minimize water flowing onto the public road.
3. All portions of the driveway between the edge of the highway shoulder and the right of way line shall be constructed and maintained by and at the expense of the driveway owner except modifications made during highway improvement projects or normally at the expense of the highway owner.
4. Any drainage culverts required on the public right-of-way to pass water beneath driveways shall be installed and maintained, including replacement, by and at the expense of the driveway owner except modifications made during highway improvement projects are normally at the expense of the highway owner.

18.22.040 Additional requirements.

The following regulations shall apply:

A. Controlled Access Highways. USH 53 from USH 12 northerly to its junction with Mountain View Place extended, and USH 12 westerly and northerly from USH 53 to its junction, Business 12, and STH 93 from its intersection with USH 53 to the county line have been designated as controlled access highways pursuant to Wis. Stat. § 84.25, and are subject to the provisions contained therein.

B. Planned Improvement Projects. USH 12 easterly from USH 53 to Elco Road, and STH 93 from its south junction with Friedeck Road northerly from STH 37 to I-94 are candidate

projects for future improvements. The Wisconsin Department of Transportation in Eau Claire should be consulted prior to the development of site plans fronting on or where access to those segments of highway is being considered.

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Chapter 18.23

HOME OCCUPATIONS, HOME BUSINESSES AND COTTAGE INDUSTRIES

Sections:

<u>18.23.001</u>	<u>Purpose.</u>
<u>18.23.010</u>	<u>Home occupations.</u>
<u>18.23.020</u>	<u>Home business.</u>
<u>18.23.025</u>	<u>Types of home businesses.</u>
<u>18.23.030</u>	<u>Cottage Industries.</u>
<u>18.23.035</u>	<u>Types of cottage industries.</u>

[18.23.001 Purpose.](#)

The purpose of this chapter is to set standards under which home occupations, home businesses and cottage industries may be conducted so that such occupations, businesses and industries do not undermine the purpose and intent of this subtitle and the purposes of all agricultural and residential districts.

[18.23.010 Home occupations.](#)

Home occupations shall be allowed without permit in all agricultural and residential districts, provided they conform to the following performance standards:

- A. The occupation shall be conducted entirely within the principal dwelling unit;
- B. The floor area devoted to the occupation shall not exceed 25% of the floor area of the principal dwelling unit;
- C. No person other than a resident of the dwelling shall be employed therein;
- D. No inventory of a commodity shall be sold on a regular basis from the dwelling;
- E. The occupation shall not be objectionable to neighboring uses due to noise, dust, odors, hours of operation, traffic generation or electrical interference;
- F. Signage is allowed in accordance with the requirements in 18.26.015 E., Permitted signs;
- G. Lighting. All lights related to the home occupation shall be directed on site and shielded to reduce glare to adjacent areas;
- H. There shall be no outside storage or display of products, materials, or equipment related to the home occupation;

I. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses;

J. In compliance with Wis. Stat. § 91.01 (1) (d), a home occupation in the exclusive agricultural district is also limited to be operated by the owner or operator of the farm; shall not impair or limit the current or future agricultural use of the farm or of other protected farmland; and requires no buildings, structures, or improvements other than those which are an integral part of, or are incidental to, an agricultural use or the farm residence.

18.23.020 Home businesses.

Home business shall require a regular land use permit in all agricultural and residential districts, provided they conform to the following performance standards:

A. Number. A maximum of two home businesses shall be permitted per lot or building site. In no instance shall there be more than 2 home businesses on a lot or building site, whether those enterprises are a home occupation and/or a home business;

B. Size. If located within a dwelling unit, the total area of the home businesses shall occupy no more than 50% of the floor area of the dwelling unit. If located in an accessory building, the total area of the home businesses shall not occupy an area greater than 75% of the floor area of the dwelling unit or more than 1,000 square feet, whichever is greater applies.

C. Operator. The home business shall be conducted by a resident of the dwelling unit. No more than 1 full time equivalent employee that is not a resident of the premises shall be employed by each home business on the lot.

D. Parking. Off street parking shall be provided in accordance with the requirements in 18.25, on-site parking and loading.

E. Sanitation. Sanitary facilities shall be provided per county and state sanitary code requirements.

F. Signage. Is allowed in accordance with the requirements in 18.26.015 E., Permitted signs.

G. Lighting. All lights related to the home business shall be directed on site and shielded to reduce glare to adjacent areas.

H. Access. The business site shall have direct access to only state, county or town roads. Direct access to private roads or easements shall not be allowed.

I. Sales. Sales in connection with the business activity are limited to merchandise manufactured, items accessory to a service (such as hair care products for a beauty salon), catalog or e-commerce sales or other products related to or incidental to the business.

J. Products. Traffic and delivery or pickup of goods /products shall not exceed that normally created by residential uses.

K. Vehicles. Any vehicles used in conjunction with the business, which advertise the business, shall be stored inside a building between the hours 7 p.m. and 6 a.m.

L. Exclusive Agricultural District. In compliance with Wis. Stat. § 91.01 (1) (d), a home business in the exclusive agricultural district is also limited to be operated by the owner or operator of the farm; shall not impair or limit the current or future agricultural use of the farm or of other protected farmland; and requires no buildings, structures, or improvements other than those which are an integral part of, or are

incidental to, an agricultural use, or, the farm residence.

18.23.025 Types of home businesses.

The following types of businesses may be allowed as a home business but, are not necessarily limited to:

- A. Barber or beauty shops;
- B. Massage therapy;
- C. Art or photography studios;
- D. Professional offices, including but not limited to physicians, chiropractors, dentists, lawyers, real estate brokers, insurance agents and contractors, nurse-practitioners, clergyman, architects and engineers, registered land surveyors;
- E. Teachers;
- F. Authors;
- G. Musicians;
- H. Pet groomers;
- I. E-commerce businesses;
- J. Taxidermists;
- K. Seasonal related businesses;
- L. Studios;
- M. Or other recognized professions.
- N. Patrons or participants are limited to 5 or fewer on-site at any one time.

18.23.030 Cottage industries.

Cottage industries are a special exception in the following zoning districts: A-P Agricultural Preservation, A-1 Exclusive Agricultural District, A-2 Agricultural-Residential District, A-3 Agricultural District, A-R Floating Agricultural-Residential District, F-1 Exclusive Forestry District and F-2 Forestry District. Cottage industries shall require the review and approval of a special exception permit by the commission, provided the commission finds that the requirements of Chapter 18.21 Special Exceptions, are met and the use conforms to the following performance standards:

- A. The cottage industry shall conform to the development standards in the applicable zoning district, except as provided below.
- B. Operator. The owner and operator of the cottage industry shall reside on the lot.
- C. Lot area. The total land area occupied by the cottage industry and the principal residential use including portions of the lot occupied by buildings, storage areas and work places devoted to the cottage industry shall be a minimum of 3 acres.
- D. Employees. Up to 5 employees who are not residents, may be employed with the cottage industry.
- E. Building size. The appurtenant and accessory structure used as a cottage industry shall not occupy a total area greater than 2,400 square feet. If located within a dwelling unit, the total area of the cottage industry shall not occupy more than 50% of the floor area of the dwelling unit.
- F. Storage. Any outdoor storage of materials, including building or construction materials, unregistered or registered vehicles, junk vehicle parts, trailers, boats, small engine equipment or heavy equipment, firewood or lumber, storage of earthen materials not to exceed 100 cubic yards or other items related to the industry, except for activities related to the growing and storing of plants, must be completely

screened year-round from the road and from neighboring properties. Customer vehicles that require service or are being repaired must be repaired immediately and in no event shall be on the premises for longer than 2 weeks. The storage of vehicles and equipment must be related to the cottage industry business.

G. Screening. The cottage industry business and associated use areas shall be visually compatible with neighboring lots and uses. Landscaping and screening may be required by the commission if it is determined that the use needs to be sufficiently screened from view of adjacent residences, using site location, topography, landscaping buffer, earth berm, fencing (tight-board wood or plastic fence), the retention of native vegetation, or a combination thereof.

H. Operation. All activity related to the conduct of the business or industry, except for activities related to the growing and storing of plants, shall be conducted or stored within an enclosed structure. No business operations, activities, or transactions shall be conducted on any portion of the lot not approved for cottage industry use by the county.

I. Setbacks. No activities associated with a cottage industry, including materials or equipment storage, shall be located or conducted within 50 feet of an adjoining property line and should not be visible from the street or road.

J. Hours of operation. The commission shall establish business hours during the special exception permit review and approval process. The use shall not generate pedestrian or vehicular traffic beyond that normal in the neighborhood in which it is located.

K. Traffic. Traffic generated by the cottage industry shall not exceed the level of service adopted for the public roadway which accesses the use, nor generate significant traffic in excess of that normally generated by typical uses found within the particular district. No business may provide drive-through service.

L. Parking. Off street parking shall be provided in accordance with the requirements in 18.25, on-site parking and loading. The commission may establish conditions related to the maximum number of vehicles, equipment, trailers that may be parked at any given time during business operations during the special exception permit review and approval process.

M. Nuisance. No nuisances shall be produced including but not limited to smoke, glare, vibrations, noises, or odors that may be discernible by neighbors proximate to the dwelling unit.

N. Sales. Sales in connection with the activity are limited to merchandise manufactured or repaired on the premises, items accessory to a service, catalog or e-commerce sales or other products related to or incidental to the primary business.

O. Display. The commission may allow the outdoor display of merchandise or seasonal products on the premises on a case-by-case basis.

P. Noise. All noise generating operations shall be buffered so that they do not exceed the exterior ambient noise level at the property line by more than 5 dB (a), or an equivalent standard, which achieves comparable results.

Q. Sanitation. Sanitary facilities shall be provided per county and state sanitary code requirements.

R. Lighting. All lights related to the cottage industry shall be directed on site and shielded to reduce glare to adjacent areas.

S. Interference. No visual or audible interference of radio or television

reception by operations shall be permitted.

T. Signage. Is allowed in accordance with the requirements in 18.26.015 E., permitted signs.

U. Exclusive Agricultural District. In compliance with Wis. Stat. § 91.01 (1) (d) a cottage industry in the exclusive agricultural district is also limited to be operated by the owner or operator of the farm; shall not impair or limit the current or future agricultural use of the farm or of other protected farmland; and requires no buildings, structures, or improvements other than those which are an integral part of, or are incidental to, an agricultural use, or, the farm residence.

V. Commission.

The commission may establish additional conditions during the special exception permit review and approval process as deemed necessary

18.23.035 Types of cottage industries.

The following types of industries may be allowed as a cottage industry with a special exception permit, but, are not necessarily limited to:

A. Repair of motor vehicles and small engine and boat repair including the construction and operation of racing machines such as stock cars, snowmobiles, and tractors;

B. Storage of motor vehicles and recreational vehicles in accessory structures that were existing at the time of adoption of the zoning code;

C. Contractor businesses, including but not limited to landscapers, excavating contractors, building trade contractors, lawn maintenance businesses, snow plowing, well drillers, and septic tank haulers;

D. Wood related businesses (i.e. woodworking shops, firewood sales);

E. Pet care business;

F. Home bakery;

G. Furniture and repair and refinishing;

H. Pottery shop;

I. Electric repair businesses;

J. Sales of antiques and collectibles;

K. Ironworking, welding or blacksmith shop;

L. Seasonal related businesses;

M. Home businesses that exceed 5 patrons or participants on-site at any one time;

N. Other uses determined by the commission that meet the standards for a cottage industry.

Chapter 18.24

NONCONFORMING USES, STRUCTURES AND LOTS

Sections:

- 18.24.001 Purpose.
- 18.24.010 Nonconforming uses.
- 18.24.015 Nonconforming structures.
- 18.24.020 Nonconforming lots.
- 18.24.030 Existing special exceptions.
- 18.24.040 Record of nonconforming uses.

18.24.001 Purpose.

A. Within the districts established by this subtitle or amendments hereto, there exist uses, structures or lots which were lawful prior to the adoption of this subtitle but would be prohibited or more greatly restricted under the terms of this subtitle. These uses, structures and lots are declared legal nonconformities as provided for in 18.30.060.

B. It is the intent of this chapter to permit legal nonconformities until they are removed, but not to encourage their continuation. Such uses, structures and lots are declared by this subtitle to be incompatible with permitted uses in the district in which they are located.

C. These standards conform with Wis. Stat. § 59.69(10). They shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or amendments thereto.

18.24.010 Nonconforming uses.

A nonconforming use of land or structure which existed at the time of adoption of this subtitle, or amendments hereto, may be continued, but shall comply with the following provisions:

A. Only that portion of the land in actual use may be continued to be used. The nonconforming use shall not be extended, enlarged, substituted, or moved in a manner to increase its nonconformity, except when required by law or order or to bring the use into conformity with the provisions of this subtitle.

B. Once a nonconforming use has been changed to a conforming use, it shall not revert to nonconforming status.

C. If the nonconforming use has been discontinued for a period of 12 consecutive months, it shall be considered abandoned. Any future use shall conform with the provisions of this subtitle.

D. Uses which are nuisances shall not be permitted to continue as nonconforming uses.

18.24.015 Nonconforming structures.

A structure which does not conform to the yard, height, parking, loading and access requirements of this subtitle may be continued to be used but shall comply with the following provisions:

A. Normal maintenance is not considered a modification or addition; normal maintenance includes painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities.

B. Structural repairs, alterations and expansions to non-conforming structures are not allowed, except as provided in 18.24.015 C. and E. through F.

C. Nonconforming structures damaged or destroyed by violent wind, fire, flood, or vandalism and destroyed after October 4, 1997 may be reconstructed or repaired to the size, location and use that existed immediately before the damage occurred, subject to the following.

1. A structure that is destroyed or damaged due to a deliberate act by the landowner or by his or her agent, or due to general deterioration or dilapidated condition, may not be constructed or repaired except in conformance with the standards of the zoning and building codes.

2. A plan for mitigating the adverse effects of nonconformity shall be developed and submitted to the commission for review and approval. The plan shall include an implementation schedule and shall comply with the following requirements:

a. The private onsite sanitary system shall be brought up to current standards for new construction.

b. The 35 foot natural vegetation buffer strip shall be restored to meet code requirements.

c. Stormwater and runoff shall be controlled.

d. Exterior building materials shall be colored as to make the structure visually neutral or inconspicuous during the summer months,.

e. Grading, filling, or dredging shall comply with Chapters 18.19 and 18.20.

f. Erosion control measures must be identified, approved and installed.

3. The landowner shall bear the burden of proof as to the size, location, or use of a destroyed nonconforming structure or use had immediately before the destruction or damage occurred;

4. Repairs are authorized under this provision only to the extent that they are necessary to repair the specific damage caused by violent wind, vandalism, fire, or flood and only that portion of the nonconforming structure that has been destroyed may be reconstructed.

18.24.020 Nonconforming lots.

A lot of record may be used for any use or structure allowed in the district in which it lies, provided it complies with the following:

A. All structures shall meet the setback, yard, height, parking, loading and access requirements of this subtitle.

B. No structure shall be constructed on a lot which has less than 50% of the

required width or area until a special exception permit has been granted.

18.24.030 Existing special exceptions.

Existing special exceptions shall be treated in the following manner:

A. An existing special exception which, under the terms of this subtitle is a permitted use in the district in which it is located, shall be deemed a permitted use, provided the use and structures meet the regulations of the district in which it is located.

B. An existing special exception which, under the terms of this subtitle, is a special exception in the district in which it is located, may be continued, provided the terms of the special exception permit are being followed.

C. An existing special exception which, under the terms of this subtitle, is neither a special exception nor a permitted use shall be deemed to be a nonconforming use and shall be subject to the provisions of this chapter.

18.24.040 Record of nonconforming uses.

A current file of all nonconforming uses shall be kept by the commission, listing the owner's name and address, property description, nature and extent of the use, and the date the use was established or became nonconforming. The file shall be used by the commission to document changes or expansions of such uses and for issuance of violation notices.

Chapter 18.25

ON-SITE PARKING AND LOADING

Sections:

- 18.25.001 Purpose.
- 18.25.010 General provisions.
- 18.25.020 Required number of on-site spaces.
- 18.25.030 On-site loading requirements.

18.25.001 Purpose.

The purpose of this chapter is to promote public safety and welfare by reducing congestion on public streets and roads, by requiring on each lot sufficient parking and loading space to accommodate the traffic generated by the use of the lot.

18.25.010 General provisions.

A. Minimum Size Regulations. A minimum of 180 sq. feet is required for each parking space. Parking spaces shall be not less than 9 feet in width and 18 feet in length, plus adequate access and maneuvering area. All parking spaces shall have direct access to a street or alley. Loading spaces shall be sufficient for the uses they are designed to serve and shall provide space for maneuvering. Required parking and loading spaces shall not be used for storage of goods or storage of vehicles that are inoperable or for sale or rent.

B. Reduction and Use of Parking and Loading Space. Onsite parking facilities existing on the effective date of the ordinance codified in this subtitle shall not be reduced to an amount less than required herein. If an existing structure or use with less than the number of parking and loading spaces required under this subtitle is expanded to an amount less than 50% of its gross area, additional parking shall be required only for the addition. If, however, the expansion is greater than 50% of the original structure or use, the number of parking stalls required shall meet the total required under this chapter.

C. Computing Requirements. In computing the number of spaces required, the following rules shall govern:

1. "Floor space" means the gross floor area of the specific use.
2. For structures containing more than one use, the required number of spaces shall be computed by adding the spaces required for each use.
3. Where parking spaces are calculated according to the number of employees, the number of employees on the main shift, or greatest number of employees present at one time, shall be used to compute the number of stalls required.
4. Parking space requirements for uses not specifically mentioned herein shall be the same as required for a use of a similar nature, as determined by the commission.

D. Location of Parking Facilities. Required off street parking facilities shall be located on the same lot as the use they are intended to serve, provided that combined or joint parking facilities may be provided for uses in the C-2 and C-3 districts if the total number of spaces equals the total spaces required. In the case of joint facilities, no parking space shall be more than 400 feet from the use it is intended to serve.

E. Screening. All open automobile-parking areas containing more than 5 spaces shall be effectively screened on each side abutting a single-family or two-family residential district by a wall, fence or densely compacted hedge of not less than 4 feet in height. This requirement may be waived if the parking area is at least 75 feet from the nearest residential property line.

F. Lighting. Lighting used to illuminate on-site parking areas shall be directed away from residential properties and public rights-of-way.

G. Yards.

1. In the commercial and industrial districts, on-site parking is allowed in all yards, provided that in the front yard a five foot setback is maintained and in all yards, barriers are provided to prevent encroachment of vehicles. When abutting a residential district, side and rear setbacks shall be 10 feet from property lines.

2. In residential districts, parking in a required front yard is prohibited except for improved driveway areas.

H. Construction and Maintenance. In the business and industrial and multiple-family residential districts, all parking areas and access drives shall be covered with a dust-free, all-weather surface, with proper surface drainage. All areas containing five or more spaces shall be hard surfaced, and have aisles and spaces clearly marked.

I. Parking Limitations

1. No commercial vehicles or equipment exceeding 9,000 pounds gross weight shall be stored or parked in a residential district.

2. Inoperable or unlicensed vehicles of any kind or parts thereof shall not be stored in any district other than in an enclosed building or where allowed as a permitted or special exception.

18.25.020 Required number of on-site spaces.

The required number of parking spaces shall be in accordance with the following schedule:

A. Single-family dwellings and duplexes: 2 stalls per dwelling unit; multiple-family dwellings: 1.5 stalls per dwelling unit; and elderly multi-family units: 3/4 stall per dwelling unit.

B. Hotels, motels, lodging houses, boardinghouses: 1 stall per guest room plus 1 stall per employee on the major shift;

C. Hospitals, convalescent and nursing homes, and similar institutions: 1 stall per 4 beds, plus 1 stall per employee on the major shift;

D. Business or professional offices, medical or dental clinics, animal hospitals, municipal or governmental buildings, and financial institutions: 1 stall per 300 sq. feet of floor area;

E. Churches, theaters, community center, auditoriums and similar places of assembly: 1 stall per 5 seats or 1 per 100 sq. feet;

- F. Elementary and junior high schools: 2 stalls per classroom;
- G. High schools: 1 stall per ten students, plus 1 stall per 2 employees;
- H. Colleges, trade, vocational and technical schools: 1 stall per 5 students, plus 1 stall per 2 employees;
- I. Nursery school or day care center: 1 stall per 10 children, plus one stall per 2 employees;
- J. Manufacturing and processing plants, warehouses, wholesale establishments, research laboratories and similar uses: 1 stall per 2 employees on the major shift, plus 1 stall for every business vehicle normally kept on the premises;
- K. Restaurants (except drive-ins), nightclubs, taverns: one stall per 50 feet of floor area, plus 1 stall per employee;
- L. Retail stores and service establishments: 1 stall per 200 sq. feet of floor area except for furniture, appliance, and home improvement products (i.e., carpets, paint, wall paper, etc.) which require one stall per 400 sq. feet of floor area;
- M. Bowling alleys: 5 stalls per lane;
- N. Funeral homes: 20 per chapel, plus one stall per vehicle kept on the premises;
- O. Recreation facilities, including golf courses, archery ranges, softball fields and tennis courts: 1 stall per 3 users (participants and spectators) at maximum capacity, plus 1 stall per 2 employees;
- P. Automobile service stations: 1 stall per each employee on the major shift, plus 3 stalls per service bay;
- Q. Drive-in restaurants and fast food establishments: 5 stalls per employee on the major shift;
- R. Shopping Centers: 5.5 stalls per 1,000 sq. feet of gross leasable area;
- S. Convenience stores with gas sales: 1 stall per 200 sq. feet of retail area; each parking area adjacent to a pump island or fuel area may count as a parking stall.

18.25.030 On-site loading requirements.

- A. In business and industrial districts, adequate loading berths and areas shall be provided and so located that all vehicles loading, maneuvering or unloading are completely off the public rights-of-way.
- B. All business and industrial uses shall have at least 1 loading berth for every 30,000 sq. feet of floor area, with a maximum of 3 berths required.

Chapter 18.26

SIGN REGULATIONS

Sections:

18.26.001	Purpose.
18.26.010	General sign provisions.
18.26.015	Permitted signs.
18.26.020	District regulations.
18.26.25	Advertising (off-premises) signs.
18.26.26	Changing signs.
18.26.030	Nonconforming signs.
18.26.040	Inspection.

18.26.001 Purpose.

This chapter is established to protect and promote health, safety, general welfare and order through the establishment of comprehensive, uniform standards and procedures, governing the construction, use and style of signs or symbols serving as a visual communication media aimed at persons upon public rights-of-way or private properties. It is intended that the opportunity for effective, aesthetically compatible and orderly communications be encouraged by reducing confusion and hazards resulting from unnecessary or indiscriminate use of signs. Hereafter, no sign shall be erected, constructed, altered or modified except as regulated herein.

18.26.010 General sign provisions.

A. Hazardous Signs. No sign shall, by reason of its shape, location, lighting, size, color or intensity, create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words which might be construed as traffic controls, such as "stop," "caution," or "warning," unless such sign is intended to direct traffic on the premises.

B. Sign Maintenance. All signs and sign structures shall be properly maintained in a safe, orderly condition, and parts and supports shall be properly painted at all times. Signs or sign structures which are rotted, unsafe or which have otherwise deteriorated or have been defaced shall be repainted, repaired or replaced by the owner of the property upon which the sign is located, or by his or her license.

C. Interference. No signs, nor any guides, stays or attachments thereto shall be erected, placed or maintained upon rocks, fences or trees, or in such a manner as to interfere with fire-fighting equipment or personnel, or any electric light, power, telephone or cable, wires or supports thereof.

D. Signs Within Right-of-way. No signs other than governmental signs shall be erected or temporarily placed within any public right-of-way.

E. **Portable Signs.** The temporary use of portable signs shall be allowed in commercial and industrial districts, provided that the total signage areas does not exceed 120% of the size allowed in 18.26.020. Use of temporary signs shall be limited to a maximum of 2 occasions within any 12 month period, for up to 14 days duration each. A portable sign may be placed within a front yard but not within a vision triangle.

F. **Clearance.** All signs located over a public or private access route (sidewalk, mall, etc.) shall be located a minimum of 12 feet above grade level.

G. **Display of Information.** All signs requiring a permit shall display in a conspicuous manner the permit number and such other information required by law.

H. **Safe Ingress and Egress.** No sign or sign structure shall be erected or maintained so as to prevent or deter free movement from any door, window or fire escape, nor shall be attached to a standpipe or fire escape. No sign or sign structure shall impede the vision triangle of a driveway access to a property based on the type of public road being accessed.

I. **Signs Required by Law.** All signs required by law shall be permitted in all districts.

J. **Parallel Signs.** If a freestanding sign or sign structure is constructed so that the faces are not parallel, the angle shall not exceed 30°. If the angle is greater than 30°, the total area of both sides added together shall be the calculated area. If the angle is less than 30°, the sign shall be considered as one sign for calculating square footage and number of signs.

K. **Frontyard Signs.** One business freestanding sign may be placed within the front yard.

L. **Obsolete Signs.** An obsolete sign or a sign which advertises an activity, product or service which is no longer being produced or conducted shall be removed within 90 days from the last date upon which the activity or service was produced or conducted. Responsibility for the removal shall be vested in the owner of the real property.

M. **Illumination.** All externally illuminated signs shall direct the source of light away from adjacent properties.

N. **Prohibited Signage:** Signs that flash, strobe, blink, revolve, or contain animation are strictly prohibited.

O. **Double Frontage Lots.** Lots having frontage on two streets or on a street and an alley shall be permitted to provide the maximum number and square footage of signs on each footage.

P. **Copy Area and Sign Height.** In the Commercial and Industrial Districts, signs with greater size and height may be allowed if they meet the following:

1. The copy area of a freestanding sign may be doubled if it meets the requirements of 18.26.010 P. 3. and 4. and a special exception permit is granted.

2. The sign height may be increased to 55 feet by staff if the sign is within 2 miles of the intersecting center lines of a Class A highway and the intersecting highway. Freestanding signs greater than 55 feet up to 75 feet may be allowed by the commission under a special exception permit and if the sign meets the requirements of 18.26.010 P.3. and 4.

3. A special exception permit may be approved if the commission finds that the sign:

- a. Will be compatible with surrounding signs and the highway setting in which it is to be located
- b. Will not create or add to sign clutter

- c. Will not interfere with or confuse motorists or pedestrians
- d. Will be consistent and compatible with the scale of the buildings

on the premises.

- 4. In considering the sign, the commission shall consider such factors as:
 - a. Proximity of the proposed sign to other freestanding signs
 - b. Size and height of signs in the area
 - c. Square footage
 - d. Location
 - e. Amount of street frontage
 - f. Proposed setback for the sign.

18.26.015 Permitted signs.

The following signs shall be allowed without a permit; in the front yard, excluding visual triangle areas; and as regulated in the subsections listed below.

- A. Government Signs. Signs of a public, noncommercial nature, including but not limited to safety signs, trespassing signs, traffic-control devices, scenic or historical signs, memorial plaques, and community service signs approved by the Commission;
- B. Directional Signs.
 - 1. On-site directional and parking signs, intended to facilitate the movement of vehicles and pedestrians upon the premises shall not exceed 6 square feet and shall not be illuminated.
 - 2. Off-site directional signs directing customers to a business shall not exceed 6 square feet; shall name only the business, distance, and direction to the business; and are limited to one sign in either direction of the business. Seasonal agricultural product signs are exempt.
- C. Integral Signs. Signs attached to buildings or structures which name the building, date of construction and commemorative actions.
- D. Campaign Signs. Election campaign or referendum signs may be placed on the first day for circulation of nomination papers or the period beginning on the day on which the questions to be voted upon are submitted to the electorate. In residential districts, no sign may be electrical, mechanical, or have an audio auxiliary.
- E. Nameplates. One sign which states the owner's name, address, and a home occupation or farm related business not exceeding 6 sq. feet.
- F. Holiday Signs. Signs or displays which contain or depict only a message pertaining to a national or state holiday, displayed for a period not to exceed 60 days;
- G. Construction Signs. Nonilluminated signs naming the architects, engineers, contractors, and other individuals or firms involved with the construction, alteration, or repair of a structure and the future use of the site. Such signs shall be confined to the construction site and shall be removed when the project is completed or occupancy of the structure, whichever comes first. No sign shall exceed 64 sq. feet.
- H. Real Estate Signs. A single on-premises sign announcing the owner, manager, realtor or other person directly involved in the sale or rental of a property. In the event of sale, the sign must be removed within 10 days thereafter. Signs shall not measure more than 20 sq. feet in all districts;

I. Trespassing signs. Signs which indicate the allowed use of private property, such as no trespassing, no hunting, or hunting by permission only per terms of state law as to frequency and size.

J. Seasonal Agricultural Product Signs.

K. Agriculture Test Plot Signs. Agricultural test plot signs shall be allowed under the following conditions:

1. One sign facing each direction.

2. Sign shall not exceed 32 sq. feet and are permitted during the growing season and shall be removed after harvest.

3. Row markers and variety markers are permitted as necessary.

L. Occasional Yard Sale Sign. One sign is allowed; shall not exceed 6 sq. feet; and shall not be placed more than one day prior to the sale and removed at end of sale.

M. Motor fuel pricing signs: one freestanding or canopy sign displaying the type of service offered, grade of fuel, and price of the motor fuel sold is allowed. Each type of service offered is allowed a maximum of 12 sq. feet. If, in the determination of the commission, one sign is not sufficient to convey the above information, two single faced signs may be displayed at appropriate points along the pump island in lieu of provisions set forth above.

18.26.020 District regulations.

A. Signs in All Districts. Signs are regulated or prohibited in particular zoning districts according to their size, height, number and location on the lot.

B. Permits Required.

1. Except as allowed in 18.26.015, no sign shall be erected, constructed, enlarged or otherwise modified without first receiving a sign permit.

2. Application for a sign permit shall be made to the commission. Permits shall be issued if the proposed sign meets the requirements of this chapter.

3. A sign design and site plan shall be submitted prior to issuance of the sign permit.

4. A permit fee required under 18.35.090 shall be paid prior to issuance of a sign permit.

C. All Agricultural and Residential Districts.

1. Area Identification Sign. One freestanding sign of not more than 32 sq. feet is permitted, provided that the sign be located not less than 15 feet from a property line or right-of-way line, nor shall it extend higher than 10 feet from grade level, and shall not be located in a vision triangle of a public road or private driveway. A monument sign exceeding the standard of 32 sq. feet may be approved as a special exception.

2. Where the commission has approved a special exception in the agricultural and residential districts, one free standing sign is allowed in addition to an area identification sign by land use permit provided:

a. The sign shall not exceed 32 square feet;

b. The sign complies with the setback and height requirements of

18.26.020 C. 1.;

c. The provisions of the sign ordinance are met.

D. C-2 General Business District.

1. The gross area of all signs shall not exceed 2 times the lineal front footage of the lot.

2. One freestanding sign is allowed and shall not exceed 75 sq. feet. The sign may be in the front yard but not within 10 feet to any other property line. The sign shall not extend into an area between 4 feet and 12 feet nor above 30 feet from final grade. A monument sign may be approved which lies between 4 feet and 12 feet from final grade as a special exception. The commission may approve a monument sign if it finds that the sign is compatible with the conditions established in 18.26.010 P. 3 and 4.

3. Projecting, wall and roof signs shall not project more than 48 inches from a building or into a public right-of-way or extend 5 feet above the roof or parapet wall.

E. C-3 Highway Business District.

1. The gross area of all signs shall not exceed 4 times the lineal front footage of the lot.

2. Two freestanding signs are allowed and the total area of both signs shall not exceed 200 sq. feet. A sign may be located in the front yard but not within 10 feet to any property line. A sign shall not extend into an area between 4 and 12 feet nor above 30 feet from final grade. A monument sign may be approved which lies between 4 feet and 12 feet from final grade as a special exception. The commission may approve a monument sign if it finds that the sign is compatible with the conditions established in 18.26.010 P. 3 and 4.

3. Projecting, wall, and roof signs shall not project more than 48 inches from a building or into a road right-of-way or extend 5 feet above the roof or parapet wall.

F. Integrated Shopping Centers.

1. Shopping centers with several separate businesses are allowed 2.2 sq. feet per lineal front footage of the business for wall and roof signs.

2. One freestanding area identification sign shall be permitted with a maximum of 200 square feet. The content of the sign shall be limited to the name of the shopping center and the businesses contained therein. The sign may be located in the front yard but not within 10 feet of a side property line. The sign shall not extend below 12 feet nor above 30 feet from final grade.

18.26.025 Advertising (off-premises) signs.

Off-premises advertising signs are permitted in the C-3.

A. Spacing. There shall be a minimum of 300 feet of separation between advertising signs on the same street facing the traffic flow.

B. Parallel Signs. Advertising signs may be double faced, with each side considered as facing traffic flowing in the opposite direction. Such signs shall be considered as one when computing sign area.

C. Size, Height and Length. Advertising signs shall not exceed 750 square feet in total area including all faces, except parallel signs, nor shall the height exceed the permitted height of other freestanding signs in the district in which it is located. No advertising sign shall exceed 55 feet in length.

D. Setbacks. No part of an advertising sign shall be closer than the building setback lines of the district in which it is located.

E. Relation to Business Signs. When advertising signs are located on the same lot as business signs, the advertising signs shall be included in the computation of number and square

footage of signs.

F. Exclusionary Areas. No advertising sign shall be erected or maintained within 100 feet of a residential, agricultural or forestry district boundary, or within 500 feet of a public park.

18.26.026 Changing Signs.

A. Sign Message. Changing signs shall provide only on-premise advertising, time, temperature and date information, or general information pertaining to public and civic events.

B. Construction. Changing signs shall be constructed as a wall, monument or free-standing sign. If constructed as a monument or free-standing sign, it shall be permitted in conjunction with a permitted business or identification sign subject to the provisions for monument or free-standing signs and the respective zoning district, but shall not exceed 50 percent of the total sign area of such sign.

C. Electronic Message Center Signs.

1. Electronic message center signs are permitted on parcels zoned C-2 and C-3

a. A text message may scroll or appear to travel horizontally or vertically on the sign face at a constant speed, but no part of the message or display shall flash, blink, or use any other form of animation, nor shall the background for such message use any form of animation.

b. Static displays on such signs shall be displayed for at least two seconds and the change or transition from one display or message to the next shall occur as quickly as possible.

c. No such sign shall be illuminated to a degree of brightness that constitutes a nuisance or public safety hazard. Between dusk and dawn, the brightness of such sign shall be set at no more than 50% of the sign's maximum brightness, and the county reserves the right to require that the brightness of the sign be adjusted if it is deemed to be a public nuisance or a distraction to motorists.

2. A special exception permit shall be required if any of the following circumstances apply. The town board may grant a special exception in accordance with the provisions contained in chapter 18.21. The commission, as set forth in 18.21.070, may attach certain conditions to the special exception relating to the operation of such signs.

a. If more than one electronic message center sign is proposed for a parcel. When considering such special exception, the commission shall consider whether the size or scale of the parcel or building is of such exceptional size that more than one such sign is warranted and will not create or add to sign clutter in the area or conflict with signs in the area. Additionally, the commission may consider the following factors: sign size, height, setback, location on the building relative to its architectural design (for walls signs), proximity of the message center signs, and need for multiple signs as identified by the applicant.

b. If any electronic message center sign is located closer than 200 feet to another electronic message center sign or closer than 100 feet to any traffic control signal. The applicant shall satisfy to the commission that such sign will not interfere with or confuse motorists, and will not create any traffic safety problem along the street on which it is located.

c. If any electronic message center sign erected as a wall sign exceeds 50 square feet in size. When reviewing such special exception, the commission shall consider whether such sign is compatible and consistent with the architecture, scale, and design of the building, is appropriate for the character of the street setting in which it is to be located, and does not diminish the appearance or integrity of neighboring buildings and signs.

18.26.030 Nonconforming signs.

A. Legal nonconforming signs may not be structurally altered or enlarged except in accordance with this chapter or reestablished after being brought into compliance.

B. Nothing in this chapter shall be construed as relieving the owner of a legal nonconforming sign from the provisions of this chapter regarding safety, maintenance, and repair of signs. However, no change in the sign structure or copy shall be made which makes it more nonconforming.

C. When a nonconforming sign is destroyed by more than 50% of its face area, the sign shall be abandoned and removed from the property or reconstructed meeting the requirements of this chapter and any other applicable laws.

18.26.040 Inspection.

All signs for which a permit is required shall be subject to inspection by the commission. The commission may enter any property during normal business hours to ascertain whether the provisions of this chapter are being obeyed. The commission shall order the removal of any sign that is not maintained in accordance with the provisions of this chapter.

DRAFT

Chapter 18.27

FEES

Sections:

18.27.040 Permit, variance, rezoning, special exception, sign and land use fees

18.27.040 Permit, variance, rezoning, special exception, sign and land use fees

The following fee schedule shall apply:

1. Residential, forestry and agriculture districts.
 1. Principal uses: \$ 250.00
 2. Accessory uses and additions:
 1. 0 to 200 sq. ft. \$ 55.00
 2. 200+ sq. ft. \$.28/sq. ft.
 3. Maximum fee \$ 250.00
2. Commercial and industrial districts.
 1. Principal uses:
 1. 0-1,000 sq. ft. \$ 250.00
 2. 1,000 + sq. ft. \$.28/sq. ft.
 3. Maximum fee \$ 3500.00
 2. Accessory uses:
 1. 0-500 sq. ft. \$ 120.00
 2. 500 + sq. ft. \$.28/sq. ft.
 3. Maximum fee \$ 3500.00
 3. Additions: See principal and accessory fees.
3. Change of use. \$ 200.00
4. Signs
 1. All signs \$ 100.00
 2. Billboards \$ 245.00
5. Variances \$ 550.00
6. Appeals \$ 550.00
7. Conditional use permits \$ 550.00
8. Rezoning \$ 550.00
9. One time temporary use fee per site \$ 60.00
10. Rezoning and comprehensive plan \$ 80.00 surcharge for mapping
11. Home businesses \$ 200.00
12. Text amendments \$ 550.00
13. Refunds
 1. Land use Paid fee minus \$ 55 Administrative fee
 2. Conditional use Paid fee minus \$ 75 Processing fee

- | | | |
|-----|--------------------------------|--------------------------|
| 3. | Variance/Appeals | \$275 Administrative fee |
| | | \$ 25 Vendor fee |
| 4. | Rezoning Paid fee minus | \$ 75 Processing fee |
| | | \$275 Administrative fee |
| | | \$ 25 Vendor fee |
| 14. | Temporary structures | |
| 1. | Special events | |
| 1. | Total land less than 10 acres | \$200.00 Zoning fee |
| 2. | Total land 10 acres or greater | \$ 400.00 Zoning fee |
| 15. | Floodplain overlay district | \$100.00 |

When construction begins prior to the issuance of a land use permit or when a use precedes the application for a rezoning or conditional use permit, a double fee will be assessed.

If independent consultant(s) are needed for application review, cost shall be paid for by the applicant.

Chapter 18.28

MINING

Sections:

- 18.28.001 Purpose.
- 18.28.005 Applicability.
- 18.28.010 Application
- 18.28.020 Application required for special exception permit (metallic mining).
- 18.28.025 Bond and insurance required.
- 18.28.030 General operating requirements.
- 18.28.035 Metallic mining permits.
- 18.28.040 Inspections.
- 18.28.045 Existing mining operations.
- 18.28.050 Penalties.

18.28.001 Purpose.

It is the purpose of this chapter to protect public health, safety and general welfare; promote aesthetic values; and provide for environmentally sound reclamation of land disturbed by mining activities through an impartial series of standards and regulations governing the extraction of minerals.

18.28.005 Applicability.

- A. Nonmetallic mineral extraction operations 10 acres and less (based on the life of the

mine) and governmental mining operations uses are special exceptions and may be permitted in the A- 1, A-2, A-3, C-3, F-1, F-2 districts, as regulated by Chapter 18.21. Nonmetallic mineral extraction operations greater than 10 acres (based on the life of the mine) are special exceptions and may be permitted in the nonmetallic mining overlay district, as regulated by Chapter 18.21.

B. Exempted activities.

The exempt activities are as provided in 18.90.050

18.28.010 Application.

A. All operators seeking a special exception permit for a nonmetallic mining site shall apply with the commission. The application for a permit shall be submitted to the commission on forms provided by the commission. The application shall be signed and dated by the applicant. The applicant shall submit 12 complete hard copies, along with 1 digital copy in PDF searchable form, of the application and required documents required by this chapter.

B. Content of Application.

C. The application for a special exception permit shall include the following information:

1. The information required by 18.91.040 A.
2. A special exception application fee required by the plan review fees required by Chapter 18.27.
3. Required information and plans conforming to this chapter.
4. An operational plan conforming to this chapter.
5. A reclamation plan conforming to 18.91.040 C.
6. Proof of application for local, state and federal permits required to operate the nonmetallic mining operation.
7. To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of Title 18.

D. Required Information and Plans. The application submitted for a special exception nonmetallic mining permit shall be accompanied by the following information and/or plans:

1. A property survey completed by a land surveyor registered in the State of Wisconsin at a scale of not less than 200 feet to the inch showing the location of the tract or tracts of land with parcel identification numbers, to be affected by the proposed operation, including the proposed mine boundary.
2. The aerial extent of 1 inch equals 660 feet, with the mine boundary shown.
3. A topographic map of the property to be affected by the mine operation at contour intervals no greater than 5 feet and extending one half-mile beyond the mine boundary.
4. A map of all residential, agricultural and municipal wells within ½ mile of the proposed mine site boundaries.
5. A map showing the location of the exploratory soil (removal soil) borings, including the GPS location of the soil (removal soil) borings, diameter of soil (removal soil) borings, depth to groundwater observed, the geologic composition and depth and width of the nonmetallic mineral deposit.
6. A vicinity map showing the location of the site within the town and county, including the following:
 - a. Names of owners of the tract or tracts of land to be affected by the

mine and the adjacent property owners of the land within one half mile of the mine site;

b. Locate and label all existing buildings within 1,000 feet of the outer perimeter of the mine boundary;

c. The location and name of all surface water, including lakes, private or public ponds, streams (including intermittent streams and headwaters), drainage ditches, wetlands, drainage patterns and other water features on the site and within ½ mile of the proposed mine boundaries.

7. Such other pertinent information as may be required to determine the nature of the operation and the effect on the surrounding area as deemed necessary by the commission.

E. Operation Plan Requirements. No nonmetallic-mineral extraction operation shall take place as a special exception unless the same complies with the following requirements:

1. A map at a scale of not less than 200 feet to the inch, showing the proposed sequence of mining, direction of mining, depth of mining, and estimated volumes of material to be removed on an annual basis for the proposed life of the operation, including;

a. Cross-sections of the proposed nonmetallic mine at intervals of not more than 200 feet.

b. The dates of the proposed commencement and cessation of the mining operation.

2. Daily hours of operation;

3. A map at a representative scale no less than 1 inch equals 200 feet, showing the following:

- a. Stockpiles and storage yards.
- b. On-site haul roads.
- c. Permanent or temporary structures with their identification.
- d. Location of road access points.
- e. Parking areas.
- f. Setbacks.

4. Estimate of daily quantity of water required, water source, and water disposition.

5. A description of all hazardous materials and hazardous wastes, including fuel supplies that will be stored on site and a description of measures to be used for securing and storing all hazardous materials and hazardous wastes stored on site. The following agencies shall be notified as to the type, volume and location of any hazardous waste kept on a nonmetallic mining site: Eau Claire County Sheriff's Department, Emergency Management Coordinator, and local fire protection district.

6. A map of all proposed transportation routes, within and outside the county, to be used to transport the mineral material from the mine to off-site processing plants or markets, including the frequency of traffic, type of vehicle used in transport, and the common schedule of travel to be used for transporting.

7. A description of all chemicals used in the manufacturing or processing operations or in controlling dust.

8. A description of the distribution, thickness, type of topsoil and plans for topsoil storage.

9. A description of measures to be taken to control noise and vibrations from the operations.

10. A description of the mining methods, machinery and equipment to be used for extraction and processing of extracted material.

11. A description of measures to be taken to screen the operation from view with earth banks, vegetative or other screening devices.

12. A lighting plan for the nonmetallic mining operation; including the type and style of lighting to be used and its power source.

13. A description of measures to be taken to assure compliance with applicable air and water quality standards.

F. General operating requirements. The following requirements shall apply to nonmetallic mining operations:

1. Property Protection.

a. Buffer zone. A buffer zone of a least 75 feet from the active mine boundary to adjoining property lines and public thoroughfares shall be provided, unless there is a written agreement between adjoining owners both of whom hold valid nonmetallic mining permits under which they both agree to mine up to their common property line. Mining up to or into the right-of-way may be authorized where it is determined by the unit of government having jurisdiction over the road that such mining would be beneficial.

b. Parking areas, unprocessed and processed materials stockpiles, equipment storage, fueling stations, other related accessory uses such as offices and scales, are not allowed within the buffer zone.

c. Areas within the buffer zone may be used for earthen berms, fencing, egress/ingress (except for internal haul roads). The commission may require additional screening to buffer the nonmetallic mining operation from and neighboring properties and uses.

d. Nonmetallic mining operation boundaries that will exceed 10 acres over the life of the mine shall not be located within 1,000 feet of a residential district (RH, R-1-l, R-1-M, R-2, R-3).

2. Screening. Where practical, an earth berm and/or vegetative screen shall be erected and maintained to screen the mined area. When using vegetation to screen the site, the vegetation must be at least 4 feet in height at the time of planting. The commission shall determine the practicality and necessity of aesthetic screening in each individual mining operation.

3. Gating. The commission may require the nonmetallic mining operation to be gated.

4. Lighting. Lighting shall be limited, to that which is minimally necessary for mining operations and security. All lighting shall be shielded and pointed downward to avoid illuminating off-site.

5. Onsite fuel storage. All petroleum products kept onsite and related to the mining operation shall be stored in state approved fuel storage containers and shall be in accordance with federal standards for storage and fueling areas. All petroleum product storage tanks shall provide leak proof containment not less than 125% of the tank volume. Where fueling trucks are used to refuel equipment onsite, all fueling must occur on a fueling absorption pad to minimize any leakage.

6. Hours of operation. Non-metallic mining operations shall be limited to reasonable hours so as not to affect adjacent land uses. The nonmetallic mining site shall only operate and remove materials from 6:00 am. to 8:00 pm. during Daylight Savings Time and 6:00 am. to 6:00 pm. during Standard Time, Monday through Friday. Saturday hours of operation are limited to 7:00 am. to 6:00 pm. with no mining or material removal allowed on Sundays or Holidays unless the owner/operator of a nonmetallic mining site notifies the zoning administrator within 48 hours of its operation on Sundays, holidays or outside of stated hours of operation when a natural disaster has occurred necessitating the need for nonmetallic mining materials for emergency repair work. On the second offense or abuse of this natural disaster repair clause for operations on Sundays, holidays or outside of stated hours of operation, the Special Exception Permit may be rescinded by the commission if the natural disasters have not occurred as stated in the notice to the county. The commission may modify or alter hours of operation, as stated above, as part of the special exception permit approval process.

7. Noise. White noise back up beepers shall be installed on all equipment requiring beepers per OSHA and MSHA standards.

8. Dust. The operator shall utilize all relevant best management practices to control fugitive dust as specified in Wis. Admin. Code NR 415.075. The fugitive dust plan may include the paving of the main interior haul roads, watering processed and unprocessed stockpiles, using sweepers to clean all paved surfaces within the mine and on the public road, minimize the size of stockpiles, increasing the distance stockpiles are located to a property line beyond the buffer zone.

9. Blasting. All blasting shall be done in conformance with state and federal guidelines and requirements. Blasting hours may be regulated by the conditions placed on the special exception permit by the Commission.

10. Groundwater Protection.

a. Nonmetallic mining operations and reclamation shall be conducted in a manner that does not cause groundwater to be unpalatable or unfit for human consumption or cause the groundwater quality standards in Wis. Admin. Code chs. NR 140 and NR 809, as well as any state or federal health advisory limits, to be exceeded.

b. Nonmetallic mining operations and reclamation shall be conducted in a manner that does not cause a lowering of the groundwater table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater available for reasonable use to current and future users.

c. Wash ponds and settling ponds shall have 5 feet of separation distance to bedrock and to the groundwater elevation.

d. For sites with planned excavation lower than the groundwater table, the operator shall submit a detailed hydrogeologic report. The operator shall be required to reimburse the county for the expense of professional work or opinions in review of a hydrogeologic report. The hydrogeologic report shall provide the following information, as well as a description and justification of all hydrologic methods used to include existing conditions to establish baseline data, including but not limited to:

i. Analysis of groundwater quality of private wells within one-half mile of the mine site and on the mining site consistent with Wis. Admin. Code ch. NR 140.20.

i. Identification of all known contaminated groundwater resources within one-half mile of the mining site.

ii. Identification of all karst features such as sinkholes, stream sinks, springs, caves, joints, or fractures within one-half mile of the mining site.

iii. Identification and elevation of all surface waters and headwaters within a minimum of one-half mile of the mining site. Elevations must include the existing water level, as well as the ordinary high water mark where applicable.

iv. Identification of all existing groundwater users (e.g. neighboring private water-supply wells, well head protection areas, municipal wells, irrigation wells) within one half mile of the mining site consistent with Wis. Admin. Code ch. NR 812. Well construction reports including well location, well depth, depth of casing, depth to water, and aquifers penetrated shall be identified where data exists.

v. Elevation of the groundwater table, groundwater flow directions, and groundwater velocities.

vi. All information in 2-6 above shall be presented in the form of contour maps and multiple geologic cross-sections passing through the proposed excavation and all areas of concern. All horizontal and vertical measurements shall be referenced to a permanent reference point of the Eau Claire County Coordinate System.

e. Proposed operational data, including but not limited to:

i. Elevation of the lowest point of mining and dewatering activities below groundwater.

ii. Description of the means planned to prevent surface water running into the excavation.

iii. Where dewatering is proposed, provide pumping rates and times; elevation of the groundwater draw down level; and identification of groundwater discharge locations and quantities.

iv. A groundwater monitoring program to ensure compliance with 1 and 2 above. Such program should include the installation of monitoring wells upstream and downstream of the proposed area of excavation to measure groundwater elevations, quality, flow directions, and velocities.

f. The commission may require the applicant to provide additional relevant hydrogeologic studies such as groundwater modeling, when:

i. Dewatering is proposed at the mining site,
ii. Known contaminated groundwater resources exist within one-half mile of the mining site,

iii. Known karst features such as sink holes, stream sinks, springs, caves, joints, or fractures exist within one-half mile of the mining site,

iv. Exceptional, outstanding, and/or 303d WDNR-listed waters exist within one-half mile of the mining site, or

v. Existing wells using the same or a shallower aquifer exist within 1200 feet of the mining site.

g. If groundwater modeling is required, the following minimum information shall be provided:

ii. Description and justification of all input data to groundwater models.

iii. Calibration of all groundwater models.

iv. Sensitivity analysis for all groundwater models.

v. Detailed output from the hydrologic methods including the elevation of the water, elevation of the cone of depression caused by dewatering, groundwater flow directions, groundwater velocities, mounding elevations, and any potential effects on nearby surface water, springs, or users of surface and groundwater.

vi. Description of the possible existence of fractures or solution cavities in the geologic material and their effect on groundwater flow and land stability.

h. As a condition of approval, the operator shall accept responsibility for remediation or the permit may be revoked.

G. Financial Assurance. To assure site reclamation, the applicant shall submit a financial assurance that conforms to chapter 18.96.

H. Permit Review, Site Modification, Transfer of Permit, Cancellation and Termination.

1. The commission will review original permits 5 years from the date of issuance at a public hearing. The applicant will be responsible for the public hearing fees.

2. Site Modification. An operator may apply in writing for a modification or cancellation of a permit or for a change in the nonmetallic mining operation plan for a mining site. The application for permit or plan modification shall be acted on using the standards and procedures of Chapter 18.28. The application for a site modification shall be processed in the same manner as an original special exception application for a nonmetallic mining extraction permit.

3. Transfer of Permit. When one operator succeeds to the interest of another in an uncompleted site, the commission shall release the first operator of the responsibilities imposed by the permit only if:

a. Both operators are in compliance with the requirements and standards of this chapter.

b. The new operator assumes the responsibility of the former operator to complete the nonmetallic mining operation of the entire project site by a written, witnessed document.

c. Site enlargement. Any proposed enlargement shall be reviewed by the commission and shall be approved only if it meets all of the standards and procedures of Chapter 18.28.

d. The new operator shows proof of financial responsibility

4. An operator at any time may apply for a cancellation of a nonmetallic mining extraction permit he or she owns or leases. The request for the cancellation shall be submitted by the operator to the commission.

5. Failure to comply with this chapter automatically terminates the permit.

I. Inspections.

1. Upon issuance of a special exception permit for the purpose of mining, the operator is deemed to have consented to allow inspections by the commission or its approved agents. Such inspections shall be at reasonable times and with notice, if possible, their purpose being to determine compliance with the provisions of this subtitle.

2. Approved agents of the commission may inspect any required records of a mining operation to determine compliance with the provisions of this subtitle. All required records shall be made available to an approved agent within a reasonable time. Any public or private complaint against an operator may result in an inspection of the mining operation to determine the validity of the complaint.

J. Other Approvals.

1. Mine operator shall comply with town, county, state, and federal regulations and amendments thereof, including air and water quality standards.

2. Where other county approvals are necessary for the nonmetallic mining operation/activity those approvals will be part of the special exception permit.

a. An erosion control and storm water management plan meeting the requirements of Chapter 17.05.

b. Road agreements from the town or the county highway commission for the transportation haul route in conformance with standards and requirements set forth by the approving authority.

18.28.020 Application required for special exception permit (metallic mining).

A. Metallic extraction operations, including but not limited to subsurface mining, open-pit mining, quarries, and digs or excavations for other materials; and operations including washing, crushing or other processing or removal of mineral resources; and the erection of buildings and the installation of necessary machinery used in extraction or processing are special exceptions, as regulated by Chapter 18.21, and may be permitted in the A-3.

1. The application submitted for a special exception mining permit shall be accompanied by a mining plan, which shall include the following information:

a. An accurately surveyed map or plan on a scale of not less than 200 feet to the inch showing the location of the tract or tracts of land to be affected by the proposed operation, including:

i. Boundaries of the lands affected, including adjacent land;
ii. Topography and drainage area of the affected land;
iii. Location and names of all streams, roads, railroads, utility lines and pipelines on or immediately adjacent to the area;

iv. Location of all buildings within 1,000 feet of the outer perimeter of the area, present owners and occupations of such buildings, and purpose for which each building is used;

v. Names of owners of the parcel and adjacent property owners;

b. Cross-sections of the affected land at intervals of not more than 200 feet;

c. The results of test borings, including the location of subsurface water and the analysis of chemical properties of the mineral material and overburden;

d. A description of the mining and processing equipment to be used;

e. A map on a scale of not less than 200 feet to the inch showing the proposed location of the mine, waste dumps, tailing ponds, sediment basins, stockpiles and storage yards, roads, railroad lines, structures, and other temporary or permanent installations;

f. A series of maps or plans on a scale of not less than 200 feet to the inch, showing the proposed sequence of mining, direction of mining, depth of mining, expansion of waste dumps and tailing ponds, and other materials movement on an annual basis for the proposed life of the operation, or such time frame as designated by the commission;

g. A map or plan describing the control surface and ground waters, including natural drainages, water accumulations, mine water sources, mine water disposal, process plant water sources and disposal, and mine process plant water requirements;

h. A description of measures to be taken to assure compliance with applicable air and water quality standards;

i. A description of measures to be taken to control noise and vibrations from the operations;

j. A description of measures to be taken to screen the operation from view with earth banks, vegetative or other screening devices;

k. Proposed travel routes to be used to transport the mineral material from the mine to off-site processing plants or markets;

l. A description of the topsoil, including soil types, thickness, and plans for topsoil storage;

m. All underground mineral-extraction operations shall also submit a complete plan of all entries, working levels, as well as a description of the sloping and group support methods to be used;

n. Such other pertinent information as may be required to determine the nature of the operation and the effect on the surrounding area

2. The application submitted for a special exception mining permit shall be accompanied by a reclamation plan which shall include the following information:

- a. A map or plan and the description of the proposed reclamation, including final land use, final land shape, estimated final topography and the annual sequency of reclamation activity to be conducted;
- b. A description of the utility and capacity of the reclaimed land to support the proposed sequential use;
- c. A description of soil types, topsoil stripping, topsoil storage, topsoil replacement thickness and time sequence of replacement, and erosion prevention during storage and replacement;
- d. A map or plan and description of grading and backfilling sequences, final slope angles, highwall reduction, benching and terracing of slopes, slopes stabilization and erosion control;
- e. A map or plan and description of reclamation or removal of waste dumps, tailing ponds, sediment ponds, haulage roads, access roads, surface structures and related facilities;
- f. A map or plan and description of final surface drainage, water empoundments and artificial lakes on the affected property;
- g. A description of plant types, planting sequences, and maintenance or replacement of vegetative cover both during mining operations and upon completion of site reclamation;
- h. A plan for disposal of any harmful or toxic materials found in any formations penetrated by the mining operation, produced during the processing of materials on the affected land, and chemicals or materials used during the mining or processing operations;
- i. For underground mining operations, a description of methods to be used for filling and sealing all shafts, adits, inclines and other mine entries;
- j. For underground mining operations, a description of the stability of lands overlying the underground workings;
- k. The estimated cost of reclamation on a per-acre-of-total-project basis;
- l. Such other pertinent information as may be required to determine the nature of the reclamation of the operation and the effect upon the surrounding area.

18.28.025 Bond and insurance required.

A. After receipt and approval of the metallic mining permit application, the operator shall file with the commission a bond conditioned on faithful performance of all requirements of this chapter. The bond shall be furnished by a surety company licensed to do business in Wisconsin. With approval of the commission, the operator may deposit cash or other securities in lieu of bond

1. The commission shall review the applicant's estimated reclamation cost, mining plan and reclamation plan, and shall establish the length of the bonding period, which may be less than the permit period, and the amount of the bond necessary to cover the cost of reclaiming all areas disturbed by the mineral extraction operation during the bonding period, less that amount of bond that the operator has deposited with the appropriate state or federal agency as security for the particular mining operation. Prior to issuance of the permit, the operator shall deposit with the commission the established amount of the bond in such manner or form as required by the commission.

2. Any operator who obtains a mining permit from the commission for two or more project sites within this jurisdiction may elect, at the time the second or any subsequent site it approved, to post a single bond in lieu of separate bonds on each site, any single bond so posted shall be in an amount equal to the estimated cost of reclaiming all sites the operator has under each of his or her mining permits, less that amount deposited for the particular sites with the appropriate state or federal agencies. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds shall not be released until the new bond has been accepted by the commission.

3. At the termination of each bonding period, the commission shall review the bond amount on mining and reclamation progress, and shall either maintain the existing bond, return all or a portion of the existing bond, or request the operator to increase the amount of the bond.

4. The operator may file with the commission a request for release of bond at such time as the operator feels that all reclamation has been satisfactorily completed in accordance with the approved reclamation plan on any or all of the affected lands. Such request for release of bond shall include the name and address of the operator, the permit number, and a legal description of the area for which release of bond is requested.

5. Upon receipt of a request for release of bond, the commission shall:

- a. Cause inspection of the designated lands;
- b. Publish as class 2 notice the request for release of bond and specify a 30 day period for filing of complaints against its release;
- c. Hold a public hearing on any complaints against release of bond made within 30 days of publication of notice of request for release of bond, and make a determination on the validity of such complaints;
- d. Notify the operator by certified mail if reclamation is unsatisfactory, setting forth the reasons for denial of release of bond and the corrective actions necessary for release of bond;
- e. Release the appropriate amount of bond 30 days after publication of the notice of request for release of bond if reclamation is found to be satisfactory and all valid complaints have been satisfied.

6. Nothing in this section shall be construed to infringe upon the commission's authority to take appropriate actions on bonds, including forfeiture on all or part of the bond for cause.

B. The mining operator shall maintain a public liability insurance policy issued by an insurance company authorized to do business in the state of Wisconsin, affording personal injury and property damage protection for the term of the permit or permit renewal. The total amount of the insurance shall be determined by the commission, but not less than \$100,000. The commission may waive this provision upon finding that an operator is possessed with said insurance and will continue to be possessed with said insurance of ability to pay personal injury or property damage claims within the requirements of this chapter.

C. Each operator shall furnish a report to the commission for each project site every 12 months after issuance of the permit and within 30 days after cessation of all mining at the project site, which shall contain the following information:

1. The name and address of the operator, and the permit number;

2. A map or plan of the operation and a description of the quantity of land affected during the report period for mineral extraction, reclamation, waste and tailings disposal, surface structures, haulage roads, stockpiles, storage yards, and water containment, storage and treatment facilities;

3. A description of any actions taken to control both anticipated and unforeseen environmental conditions which occurred during the reporting period;

4. A description of any environmental monitoring activities carried out during the reporting period;

5. An estimate of the location and extent of land to be affected by the operation during the subsequent reporting period;

6. Such other pertinent information and maps as may be required to evaluate the extent of mining and reclamation, if any, accomplished during the permit year.

D. Each operator shall submit a final reclamation report to the commission within one year after cessation of operations and prior to final release of bond which shall contain the following information:

1. Name and address of the operator and permit number;

2. A map or plan showing the final contours and slope angles of the affected land and the locations of any remaining structures and roads;

3. A description of all final reclamation activities leading to completion of the approved reclamation plan, including: topsoil disposition, topsoil replacement and thickness, revegetation practices and plant types, disposition of waste dumps, tailing ponds, sediment ponds, surface structures, haulage roads and access roads, grading practices and slope angles, surface water drainage and sediment control, size, depth and capacity of artificial lakes or ponds, and planned sequential use of the land;

4. Such other pertinent information and maps as may be required to evaluate the completion of reclamation and the advisability of returning the operator's bond.

18.28.030 General operating requirements.

No metallic mining operation shall take place as a special exception within this district, unless the same shall comply with the following requirements:

A. Property Protection.

1. A buffer zone of at least 200 feet along the property lines shall be provided where a mining operation adjoins a district other than an A-1, A-2, A-3 or I-1 district.

2. No portion of a mineral extraction operation shall be located closer than 100 feet to any street or highway.

3. The commission may require each mining operation to be enclosed by a wire fence of chain-link construction, with a minimum height of 6 feet when required. Such fence shall be maintained at all times.

4. Where practical, an earth bank or vegetative screen shall be erected and maintained to screen the mining operation from view from any residential district located within 1/2 mile of the operation. The commission shall determine the practicality and necessity of aesthetic screening in each individual mining operation.

B. Environmental Protection.

1. All mining operations shall conform to applicable air-quality standards.

2. All mining operations shall conform to applicable water-quality standards.

C. Community Protection.

1. Any blasting operations and all machinery and equipment used at a mining operation shall be constructed, maintained and operated in such a manner as to minimize dust, noise and vibrations. Noise, vibration and dust levels at the property lines shall be within the levels established by the commission.

2. All transportation routes over which mineral materials are moved from the mineral extraction operation to market or for further processing shall avoid residential areas whenever possible, and shall be approved by the commission.

3. Any mining operation may be restricted to daylight operating hours if a conflict arises with other land uses.

18.28.035 Metallic mining permits.

A. An operator at any time may apply for amendment or cancellation of a mining permit, or for a change in the mining and reclamation plan for any project site which he owns or leases. The application for the amendment, cancellation or change shall be submitted by the operator to the commission, and shall identify the tract of land to be added to or removed from the permitted project site or to be affected by a change in the mining and reclamation plan. The application for an increase or decrease in the area of a project site, or for a change in the mining and reclamation plan, shall be processed in the same manner as an original application for a mining permit. If the application is to cancel any or all of the unmined part of a project site, the commission shall ascertain, by means of inspection, that no mining has occurred on the land. After so finding, the commission shall order release of the bond or the security posted on the land being removed from the permitted project site, and cancel or amend the operator's written authorization to conduct mining on the project site. No land where mining has occurred may be removed from a permitted project site, or released from bond or security under this section. Changes in either the mining plan or reclamation plan must be made upon mutual consent of the operator and the commission. If the parties fail to agree, or the change aggrieves any other interested party, an appeal may be taken according to the provisions of this chapter.

B. A valid mining permit may be renewed at the end of the permit term for successive 5 year terms so long as the operator continues to produce mining materials from the property, conforms to the approved mining and reclamation plan and conforms with the provisions of this chapter. Any operator who fails to produce mining materials from the affected property in any 12 month period shall be subject to permit cancellation unless such a delay is justified by:

1. The operator appearing voluntarily before the commission prior to expiration of the twelve-month limit to show just causes for the production delay; or

2. The operator appearing at the request of the commission within 30 days after the 12 month limit, and prior to any permit cancellation to show just cause for permit continuance.

C. Any operator whose permit has been cancelled by the commission after appearing before the commission may appeal the decision to a court of competent jurisdiction.

D. No operator shall assign, sell, lease or transfer in any manner his or her rights granted under a valid mining permit until the succeeding operator has complied with all the requirements of this chapter, agreed to meet all of the requirements of the existing operator's mining and reclamation plan, and filed a performance bond of like amount with the commission. Upon compliance with the requirements of this section, the commission shall release the first operator from duties imposed upon the first operator, return the first operator's bond, and transfer the permit to the successor operator.

18.28.040 Inspections.

A. Upon issuance of a special exception permit for the purpose of mining, the operator is deemed to have consented to allow inspections by the commission or its approved agents. Such inspections shall be at reasonable times and with notice, if possible, their purpose being to determine compliance with the provisions of this subtitle.

B. Approved agents of the commission may inspect any required records of a mining operation to determine compliance with the provisions of this subtitle. Any public or private complaint against an operator may result in an inspection of the mining operation to determine the validity of the complaint.

18.28.045 Existing mining operations.

Any operator producing mining materials from a mining operation at the time of enactment of this subtitle shall be issued a temporary operating permit valid for a 2 year period. The period of the temporary operating permit is established to allow the operator time in which to submit a permit application as required under this chapter. Failure to apply for and receive a valid permit by the end of the temporary permit period shall result in revocation of the temporary permit and cessation of the mining operation until such time as a valid operating permit shall be issued.

18.28.050 Penalties.

A. Whenever the commission finds a violation of this subtitle at a mining operation within the county, including unapproved deviation from the mining or reclamation plan, it shall be recorded, and the commission shall send the operator, by certified mail, an order specifying the nature of the violation, time of violation, and corrective steps necessary to achieve compliance with this chapter.

B. The commission shall cancel the permit held by a mining operator who fails to comply with the order within 30 days after the order is served, unless the operator named therein, within ten days after notice, requests in writing a hearing before the commission. Failure to show just cause for the continued violation and lack of compliance with the order shall result in permit cancellation and immediate cessation of all mining activities on the affected property.

C. Any person, firm, corporation, operator, or any other group of persons convicted in a court of law of engaging in a mining operation without a valid permit or with a cancelled permit shall be required to forfeit not less than \$100 nor more than \$10,000 per day for each and every day the operation is found to be in violation of this chapter.

D. Compliance herewith may also be enforced by injunctive order at the discretion of the county. Nothing in this chapter shall be construed to infringe upon the commission's authority to withhold permits for cause or to order cessation of all mining activity for cause.

CHAPTER 18.30

MODIFICATIONS, EXCEPTIONS AND SPECIAL REQUIREMENTS

Sections:

- 18.30.001 Purpose.
- 18.30.010 Yard regulations.
- 18.30.020 Area requirements.
- 18.30.030 Height regulations.
- 18.30.040 Fences.
- 18.30.050 Essential services regulations.
- 18.30.060 Amortization of nonconforming junkyards, salvage yards and motor vehicle repair shops
- 18.30.070 Private recreational facilities.
- 18.30.080 Pre-occupied single family dwellings and dwellings that are less than 24 feet in width.
- 18.30.090 Recreational vehicles and camping.
- 18.30.100 Exemptions for accessory structures.
- 18.30.110 Transfer of development rights.
- 18.30.120 Accessory structure in the absence of a principal use.
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- 18.30.190 Housing for the elderly and handicapped.
- 18.30.200 Screening for the commercial and industrial districts.
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- 18.30.220 Recycling drop-off stations, resource recovery facilities, and resource recovery processing facilities.
- 18.30.230 Accessory dwelling units.
- 18.30.240 Noncommercial raising of animals and birds.
- 18.30.250 Medical waste handling, storage and disposal facilities.
- 18.30.260 Wind energy systems.
- 18.30.270 Special events.
- 18.30.280 Temporary uses.
- 18.30.290 Tourist Rooming House.
- 18.30.300 Solar Energy Systems.

18.30.001 Purpose.

The purpose of this chapter is to enumerate those special instances where the terms of this subtitle may be waived or modified without variance or special exception permit, or where special requirements are placed upon a use, property or structure-

18.30.010 Yard regulations.

Measurements shall be taken from the nearest point of a building to the lot line in question, subject to the following:

- A. Cornices, canopies and eaves may extend into the required front yard a distance not to exceed 4 feet.
- B. Open fire-escapes may extend into the required front yard a distance not to exceed 4 feet.
- C. A landing place or uncovered porch may extend into the required front yard a distance of 8 feet provided the floor is not higher than 3 feet above grade. An open railing of no higher than 4 feet may be placed around such structure.
- D. Heat pumps, air conditioning units or similar energy facilities may extend into the required front yard a distance not to exceed 4 feet.
- E. Solar collection units may extend into the required front yard a distance not to exceed 6 feet.
- F. The above architectural features may also extend into any side or rear yard to the same extent; steps or uncovered porches may not extend into the side yard or the shoreland setback distance from the ordinary high water mark of navigable water as regulated by Eau Claire County Title 18
- G. On double-frontage lots, the required front yard shall be provided on both street sides.
- H. In subdivided areas within residential districts, whenever block frontage is more than half developed with residences having less setback than required, the setback shall be determined by the following rule: the front setback line of a proposed structure shall be the line between principal structures on adjacent lots. If within the block no principal structure exists to one side of the proposed structure, a structure is assumed to exist at the required setback lines.

18.30.020 Area requirements.

No lot shall be so reduced that the area of the lot or the dimensions of a required open space shall be smaller than herein prescribed.

18.30.030 Height regulations.

The district height limitations stipulated elsewhere in this subtitle may be exceeded as follows:

- A. Uninhabited architectural projections such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys shall not exceed their height from the nearest lot line.
- B. Windmills shall not exceed 1/2 their height from the nearest lot line.
- C. Special structures, such as elevators, radio and television receiving antennas, cooling towers and smokestacks may be extended 100% of the district limitations.
- D. Communication structures, such as radio and television transmission towers or microwave relay towers shall meet the following requirements:

1. Structures that use guywires for support shall meet the district setback requirements from the ground anchors.
2. Freestanding structures shall meet the district setback requirements plus 1/3 the height of the tower.
 - B. Agricultural structures such as silos, barns, and grain storage buildings, essential services, utilities, water towers, electrical power and communication transmission lines are exempt from the height limitations of this subtitle.
 - C. Structures associated with nonmetallic mining extraction or related mechanical appurtenances are exempt from the height limitations of this subtitle.

18.30.040 Fences.

- A. No front yard requirements shall apply to open fences such as chain-link fences.
- B. Fences in residential districts shall not exceed 6 feet in height on the side and rear yards, nor exceed 42 inches in height in the front yard except as indicated in 18.30.070 A. and B.
- C. Fences are exempt from side and rear yard setback requirements including post and wire agriculture fences in the shoreland-floodplain districts.
- D. Fences in the shoreland-floodplain district are allowed within 75 feet of the normal highwater mark if they are open such as agriculture fences.
- E. Fences shall have the finished side facing the adjoining property.
- F. Fences on the property line of a through lot abutting a divided highway consisting of four or more lanes with no direct access of said road will be allowed along the highway right-of-way and shall be no more than six feet in height.
- G. All fences shall be constructed of appropriate materials manufactured for such purpose and shall be maintained in a condition of good repair.

18.30.050 Essential services regulations.

- A. Since essential services may affect urbanizing area of the town, the location of all such essential services in any zoning district shall be filed with the commission prior to actual construction or condemnation action.
- B. Applications for essential services not located within highway and street right-of-ways or preempted by Wis. Stat. ch. 196, where a certificate of convenience and necessity has been granted by the Public Service Commission shall require a special exception permit as regulated in Chapter 18.21, and shall be governed by the following procedures:
 1. The applicant shall file with the commission such maps indicating location, alignment and type of service proposed, together with the status of any applications made or required to be made to any state or federal agency.
 2. The maps and accompanying data shall be submitted to the commission for review and recommendation regarding their relationship to urban growth, land use, highways, and recreation area policies and plans.
 3. Upon receipt of the above report, the commission shall consider the maps and accompanying data and shall indicate to the owner its approval or recommend modifications considered desirable to carry out the policy of this subtitle.
 4. In the case of pipelines, the commission may require modifications to protect existing agricultural drainage systems, tiles or ditches, whether public or private. The commission may also require the applicant to modify the depth or routing of the

pipeline to accommodate future agricultural drainage systems, tiles or ditches, whether public or private, if such information is provided by the landowner to the applicant within 60 days of the start of construction.

5. Maintenance structures serving local distribution lines are exempt from this section if they meet the following conditions:

- a. Structures of 40 sq. feet or less can be placed in the front yard if not in a vision triangle or impair the vision at a driveway intersection.
- b. Structures greater than 40 sq. feet if placed at the front yard setback or greater.
- c. All structures shall be screened and be compatible with surrounding land uses. Compatibility shall be determined by the commission.

18.30.060 Amortization

Amortization of nonconforming junkyards, salvage yards and motor vehicle repair shops.

A. Intent. this section concerns establishment of rules for the continuation of described nonconforming uses in areas subject to regulation of this subtitle. It is intended that it be applied so as to lessen the degree of inconsistency and incompatibility between such uses and those which have been commenced or continued conformity with this subtitle.

B. Permit Required. No junkyard, salvage yard or property where two or more licensed or unlicensed inoperable motor vehicles are kept or stored outside of a structure may continue to be operated as a preexisting nonconforming use for more than three years after the effective date of the ordinance in this chapter without acquisition of a special exception permit from the commission.

C. Standards for Granting of Permits. The granting of permits under this chapter shall be subject to the compliance of both the owner of the land and operator of the business situated thereupon, with the following requirements:

1. The open storage area shall be completely screened from all view from streets and highways and each adjoining parcel of land. Screening materials shall be approved of by the commission, whose decision shall be based upon durability, aesthetic appropriateness and projected usable life;
2. Adequate security measures shall be implemented to prevent access by children or unauthorized persons;
3. The use shall be limited to and not exceed that degree, type and area subjected to the use at the time when the use first became nonconforming;
4. Such other requirements as the commission deems to be necessary and appropriate in the interest of the public safety, health and welfare.

- D. Commission to Establish Degree and Type of Nonconforming Use. The commission shall establish, for the purpose of board consideration, the degree and type or types of nonconforming uses and the area of land subjected to same at the time of initial nonconformance. The nonconforming use of the premises shall be limited in accord with and shall not exceed the commission's findings.
- E. Special exceptions. Special exception permits may be granted by the board upon the standards of 18.30.020. If granted, the commission shall do a biennial review of the permit or when a complaint is reported to the commission.
- F. Strict Compliance Required. All nonconforming uses subject to this chapter shall be maintained in strict conformity herewith, and with the conditions of the special use permit. Failure of the owner or operator to so comply shall constitute cause for revocation of the permit and/or for prosecution under 18.30.060 H.
- G. Open Storage Only Within Screened Area. Open storage shall be allowed only within the approved screen area. It shall be the responsibility of the owner and/or operator to, at all times, see to it that all storage materials are promptly placed within the screened area. Failure to do so shall constitute cause for prosecution under 18.30.060.
- H. Relief for Violations. The owner of the real estate and the operator of the nonconforming use shall be jointly and severally liable for each violation of this chapter and the terms of each special use permit used hereunder. Each day of occurrence of a particular violation shall constitute a separate offense. Forfeitures of from \$50 to \$500 may be assessed for each violation, in addition to pursuit of injunctive relief.

18.30.070 Private recreational facilities.

The following rules and regulations shall apply to private recreational facilities allowed as accessory uses and structures in the A-P, A-1, A-2, A-R, A-3, R-H, and R-H districts:

- A. All private swimming pools, with a depth capacity of 2 feet or more, provided that:
 - 1. The pool, pump and filter are not located closer than 10 feet to any property line or 50 feet from a street right-of-way;
 - 2. The pool is located per 8.12.150 A. 1. (setbacks from private onsite sanitary systems) and no electrical power lines are located over the pump, pool or filter;
 - 3. A wall or fence of a height of 4 feet or more is installed around the pool or yard at time of or before pool completion;
 - 4. In the A-P, A-1, A-2 and A-3 Districts, the fencing requirements are recommended, not mandatory.
 - 5. All swimming pools in the residential zoning districts shall meet the requirements of 18.30.070 A. 3. within 60 days of adoption of this subsection.
- B. Private tennis courts, provided that:
 - 1. No part of the tennis court is located closer than 20 feet to a property line;
 - 2. If lights are installed for night play, they must be turned inward to minimize glare on the road or adjacent property;
 - 3. The playing area shall be properly fenced to prevent misguided balls from

going out onto roads or adjacent property.

C. Private race tracks. Private race tracks are special exceptions which must meet the following criteria:

1. The property must be owner occupied.
2. The track cannot be closer than 500 feet from an adjoining residence or barn, within 200 feet of a property line, or within 300 feet of a stream, river, lake, pond, or flowage.

3. The track cannot be lighted and can only be operated between 9 a.m. and 8 p.m. and not on Sundays.

4. The track shall be restored to the land's original landscape or contours and condition if the track is not operated for one year. A surety bond or line of credit shall be acquired to insure restoration. The bond or line of credit shall name the town in which the track is located as a holder of the bond or line of credit.

5. At the property line, there shall be no excessive noise or dust.

D. Private Ice Rinks, provided that:

1. No part of the ice rink/structure is located closer than 20 feet to a property line;
2. If lights are installed for night play, they must be turned inward to minimize glare on the road or adjacent property;
3. The playing area shall be properly walled or fenced to prevent misguided pucks/balls from going out onto roads or adjacent property;
4. The rink shall not be permanent. Rinks must be set up and removed on an annual basis and follow the guidelines below:

- a. The ice rink shall not be erected prior to November 1.
- b. The ice rink shall be taken down by April 30

18.30.080 Pre-occupied single family dwellings and dwellings that are less than 24 feet in width.

Single family dwellings that are less than the minimum standards may be allowed if they meet the following conditions:

A. Single family dwellings that have been occupied prior to placement on a lot shall meet the following conditions:

1. The dwelling shall have been constructed in 1990 or later or be approved as a special exception permit.
2. The commission shall review the site and the dwelling to insure the dwelling is compatible with adjacent dwellings.

3. The commission can recommend repairs and alterations to a dwelling to meet minimum standards
4. If a neighbor or the owner objects to the placement of the dwelling or the

conditions of approval, the board shall review the dwelling as a special exception permit.

B. Single family dwellings in the A-P, A-1, A-2, A-3, and the F-2 Districts which do not meet the standard for width, roof slope or eaves or a combination of the standards are allowed as permitted principal structures. In all other districts or when adjacent to or within a subdivision, single family dwellings must meet the standards for width, roof slope, and eaves. In all cases, single family dwellings must meet the UDC standard for foundations.

C. The temporary placement of a single-family dwelling which is less than 24 feet in width is allowed for three years or less by contract with the commission including in or adjacent to subdivisions. A foundation is not required but it will need to be tied-down.

D. Manufactured/mobile homes that were placed prior to January 1, 1995, and issued either a land use permit or special exception permit may be replaced without meeting the zoning code standards for a single family dwelling if the building footprint of the existing home is not made wider or longer and a foundation meeting the uniform dwelling code standards is placed. If the new dwelling increases the building footprint, all standards for single family dwellings must be met.

18.30.090 Recreational vehicles and camping.

Recreational vehicles and camping shall be allowed in the following zoning districts: A-P, A-1; A-2; A-3; A-R, RH; F-1; and F-2. No camping unit shall be used as a permanent residence or as an accessory structure.

A. Any camping unit located outside of an approved campground shall meet the following conditions:

1. Require a land use permit from the commission prior to the unit being

placed on an undeveloped parcel for temporary or intermittent dwelling purposes if placed more than 15 days in a calendar year with a maximum aggregate time period of 90 days in a calendar year. A land use permit shall not be required for the temporary use of a camping unit outside of an approved campground for a duration of less than 15 days for developed or undeveloped parcels. Placement of camping units on a developed parcel for more than 15 days for any other purpose, other than storage under Sub. 6 below, shall not be permitted.

2. No more than one camping unit shall be located on any parcel.
3. Meet all dimensional and setback requirements of the district in which it is

located.

4. If placed more than 15 days in a calendar year, provided with a pit privy or

other waste disposal system meeting the requirements of the Eau Claire County Sanitary Code Chapter 8.12 and the State of Wisconsin.

5. Obtain a property address from the county.
6. Remain mobile, meaning the unit is not dismantled or wheels removed in

any way to render the unit immobile.

7. The owner of said camping unit shall sign a removal affidavit which stipulates the prompt removal of the camping unit from the undeveloped property following the conclusion of the 90-day period. This provision does not apply to the temporary or seasonal storage of an unoccupied camping unit on a developed parcel with a principal building provided that the camping unit:

- a. is stored within a principal or accessory structure or in the rear or side yard areas of the parcel provided setback standards are met,
- b. is not connected to any utility including: electric, water, sewer, LP or natural gas, and
- c. is owned by the owner of the developed parcel.

18.30.100 Exemptions for accessory structures.

Certain accessory structures shall be exempt from conditions of 18.31.040, provided that all of the following conditions are satisfied:

- A. Structure shall be limited to 100 square feet;
- B. Structure height shall be limited to 6 feet;
- C. Structure location must meet all setbacks for the district in which it is located;
- D. Use must be compatible to district as a permitted accessory use;
- E. There shall be no telephone, water or sewer service to the structure;

18.30.110 Transfer of development rights.

In the A-P and A-1 district, it is possible to transfer building site eligibility from one quarter-quarter section to another quarter-quarter section in accordance with the following requirements:

- A. The right of transfer lay only with property owned by one landowner and the transfer of more than one lot has to be in conjunction with a planned development.
- B. The transfer has to be to an A-R district and cannot reduce the remaining property below 35 acres.
- C. Existing residential development shall be deducted from the total number of transfer rights allowed.
- D. Once a transfer has taken place, the quarter-quarter section giving up development rights shall be ineligible for development.

18.30.120 Accessory structure in the absence of a principal use.

The placement of a private garage in the absence of a principal residence is allowed under the following conditions:

- A. A residence will be constructed on the property within 2 years.
- B. The use of the structure is permitted as an accessory use such as storage of lumber and supplies for the construction of the residence, motor vehicles, or maintenance machinery for the lot.
- C. Sanitary and building permits have been issued.

18.30.130 Community living arrangements.

The placement of group homes or community living arrangements shall

be provided for as described below:

- A. Density and spacing.
 - 1. Community living arrangements established after March 28, 1978 must be at least 2,500 feet from any existing community living arrangements.
 - 2. Total capacity of community living arrangement cannot exceed 25 or 1% of the community's population.
- B. In all residential districts, foster homes for 4 or fewer children are permitted without meeting density or spacing requirements.
- C. Community living arrangements licensed for 8 or fewer persons are permitted in all residential districts, and in the A-2 and F-2 Districts.
- D. Community living arrangements licensed for 16 or more persons are special exceptions in all residential districts.

18.30.140 Family day care homes.

The placement of family day care homes in the RH, A-2, A-3, A-R and F-2 Districts are allowed as permitted uses where licensed by the Department of Health and Family Services and where care is provided for not more than 8 persons. Homes with more than 8 persons shall require a special exception permit.

18.30.150 Bed and breakfast establishments.

Bed and breakfast establishments are special exceptions in the agricultural, residential and F-2 districts and shall meet the following requirements:

- A. Site plan showing location of home, garage and parking for guest's vehicles. Plan should indicate distance to nearby homes.
- B. One 6 square foot sign showing only name of homeowner and address is allowed.

18.30.180 Truck bodies and semi-trailers as accessory structures.

- A. Truck bodies and semi-trailers are not allowed as accessory structures in the residential, C-2, and F-1 districts; in the agriculture and F-2 districts, they are special exceptions; and in the industrial districts and the C-3 district, they are allowed as a permitted accessory structure when properly screened from adjacent properties. When approved, the chassis shall be removed and the sides either painted or sided except in the industrial or C-3 districts where screening is required.
- B. Mobile/manufactured homes are not allowed as accessory structures in any district except where allowed as a residential structure and are used only for habitation.

18.30.190 Housing for the Elderly and Handicapped:

A second housing unit for the elderly and handicapped is allowed in the RH, F-2, A-P, A-1, A-2, and A-3 districts as a special exception within the following criteria:

- A. The minimum lot size is 2 acres.

- B. The occupant(s) must be related to the owner by blood, marriage, or adoption, and must be either of retirement age (62) or unable to live independently because of disability. An owner meeting the requirements of age or disability is allowed to place a second housing unit if the occupant is related by blood, marriage, or adoption.
- C. The occupant is a permanent resident of the property.
- D. The unit must remain capable of being removed, cannot exceed three bedrooms, and must be compatible with existing development in the area.
- E. The property must be owner occupied.
- F. The permit is to be reviewed every 2 years by the commission.

18.30.200 Screening for the commercial and industrial districts.

Any property being developed, or expanded in a commercial or industrial district shall have effective solid screening along all lot lines adjoining any residential district except where waived by the commission. All outside storage areas shall be effectively screened from public road right-of-way.

A. Screening Requirements:

- 1. Front yard screening shall be made of natural screening, or of manmade materials 5 feet in height.
- 2. Side and rear yard screening, or of manmade materials 6 feet in height.
- 3. Natural screening shall not be less than 3 feet in height at time of planting.
- 4. All fences shall be constructed of appropriate materials manufactured for such purpose and shall be maintained in a condition of good repair.

B. Waiver Conditions:

- 1. A reasonable probability that the adjoining properties will be rezoned for commercial or industrial use.
- 2. There is an existing natural topographic or vegetative screen.
- 3. If written agreements are arrived at with the affected property owners.

18.30.210 Adult book store, adult cabaret or adult motion picture theater.

A. Findings and purpose. The town board finds that, due to their nature, the existence of adult book stores, adult cabarets and adult motion picture theaters has serious objectionable operational characteristics, such as an effect upon property values, local commerce and crime. Due to the deleterious combined effect on adjacent areas when such uses are concentrated, they should not be permitted to be located in close proximity to each other. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. Such regulations are contained in these standards. These standards are designed to protect the county's retail trade, maintain property values, prevent crime, and, in general, protect and

preserve the quality of the county's neighborhoods, commercial districts and the quality of urban life. (If created within town zoning districts).

B. Standards. An adult book store, adult cabaret or adult motion picture theater is permitted in the C-2 district, provided that:

1. Such use shall not be located within 100 feet of any residential district.
2. Such use shall not be located within 750 feet of a public or private school, church, nursery or day care center.
3. Such use shall not be located within 1,000 feet of another adult book store or adult motion picture theater.
4. The distances provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the lot upon which the proposed use is to be located, to the nearest point of the residential zoning district boundary line.
5. Violation of these provisions is declared to be a public nuisance per se. 6. Nothing in this subsection is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any county ordinance or statute of the state of Wisconsin regarding public nuisances, sexual conduct, lewdness or obscene or harmful matter or the exhibition or public display thereof.

18.30.220 Recycling Drop-off stations, resource recovery facilities, and resource recovery processing facilities.

Recycling drop-off stations, resource recovery facilities, and resource recovery processing facilities shall meet the following requirements:

- A. Recycling drop-off stations are permitted uses in the commercial and industrial districts and special exceptions in all other districts. A recycling drop-off station must meet the following requirements:
 1. The area for the station shall not exceed 1500 sq. feet. It may be an accessory use on a property.
 2. The site shall be screened from residential uses by either a fence of 6 feet in height or by natural vegetation. The site cannot be closer than 100 feet from a residential use. There shall be parking for at least two vehicles and adequate space for the vehicles to turn around for exiting.
 3. All driveways and traveled portions on the site shall be of dust free material.
 4. There shall be no outside storage of materials on the site and the station must be attended on a minimum of a weekly basis.
- B. Resource recovery facilities are permitted in the industrial districts and special exception special exceptions in the C-3 districts. A resource recovery facility must meet the following requirements:

1. The facility shall not be sited within 150 feet of a residential district or use.
2. All collection, processing, and storage shall take place within a building. No power driven equipment in the excess of 15 horse power is allowed for the processing of recyclables.
3. Noise shall be limited to 60 decibels at the property line utilizing an hourly average in the C-3 district.
4. All driveways and traveled areas must be made of dust free materials. All vehicles waiting to unload must be located on the property.
5. No dust, fumes, smoke, or vibration above ambient levels at the property line in the C-3 district.
6. Within 250 feet of a residential district, hours of operation are limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday.
7. Access must be from a collector or arterial street and must be gated after business hours.
8. The facility must meet all state, federal, and local laws and regulations.

C. Resource recovery processing facilities are special exceptions in the industrial districts. They must meet the following criteria:

1. The facility shall not be sited within 250 feet of a residential district or 150 feet of a residential use.
2. All outside storage and processing or recyclables must be behind a site obscuring fenced area equal to the height of the machinery or 8 feet whichever is greater. All wind born materials shall be collected daily.
3. All driveways and traveled areas shall be of dust free materials. All vehicles waiting to unload must be located on the property.
4. Within 500 feet of a residential district, hours of operation shall be limited to 7:00 a.m. to 7:00 p.m. and noise levels shall be limited to 70 decibels at the property line.
5. Access must be from a collector or arterial street and must be gated at the end of business hour.
6. The facility must meet all state, federal, and local laws and regulations.

18.30.230 Accessory dwelling units.

Within the A-2, A-3, RH and the F-2 districts, accessory dwelling units are allowed under the following criteria:

A. The area of the accessory dwelling unit is no greater than one half the square footage of the principal dwelling unit or exceed 1,000 square feet.

B. The unit shall not be rented or leased.

- C. The unit shall be constructed and sided to be similar to the principal residence.
- D. The unit shall be occupied for no more than two months. One family or 3 unrelated guests.
- E. The owner of the parcel shall occupy the principal dwelling on the property.
- F. The accessory dwelling unit shall be separated by 100 feet from adjacent residences.
- G. A deed restriction shall be placed on the property that the accessory dwelling unit can not be separated from the principal dwelling.

18.30.240 Noncommercial raising of animals and birds.

- A. The raising of household pets are exempt from this section.
- B. The noncommercial raising of animals and poultry are allowed in the RH district with the following conditions:
 - 1. The minimum lot size shall be 2 acres.
 - 2. One acre of pasture or open space shall be required per animal unit.
 - 3.
- C. Pigeons are allowed as accessory uses in the agricultural districts and as special exceptions in the residential districts. Pigeons are defined as racing pigeons, fancy pigeons and sporting pigeons. All sites shall meet the following conditions:
 - 1. All premises on which pigeons are kept and maintained shall be kept clean and free from filth, garbage and such substances which attract rodents at all times.
 - 2. All pigeons shall be fed within the confines of the aviary in which the pigeons are housed.
 - 3. All feed or food stored for the use of the pigeons shall be kept in rodent-proof containers.
 - 4. Pigeons shall be permitted to fly only when under control of the licensee or a representative of the licensee.
 - 5. All aviaries shall be completely enclosed with wire netting or equivalent material that will prevent pigeons from escaping its confines.
 - 6. The aviaries shall be sided similar to the principal structure on the property.
 - 7. All aviaries housing pigeons shall be elevated a minimum of 6 inches and a maximum of 12 inches above grade to insure a free-way beneath the aviary; further, the aviary shall rest upon and be anchored to a foundation or piers made of concrete or other suitable foundation material. No aviary shall exceed 12 feet in height.
 - 8. There shall be a principal use and structure on the property which conforms to the zoning district in which the property lies.
 - 9. All pigeons shall be banded and registered.

18.30.250 Medical waste handling, storage and disposal facilities.

A. These facilities shall be special exceptions in the C-3 district. A prerequisite and continuing requirement for these facilities shall be complete and continuous compliance with state and federal codes and regulations as well as continuous permit or licensing currency. Violations of the terms and conditions of this permit, federal or state laws, codes or regulations may be considered cause for revocation of the special exception permit.

B. All transfer of medical wastes shall be carried out within an enclosed and secured dock used exclusively for that purpose. All of the facility shall be fenced in with a security fence. Low intensity security lighting shall be provided. The lighting shall be shielded to keep the light escaping the property in any direction as low as possible.

C. Conditions may be placed upon these uses regarding hours of operation, setbacks, screening, emissions of odor, noise, or any other reasonable restriction that promotes the public health, safety and general welfare.

D. Medical wastes covered by this section shall include all those materials listed as medical wastes by the state and federal codes or regulations as they are written or exist now or as amended in the future.

18.30.260 Wind Energy Systems

Purposes. This section provides the standards and procedures to issue a special exception permit for a Wind Energy Conversion System.

DEFINITIONS

Ampacity: Means the current carrying capacity of conductors or equipment expressed in Amperes.

Ampere: The basic unit measuring the quantity of electricity.

Anemometer: A device for measuring the speed and direction of the wind.

Applicant: Means the person, firm, corporation, company, limited liability corporation or other entity which applies for approval under this ordinance, as well as the applicant's successor(s), assign(s) and/or transferee(s) as to any approved WECS or testing facility. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the WECS or testing facility. The duties and obligations regarding any approved WECS or testing facility shall be with the owner of the WECS or testing facility, and jointly and severally with the owner and operator or lessee of the WECS or testing facility. Also known as owner or operator.

Aerodynamic Noise: Means a noise that is caused by the flow of air over and past the blades of a WECU.

Air Pressure Pulses: Air pressure produced from wind turbine blades passing the wind turbine tower.

Ambient Noise: Means intermittent noise events such as from aircraft flying over, dogs barking, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road are all part of the ambient noise environment, but would not be considered part of the background noise unless they were present for at least 90% of the time.

Background Noise: Sounds that would normally be present at least 90% of the time. Also known as the lull in the ambient noise environment.

Blade Glint: Means the intermittent reflection of the sun off the surface of the blades of a single or multiple WECS.

Board: Means the Town Board for the Town of Lincoln, Eau Claire County, Wisconsin.

Broadband Noise: Means the “swishing” or “whooshing” sound emitted as a function of a WECS(s) operation.

Employee: Means any and all Persons, including but not limited to “operators” who work in or at, or render any services directly related to operation of Wind Energy Conversion Systems.

FAA: Means Federal Aviation Administration.

Good Utilities Practice: Means any of the practices, methods and acts with respect to the safe operation of the Wind Energy Conversion System (WECS) engaged in or approved by a significant portion of the electric utility industry and, in particular, those portions of the industry with experience in the construction, operation, and maintenance of wind turbines during the relevant period; or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the region.

High Voltage Electrical Termination: Means connecting of conductors to a device or system where the voltage exceeds 600 volts.

Hub Height: Means the distance to the center of the wind turbine hub as measured from ground level.

Ice Throw: Means accumulated frozen moisture or ice buildup on the rotor and/or blades of a WECU that is or can be thrown during normal spinning or rotation.

Impermissible Interference: Means the blockage of wind from a wind energy conversion unit or system for which a permit has been granted under this ordinance during a use period if such blockage is by any structure or vegetation on property, an owner of which was notified in advance by certified mail or delivered by hand of any property which the applicant proposed to be limited by the permit. Impermissible interference does not

include:

1. Blockage by a narrow protrusion, including but not limited to a pole or wire, which does not substantially block the wind from a wind energy conversion unit or system.
2. Blockage by any structure constructed, under construction or for which a building permit has been applied for before the date the last notice was mailed or delivered.
3. Blockage by any vegetation planted before the date the last notice was mailed or delivered.

Inoperable: A WECU shall be determined inoperable if it has not generated power within the preceding two calendar quarters equal to at least 60% of the expected production.

Large Wind Energy Conversion System (LWECS): A wind energy system that has a total installed nameplate capacity of more than 300 kilowatts including wind energy conversion systems greater than 100 megawatts and that consists of individual wind turbines that have an installed nameplate capacity of more than 100 kilowatts.

Licensee: Means the applicant and/or successor who has received a permit under this ordinance.

Livestock Facility: Means a confinement area designed specifically for raising, controlling, feeding, and providing care for livestock. This may include but is not limited to: dairy barns, pastures, feedlots, free stall barns, calf hutches, horse barns, veal barns, feed storage areas, brooder and laying barns, farrowing and finishing barns, veterinary care.

Low Frequency Noise: Means an ongoing debilitation sound emitted during periods of turbulence as the blades are buffeted by changing winds that can cause structural vibration.

Measurement Point: (MP): Means the location where sound and/or vibration measurements are taken such that no significant obstruction blocks sound and vibration from the site.

Mechanical Noise: Means sound produced as a byproduct of the operation of the mechanical components of a WECU(s). This is also known as “tonal noise.” Tonal noises are distinct and tend to be more noticeable at the same relative loudness of other types of noises.

Meteorological Tower: Means a tower used for the measurement of wind speed and direction, also known as MET tower or wind test tower.

NFPA: Means the National Fire Protection Association.

Nacelle: Means the enclosure located at the top of a WECU tower that houses the gearbox, generator and other equipment.

Noise: Means any unwanted sound.

Non-Participating Property Line: Means a continuous line surrounding all contiguous adjacent parcels of property owned by a single individual, company, corporation, partnership or other entity not part of a proposed Wind Energy Conversion System.

Operator: Means the person who is designated on the license application to be the person in charge of daily operation of the premises and who is to be the Wind Energy Conversion System contact person for the Town.

Ownership Property Line: Means a continuous line surrounding all contiguous adjacent parcels of property owned by a single individual, company, corporation, partnership or other entity.

Person: Means an individual, proprietorship, corporation, association, limited liability entity, or other legal entity.

PSCW: Means the Public Service Commission of Wisconsin.

Project Area: Means all the properties within the project boundary and within a one- mile radius beyond the project boundary of a proposed or approved WECS project.

Project Boundary: Means a continuous line, which encompasses all WECU's and related equipment to be used in association with a WECS project.

Property Line: Means the recognized and mapped property parcel boundary line.

Related Equipment: Means transformers, tower, electrical conductors, termination points, switches, fences, substations, and any other related equipment necessary to operate a WECS.

Residences & Other Buildings: Means all private residences and businesses located 2,640 feet, measured from the foundation of an existing residence or business to the outermost edge of the closest of the circular path of the wind turbine rotor blade of a WECS, further providing a non-participating land owner has applied for a building permit on or before a full and complete application is submitted to the Town Board per Section V of this ordinance.

Sensitive Environmental Area: Means an identified habitat for threatened or endangered species, or another designated environmentally significant area as identified by Town, county, state or federal officials.

Sensitive Receptor: Means places that are likely to be more sensitive to the exposure of the noise or vibration generated by WECS(s). This includes but is not limited to: schools, day-care centers, hospitals, parks, residences, residential neighborhoods, places of worship, and elderly care facilities.

Setback: Means the minimum allowable horizontal distance from a given point or line of reference, such as a thoroughfare right-of way, water line, or prospective line to the nearest vertical wall or other element of building or structure.

Setback Area: Means the land base that falls within a specified setback.

Shadow Flicker: Means the effect when the blades of an operating wind energy conversion unit pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his/her immediate environment.

Shadow Flicker and Glade Glint Zone: Means the land area that falls within the setback for shadow flicker or blade glint.

Small Wind Energy Conversion System (SWECS): A wind energy conversion system that has a total installed nameplate capacity of greater than 100 kilowatts and up to 300 kilowatts that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.

Stray Voltage: Means neutral-to-earth voltage measured from the electrical system neutral and/or any structure bonded to this neutral to earth that adversely affects humans or animals.

Structures: Means residences, livestock facilities, communications towers, commercial

businesses, and all sensitive receptors.

Total Height: Means the distance between the ground at normal grade and the highest point of the installed WECS (being the tip of the blade when the blade is in the full vertical position).

Wetland: Means an area of land, which regularly persists in a wet state, or as otherwise defined by the WDNR.

Wind Energy Conversion Unit (WECU): Means a wind driven machine with an output rating greater than 100 kilowatts (kW) and with a total height of greater than 170 feet that converts wind energy into electrical power for the primary purpose of sale, resale, or off-site use. The WECU includes the tower, turbine, footings, and all equipment associated with individual units including the land beneath encompassing the equivalent area of the circumference of the rotors. Also known as a Wind Turbine.

Wind Energy Conversion System (WECS): Means all WECUs, related transformers, electrical conductors substations, and connection points to transmission or distribution lines.

Wind Energy Conversion System Facility or Facility: Means all of the land and equipment used by the wind energy conversion system (WECS) and its support facilities including the wind turbine, tower, access roads, control facilities, meteorological towers, maintenance and all power collection and transmission systems. Battery Energy Storage System (BESS) shall not constitute a Wind Energy Conversion System Facility.

Wind Energy Conversion System Tower: Means any structure that is designed and constructed primarily for the purpose of supporting the Wind Energy Conversion Unit.

Windmill: Means a wind-driven machine that does not produce electricity.

Wind Test Tower: Means the tower on which meteorological equipment is located to measure wind speed, direction, strength, etc., for the purpose of evaluating a potential for WECS siting.

Wind Turbine: Means a wind driven machine that converts wind energy into electrical power, also known as a Wind Energy Conversion Unit (WECU) or turbine.

WDNR: Means the Wisconsin Department of Natural Resources.

A. Permitting

A. Permit Required. After the effective date of this ordinance, no WECS of 170 feet in height or greater shall be constructed, operated, or maintained in the Town without a special exception permit issued by the Town of Lincoln Town Board, pursuant to this ordinance. However, WECS of under 170 feet in height and less than 100 kilowatts are exempt from the special exception permit requirements of this ordinance and, instead, require a land use permit issued by the Town of Lincoln Town Board.

B. For Small Wind Energy Conversion Systems - An owner shall file a special exception permit application with the Town that, at a minimum, includes the following information:

1. Wind energy conversion 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 conversion system on local infrastructure.
5. Information regarding noise anticipated to be attributable to the wind energy conversion system.
6. Information regarding shadow flicker anticipated to be attributable to the wind energy conversion system.
7. Information regarding the anticipated effects of the wind energy conversion system on existing land uses within 0.5 miles of the wind energy system.
8. Information regarding the anticipated effects of the wind energy conversion system on line-of-sight communications.
9. A list of all state and federal permits required to construct and operate the wind energy conversion system.
10. Information regarding the planned use and modification of roads within the Town during the construction operation, and decommissioning of the wind energy conversion system, including a process for assessing road damage caused by wind energy system activities and for conducting road repairs at the owner's expense.
11. A copy of all emergency plans developed in collaboration with appropriate first responders.
12. A decommissioning and site restoration plan.
13. A representative copy of all notices issued.
14. Any other information the Town may need necessary to understand the construction, operation or decommissioning of the proposed wind energy conversion system

C. Large Wind Energy Conversion Systems - An owner shall file a special exception permit prior to construction. The LWECS may be permitted in all zoning

districts except the Farmland Preservation District. If a court finds this prohibition not enforceable the applicant of the LWECS is still subject to the regulations and requirements in this section.

D. Effect of Other Licenses/Permits . The fact that an applicant possesses any other valid license or permit required by law does not exempt the applicant from the requirement of obtaining a special exception permit under this ordinance.

E. Non-Assignment. A permit issued under this ordinance may not be assigned or transferred to any other Person than the Permittee, without the express prior written consent of the Town. Such consent shall not to be unreasonably withheld within one year after issuance of a permit, provided the Permittee and the Person who the permit is proposed to be assigned or transferred to shall both submit affidavits to the Town demonstrating the following:

1. The new Person who will hold the permit wholly owns the new entity.
2. The new entity is properly formed and authorized to do business in the State of Wisconsin.
3. The written assignment requires the new entity to assume all of the Permittee's rights, duties and obligations under the Permit including but not limited to all financial requirements and the certificate of insurance requirements.

B. PERMIT APPLICATION PROCEDURE FOR WECS

A. Application. Any person desiring to secure a special exception permit for a WECS from the Town shall file a complete application, together with two additional copies, with the Town Clerk. The application shall be on a form approved by the Town Board and shall be provided to the applicant by the Town Clerk.

B. Required Information. The following information shall be required of each Applicant and shall be provided with the application. The Person(s) filing the application shall sign it under oath or affirmation as witnessed by a Notary Public:

1. Name, address, and phone number of Applicant(s).
2. If the Applicant is a corporation, partnership, limited liability company, limited liability partnership, or other entity recognized by law, the application shall include: the name of the business entity; the date of incorporation, registration or organization; the state in which the entity was incorporated, registered or organized; the name and address and home phone numbers of the registered agent(s) where applicable; the names and addresses of all officers and directors; operating or managing partners or general partners, managing members or managers, whichever is applicable for the particular form of business entity.
3. Name and address of any other current or past WECS developed or operated by the Applicant, whether in the State of Wisconsin or any other state or nation.
4. Name, address and phone number of the individual(s) responsible for the day-to-day operation of the proposed WECS, who will be deemed the Operator for purposes of

this section, and who will be the contact Person for the Town.

5. Evidence that the Applicant is the owner of the underlying real estate and other property necessary for the WECS project or that the Applicant has the written permission of the owner(s) of such real estate and other property to make such an Application.

6. A signed statement by the underlying landowner(s) acknowledging that the landowner(s) will be financially responsible if the owner/operator fails to reclaim the site as required, and that any removal and reclamation costs incurred by the Town shall become a lien on the real estate and other property and may be collected from the landowner(s) in the same manner as property taxes.

7. A statement that the Applicant is familiar with, and in compliance with, the provisions of this ordinance, including the responsibility to reimburse all reasonable costs and professional fees associated with the processing, examination and analysis of the application for a permit and such further expenses associated with monitoring the WECS and enforcing the terms of the permit.

8. Proof of continuous liability insurance in the minimum amount of five million dollars (\$5,000,000.00) per occurrence shall be submitted to the Town of Lincoln indicating coverage for potential damages or injury to landowners, occupants, Town property and Town roads, and other third parties. The Town shall be named as an additional insured on the policy.

C. Additional Information. Each Application shall be accompanied by:

1. Detailed Site Plan. A site plan which meets all the requirements of this Section and applicable provisions of the County Zoning Code pertaining to any additional site specific requirements of the Town in accordance with the technical requirements in this ordinance. Each application shall be accompanied by a site plan showing the location of the proposed WECS Tower Site(s), including:

- a. Total acreage occupied by the facility;
- b. A detailed map of the area showing parcel boundaries and individual Wind Turbine locations and their distances to existing structures;
- c. Existing structures and proposed facilities;
- d. Location of existing and proposed transmission lines, substations, driveways, access and maintenance roads, etc. All proposed electric transmission and distribution lines shall be shown and shall be placed underground;
- e. Location of meteorological or wind testing towers; and
- f. Location of wells, abandoned and active, within a half-mile radius of project boundary.

2. Specific Information. The applicant shall provide specific information on WECS including:

a. The type, size, total installed height, rotor material, rated power output, performance history, safety history, and noise characteristics of each type of WECS, tower and electrical transmission equipment. Identify the length of service of the proposed components.

b. A structural safety certificate shall be provided from a professional engineer stating that the structure is of new construction and not refurbished or rebuilt and has been designed to operate in cold weather conditions and is safe.

c. Photographs or detailed drawings of each wind turbine model including the tower and foundation. Provide design and specifications for all proposed structures and foundations. (Foundation at and around the tower base shall be designed so that no surface water or runoff can access subsurface aquifer at any time during construction, operation or decommissioning.)

d. Detailed computer and photographic simulation(s) overlaid on the existing environment showing the proposed WECS project area fully developed with all proposed wind energy conversion units and related facilities. The format shall be subject to the approval of the Town.

3. Timeline. The applicant shall provide a proposed timeline showing all aspects of construction with a starting and final completion date.

4. Affected Property Owners. The applicant shall submit the name and address of property owners within WECS setback areas. Considering that development rights of adjacent property owners may be forfeited due to setbacks, a written agreement for non-development within the specified setback must be obtained and recorded on the affected properties' deeds.

5. Impermissible Interference Notification. The applicant shall deliver by certified mail or by hand a notice to the owner of any property, which the applicant proposes to be restricted by the permit. The applicant shall submit to the Town of Lincoln a copy of a signed receipt for every notice delivered in addition to the following information:

a. The name and address of the applicant, and the address of the land upon which the WECS is or will be located.

b. That the applicant has filed an application.

c. That the permit, if granted, may affect the rights of the notified owner to develop his or her property and to plant vegetation.

d. That any person may request a hearing within 30 days after receipt of the notice, and the address and procedure for filing the request.

6. Wind Access Agreements. Evidence (a signed statement from the applicant and countersigned by the landowner) that the applicant has negotiated with adjacent landowners and has obtained written agreements with all landowners whose wind rights may be affected by the WECS or who could otherwise potentially interfere with the applicant's wind access.

7. Easements, Leases & Property Rights. The applicant shall submit copies of signed letters of intent to grant easements, long-term leases or other property rights from all involved landowners and any governmental units responsible for right-of-ways for access, construction, electric transmission and distribution lines, etc.

8. Notifications. The applicant shall notify the following agencies, via certified mail upon submitting an Application to the Town. Copies verifying proof of delivery shall be provided to the town:

- a. Federal Aviation Administration;
- b. Wisconsin Bureau of Aeronautics;
- c. County Emergency Services Agencies;
- d. Local Fire Departments;
- e. County Planning & Zoning and Land Records Departments;
- f. County Highway Department;
- g. County Sheriff's Department;
- h. Local School Districts;
- i. Local Utilities and Electric Cooperatives;
- j. Wisconsin Public Service Commission;
- k. Wisconsin Department of Natural Resources; and
- l. U.S. Department of Defense facilities located within 50 miles of the proposed WECS.

9. Wind Study. A study documenting minimum, maximum, and average wind speeds and prevailing wind directions over the course of one year. Anemometers shall be calibrated regularly to ensure a measurement of error of 1% or less. All anemometers shall be placed at the expected hub height of the proposed wind turbines. Sufficient wind resources, as described by the U.S. Department of Energy, include areas with a wind power class 4 or higher. The town shall retain the services of an independent, recognized expert to review the results of the wind resources study prior to acting on the application. Said study shall indicate the long-term commercial economic viability of the proposed WECS project.

10. Critical Communications. The applicant shall provide a critical communication study prepared by a registered professional engineer showing that the proposed WECS will not interfere with emergency (fire, police/sheriff, ambulance) radio two-way communications (base stations, mobile, and hand held radios, including digital), paging, television, telephone (including cellular and digital), microwave, satellite (dish), navigational, internet or radio reception communications to and from neighboring areas. The applicant shall provide a signed affidavit stating that the applicant shall be responsible for the full cost of any removal of WECS facilities and any other remediation necessary to provide correct any problems; including relocation or removal of the WECS facilities and

any and all related electric transmission lines, transformers, and other components related thereto. The applicant shall maintain equivalent communications throughout the life of the WECS even as future technologies may change.

11. Noise Study. The Applicant shall provide to the Town a pre-construction noise survey within a one mile radius of each proposed Wind Turbine location showing ambient background noise levels over a one year period prior to final layout and construction of the proposed WECS. The noise survey shall be conducted by a qualified person on behalf of the applicant, and shall be reviewed and approved by an independent consultant selected by the Town Board, at the Applicant's expense, prior to review and approval of the Application.

12. Air Pressure Pulse Study. The Applicant shall provide to the Town a pre-construction air pressure pulse study using an existing facility in which the same height, power and model turbines are in operation on similar terrain as the proposed facility. The air pressure pulse survey shall be conducted by a qualified person on behalf of the applicant, and shall be reviewed and approved by an independent consultant selected by the Town Board, at the Applicant's expense, prior to review and approval of the Application. The study shall use sensor technology with equipment such as the Infiltec Model INFRA-20 or equivalent. Before the study is conducted, the study details such as, but not limited to, location of the study, sensor location and study duration shall be outlined and presented to the Town for approval.

13. Shadow Flicker and Blade Glint. The applicant shall provide a shadow flicker and blade glint model for any proposed wind energy conversion unit. The study shall be conducted by a qualified person on behalf of the applicant, and shall be reviewed and approved by an independent consultant selected by the Town Board, at the Applicant's expense, prior to review and approval of the Application.

14. Ice Throw Calculations. A report from a Wisconsin professional engineer that calculates the maximum distance that ice from the turbine blades could be thrown. The basis of the calculation and all assumptions must be disclosed. The report shall be prepared by a qualified person on behalf of the applicant, and shall be reviewed and approved by an independent consultant selected by the Town Board, at the Applicant's expense, prior to review and approval of the Application.

15. Blade Throw Calculations. A report from a Wisconsin professional engineer that calculates the maximum distance pieces of the turbine blades could be thrown. The report shall be prepared by a qualified person on behalf of the applicant, and shall be reviewed and approved by an independent consultant selected by the Town Board, at the Applicant's expense, prior to review and approval of the Application.

16. Ground Water. An environmental study specifically indicating the impact the project will have on the groundwater beneath and in the vicinity of the proposed Wind Turbine sites. If a Wind Turbine foundation is proposed in a bedrock area, a baseline of all wells and certified public drinking sources in a half-mile radius shall be established and provided to the Town as part of the application. The study shall be prepared by a qualified person on behalf of the applicant, and shall be reviewed and approved by an

independent consultant selected by the Town Board, at the Applicant's expense, prior to review and approval of the Application.

17. Travel Route. The applicant shall provide the town, county and state notice of intended travel routes to proposed WECS site. The applicant shall provide, at is expense, a pre-construction inventory of road conditions performed by a certified Wisconsin professional engineer. The applicant shall abide by all town, county and state laws and ordinances that may affect travel and/or ingress or egress to the WECS facilities.

18. Soils Report. A geotechnical report that shall at a minimum include the following:

a. Soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing;

b. Slope stability analysis;

c. Grading criteria for ground preparation, cuts and fills, soil compaction; and

d. Certification from a registered geotechnical engineer that the soils can support a WECS.

19. Site Preparation & Erosion Control. The applicant shall submit the following:

a. A site preparation plan that has been approved by the County Land Conservation Department. The plan shall show planned storage and retention of topsoil, and all types of subsoil for later site restoration.

b. A construction site erosion plan and storm water runoff control plan that has been approved by the County Land Conservation Department. The plan shall comply with all state statutes and county ordinances. The plan shall be prepared so as to minimize the potential adverse impacts on sinkholes, wetlands, streams and the banks and vegetation along those streams and wetlands, and to minimize erosion or sedimentation.

20. Hazardous Waste. A plan shall be submitted showing compliance with all laws applicable to the generation, storage, clean up, transportation and disposal of hazardous wastes generated during any phase of the proposed WECS life.

21. Fire Prevention, Emergency Rescue Plan. The applicant shall submit a plan to outline preventative measures, and to identify, train and fund fire and rescue personnel to ensure readiness and appropriate response. This plan shall also identify potential fire, rescue, and hazardous materials scenarios over the life of the WECS.

22. Stray Voltage Test Results. The applicant shall perform at least two pre-construction stray voltage tests at all livestock facilities within the proposed project boundary and within a one-mile radius beyond the proposed project boundary. The tests shall be performed by a mutually acceptable Wisconsin certified stray voltage investigator and shall be conducted once in the spring and once in the fall of the year. The tests shall be performed according to the PSCW Phase II Stray Voltage Testing Protocol. A copy of

the test results shall be sent to each of the following: property owners, PSCW, local utilities, Wisconsin Public Service Commission, and the Town. The applicant shall obtain written permission from property owners prior to stray voltage testing. If permission is denied, all responsibility for stray voltage problems shall be with the property owner.

23. **Lighting Plan.** The Applicant shall provide a plan showing lighting on and around all WECS and related facilities. Lighting on WECS shall be lit to FAA minimal standards only using red rather than white lights, if possible. Lighting shall be shielded from ground view to FAA maximum standards.

24. **Avian and Bat Impact Study Plan.** The applicant shall submit a plan for monitoring the avian and bat impact of the WECS to the Town for its review and approval. Such plan shall document and follow accepted scientific study procedures. In addition, the applicant shall submit a quarterly report to the Town which identifies the number of bird and bat fatalities found within 500 feet of all WECS facilities.

25. **Abandonment, Removal and Site Restoration Plan.** The applicant shall submit an abandonment, removal and site restoration plan, along with a cost estimate for removal and site restoration, to the Town with the application. The plan shall identify the specific properties it applies to and shall indicate the timeline and process to be used for removal of all materials above and below ground; road repair costs, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the WECS. The plan shall reflect the site-specific character including topography, vegetation, drainage, and any unique environmental features at the site. The plan shall reflect any standards set forth in this ordinance and shall include a certified estimate of the total cost (by element) of implementing the removal and site restoration plan.

26. **Application Fees & Security.** The following fees and financial security guarantees shall be paid to the Town by the applicant:

a. **Application, Legal and Consultant Fees.** The applicant shall pay an application fee of \$1,000 to the Town upon filing an application under this ordinance. In addition, within fourteen (14) days of filing an application the applicant shall deposit in a joint escrow account with the Town the sum of \$25,000, as partial payment for the appropriate Town expenses in hiring consultants and experts, as these authorities shall, at their discretion, deem desirable. At any time the balance of this fund shall fall below \$15,000, the applicant shall submit an additional \$15,000 so that the Town's full and actual expenses of examining and verifying the data presented by the applicant shall be paid in full by the applicant. If at any time the balance of this fund shall fall below \$15,000 for a period of 30 days, the application shall be considered to have been withdrawn. The balance of the escrow account, after all the Town's expenses have been paid, shall be returned to the applicant.

b. **Road Repair.** An amount to be determined by agreement of the applicant and the Town Board, to be used as security for Town road maintenance and repair, shall be deposited in a joint escrow account with the Town within fourteen (14) days of approval of a permit under this ordinance. When determining the amount of such required security,

the Town may require an annual escalator or increase based on current construction costs and/or the Federal Consumer Price Index. This security shall be kept in full force and effect during the entire time a WECS is in existence and shall be used to maintain roads during the construction, maintenance and decommissioning of the WECS facility. Such security shall be irrevocable or non-cancelable (except by written consent by both the Town Board and the owner of the WECS) for the life of the approved permit. Failure to comply will subject the applicant to revocation of the permit.

c. **Site Reclamation.** Advance payment for WECS site reclamation and restoration shall be placed in a joint escrow account or surety bond, the amount to be determined by the Town Board. Said amount shall be sufficient to fully remove the WECS and all components thereof. Such financial security shall be kept in full force and effect during the entire time while a WECS facility exists or is in place. This financial security shall be irrevocable and non-cancelable until such time as the Town Board certifies that reclamation and restoration are complete and release the obligation.

d. **Decommissioning.** An appropriate continuous renewal bond amount shall be established for each Wind Turbine for decommissioning should the Owner/Operator fail to comply with the Ordinance requirements or if a Wind Turbine is inoperable for a period of twelve (12) consecutive months.

C. PERMIT PROCEDURE

A. Notice & Procedure. After determining that an application is complete, the Town Board shall conduct a public hearing on the application after a class 2 hearing notice is published in the Town's official newspaper. The public hearing shall be held within ninety (90) days, after the Town Board determines that the application is complete. Within fourteen (14) days after the close of the public hearing, the Town Board shall meet in open session to deliberate and make a decision concerning the application. The deliberation meeting shall be noticed to the applicant and the public at least five (5) days prior to the deliberation meeting. The Town Board may have the assistance of legal counsel at the public hearing and the deliberation meeting.

B. Decision on Application. The Town Board shall approve an application and grant a special exception permit for a WECS if it determines that the requirements of this ordinance have been and shall be met by the applicant, and granting the permit will not adversely affect public health and safety. The Town Board may include conditions in the special exception permit which

go beyond the minimum regulations set forth herein, if the conditions are reasonably necessary to protect public health and safety; do not significantly increase the cost of the system or significantly decrease its efficiency; or allow for an alternative system of comparable cost and efficiency. In addition to other provisions and standards set forth in this ordinance, the Town Board may consider the following factors when establishing such conditions:

1. The proposed ingress and egress;
2. The proximity to transmission lines to link the system to the electric power grid;

3. The number of wind turbines and their proposed locations;
4. The nature of land use on adjacent and nearby properties;
5. The surrounding topography;
6. The proximity to residential structures, residential zoning districts, and areas identified for future residential use;
7. Design characteristics that may reduce or eliminate visual obtrusiveness and the distraction of motorists on nearby roads;
8. Possible adverse effects on migratory birds, raptors, and other animals and plants;
9. Possible adverse effects of stray voltage, interference with broadcast signals, shadow and flicker effects, and noise;
10. Impacts on the orderly development, property values, and aesthetic conditions of the Town as they may also relate to public health and safety and other factors under Wis. Stat. § 66.0401;
11. Effects on public roads;
12. Recommendations from the town boards of adjacent towns, which may be affected by a WECS;
13. Any other factors which are relevant to the proposed WECS.

C. Recording & Notice of Decision. The Town Board's decision to approve, conditionally approve or deny an application, the reason(s) for its decision, and any conditions established by the Town Board relative to a conditional approval of an application and permit shall be recorded in the Town Board's minutes. The Town Board and Town Clerk shall issue a permit to the applicant or inform the applicant that the application for a special exception permit has been denied within thirty (30) days of the Town Board's final action on the completed application. At the same time, the Town Clerk shall publicly post a notice of the final decision of the Town Board at the Town Hall.

D. Appeal to Circuit Court. The Town Board's final decision on approval, conditional approval or denial of an application may be appealed to Circuit Court by anyone aggrieved by the decision, including but not necessarily limited to the applicant or any aggrieved resident or property owner of the Town, within thirty (30) days of the issuance of the decision, and the posting of public notice of the decision, by the Town Clerk. In addition, any revocation of a permit or other enforcement action by the Town Board under this ordinance may be appealed to Circuit Court by the applicant or any other aggrieved party within (30) days of actual notice to the applicant or other aggrieved party of such revocation or enforcement action.

D. DEVELOPMENT & PERFORMANCE STANDARDS FOR PERMITTING

A. Development & Performance Standards. All WECS and testing structures shall comply with the Development & Performance Standards set forth in this section. It is recognized that the standards herein are neither exclusive, nor exhaustive. In instances where a health or safety concern is identified with regard to any application for a WECS, additional or more restrictive conditions may be included in the permit to address such concerns. The Town reserves the right to impose additional standards as circumstances warrant. Such additional and more restrictive standards may include, but are not limited to: a) longer setbacks from nearby property lines, roads, electric transmission and distribution lines, residences, businesses and other inhabited structures; b) more restrictive noise limitations, and c) more restrictive limitations to protect surface water and groundwater.

B. Design. Each Wind Turbine shall consist of a tower, generator(s), nacelle and blades. Each WECS site shall have access roads, underground transmission cabling to connect the generators to a local utility's electric distribution lines, and underground fiber optic lines. The application shall disclose the nature, type, make and model of the proposed Wind Turbines. Detailed product literature, specifications, and safety guidance for maintenance of the turbines shall accompany the application. Each Wind Turbine shall also comply with the following design requirements:

1. Wind Turbines shall be painted a non-reflective, non-obtrusive color.
2. Each WECS site, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the WECS to the natural setting and the existing environment.
3. Wind Turbines shall not be artificially lighted, except to the extent required by the FAA or other applicable authority; strobe or other intermittent lights are prohibited.
4. Wind Turbines shall not be used for displaying any advertising.
5. Wind Turbines shall not display any name or logo.
6. Electrical controls and control wiring and power-lines must be wireless or not above ground, except where wind farm collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network.
7. The clearance between the ground and the Wind Turbine blades shall be at least 75 feet.

C. Aircraft Protection. The wind turbine generator towers shall be marked as required by the Federal Aviation Administration (FAA). There shall be no lights on the outside of the tower other than as required by the FAA or other applicable authority, or as otherwise agreed in connection with the issuance of the permit. Notwithstanding the foregoing, this restriction shall not apply to infrared heating devices used to protect the monitoring equipment. The tower shall be connected to an uninterruptible back-up power source to ensure continuous compliance with FAA regulations. To the extent consistent

with FAA regulations, shrouding for the lights shall direct reflection of light up. Aircraft safety and protection shall also be accomplished by establishing sufficient setbacks between all Wind Turbines and adjoining properties in order to allow for safe crop-dusting of agricultural fields, and safe emergency medical aircraft landings on all adjoining properties.

D. Blasting. Permittee shall not undertake any blasting in connection with the construction of the Facility unless Applicant shall have notified the Town and submitted a blasting plan consistent with applicable laws and regulations. The plan must be submitted by the Permittee, reviewed and approved by the Town Board, before any blasting may take place. The plan shall, at a minimum, provide that:

1. Blasts must comply with the State ground vibration limitations.
2. Fly-rock traveling in the air or along the ground must remain in the controlled blasting area site owned or controlled by the applicant.
3. All blasting must be performed by or under the direct supervision of a State-licensed blaster.
4. A blasting log for each blast will be kept on-site at the WECS office for not less than 5 years, and copies of the required blasting log will be promptly submitted to the Town upon its request.
5. A resident call list must be established for the purpose of notifying neighbors at homes in the vicinity of the WECS of eminent blasting activity. This call list must be maintained and utilized on a "request basis only" for all residents in the vicinity of the WECS who asked to be notified prior to any blast.
6. The storage of explosives will be in accordance with Wisconsin law.

E. Communications Interference. WECS shall be sited and operated so that they do not interfere with emergency (fire, police/sheriff, ambulance) radio two way communications (base stations, mobile, and hand held radios, including digital) and/or paging, television, telephone (including cellular and digital), microwave, satellite (dish), navigational, internet or radio reception to neighboring areas. The applicant and/or operator of the facility shall be responsible for the full cost of any remediation necessary to provide equivalent alternate service or correct any problems; including relocation or removal of the facility caused or exacerbated by the operation of such equipment and any and all related transmission lines, transformers, and other components related thereto. The applicant shall maintain equivalent communications throughout the life of the WECS even as future technologies may change.

1. The owner/operator of the WECS shall respond within five business days to any request for communications interference investigation by a property owner within the project boundary and a three-mile radius beyond the project boundary. Testing will commence within ten working days of the request. The owner/operator is responsible for mitigating within ten working days from the determination of interference cause attributed to the operation of the WECS.

2. The owner/operator of the WECS shall respond within one business day to any request for communications interference investigation by any emergency agency (fire, police/sheriff, ambulance). Testing will commence within two working days of the request. The owner/operator is responsible for mitigating within two business days from the determination of interference cause attributed to the operation of the WECS.

F. Electromagnetic Interference. WECS shall be sited and operated so that they do not interfere with television, telephone (including cellular and digital), microwave, satellite (dish), navigational, or radio reception to neighboring areas. The applicant and/or operator of the facility shall be responsible for the full cost of any remediation necessary to provide equivalent alternate service or correct any problems; including relocation or removal of the facility, caused or exacerbated by the operation of such equipment and any and all related transmission lines, transformers, and other components related thereto. The owner/operator of the WECS shall respond within five business days to any request for a communications interference investigation by a property owner within the project boundary and a three-mile radius beyond the project boundary. Testing shall commence within ten working days of the request. Owner/operator is responsible for mitigating within ten working days from determination of interference cause attributed to the operation of the WECS.

G. Groundwater Protection. Permittee shall construct and operate the Facility so as not to cause groundwater contamination in violation of applicable law. Nothing contained in the permit is intended to authorize or permit any degradation of the quantity or quality of the groundwater in connection with the WECS.

1. No excavations deeper than nine (9) feet below the surface of the soil shall be allowed in the construction of any Wind Energy Facility or Wind Turbine unless the applicant submits evidence of increased cost or design necessity based on actual foundation designs. Any change in foundation design shall maintain the water quality standards of this ordinance.

2. Wells shall not be drilled within the boundaries of a WECS site.

3. The applicant shall complete a plan for managing surface water runoff to prevent pollution of groundwater through sinkholes, wetlands and infiltration through the soil and underlying bedrock within a 1,000-foot radius of each Wind Turbine site and along all access roads and driveways leading to Wind Turbine sites. The plan shall provide for surface water management so that the water flows away from the Wind Turbine sites and known sinkholes rather than toward them.

4. If a Wind Turbine foundation is proposed in a bedrock area, a baseline of all wells and certified public drinking sources in a half-mile radius shall be established and permanent remedies shall be the responsibility of the developer if contamination occurs.

I. Fire Protection. The applicant shall prepare a plan in consultation with fire department having jurisdiction over the area prior to construction. The plan shall address all activities at the WES and site from the start of construction through the end of power generation and the final removal and restoration of the site, and shall result in a response

plan to address all identified potential fire, rescue, hazardous materials scenarios.

1. The owner/operator shall assure that the WECS and site comply with the following control and prevention measures and incurs associated costs.

a. Fire proof or fire resistant building materials and buffers or fire retardant landscaping.

b. Incorporation of a self contained fire protection system to address nacelle fires and approved by NFPA or comparable underwriter.

c. Maintain firebreak areas cleared of vegetation and maintained as a fire/fuel break as long as the WECS is in operation. Firebreaks shall be 30 feet in width around the periphery of the proposed WECS site, 10 feet in width around all transformers, and 30 feet in width around all buildings.

d. Fire fighting and rescue services, including programs and costs associated with equipment and training, for local fire protection and rescue personnel.

e. Any additional fire fighting or rescue personnel, services, materials, and/or vehicles as may be required to address any call related to the WECS or site that is beyond the capabilities of local fire fighting and/or rescue services.

f. The owner/operator shall be responsible for compliance with all laws applicable to the generation, storage, clean up, transportation and disposal of hazardous wastes generated during any phase of the project's life.

J. Public Roads. Permittee shall, prior to the initiation of construction and use of haul roads, consult with the Town Board, County Highway Commissioner, the Wisconsin State Police and the County Sheriff's Office for load paths and restrictions on their respective roads or bridges. At Permittee's expense:

1. Permittee shall provide, the Town Board, a preconstruction evaluation and identification of road surface materials stating the type and amount of surface cover, PASER ratings, and photographic or video documentation of predetermined designated traffic route, performed by a Wisconsin certified professional engineer mutually agreed upon by applicant and municipality.

2. Permittee shall contract with qualified contractors, approved by the town, to repair any damage to the haul roads due to transportation of equipment and Facility components ('Road Repair Obligations').

3. In the event a hazardous road condition exists that is not immediately corrected by Permittee, the Town Board may order emergency road repairs, be performed by qualified contractors. Permittee shall promptly reimburse the Town for reasonable emergency road repair costs.

4. Permittee shall assure funding of the Road Repair Obligations by a letter of credit or guaranty prior to initiation of any construction.

5. Weather permitting, the final Road Repair Obligations shall be completed to the reasonable satisfaction of the Town Board within six (6) months after completion of construction of the Facility, or as soon thereafter as weather conditions permit.

K. Signage and Fencing. Permittee shall provide reasonable signage at the Facility, identifying the Premises as being part of the Facility and providing appropriate safety notices and warnings against trespassing. The no trespassing signs shall be posted around the entire premises at an appropriate distance for posting but no less than 2 conspicuous places for every 40 acre parcel within the Facility. Signs should be sized at a minimum to meet the provisions of Wis. Stat. § 943.013(2).

1. No wind turbine, tower, building, or other structure associated with a wind energy system may be used to advertise or promote any product or service. No word or graphic representation, other than appropriate warning signs and owner or landowner identification, may be placed on a wind turbine, tower, building, or other structure associated with a wind energy system so as to be visible from any public road.

2. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.

L. Electrical Standards. All wiring between Wind Turbines and the Wind Energy Facility substation shall be underground. All neutral grounding connectors from Commercial Wind Turbines shall be insulated from the earth and shall be sized to accommodate at least twice the peak load of the highest phase conductor, to absolutely prevent transient ground currents, in order to comply with the National Electric Safety Code and the IEEE Standard 519-1992, approved by the American National Standards Institute, as follows:

1. Grounding of both the electrical transmission lines and the supply lines to the internal electrical systems of the turbines themselves, shall comply with Rule 92D, Current in Ground Conductors: "Ground connector shall be so arranged that under normal circumstances, there will be no objectionable flow of current over the grounding conductor."

2. Rule 215B: [It is not permissible] "to use the earth as a part of a supply circuit."

3. Under no circumstances shall any Wind Turbine be connected directly to the grid; connection must be made through a substation or transformer properly grounded and filtered to keep harmonic distortion within recommended limits.

4. Bare, concentric neutrals are specifically prohibited in buried lines between turbines and in underground transmission lines to substations.

5. Electrical controls and control wiring and power-lines shall be wireless or not above ground except where wind farm collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network.

M. Stray Voltage. The Permittee shall respond within (5) five business days

to any request for a stray voltage investigation by a property owner within the project boundary and a one-mile radius beyond the project boundary. The tests shall be performed by a mutually acceptable Wisconsin certified stray voltage investigator. The tests shall be performed according to PSCW Phase II Stray Voltage Testing Protocol. Testing shall commence within (10) ten working days of the request. If testing cannot be initiated within (10) days, the Wind Turbine(s) in question shall be shut down until the testing can be started. The investigation shall be provided to the property owner at no cost up to a maximum of two investigations within a 12-month period. At no time shall the operation of a WECS increase the measured cow contact voltage (V_{cc}) or primary neutral to remote voltage (V_{pn}) on a livestock facility within the project boundary and a one-mile radius beyond the project boundary, above the maximum pre-construction levels. The owner/operator agrees to abide by all rules, procedures, standards, and reporting established by the PSCW for stray voltage and related electrical phenomena. Owner/operator is responsible for mitigating within five working days from determination any net increase in cow contact voltages (V_{cc}) or primary neutral to remote voltages (V_{pn}) attributed to the operation of the WECS. If corrections cannot be initiated within (5) five working days, the Wind Turbine(s) in question shall be shut down until the voltages in question are mitigated. A copy of the test results shall be sent to the property owner, PSCW Rural Electric Power Services staff, and the Town Board within (30) days of test completion.

N. Reporting and Complaint Resolution Procedure. Permittee shall report to the Town as follows:

1. **Quarterly Power Production Reports:** The Permittee shall submit a quarterly power production report to the Town which shall cover the proceeding calendar quarter and include actual power production in kilowatt-hours for each commercial wind energy facility in the Town.
2. **Annual Monitoring Reports.** The Permittee shall submit an annual monitoring report to the Town, containing data on the operations and environmental impacts of the WECS site. Such reports shall describe all safety inspections of the WECS.
3. **Extraordinary Events.** Within 24 hours of any extraordinary event, Permittee shall notify the Town. "Extraordinary events" shall include but not be limited to tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry to the tower base, thrown blade or hub, any injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the public health and safety of the Town.
4. **Complaints.** The Permittee shall, at the permittee's expense and in coordination with the Town develop a system for detailed logging and investigation of all complaints related to the operation of the WECS. The Town will select a qualified individual to investigate complaints. The Permittee shall provide this qualified individual with direct phone contact and address information of the permittee representative. The reasonable cost and fees incurred by the Town in retaining said qualified individual shall be reimbursed by the owner of the WECS. After the investigation, if the Town Board reasonably concludes that operational violations or other public or private nuisances have been caused by the WECS, the Town shall require Permittee to use all reasonable efforts

to mitigate or eliminate such problems on a case-by-case basis, as required by the Town Board. In order to address such complaints, the Town Board may require planting trees and installing awnings, limiting the hours of Wind Turbine operation, repair of WECS, removal and decommissioning of Wind Turbines.

O. Emergency Shutdown. The Permittee shall be required to immediately cease operations for the duration of any Emergency. Emergency shall mean a proven condition or situation caused by the Facility or by other conditions that present an imminent physical threat of danger to life or significant threat to property. A WECS that is found to present an imminent physical threat of danger to life or significant threat of damage to property shall be immediately shut down and repaired or otherwise made safe and certified so by a Wisconsin professional engineer prior to resumption of operation. The Town shall have the right to access all WECS to verify conditions and/or repair progress with reasonable notice to the WECS owner/operator. Within 24 hours of an occurrence of a tower collapse, turbine failure, property damage or contamination, fires, thrown blade or hub, collector or feeder line failure, injured WECS worker or private person, the owner/operator shall notify the Town of the occurrence and proposed remedial action.

P. Turbine Decommissioning and Site Restoration Plan. Each Wind Turbine and all related improvements shall be removed in accordance with the Decommissioning and Site Restoration Plan submitted by the applicant and approved by the Town through the permitting process.

1. The owner of a WECS and the underlying property owners shall be jointly liable for the removal of all equipment associated with the WECS at the end of the permit period, the useful life of the facility, or when the facility is abandoned or otherwise out of operation for more than six months, at their expense.

2. Upon removal of a WECS facility, the owner of the facility and the underlying property owners shall be jointly liable for restoration of the site to its original condition at their expense. To protect the environment, removal shall be done by mechanical means. Blasting is not an approved means for removal. The restoration shall include removal of all materials above and below ground; public road repair, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the Wind Energy Facility. All hazardous materials shall be removed from the site and disposed of in accordance with state and federal laws.

3. The owner of a Wind Energy Facility and the underlying property owner shall provide proof of financial responsibility for the removal of the facility and restoration of the site in the form of a bond or an irrevocable standby letter of credit held in trust in favor of the Town, in a form to be approved by the legal counsel for the Town.

E. INSURANCE AND INDEMNIFICATION

A. Insurance. All Permittees shall maintain the following insurance coverage commencing upon construction of the facility:

1. The owner/operator shall, at its expense, maintain a broad form comprehensive coverage policy of public liability insurance insuring Applicant and Participating

Landowners against loss or liability caused by Applicant's occupation and use of the Property under the Lease, in an amount not less than Five Million Dollars (\$5,000,000) of combined single limit liability coverage per occurrence, accident or incident, which has a commercially reasonable deductible. The Town shall be named as an additional insured on the policy.

2. Worker's compensation coverage in an amount required by Wisconsin law. Applicant shall require subcontractors and others not protected under its insurance to obtain and maintain worker's compensation and employers' liability insurance.

3. Certificates of insurance evidencing compliance with these requirements shall be provided upon request of the Town. The insurer will provide notice to the Town in the event there is a lapse in coverage exceeding thirty (30) days. All policies other than worker's compensation shall be written on an occurrence and not on a claim-made basis.

B. Defense of Land Use Decision and Indemnity. In addition to the indemnification described below, Permittee shall reimburse the Town its reasonable attorneys' fees incurred in defending any legal actions brought by third parties challenging the legality or enforceability of this ordinance or any portion thereof, or the issuance of a Permit by the Town pursuant to this ordinance.

1. If the Town seeks reimbursement, it shall notify Permittee in writing promptly upon discovering any claim entitling it to a land use defense reimbursement, but in no event later than 120 days after receiving written notice of any action, lawsuit, proceeding,

investigation or other claim against it which may give rise to a claim for a land use defense reimbursement.

2. Permittee shall not be obligated to reimburse the Town with respect to any such liability, action or claim if the Town fails to notify Permittee thereof in accordance with the provisions of this section in sufficient time including, without limitation, any responsive motion or answer to a complaint, petition, notice, or other legal, equitable action or claim, but only insofar as such knowing failure to notify Permittee has actually resulted in prejudice or damage to Permittee.

3. With respect to any third party action, lawsuit, proceeding, investigation or other claim which is subject to reimbursement under this section, Permittee shall be entitled to assume and control (with counsel of its choice) the defense of such action, lawsuit, proceeding, investigation or other claim at Permittee's expense; provided, however, that the Town shall be entitled to participate in the defense of such claim and to employ counsel of its choice for such purpose (the fees and expenses of such separate counsel to be borne by the Town) and to assert against any third party any and all cross claims and counterclaims the Town may have, subject to Permittee's consent, which consent shall not be unreasonably withheld. If Permittee elects to assume the defense of any such claim, it may settle such claim in its sole discretion so long as either (i) such settlement provides an unconditional release of the Town, or (ii) Permittee shall obtain the prior written consent of the Town (which consent shall not be unreasonably withheld). If Permittee elects to assume the defense of any claim, the Town shall fully cooperate with Permittee and its counsel in such defense.

4. Permittee shall defend, indemnify and hold harmless the Town and its officials, employees and agents from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorneys' fees (such liabilities together known as "Liability") arising out of Permittee's selection, construction, operation and removal of the Wind Turbines and affiliated equipment including, without limitation, Liability for property or personal injury (including death), whether said Liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limiting or qualifying the Town's other indemnification rights available under law.

F. STANDARDS

A. Construction Standards. All WECS shall be constructed in compliance with Good Utility Practice for Wind Turbines. In the event after inspection by a qualified expert in Good Utility Practice, the Town concludes that any of the Wind Turbines were not constructed in compliance with Good Utility Practice or constitutes a danger to persons or property, then upon notice being provided, Permittee shall have 90 days to bring the non-compliant Wind Turbine(s) into compliance with such standards. If 90 days is insufficient time to cure the non-compliance, Permittee shall present a plan to the Town describing the reason for the delay and the time frame for the cure to be put in

place. Failure to bring such non-compliant Wind Turbine(s) into compliance or failure to provide a plan for compliance within 90 days shall constitute grounds for the Town Board to

order immediate removal of said Wind Turbine(s) at Permittee's expense.

B. Performance Standards. All WECS shall be operated and maintained consistent with Good Utility Practice for comparable facilities.

C. State and Federal Standards. Construction of WECS and Wind Turbines shall meet or exceed current standards and regulations, if any, of any other agency of the state or federal government with the authority to regulate wind powered generators. If such standards and regulations are changed and retroactive application is required for the change, then Permittee shall bring the Wind Turbine(s) into compliance with such applicable revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is permitted by the controlling state or federal agency or approved by the Town. A Determination of No Hazard for each Wind Turbine must be obtained from the FAA for each Wind Turbine as a condition precedent to the receipt of a permit under this ordinance.

D. Wind Turbine Safety Standards. Permittee shall comply with the following safety standards:

1. All wiring between the Wind Turbines and substations shall be installed at least four (4) feet underground.
2. The outside of Wind Turbines shall not be climbable.
3. All access doors to the towers and electrical equipment shall be locked.
4. Appropriate warning signage shall be placed on each tower, all electrical equipment, and all entrances.

E. Repair & Replacement. Permittee shall be authorized to repair and replace the wind turbine generator and associated equipment consistent with Good Utility Practice during the Term of this Permit as needed to keep the Facility in good repair and operating condition. However, no such repair or replacement shall entitle Permittee to any extension of the Term of this Permit, even if it extends the useful life of the Facility. If Permittee desires to extend the term of this Permit in the future, Permittee shall be required to apply for such extension or amendment of this Permit in accordance with the terms of this ordinance.

G. PROCEDURES FOR ALTERATION OR REVOCATION OF PERMIT

A. Amendment. Following the granting of a permit any permittee who wishes to materially alter any aspect of the permitted premises which was required to be described in the building plan or site plan required under this Section, shall apply to the Town Board for an amendment to the permit. The application shall explain the nature of the alteration and the reasons therefore and include a non-refundable application fee of \$600. The Applicant shall also be required to pay the reasonably necessary engineering

expenses, if any, associated with the review. The Town Board shall act on the amendment application consistent with the terms of this chapter.

B. Revocation of Permit. An unsafe WECS and an inoperable WECS is hereby declared an unsafe public nuisance, which shall be subject to abatement by repair, rehabilitation, demolition, or removal by the Town Board. An inoperable WECS shall not be considered a public nuisance provided the owner can demonstrate that modernization, rebuilding or repairs are in progress or planned and will be completed within a reasonable time as approved by the Town Board, provided periodic reports on the status of the repairs are provided to the Town Board as requested of the permittee.

1. Each of the following occurrences shall constitute a violation of the terms and conditions of this Permit (a “Violation”) and any such Violation shall be grounds for revocation of this Permit (whatever the reason for such an event of default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, order or regulation) after the expiration of the notice and cure period and revocation hearing as set forth below:

a. The Permittee abandons the wind turbine generators located on the premises for a period of six months or more.

b. The Permittee fails to observe or perform any material condition or provision of this Permit for a period of 30 days after it has received written notice of such failure from the Town; provided, however, that a Violation shall not occur if Permittee commenced performance of such obligation within such 30 day period and is diligently proceeding to complete such performance.

c. There is a material failure by Permittee to comply with any statute, regulation, rule, or license administered by any federal, state or county department, agency, or commission directly related to the operation of the wind turbine generator, and if Permittee fails to cure the material failure to comply for a period of 30 days after the date Permittee receives written notice of such failure from the Town or the federal, state or local governmental body or agency with jurisdiction; provided, however, that a Violation shall not occur if Permittee commences performance of such obligation within such 30 day period and is diligently proceeding to complete such performance.

2. Each Wind Turbine and all related improvements shall be removed in accordance with the Decommissioning and Site Restoration Plan submitted by the applicant and approved by the Town through the permitting process.

3. The owner of a WECS and the underlying property owners shall be jointly liable for the removal of all equipment associated with the Wind Energy Facility at the end of the permit period, the useful life of the facility, or when the facility is abandoned or otherwise out of operation for more than six months, at their expense. Upon removal of a Wind Energy Facility, the owner of the facility and the underlying property owners shall be jointly liable for restoration of the site to its original condition at their expense. To protect the environment, removal shall

be done by mechanical means. Blasting is not an approved means for removal. The restoration shall include removal of all materials above and below ground; public road repair, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the WECS facilities. All hazardous materials shall be removed from the site and disposed of in accordance with state and federal laws.

C. Hearing. The Town shall not revoke any Permit without first providing the Permittee a hearing and the right to respond, including the right to present evidence regarding any defenses or extenuating circumstances regarding the alleged violations or public or private nuisance.

H. PERMIT EXPIRATION

A. Expiration. Unless the Town Board authorizes a different term based upon analysis of the useful life of the WECS, every permit issued pursuant to this chapter shall terminate upon the expiration of twenty five years from the date of issuance if construction is commenced within one year of issuance. If construction is not commenced within one year of issuance, the permit shall expire one year after the date of issuance and the applicant will be required to reapply if it still intends to develop a WECS project.

I. FEES AND EXPENSES

A. Tax Hold Harmless. In the event that the shared revenue payments payable to the Town are eliminated by the Legislature, Permittee shall be required to pay the Town an amount not less than \$1,667 per megawatt per year for Wind Turbines actually installed and operating within the Town. Such payments shall be on an annual basis and payable on the 180th day after notice from the Town of Permittee's obligation to pay under this paragraph. Permittee's obligation to make such payments shall cease if the State adopts or implements a new mechanism to replace the shared revenue payments, to the extent that the new payment mechanism produces revenue not less than the revenue payable under the predecessor program. The shared revenue payments referenced above are paid to the Town directly by the State of Wisconsin, not Permittee. Regardless, Permittee shall be required to supplement the Town's annual shared revenue payments actually received, by an amount equal to the annual percentage change of the Consumer Price Index as of January 1 of each calendar year beginning on the first January following the date the Town receives its first payment. For purposes of this escalator clause, the Consumer Price Index means the U.S. Department of Labor, Bureau of Statistics, Consumer Price Index for the United States, All Urban Consumers, all items, unadjusted index.

B. Property Taxes. If the property tax exemption for WECS under current state law is revised or revoked by future Legislatures, Permittee will be responsible for all related assessments and taxes associated with the permit and WECS site. Failure to pay such tax obligation shall be considered a non-compliance with this chapter.

C. Reimbursement of Fees and Costs. Permittee shall reimburse the Town for its actual reasonable fees and costs incurred in the application, negotiation, administration and enforcement of this chapter, including, without limitation, the Town's attorney fees, engineering

and consultant fees, Town Board meeting and hearing fees, and the costs of public notices relative to the review and consideration of each application filed by an applicant under this chapter. The preceding fees are payable within 30 days of invoice. Unpaid invoices shall bear interest at the rate of 1% per month until paid. The Town may recover all reasonable costs of collection, including attorneys fees.

J. WESF NEIGHBOR AGREEMENT

A. Neighbor Agreement. Licensee may offer to non-participating landowners the opportunity to enter into a Windpower Facilities Neighbor Agreement, provided:

1. Landowner has not otherwise entered into a Ground Lease, Easement or Setback Waiver Agreement with Licensee;
2. Has a primary residence or private business located within the setbacks provided for under this ordinance; and
3. Owns the property in fee simple and has applied for a building permit on or before the issuance of a license pursuant to this chapter. A landowner who enters into such an agreement is not a Participating Residence for purposes of this chapter.

B. Town Approval. The terms and form of such agreements shall be subject to negotiation between the Licensee and non-participating landowners who may be interested in such an agreement. However, such agreements, once signed, shall be subject to review and approval by the Town Board.

K. ADMINISTRATION, ENFORCEMENT, PENALTIES, RELATIONSHIP TO OTHER ORDINANCES, SEVERABILITY & EFFECTIVE DATE

A. Administration. This chapter shall be administered by the Town Board or its designee.

B. Inspections. The Town Board or its designee may enter upon any property for which a special exception permit has been issued under this chapter to conduct inspections to determine whether the conditions stated in the special exception permit and other standards and requirements of this ordinance are being complied with.

C. Enforcement. The Town Board or its designee may issue orders to abate any violation of this chapter or any condition attached to a special exception permit approved by the Town Board. The Town Board or its designee may issue a citation for any violation of this chapter. The Town Board may refer any violation of this chapter to the Town's legal counsel or to special counsel for enforcement through litigation. Nothing in this chapter shall be construed to prevent or limit the Town from using any other lawful means of enforcing this ordinance.

D. Penalties. Any person, applicant or permittee who fails to comply with any provision of this chapter or of any permit issued pursuant to this ordinance shall, upon conviction

thereof, forfeit at least five-hundred dollars (\$500.00) but not more than one- thousand dollars (\$1,000.00) for each offense. A separate offense shall be deemed committed on each day during which a violation occurs or continues. Any person, applicant or permittee who is in default of payment of a forfeiture or costs may be imprisoned in the county jail until the forfeiture or costs are paid, except that the period of imprisonment may not exceed thirty (30) days.

E. Relationship to Other Ordinances. This chapter does not abrogate, annul, impair, interfere with, or repeal any existing ordinance of the Town or any other governmental body.

F. Severability. The provisions of this chapter are severable, and the invalidity of any section, subdivision, paragraph, or other part of this chapter shall not affect the validity or effectiveness of the remainder of the chapter.

18.30.270 Special events.

A. A special event having a duration of 3 days or less within any calendar year, excluding time for set-up and take-down, that is conducted on a single parcel of land or one or more parcels of land that are adjoining or adjacent to each other and separated only by a property line or public road, may be allowed in any zoning district by the board with a special exception contract. All other special events may be allowed as a special exception in any zoning district except the Shoreland Protection Overlay District and Floodplain District, subject to public hearing, review, and approval by the commission with findings that they are in conformance with all of the standards for special exception permit approval in 18.21.060 and the standards in 18.30.270 D. below.

1. Special events in the A-P and A-1 Exclusive Agricultural District must be events

that are consistent with agricultural use as required under Wis. Stat. § 91.01(10).

2. Special events may be allowed at historic sites or in historic districts listed in the National Register of Historic Places provided the events have some cultural connection with the historic site or historic district and are not disruptive to the historical site or historical district.

B. Special events shall not be allowed in habitat areas of threatened or endangered species or other similar sensitive environmental areas.

C. Application requirements. In addition to the information required by 18.21.030, the application shall include the following:

1. Maps illustrating the following:
 - a. The location for the event and surrounding property within ½ mile of the event indicating the land use in the surrounding area.
 - b. The location of any off-site parking areas that are not located directly on the site or immediately adjacent to the site of the special event.
 - c. The major roads in the vicinity that are likely to be used by vehicular traffic to access the site of the special event, indicating the routes that traffic will likely use to access the site, and in the case of off-site parking areas, the routes that traffic will likely

use to access the off-site parking areas and the routes that shuttle vehicles will use to travel between the off-site parking lot and the special event site as required in 18.30.270 D.3.c., below.

2. A scaled site plan of the site or sites where the event will take place showing the following:

- a. The exterior boundaries of the site or sites.
- b. The location for entry gates and exits, booths, stages, tents, canopies, pavilions, food and beverage stands, carnival rides, bleachers or other seating areas, areas where competitive events or other entertainment will take place, lighting fixtures, or any other similar types of structures or amenities necessary for the event.
- c. The location of on-site parking lots, including parking for spectators/visitors, vendors, and event competitors/participants; and a separate site plan for offsite parking lots, indicating locations for shuttle stops for shuttling visitors/spectators to the event in accord with 18.30.270 D.3.c., below.
- d. The location for signs on-site and in the vicinity of the site, subject to the standards for signs in 18.30.270 D.4., below.
- e. The location of thoroughfares for pedestrians and vehicles on the site, that are sufficient in size to accommodate the number of people projected for the event and the movement of vehicular traffic wherever necessary including the movement of emergency vehicles.
- f. The location for portable restroom facilities.
- g. The location for garbage/refuse receptacles and recycling receptacles.

3. A description of the event including the following:
- a. Dates and hours of operation, including dates for setting up the event, dates for conducting the event, and dates for taking down the event.
 - b. All activities that will be taking place during the event, including any competitive activities, entertainment, rides, vending, and other activities.
 - c. Projected number of each of the following groups of people that will attend the special event: spectators/visitors, competitors/entertainers, vendors, workers, and volunteers.
 - d. The number of parking spaces provided.
 - e. Method for crowd control, including the number of staff available.
 - f. Method for vehicular traffic control on-site and in the vicinity of the site, and method for separating vehicular and pedestrian traffic where necessary.
 - g. Method for collecting and disposing of garbage and refuse and collection of recyclables, and patrolling the site and vicinity for garbage and recyclables.

4. Inspection of premises. No permit shall be granted for a special event unless the operator agrees and consents in writing, as a part of the application for the permit, to allow law enforcement, public health and fire control officers and staff for the commission to come upon the premises for which the permit has been granted for the purpose of inspection and enforcement of the terms and conditions of the permit issued pursuant to this ordinance, and any other applicable laws or ordinances. If any inspections described above reveal deficiencies in compliance with state or local law, the inspectors may return as often as needed until the

deficiencies are cured. If the deficiencies are not cured or cannot be cured, the county sheriff may terminate the outdoor mass gathering.

A. Standards for approval of special events.

1. Access.

a. The location of the event as identified in the map, submitted with the application in accord with 18.30.270 C.1. above, shall include documentation explaining how traffic will be managed within the vicinity of the event and any measures taken to control and minimize possible nuisance factors that could be associated with the event such as traffic congestion, illegal parking, noise, light, fumes and litter.

b. The applicant shall consult with appropriate law enforcement agencies and local municipalities for guidance on traffic control.

2. Grounds.

a. The facilities and features that must be identified on the site plan in accord with 18.30.270 C.2.b., c., and d., above, shall be arranged as follows:

i. So that the facilities and features are separated from adjoining properties to prevent trespass onto adjoining properties and to control and minimize nuisance factors such as noise, dust, fumes, exhaust, and light.

ii. So that pedestrian traffic can move freely without blockages.

iii. So that pedestrian traffic and vehicular traffic are separated.

iv. So that emergency services have easy access to the entire grounds.

3. Illumination.

a. Illumination will be provided at night to protect the safety of the persons assembled.

b. All areas where spectators/visitors, competitors, entertainers and vendors will be assembling will be illuminated, and all parking areas shall be illuminated.

c. All lighting shall be shielded and directed downward and shall not unreasonably reflect beyond the assembly area.

d. Spotlights, laser beams, or any concentrated beams of light shall be prohibited, unless they are part of an entertainment activity involved with the special event and are not directed upward toward the sky.

4. Signage. Temporary signage is allowed under the approval of the special exception permit as follows:

a. Temporary signage is not allowed in the road right-of-way or in the vision triangle of intersections.

b. All temporary signage may not be placed more than 7 days prior to the beginning of the event and shall be removed within 24 hours of the end of the event.

c. No temporary sign shall exceed 32 square feet.

d. Section 18.26.010 applies.

5. Duration, dates and times.

a. The duration of a special event shall not exceed 7 consecutive days within any 30-day time period, and not more than 4 special events shall be allowed in a 12month period.

b. Special events shall not be allowed to operate between the hours of 12:00 am (midnight) and 6:30 am, unless the special event involves an activity that does not involve noise or lighting or other nuisance factors that requires operation during that time period, such as celestial observation special events.

6. Parking.

a. On-site parking shall be required for competitors/entertainers, vendors, and emergency services.

b. On-site parking is preferred for employees, volunteers and spectators/ visitors. Off-site parking may be allowed for employees, volunteers and spectators/visitors only when shuttle service is provided to transport them to and from the main event grounds. For the purpose of special events, parking lots located on adjoining properties or properties located directly across the road from the main event grounds shall be considered onsite parking lots, provided employees, volunteers and spectators using these parking lots can walk directly from the parking lot to the main event grounds.

c. All parking lots shall be provided with a dust control method.

d. Event parking shall be calculated using 1 parking stall per 4 users, plus 1 stall per 2 employees/volunteers.

e. Where off-site parking is provided for, the following additional requirements shall be met:

i. Parking attendants shall be required at all times during the event at the off-site parking lot to control traffic and to direct vehicles into parking spaces. ii.

ii. Shuttle vehicles shall be provided to transport persons between the parking lot and the main event grounds. Shuttles shall be provided at minimum intervals of 15 minutes. All visitors/spectators, employees, and/or volunteers using the off-site parking lot shall be required to use the shuttle to travel between the parking lot and the main event. Walking shall be prohibited unless a pedestrian corridor sufficient in size to handle increased pedestrian traffic above and beyond the normal pedestrian traffic has been identified and cordoned off. The requirement to provide shuttle service may be waived by the board, if the off-site parking lot is located in close proximity to the main event site and visitors/spectators, employees, and/or volunteers using the off-site parking lot can walk safely from the parking lot to the main event site.

iii. One or more patrol person(s) shall be required at all times during the event to patrol all roads between off-site parking lots and the main event grounds to ensure that vehicles are not illegally parked along the roads and to ensure that visitors/spectators, employees and/or volunteers using the off-site parking lot are not walking between the parking lot and main event grounds.

f. The density of parking spaces shall not exceed 150 passenger cars per usable acre available for supervised parking.

7. Sanitary facilities, refuse collection, and recycling.

a. All necessary permits shall be obtained from the Eau Claire CityCounty Health Department for the following:

i. Toilet facilities. Toilets shall be provided at a rate of 1 per 150 persons in attendance.

ii. Food and beverage concessions.

iii. Potable water.

iv. Refuse collection. One 50-gallon refuse container shall be provided for every 100 persons in attendance. One 16 cubic yard refuse container may be substituted for half of the required 50 gallon refuse containers for every 5,000 person in attendance. All refuse shall be collected at least twice during each 12-hour period of the special event, with the minimum of two such collections per special events exceeding 6 hours. All refuse shall be disposed of in a lawful disposal site.

b. The applicant shall be required to police the roads and any other public thoroughfares adjacent to the site, adjacent to off-site parking lots, and along the route used for shuttle vehicles if there is off-site parking, for litter and refuse during the event and as part of clean-up following the event.

c. Recycling containers shall be provided for collection of all recyclable materials that must be recycled in accord with recycling requirements in Chapter 12.73 of the Eau Claire County Code that are likely to be generated as a result of vending and concessions at the special event.

d. The event sponsor shall contract for recycling and garbage collection.

8. Safety and emergency services.

a. Crowd control.

i. Adequate personnel shall be provided for crowd control and maintaining order during the event, as recommended or required by local law enforcement agencies. ii. If off-site parking will be used for the event, then one or more patrol persons shall be required to patrol the roads between the off-site parking lot and the main event site to ensure that vehicles are not illegally parked along the roads and to ensure that visitors/spectators, employees and/or volunteers using the off-site parking lot are not walking between the parking lot and main event grounds, as required in 18.30.270 D.6.e.iii., above.

b. Fire protection.

i. The appropriate fire protection agency shall be notified of the dates and times of the event to ensure that fire protection services are on alert for the event.

ii. Any fire protection equipment deemed necessary by the fire protection agency, including portable fire extinguishers, shall be provided.

c. Emergency medical services.

i. The appropriate emergency medical service agency shall be notified of the dates and times of the event to ensure that emergency medical services are on alert for the event. ii.

ii. A first aid station shall be provided at the special event site, with appropriate emergency medical materials and equipment and staff trained in first aid.

9. Insurance and financial assurance.

a. Public liability insurance shall be provided for the duration of the event, with a minimum of \$300,000 coverage for injury or damage to a person or property and not less than \$1,000,000 in the aggregate amount for any one occurrence, naming the county as an additional insured.

b. A refundable bond in a form acceptable to the county shall be posted with the county in the amount of \$1,000, and shall be refundable to the applicant after the

county has determined that all of the conditions, standards and requirements for the special event have been met. Failure to comply with all conditions, standards and requirements for the special event shall result in forfeiture of all or any portion of the bond needed to remedy the applicant's noncompliance. The applicant shall be provided with a statement describing how the forfeited funds were expended.

10. Assembly permits may be required by the Eau Claire County Sheriff's Department.

B. Fee required. The fee required for a special event shall be:

- | | | | |
|----|----------------------------|----------|---|
| 1. | Special exception contract | \$250.00 | |
| 2. | Special exception permit | \$500.00 | - |

18.30.280 Temporary Uses.

The purpose of these regulations and permit requirements is to ensure that only suitable temporary uses that require only the minimum necessary conditions or limitations (consistent with the temporary nature of the use) are allowed and to ensure that basic health, safety, and community welfare standards are met.

A. General Standards. The following standards shall apply to all temporary uses unless otherwise exempted:

1. All structures shall meet the applicable zoning setback requirements and cannot be located in the traffic-visibility triangle, nor within 20 feet of an access.

2. Shall meet all applicable county health and sanitation requirements.

3. Shall meet all applicable county building code requirements.

4. Conducted in a parking facility shall not occupy or remove from availability

more than 10 percent of the spaces required for the permanent use.

5. May locate in a front yard but may not be closer than 10 feet from a property

line, unless a more restrictive setback is required.

6. Shall not be located on a lot in a manner which would interfere with traffic circulation or vehicle or pedestrian safety.

7. Require that a scaled site plan be submitted to the commission for review and

for the issuance of a land use permit. At a minimum the scaled site plan shall include the location of the temporary use, lot dimensions, property lines, building locations, all access driveways, parking stalls, sign location, sanitary and well location, and floodplain, if applicable.

8. Temporary signage shall not exceed 32 square feet.

9. All temporary structures shall be removed from the premises after seven days

of the growing season or holiday.

10. All lighting shall be shielded and directed downward to minimize light pollution.

11. Sufficient recycling and refuse containers to handle the material generated shall be provided.

12. One temporary use may be allowed per lot or tract of land under one ownership at a time.

13. Off site signage shall be allowed per 18.26.015 B.

14. A temporary use permit issued under this section shall remain in effect as long as the authorized use continues. Any temporary use which is discontinued for 18 consecutive months shall be deemed to be abandoned. Prior to the reestablishment of an abandoned temporary use, a new land use permit shall be obtained under the terms of this chapter.

B. Agricultural produce stands including but not limited to sale of the following; berries, vegetables, apples, pumpkins, horticulture and trees sales.

1. Are allowed in all commercial districts.

2. Must be operated by the agriculture producer or an employee of the agriculture producer.

3. May be conducted from one of the following: a temporary shelter, a trailer, or from a motor vehicle.

C. Christmas Tree Sales.

1. Are allowed in all commercial districts.

2. May not exceed 45 days, including site set up and clean up.

3. May be allowed per 18.23.010 G. 2.

D. Fireworks Stands.

1. Shall comply with Wis. Stat. §167.10.

2. And associated structure(s) shall be set back 100 feet from residential districts.

3. Require local town license for the sales of fireworks, if applicable.

4. Storage of fireworks shall be in conformance with state and federal standards.

5. Require a letter from property owner granting permission to the applicant to sell and/or store fireworks on the property.

2. Are allowed in all commercial districts.

E. Mobile Food Vendors.

1. Outside cooking areas shall be fenced.

2. May operate from a trailer or motor vehicle approved by the health department.

3. Are allowed in all commercial districts.

C. Temporary residence during construction of principal dwelling. An existing dwelling or manufactured home may be used as a temporary residence during construction of a new dwelling on the same parcel, subject to the following:

1. The owner of the property shall sign a contract with the commission for the temporary residence.

2. Shall be removed from the property 30 days upon receiving final occupancy.
3. Cannot be converted to an accessory structure.
4. Shall be removed or destroyed at the time the contract for such temporary residence lapses.

D. Model homes/Temporary Real Estate Sales Offices. The purpose of this section is to provide for the erection of model homes and temporary real estate sales offices in subdivisions without adversely affecting the character of surrounding residential neighborhoods or creating a general nuisance.

1. Are permitted in all of the zoning districts, except where single-family dwellings are prohibited and shall comply with the Wisconsin Building Codes.

2. Must be used exclusively for the purpose of marketing lots or homes within a specific development and not for general real estate throughout the community.

3. Access, sanitary, building and zoning permits are required.

4. A maximum of three (3) employees may be at the office at one time.

5. Parking facilities shall be provided on the site and shall include at least four

(4) parking spaces per model home unit or temporary real estate sales office.

6. Shall not incorporate outside lighting, which creates a nuisance due to glare or intensity or contains flashing or intermittent lighting. All lighting shall be shielded and directed downward.

7. All signage shall comply with the Chapter 18.26.

8. Must be removed from the development within five (5) years from the date of the land use permit or when eighty-five (85) percent of the development is complete, whichever occurs first.

9/15/09

H. Exemptions.

1. Garage sales, private auctions, moving sales, and similar activities for the sale of personal belongings when operated not more than three days in the same week and not more than twice in the same calendar year are allowed in all zoning districts.

2. Fund raising activities are exempt from the permit fee but shall comply with 18.30.280 A.

3. On-premises activities or existing businesses in compliance with outdoor storage requirements.

4. Radio promotions.

- I. The commission may authorize additional or exempt other temporary uses not specifically listed in this subsection, when it is found that the proposed uses are in compliance with the provisions of this section.

18.30.290 Tourist Rooming House.

It is the intent of this section to set standards under which a single-family dwelling may be used as a tourist rooming house. Tourist rooming houses are special exceptions, as regulated by Chapter 18.21, and may be permitted in the following districts: A-P, A-1, A-2, A-3, A-R, RH, and C-3.

- A. A special exception permit may be issued to a property owner for the use of an existing single-family dwelling as a tourist rooming house under the following conditions:
1. Property owner must obtain the proper licensing from the state and/or county for the operation of a tourist rooming house.
 2. Property must be in compliance with all applicable laws and regulations including, but not limited to the uniform building code and sanitary provisions.
 3. Accessory structures and/or buildings shall not have habitable living spaces such as, but not limited to, sleeping accommodations, kitchens, living spaces.
 4. Tents or recreational vehicles, such as pop-up campers or motor homes or other means of overnight stay, are prohibited.
 5. Adequate parking must be provided for on the applicant's property, and parking is not allowed within the road right-of-way.
 6. The property must remain free from citations and/or charges for nuisances, disorderly conduct, or any other illegal activity.
 7. One six-square-foot on premise sign is allowed. The sign must be placed outside of the road right-of-way.
 8. There must be a 24-hour contact number available for public complaints and/or inquiry.
 9. Quiet hours may be established by the commission.
 10. All pets shall be contained on the property during the stay of the tourist.
 11. Applicable local, county and state permits shall be referenced on any type of advertising, including on the internet and shall be prominently displayed and in a conspicuous location on the property.
 12. Agricultural Preservation (A-P) and Exclusive Agricultural (A-1) District. In compliance with Wis. Stat. § 91.01 (1) (c) and (21), a tourist rooming house in the exclusive agricultural district is limited to a farm residence or a nonfarm residence; it shall not impair or limit the current or future agricultural use of the farm or of other protected farmland and requires no buildings, structures, or improvements other than those which are an integral part of, or are incidental to, an agricultural use or the farm residence.
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18.30.300 Solar Energy Systems

Purpose. This section provides the standards and procedures to issue a special exception permit for a Solar Energy System

Permits Required

A. Land Use Permit

1. Roof-mounted Solar Energy Systems,
2. Ground-mounted and pole-mounted Solar Energy Systems covering between 20 and 300 square feet,
3. Wall-mounted Solar Energy Systems greater than 20 square feet.

B. Special Exception Permit

1. Large Solar Energy Systems exceeding 300 square feet of ground cover shall require an owner to file a special exception permit prior to construction. The LSES may be permitted in all zoning districts except the Farmland Preservation District. If a court finds this prohibition unenforceable the applicant of the LSES is still subject to the regulations and requirements in this section
2. The requirement for a permit may not be avoided by successive installations each of which are smaller than the thresholds established herein.

Exempt Installations

The following installations are exempt from a special exception permit:

- A. Solar installations less than 20 square feet (hereinafter “small panels”) not to exceed 3 small panels on a given parcel.
- B. Installations oriented for public purposes, such as small panel installations for signage and lighting & related equipment within the right-of-way.
- C. Installations for Municipality owned public buildings or facilities, such as wastewater treatment plants, water treatment plans, water well houses, lift stations, municipal buildings, fire & emergency management facilities, and water towers.

Effect of Other Licenses/Permits . The fact that an applicant possesses any other valid license or permit required by law does not exempt the applicant from the requirement of obtaining a special exception permit under this ordinance.

Non-Assignment. A permit issued under this ordinance may not be assigned or transferred to any other Person than the Permittee, without the express prior written consent of the Town. Such consent shall not to be unreasonably withheld within one year after issuance of a permit, provided the Permittee and the Person who the permit is proposed to be assigned or transferred to shall both submit affidavits to the Town demonstrating the following:

- A. The new Person who will hold the permit wholly owns the new entity.
- B. The new entity is properly formed and authorized to do business in the State of Wisconsin.
- C. The written assignment requires the new entity to assume all of the Permittee’s rights, duties and obligations under the Permit including but not limited to all financial requirements and the certificate of insurance requirements.

Application

Application. Any person desiring to secure a special exception permit for a SES from the Town shall file a complete application, together with two additional copies, with the Town Clerk. The application shall be on a form approved by the Town Board and shall be provided to the applicant by the Town. All studies, analyses, testing, surveying, planning or any outside information required to complete the application shall be conducted by independent professionals with prior approval by the Town and paid for by applicant. The Town shall retain the services of an independent, recognized expert to review the results of the study, analysis, tests, survey and plans prior to acting on the application.

A. Required Information. The following information shall be required of each Applicant and shall be provided with the application. The Person(s) filing the application shall sign it under oath or affirmation as witnessed by a Notary Public:

1. Name, address, and phone number of Applicant(s).
2. If the Applicant is a corporation, partnership, limited liability company, limited liability partnership, or other entity recognized by law, the application shall include: the name of the business entity; the date of incorporation, registration or organization; the state in which the entity was incorporated, registered or organized; the name and address and home phone numbers of the registered agent(s) where applicable; the names and addresses of all officers and directors; operating or managing partners or general partners, managing members or managers, whichever is applicable for the particular form of business entity.
3. Name and address of any other current or past SES developed or operated by the Applicant, whether in the State of Wisconsin or any other state or nation.
4. Name, address and phone number of the individual(s) responsible for the day-to-day operation of the proposed SES, who will be deemed the Operator for purposes of this section, and who will be the contact Person for the Town.
5. Evidence that the Applicant is the owner of the underlying real estate and other property necessary for the SES project or that the Applicant has the written permission of the owner(s) of such real estate and other property to make such an Application.
6. A signed statement by the underlying landowner(s) acknowledging that the landowner(s) will be financially responsible if the owner/operator fails to reclaim the site as required, and that any removal and reclamation costs incurred by the Town shall become a lien on the real estate and other property and may be collected from the landowner(s) in the same manner as property taxes.
7. A statement that the Applicant is familiar with, and in compliance with, the provisions of this ordinance, including the responsibility to reimburse all reasonable costs and professional fees associated with the processing, examination and analysis of the application for a permit and such further expenses associated with monitoring the SES and enforcing the terms of the permit.
8. Proof of continuous liability insurance in the minimum amount of five million dollars (\$5,000,000.00) per occurrence shall be submitted to the Town of Lincoln indicating coverage for potential damages or injury to landowners, occupants, Town property and Town roads, and other third parties. The Town shall be named as an additional insured on the policy.

B. Additional Information

1. A description of the Solar Energy System including size, method of installation, amount of power to be generated and whether the facility is for private residential or business use or for commercial energy production.
2. Existing Conditions Site Plan. The site plan shall include the following information:
 - a. Property lines
 - b. Buildings
 - c. Proposed installation location and details
 - d. Existing land use and features (woods, cropland, slopes exceeding 12%, wetlands, etc.).
 - e. For Large Solar Energy Systems, existing sound, and vibration measurement, following the Wisconsin Dept. of Natural Resources Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (2008, or current version).
 - f. Robotic inspection of every foot of drainage tile, repair of any inoperable drainage tile in advance of any SEF construction and re-inspection every three years. All video footage to be place with Town.
3. Proposed Plan Site Plan. The site plan shall include the following information:
 - a. Proposed location and spacing of solar collectors.
 - b. Proposed location of access roads for ground-mounted installations greater than 300 square feet.
 - c. Proposed planned location of underground or overhead electric lines connecting the system to the building, substation, or other electric load.
 - d. Location of proposed new electrical equipment other than at the existing building or substation that is the connection point for the system.
 - e. Proposed erosion and sediment control measures, as required by Eau Claire County
 - f. Proposed stormwater management measures as required by Eau Claire County
 - g. Sketch or schematic elevation of the premises accurately depicting the proposed Solar Energy System and its relationship to any buildings or structures on adjacent lots.
 - h. A description of the proposed method of connecting the system to a building or substation.
 - i. Proposed maintenance plan for grounds surrounding the system.
 - j. Proposed plan outlining the use, storage, and disposal of chemicals used in the cleaning of the collectors and/or reflectors.
 - k. Proposed plan for the storage, operation, maintenance and possible disposal of any batteries serving the system.
 - l. Scaled elevation drawings covering the proposed facilities on the property.
 - m. A description and drawing showing the screening/landscaping plan being proposed.
 - n. Proposed safety and security plan.
 - o. Health, safety, endangered species, and environmental sustainability plan.
 - p. Timeline. The applicant shall provide a proposed timeline showing all aspects of construction with a starting and final completion date

- q. Glare analysis for the proposed Facility with a firm that consults for constructing an SES near an airport, such as Sandia National Laboratories or an equivalent.
- r. Robotic inspection of every foot of drainage tile, repair of any inoperable drainage tile in advance of any Facility construction and re-inspection every three years. All video footage to be place with Town
- s. Soils Report. A geotechnical report that shall at a minimum include the following:
 - i. Soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing;
 - ii. Slope stability analysis;
 - iii. Grading criteria for ground preparation, cuts and fills, soil compaction; and
 - iv. Certification from a registered geotechnical engineer that the soils can support a SES
- t. Site Preparation & Erosion Control. The applicant shall submit the following:
 - i. A site preparation plan that has been approved by the Eau Claire County Land Conservation Department. The plan shall show planned storage and retention of topsoil, and all types of subsoil for later site restoration.
 - ii. A construction site erosion plan and storm water runoff control plan that has been approved by the Eau Claire County Land Conservation Department. The plan shall comply with all state statutes and county ordinances. The plan shall be prepared so as to minimize the potential adverse impacts on sinkholes, wetlands, streams and the banks and vegetation along those streams and wetlands, and to minimize erosion or sedimentation.
- u. Hazardous Waste. A plan shall be submitted showing compliance with all laws applicable to the generation, storage, clean up, transportation and disposal of hazardous wastes generated during any phase of the proposed SES life.
- v. Fire Prevention, Emergency Rescue Plan. The applicant shall submit a plan to outline preventative measures, and to identify, train and fund fire and rescue personnel to ensure readiness and appropriate response. This plan shall also identify potential fire, rescue, and hazardous materials scenarios over the life of the SES.
- w. Stray Voltage Test Results. The applicant shall perform at least two pre- construction stray voltage tests at all livestock facilities within the proposed project boundary and within a one-mile radius beyond the proposed project boundary. The tests shall be performed by a Town approved Wisconsin certified stray voltage investigator and shall be conducted once in the spring and once in the fall of the year. The tests shall be performed according to the PSCW Phase II Stray Voltage Testing Protocol. A copy of the test results shall be sent to each of the following: property owners, PSCW, local utilities, Wisconsin Public Service Commission, and the Town. The applicant shall obtain written permission from property owners prior to stray voltage testing. If permission is denied, all responsibility for stray voltage problems shall be with the property owner.
- x. Affected Property Owners. The applicant shall submit the name and address of property owners within SES setback areas. Considering that development rights of adjacent property owners may be forfeited due to setbacks, a written agreement for non-development within the specified setback must be obtained and recorded on the affected properties' deeds.
- y. Easements, Leases & Property Rights. The applicant shall submit copies of signed letters of intent to grant easements, long-term leases or other property rights from all involved landowners and any governmental units responsible for right-of-ways for access,

- construction, electric transmission and distribution lines, etc
- z. A sound and vibration level study, following the Wisconsin Dept. of Natural Resources Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (2008, or current version).
- aa. Abandonment, Removal and Site Restoration Plan. The applicant shall submit an abandonment, removal and site restoration plan, along with a cost estimate for removal and site restoration, to the Town with the application. A cost estimate shall be obtained by a independent regional professional with experience in decommissioning SES. The plan shall identify the specific properties it applies to and shall indicate the timeline and process to be used for removal of all materials above and below ground; road repair costs, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the SES. The plan shall reflect the site-specific character including topography, vegetation, drainage, and any unique environmental features at the site. The plan shall reflect any standards set forth in this ordinance and shall include a certified estimate of the total cost (by element) of implementing the removal and site restoration plan

Application Fees & Security. The following fees and financial security guarantees shall be paid to the Town by the applicant:

- A. Application, Legal and Consultant Fees. The applicant shall pay an application fee of \$1,000 to the Town upon filing an application under this ordinance. In addition, within fourteen (14) days of filing an application the applicant shall deposit in a joint escrow account with the Town the sum of \$25,000, as partial payment for the appropriate Town expenses in hiring consultants and experts, as these authorities shall, at their discretion, deem desirable. At any time the balance of this fund shall fall below \$15,000, the applicant shall submit an additional \$15,000 so that the Town's full and actual expenses of examining and verifying the data presented by the applicant shall be paid in full by the applicant. If at any time the balance of this fund shall fall below \$15,000 for a period of 30 days, the application shall be considered to have been withdrawn. The balance of the escrow account, after all the Town's expenses have been paid, shall be returned to the applicant.
- B. Road Repair. An amount to be determined by agreement of the applicant and the Town Board, to be used as security for Town road maintenance and repair, shall be deposited in a joint escrow account with the Town within fourteen (14) days of approval of a permit under this ordinance. When determining the amount of such required security, the Town may require an annual escalator or increase based on current construction costs and/or the Federal Consumer Price Index. This security shall be kept in full force and effect during the entire time a SES is in existence and shall be used to maintain roads during the construction, maintenance and decommissioning of the SES Facility. Such security shall be irrevocable or non-cancelable (except by written consent by both the Town Board and the owner of the SES) for the life of the approved permit. Failure to comply will subject the applicant to revocation of the permit.
- C. Site Reclamation. Advance payment for SES site reclamation and restoration shall be placed in a joint escrow account or surety bond, the amount to be determined by the Town Board. Said amount shall be sufficient to fully remove the SES and all components thereof. Such financial security shall be kept in full force and effect during the entire time while a SES Facility exists

or is in place. This financial security shall be irrevocable and non-cancelable until such time as the Town Board certifies that reclamation and restoration are complete and release the obligation.

Permit Procedures

- A. Notice & Procedure.** After determining that an application is complete, the Town Board shall conduct a public hearing on the application after a class 2 hearing notice is published in the Town's official newspaper. The public hearing shall be held within ninety (90) days, after the Town Board determines that the application is complete. Within fourteen (14) days after the close of the public hearing, the Town Board shall meet in open session to deliberate and make a decision concerning the application. The deliberation meeting shall be noticed to the applicant and the public at least five (5) days prior to the deliberation meeting. The Town Board may have the assistance of legal counsel at the public hearing and the deliberation meeting.
- B. Decision on Application.** The Town Board shall approve an application and grant a special exception permit for a SES if it determines that the requirements of this ordinance have been and shall be met by the applicant, and granting the permit will not adversely affect public health and safety. The Town Board may include conditions in the special exception permit which go beyond the minimum regulations set forth herein, if the conditions are reasonably necessary to protect public health and safety; do not significantly increase the cost of the system or significantly decrease its efficiency; or allow for an alternative system of comparable cost and efficiency. In addition to other provisions and standards set forth in this ordinance, the Town Board may consider the following factors when establishing such conditions:
1. The proposed ingress and egress;
 2. The proximity to transmission lines to link the system to the electric power grid;
 3. The number of solar arrays and their proposed locations;
 4. The nature of land use on adjacent and nearby properties;
 5. The surrounding topography;
 6. The proximity to residential structures, residential zoning districts, and areas identified for future residential use;
 7. Design characteristics that may reduce or eliminate visual obtrusiveness and the distraction of motorists on nearby roads;
 8. Possible adverse effects on migratory birds, raptors, and other animals and plants;
 9. Possible adverse effects of stray voltage, interference with broadcast signals, shadow and flicker effects, and noise;
 10. Impacts on the orderly development, property values, and aesthetic conditions of the Town as they may also relate to public health and safety and other factors under Wis. Stat. § 66.0401;
 11. Effects on public roads;
 12. Recommendations from the town boards of adjacent towns, which may be affected by a SES;
 13. Any other factors which are relevant to the proposed SES.

Recording & Notice of Decision. The Town Board's decision to approve, conditionally approve or deny an application, the reason(s) for its decision, and any conditions established by the Town Board relative to a conditional approval of an application and permit shall be recorded in the

Town Board's minutes. The Town Board and Town Clerk shall issue a permit to the applicant or inform the applicant that the application for a special exception permit has been denied within thirty (30) days of the Town Board's final action on the completed application. At the same time, the Town Clerk shall publicly post a notice of the final decision of the Town Board at the Town Hall.

Appeal to Circuit Court. The Town Board's final decision on approval, conditional approval or denial of an application may be appealed to Circuit Court by anyone aggrieved by the decision, including but not necessarily limited to the applicant or any aggrieved resident or property owner of the Town, within thirty (30) days of the issuance of the decision, and the posting of public notice of the decision, by the Town Clerk. In addition, any revocation of a permit or other enforcement action by the Town Board under this ordinance may be appealed to Circuit Court by the applicant or any other aggrieved party within (30) days of actual notice to the applicant or other aggrieved party of such revocation or enforcement action.

Solar Energy System Regulations.

General Standards. The following standards shall be applicable to all Solar Energy Systems:

- A. Systems shall be designed and operated in a manner that protects public safety.
- B. Systems shall be compliant with any applicable local, state, and federal regulatory standards, including, but not limited to, the State of Wisconsin Uniform Building Code, as amended, and the National Electric Code, as amended.
- C. At the discretion of the Town, systems proposed for attachment to a building or structure shall include a structural certification prepared by a registered professional engineer licensed in the state of Wisconsin.
- D. Systems that result in the creation of one (1) or more acres of land disturbance, must provide plans that comply with the WDNR NR 216 and NR 151 Construction Stormwater Permit Requirements prior to final stormwater and erosion control permitting at Eau Claire County
- E. Systems shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners, or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the Solar Energy System provided they comply with the prevailing sign regulations.
- F. Tree removal shall be minimized and mitigated in accordance with proper site design.
- G. Screening and/or sound reducing mechanisms are required for all Large Solar Energy Systems, and any installation where noise producing infrastructure is located outdoors.
- H. The applicant shall submit a decommissioning plan, per the standards of this ordinance, with the permit application.
- I. Systems shall be designed to integrate into the architecture of the building or site, to the extent such provisions do not diminish solar production or increase energy costs.
- J. Systems shall be designed and operated to prevent the misdirection of reflected solar radiation onto adjacent or nearby property, public roads, or other areas open to the public.
- K. Power inverters and any sound-producing equipment shall be at least 150 feet from any residential dwelling(s) adjacent to the Parcel covered by the application. If that 150-foot distance is not reasonably available and this requirement cannot be met, then a Large Solar Energy System application submitted shall include a plan for screening or another sound barrier to reduce the

sound emanating onto an adjacent residential parcel, to a level no more than 35 dB with no pure tone noise (at boundary line), which plan shall be subject to the review and approval of the Town.

- L. Two or more written complaints regarding noise from a Solar Energy System within a 12-month period, or failure to upkeep/maintain necessary screening for same, may be deemed a nuisance or a violation of this ordinance.

Roof-mounted Solar Energy Systems. The following standards shall apply to roof-mounted Solar Energy Systems:

- A. Roof-mounted Solar Energy Systems shall not exceed by more than four (4) feet the existing maximum roofline at the point of installation.
- B. In addition to the structure setback, the collector surface, and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the structure on which the system is mounted or built.
- C. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least two (2) feet.
- D. Exterior piping for roof-mounted solar hot water systems may extend beyond the perimeter of the structure on side and rear yard exposures.
- E. Roof-mounted solar systems, excluding building-integrated systems, shall not cover more than eighty percent (80%) of the surface upon which the collectors are mounted.

Ground-mounted and pole-mounted Solar Energy Systems. The following standards shall apply to ground and pole-mounted Solar Energy Systems

- A. Ground and pole-mounted systems shall not exceed ten (10) feet in height measured from the top of the panel frame when oriented at maximum design tilt.
- B. Ground and pole-mounted systems shall not extend into the side-yard, rear, or road right-of-way setback when oriented at minimum design tilt.
- C. Ground and pole-mounted systems shall have natural ground cover under and between the collectors and surrounding the system's foundations or mounting device(s).
- D. The total collector surface area of pole or ground mount systems shall not exceed fifty percent (50%) of the building footprint of the principal structure for systems located in all residential and commercial zoning districts.

Wall-mounted Solar Energy Systems. The following standard shall apply to wall-mounted Solar Energy Systems: In residential zoning districts, wall-mounted Solar Energy Systems shall cover no more than twenty-five percent (25%) of any exterior wall facing a front yard.

Accessory-mounted Solar Energy Systems. The following standards shall apply to accessory Solar Energy Systems:

- A. Accessory Solar Energy Systems must meet all setback requirements pertinent to accessory structures for the zoning district in which the structure is situated.
- B. Accessory Solar Energy Systems shall not be located nearer the front lot line than the principal building on the lot.

Photovoltaic Solar Energy Systems. The following standards shall apply to Photovoltaic Solar Energy Systems:

- A. For Photovoltaic Solar Energy Systems, the electrical disconnect switch shall be clearly identified and unobstructed.
- B. No grid-intertie Photovoltaic Solar Energy System shall be installed until documentation has been given to the Town that the owner has notified the utility company of the customer's intent to install an interconnected customer-owned generator. Documentation may consist of an interconnection agreement or a written explanation from the utility provider or contractor outlining why an interconnection agreement is not necessary. Off-grid systems are exempt from this requirement.
- C. Photovoltaic Solar Energy System components must have an Underwriters Laboratory (UL) listing and solar hot water systems must have a Solar Rating & Certification Corporation (SRCC) rating.

Large Solar Energy Systems. All Large Solar Energy Systems shall be considered as commercial structures for the purposes of compliance with other provisions of the Town or Eau Claire County Code of Ordinances. All applications for a Primary Use Energy System shall be conditioned upon entering into a Memorandum of Understanding with the Town that addresses how the applicant will comply with the requirements of this Section. The following standards shall apply to Large Solar Energy Systems, to be reviewed and subject to approval by the Town Board under Special Exception Review:

- A. All elements of the system shall meet or exceed all district regulations based on the applicable zoning district.
- B. The area utilized for a Large Solar Energy System shall not interfere with normal development trends anticipated by current development, road extension or other aspect of orderly and efficient planned development.
- C. Systems that result in the creation of one (1) or more acres of land disturbance, must provide plans that comply with the WDNR NR 216 and NR 151 Construction Stormwater Permit Requirements prior to final stormwater and erosion control permitting by Eau Claire County
- D. The manufacturer's engineer or another qualified engineer shall certify that the soils/foundation and design of the Solar Energy System is within accepted professional standards licensed in the State of Wisconsin.
- E. Power and communication lines running between banks of solar collectors and to electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.
- F. Vegetative screening of the system may be required as a part of Site Plan Review and/or the conditions of approval and it shall be based on the proximity of the system to residential buildings and to abutting public rights-of-way. If screening is required, the vegetation shall consist of canopy and conifer trees at a minimum.

- G.** The applicant shall complete a sound and vibration level study, following the Wisconsin Dept. of Natural Resources Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (2008, or current version).
- H.** The applicant shall document existing sound and vibration by measurement, following the Wisconsin Dept. of Natural Resources Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (2008, or current version).
- I.** The proposed plan outlining the use, storage, and disposal of chemicals used in the cleaning of the collectors and/or reflectors shall be provided.
- J.** The proposed plan for the storage, operation, maintenance and possible disposal of any batteries serving the project shall be provided.
- K.** The proposed plan for safety and security shall be submitted.
- L.** A decommissioning plan shall be completed and shall outline the anticipated means and cost of removing the system at the end of its serviceable life or upon its becoming a discontinued use. The plan shall also identify the financial resources to be set aside to pay for the decommissioning and removal of the system
- M.** Confirmation of the site's health, safety, retention or avoidance of endangered species and environmental sustainability.
- N.** All areas on the Property within any fenced in area shall be kept free of weeds and the grass shall be cut to a height of 12 inches or less.
- O.** The applicant shall obtain the approval of the Eau Claire County for erosion and runoff control measures as required by the Eau Claire County Ordinances prior to grading, utility installation, or any other land disturbance activity. Separate approvals shall be obtained for each activity. The applicant shall adhere to conditions of the approval and shall grant the right of re-entry to the property to designated personnel of the Town to inspect and monitor compliance with this requirement. Erosion control measures shall comply with the Wisconsin Construction Site Best Management Practice Handbook.
- P.** The primary roads to be used by applicant shall be determined by the Town as part of the permit issuing process. Within a reasonable time after determining the primary roads, the Town and applicant shall document the condition of the primary roads. Documentation shall consist of, among other things, taking a video inventory of the primary roads to establish existing conditions and rating the primary roads according to the PASER Road Inventory System. Except as otherwise noted below, the primary roads described above, which shall be used for all trucks, loaded and unloaded, entering or leaving the project shall be the only roads used by applicant during the construction of the project. Once the primary roads are determined, applicant and the Town shall discuss and mutually agree upon a Project specific road agreement. The terms of the road agreement shall include but not be limited to the extent and frequency of when applicant shall make repairs to the primary roads. Monthly, applicant and the Town engineer shall conduct

an inspection of the primary roads and, if necessary, applicant shall be required to make repairs and/or improvements to restore the primary roads to the condition documented at the commencement of the Project. Upon the conclusion of the Project, a final inspection and review shall be conducted by the Town and applicant and final repairs and/or improvements made by applicant as required by this paragraph (p) shall be made prior to the release of applicant's financial guarantee as required by section (q).

- Q.** The applicant shall obtain and deposit with the Town of Lincoln Clerk a financial guaranty consisting of a joint escrow account or Surety Bond in the amount to be determined by the Town to guaranty the performance of all of its obligations for the project, including maintenance and reconstruction of all primary roads identified for the installation of the Large Solar Energy System. The financial guaranty shall run in favor of the Town and shall be in a form acceptable to the Town Attorney. The financial guaranty shall guaranty the applicant's obligations for the project and that, in the event the parties are unable to agree on the maintenance or reconstruction of any primary road at any time, the escrow account or bond will be available to the Town for that purpose.
- R.** Abandonment, Removal and Site Restoration Plan. The applicant shall submit an abandonment, removal and site restoration plan, along with a cost estimate for removal and site restoration, to the Town with the application. The plan shall identify the specific properties it applies to and shall indicate the timeline and process to be used for removal of all materials above and below ground; road repair costs, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the SES. The plan shall reflect the site-specific character including topography, vegetation, drainage, and any unique environmental features at the site. The plan shall reflect any standards set forth in this ordinance and shall include a certified estimate of the total cost (by element) of implementing the removal and site restoration plan
- S.** Other than the fencing directly surrounding the project substation and O&M the Project's perimeter fencing shall consist of "deer fencing" (wire mesh), which is six- to ten-foot-tall woven wire partition with wooden posts. Where commercially reasonable, fences will be set within/inside property lines or rights-of-way edges unless otherwise requested from the landowner.
- T.** Installed fencing shall be adequately maintained at all times during the Project's operation. The depths of the fence posts shall be installed per prudent engineering practice based on the height of the fence and the type and slope of the terrain. Impairments to either the woven wire or wooden posts that are aesthetically unpleasing shall be remedied within two weeks of written notification. "Leaning" of the fence shall not be allowed to exceed plus or minus 10 degrees of perpendicular. In the event leaning or tilting of the fence does occur, it will be corrected back to perpendicular within two weeks of receiving written notice on the issue.
- U.** For purposes of this Agreement, the term "commercially reasonable" shall mean done in good faith and corresponding to accepted commercial practices in the solar energy industry.
- V.** Applicant shall contract with an experienced and qualified regional drain tile contractor to gather information concerning participating landowner drain tile, avoid said tile where commercially

reasonable, and mitigate the landowner and non-participating landowners' drainage issues where significant impact is expected as a result of drain tile alteration. The applicant shall identify drain tile concerns at the pre-construction and post-construction meetings to finalize remedies to known drainage issues on either participating or non-participating property. Applicant shall receive, investigate, and remedy drain tile issues due to the Project that arise subsequent to the post-construction meeting pursuant to the Drain Tile Management Plan filed by applicant and approved by the Town Engineer.

- W.** If drainage infrastructure or systems are damaged by the Project and the result is reduced drainage performance that adversely affects non-participating landowners, applicant shall restore the drainage infrastructure or system to pre-existing condition or better in accordance with the Drain Tile Management Plan. Preexisting condition shall mean the flow capacity existing immediately prior to the Project commencing construction. If previous flow capacity cannot be determined, applicant and landowners agree to negotiate an adequate solution in good faith. applicant is responsible for all expenses related to repairs, restoration, relocations, reconfigurations and replacements of drainage infrastructure and systems that are damaged by the Project as provided in the Drain Tile Management Plan. The intent of this Section is to make landowners whole where drainage infrastructure or systems are damaged by the Project. For example, and without limitation due to enumeration, if damage to drainage infrastructure or systems is caused by the Project on a participating property ("Project-related Damage"), and the Project related Damage causes damages to non-participating property owners upstream of the Project-related Damage, including crop loss and/or blowout damage to the drain tile system on the non-participating owner's property, Project Owner shall reasonably compensate the non-participating owner for crop loss and for repairs to the non-participating property owner's drain tile system.
- X.** Applicant agrees to cooperate with non-participating landowners as outlined in the Drain Tile Management Plan that desire to repair or replace drainage tile affecting their properties to the extent that such work does not interfere with the Project or its related facilities. Applicant will not unreasonably withhold approval for access to the Property that lies outside of any fenced array area, to the extent participating property owners also agree to such access.
- Y.** The applicant shall hire a regionally qualified consultant to create a ground cover and vegetation management plan for the construction and operation of the project. Consultation shall occur with the Town during the pre-construction meeting and post-construction meeting. Where commercially reasonable, the Project will utilize native plants and grasses across the project's developed area and incorporate pollinator habitat. During Project operation, the applicant will spray, mow, and otherwise maintain all developed acreage inside the fence.
- Z.** The Project shall not be used for any type of advertising. The Project may erect and maintain a single project identification sign. The Project shall be minimally lighted so as not to disturb neighboring properties. Necessary lighting to provide safety and security of facilities shall be approved by the Town Board. Applicant will provide the Town with a description of permanent Project lighting plans when available. Applicant shall contact every owner of residential property immediately adjacent to solar arrays and discuss in good faith a reasonable, strategically located visual buffer of plants that, upon mutual agreement, shall be installed at applicant's expense prior to the completion of construction of the Project. Where applicant and the adjacent property owner

are unable to agree on the type of visual buffer and the adjacent property owner makes a request in writing to applicant to provide a visual buffer, the applicant shall install a vegetative buffer on the Project site equal to the length of the non-participating residence and designed to achieve at least 50% opacity at ground level within 5 years. Proposals and plans for vegetative buffers will be finalized by the post-construction meeting. Applicant shall be required to replace any vegetative buffer that dies within two years of its original planting.

- AA.** Applicant agrees to install the solar arrays with a minimum setback of (i) sixty-five (65) feet from the edge of the right of way of public roads, (ii) two hundred (200) feet from the property boundary lines of non-participating landowners, unless a larger setback is necessary in order to preserve public health and safety based on a case-by-case analysis of a Solar Energy System application. A smaller setback is permitted pursuant to an executed good neighbor agreement, in which case the setback shall be no less than fifty (50) feet, and (iii) one hundred and fifty (150) feet from any non-participating landowner dwelling unit. For adjoining participating landowners, the setback requirement may be established pursuant to mutual agreement between applicant and participating property owners.

Miscellaneous.

- A.** All Solar Energy Systems shall be installed following the Manufacturer's specifications and recommended installation methods for all major equipment, mounting systems, and foundations for poles or racks.
- B.** All property owners shall provide the Town with a signed copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary.
- C.** As a condition of approval for all Large Solar Energy Systems, the applicant and the Town shall enter into a local operating contract which specifically addresses the issues of maintenance and repair of primary roads, utilities to the system, the effect the system may have on first responders, specific vegetation required for screening the system and the specific terms of the decommission plan.
- D.** In connection with construction, operation and maintenance of electric collection lines, communications cables and other equipment, Project facilities may cross road rights-of-way and/or drainage systems. Project Owner shall obtain all permits typically required of others, such as driveway permits and rights-of-way crossing permits. It is agreed that all road right-of-way crossings shall be by underground borings perpendicular to the right-of-way, plus or minus 30 degrees. All underground borings shall commence and terminate outside of the right-of-way.
- E.** The applicant shall assure the Town that there will be no loss in real property value within two miles of the Solar Energy System. To legally support this claim, the applicant shall consent in writing to a Real Property Value Protection Agreement as a condition of approval for the Solar Energy System. This Agreement shall provide assurance to non-participating real property owners near the Solar Energy System that they have some protection from Solar Energy System-related real property values losses.
- F.** Real Property Value Protection Plan. The Applicant guarantees that there will be no loss in real property value within two miles of the Solar Energy System, due to the Solar Energy System. Any real property owner(s) included in that area who believe that their property may have been devalued due to the Solar Energy System may elect to exercise the following option:

- G. All appraiser costs are paid by the applicant from the Escrow Account. Applicant and the property owner shall each select a licensed appraiser. Each appraiser shall provide a detailed written explanation of the reduction, if any, in value to the real property ("Diminution Value") caused by the proximity to the SEF. This shall be determined by calculating the difference between the current Fair Market Value (FMV) of the real property and what the FMV would have been at the time of exercising this option, assuming no SEF was proposed or constructed,
- H. If the higher of the Diminution Valuations submitted is equal to or less than 25 percent more than the other, the two values shall be averaged ("Average Diminution Value" • ADV). If the higher of the Diminution Valuations submitted is more than 25 percent higher than the other, then the two appraisers will select a third licensed appraiser, who shall present to the applicant and property owner a written appraisal report as to the Diminution Value for the real property. The parties agree that the resulting average of the two highest Diminution Valuations shall constitute the ADV. In either case, the property owner may elect to receive payment from Applicant of the ADV. Applicants are required to make this payment within 60 days of receiving said written election from the property owner.

Development & Performance Standards for Permitting. All SES and testing structures shall comply with the Development & Performance Standards set forth in this section. It is recognized that the standards herein are neither exclusive, nor exhaustive. In instances where a health or safety concern is identified with regard to any application for a SES, additional or more restrictive conditions may be included in the permit to address such concerns. The Town reserves the right to impose additional standards as circumstances warrant. Such additional and more restrictive standards may include, but are not limited to: a) longer setbacks from nearby property lines, roads, electric transmission and distribution lines, residences, businesses and other inhabited structures; b) more restrictive noise limitations, and c) more restrictive limitations to protect surface water and groundwater.

Decommissioning

The following provisions shall apply to decommissioning:

- A. Site Reclamation. Advance payment for SES site reclamation and restoration shall be placed in a joint escrow account or surety bond, the amount to be determined by the Town Board. Said amount shall be sufficient to fully remove the SES and all components thereof. Such financial security shall be kept in full force and effect during the entire time while a SES Facility exists or is in place. This financial security shall be irrevocable and non-cancelable until such time as the Town Board certifies that reclamation and restoration are complete and release the obligation.
- B. The owner of a SES and the underlying property owners shall be jointly liable for the removal of all equipment associated with the SES at the end of the permit period, the useful life of the Facility, or when the Facility is abandoned or otherwise out of operation for more than six months, at their expense.

- C. Upon removal of a SES facility, the owner of the facility and the underlying property owners shall be jointly liable for restoration of the site to its original condition at their expense. To protect the environment, removal shall be done by mechanical means. The restoration shall include removal of all materials above and below ground; public road repair, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the Solar Energy Facility. All hazardous materials shall be removed from the site and disposed of in accordance with state and federal laws
- D. The surety shall guaranty the applicant's obligations under this ordinance and that, in the event the parties are unable to agree on the on the steps required to complete decommissioning, the surety will be available to the Town for that purpose.
- E. The applicant acknowledges that the Town has and will incur certain administrative and/or legal costs for, among other things, processing, drafting documents and reviewing the decommissioning of the project. The applicant agrees to pay all of the necessary and reasonable administrative, engineering and legal costs incurred by the Town for, among other things, processing, studying, redrafting documents and to ensure the integrity of the decommissioning process Applicant understands the legal and/or engineering consultants approved, selected and/or retained by the Town are acting exclusively on behalf of the Town and not the applicant. Applicant agrees to reimburse the Town for all administrative expenses within 30 days billing. In the event applicant defaults in the payment of such expenses, in addition to any other remedies which the Town may be entitled, the Town may take funds for the financial guaranty as set forth in (5) above, the Town shall recover from applicant all of its costs in enforcing this ordinance including reasonable attorney fees.

Reporting and Complaint Resolution Procedure. Permittee shall report to the Town as follows:

- A. Quarterly Power Production Reports: The Permittee shall submit a quarterly power production report to the Town which shall cover the proceeding calendar quarter and include actual power production in kilowatt-hours for each commercial Solar Energy Facility in the Town.
- B. Annual Monitoring Reports. The Permittee shall submit an annual monitoring report to the Town, containing data on the operations and environmental impacts of the SES site. Such reports shall describe all safety inspections of the SES.
- C. Extraordinary Events. Within 24 hours of any extraordinary event, Permittee shall notify the Town. "Extraordinary events" shall include but not be limited to damaged panels, catastrophic solar system failure, fires, leakage of hazardous materials, unauthorized entry to the facility, damaged equipment, any injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the public health and safety of the Town.
- D. Complaints. The Permittee shall, at the permittee's expense and in coordination with the Town develop a system for detailed logging and investigation of all complaints related to the operation of the SES. The Town will select a qualified individual to investigate complaints.

The Permittee shall provide this qualified individual with direct phone contact and address information of the permittee representative. The reasonable cost and fees incurred by the Town in retaining said qualified individual shall be reimbursed by the owner of the SES. After the investigation, if the Town Board reasonably concludes that operational violations or other public or private nuisances have been caused by the SES, the Town shall require Permittee to use all reasonable efforts to mitigate or eliminate such problems on a case-by-case basis, as required by the Town Board. In order to address such complaints, the Town Board may require planting trees, limiting the hours of Solar System operation, repair of SES, removal and decommissioning of SES.

Insurance and Indemnification

Insurance. All Permittees shall maintain the following insurance coverage commencing upon construction of the Facility:

- A. The owner/operator shall, at its expense, maintain a broad form comprehensive coverage policy of public liability insurance insuring Applicant and Participating Landowners against loss or liability caused by Applicant's occupation and use of the Property under the Lease, in an amount not less than Five Million Dollars (\$5,000,000) of combined single limit liability coverage per occurrence, accident or incident, which has a commercially reasonable deductible. The Town shall be named as an additional insured on the policy.
- B. Worker's compensation coverage in an amount required by Wisconsin law. Applicant shall require subcontractors and others not protected under its insurance to obtain and maintain worker's compensation and employers' liability insurance.
- C. Certificates of insurance evidencing compliance with these requirements shall be provided upon request of the Town. The insurer will provide notice to the Town in the event there is a lapse in coverage exceeding thirty (30) days. All policies other than worker's compensation shall be written on an occurrence and not on a claim-made basis

Defense of Land Use Decision and Indemnity. In addition to the indemnification described below, Permittee shall reimburse the Town its reasonable attorneys' fees incurred in defending any legal actions brought by third parties challenging the legality or enforceability of this ordinance or any portion thereof, or the issuance of a Permit by the Town pursuant to this ordinance.

- A. If the Town seeks reimbursement, it shall notify Permittee in writing promptly upon discovering any claim entitling it to a land use defense reimbursement, but in no event later than 120 days after receiving written notice of any action, lawsuit, proceeding, investigation or other claim against it which may give rise to a claim for a land use defense reimbursement.
- B. Permittee shall not be obligated to reimburse the Town with respect to any such liability, action or claim if the Town fails to notify Permittee thereof in accordance with the provisions of this section in sufficient time including, without limitation, any responsive motion or answer to a complaint, petition, notice, or other legal, equitable action or claim, but only insofar as such knowing failure to notify Permittee has actually resulted in prejudice or damage to Permittee.

- C. With respect to any third party action, lawsuit, proceeding, investigation or other claim which is subject to reimbursement under this section, Permittee shall be entitled to assume and control (with counsel of its choice) the defense of such action, lawsuit, proceeding, investigation or other claim at Permittee's expense; provided, however, that the Town shall be entitled to participate in the defense of such claim and to employ counsel of its choice for such purpose (the fees and expenses of such separate counsel to be borne by the Town) and to assert against any third party any and all cross claims and counterclaims the Town may have, subject to Permittee's consent, which consent shall not be unreasonably withheld. If Permittee elects to assume the defense of any such claim, it may settle such claim in its sole discretion so long as either (i) such settlement provides an unconditional release of the Town, or (ii) Permittee shall obtain the prior written consent of the Town (which consent shall not be unreasonably withheld). If Permittee elects to assume the defense of any claim, the Town shall fully cooperate with Permittee and its counsel in such defense.
- D. Permittee shall defend, indemnify and hold harmless the Town and its officials, employees and agents from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorneys' fees (such liabilities together known as "Liability") arising out of Permittee's selection, construction, operation and removal of the SES and affiliated equipment including, without limitation, Liability for property or personal injury (including death), whether said Liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limiting or qualifying the Town's other indemnification rights available under law.

Procedures for Alteration or Revocation of Permit

- A. **Amendment.** Following the granting of a permit any permittee who wishes to materially alter any aspect of the permitted premises which was required to be described in the building plan or site plan required under this Section, shall apply to the Town Board for an amendment to the permit. The application shall explain the nature of the alteration and the reasons therefore and include a non-refundable application fee of \$600. The Applicant shall also be required to pay the reasonably necessary engineering expenses, if any, associated with the review. The Town Board shall act on the amendment application consistent with the terms of this ordinance.
- B. **Revocation of Permit.** An unsafe SES and an inoperable SES is hereby declared an unsafe public nuisance, which shall be subject to abatement by repair, rehabilitation, demolition, or removal by the Town Board. An inoperable SES shall not be considered a public nuisance provided the owner can demonstrate that modernization, rebuilding or repairs are in progress or planned and will be completed within a reasonable time as approved by the Town Board, provided periodic reports on the status of the repairs are provided to the Town Board as requested of the permittee.
- C. Each of the following occurrences shall constitute a violation of the terms and conditions of this Permit (a "Violation") and any such Violation shall be grounds for revocation of this Permit (whatever the reason for such an event of default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, order or regulation) after the expiration of the notice and cure period and revocation hearing as set forth below:

- a. The Permittee abandons the solar system located on the premises for a period of six months or more.
 - b. The Permittee fails to observe or perform any material condition or provision of this Permit for a period of 30 days after it has received written notice of such failure from the Town; provided, however, that a Violation shall not occur if Permittee commenced performance of such obligation within such 30 day period and is diligently proceeding to complete such performance.
 - c. There is a material failure by Permittee to comply with any statute, regulation, rule, or license administered by any federal, state or county department, agency, or commission directly related to the operation of the solar system, and if Permittee fails to cure the material failure to comply for a period of 30 days after the date Permittee receives written notice of such failure from the Town or the federal, state or local governmental body or agency with jurisdiction; provided, however, that a Violation shall not occur if Permittee commences performance of such obligation within such 30 day period and is diligently proceeding to complete such performance.
- D.** All solar arrays and all related improvements shall be removed in accordance with the Decommissioning and Site Restoration Plan submitted by the applicant and approved by the Town through the permitting process.
- E.** The owner of a SES and the underlying property owners shall be jointly liable for the removal of all equipment associated with the SES facility at the end of the permit period, the useful life of the Facility, or when the Facility is abandoned or otherwise out of operation for more than six months, at their expense. Upon removal of a Facility, the owner of the Facility and the underlying property owners shall be jointly liable for restoration of the site to its original condition at their expense. To protect the environment, removal shall be done by mechanical means. The restoration shall include removal of all materials above and below ground; public road repair, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the SES facilities. All hazardous materials shall be removed from the site and disposed of in accordance with state and federal laws.
- F. Hearing.** The Town shall not revoke any Permit without first providing the Permittee a hearing and the right to respond, including the right to present evidence regarding any defenses or extenuating circumstances regarding the alleged violations or public or private nuisance.

Permit Expiration

Expiration. Unless the Town Board authorizes a different term based upon analysis of the useful life of the SES, every permit issued pursuant to this ordinance shall terminate upon the expiration of twenty five years from the date of issuance if construction is commenced within one year of issuance. If construction is not commenced within one year of issuance, the permit shall expire one year after the date of issuance and the applicant will be required to reapply if it still intends to develop a SES project.

Fees and Expenses

- A. Tax Hold Harmless.** In the event that the shared revenue payments payable to the Town are

eliminated by the Legislature, Permittee shall be required to pay the Town an amount not less than \$1,667 per megawatt per year for SES actually installed and operating within the Town. Such payments shall be on an annual basis and payable on the 180th day after notice from the Town of Permittee's obligation to pay under this paragraph. Permittee's obligation to make such payments shall cease if the State adopts or implements a new mechanism to replace the shared revenue payments, to the extent that the new payment mechanism produces revenue not less than the revenue payable under the predecessor program. The shared revenue payments referenced above are paid to the Town directly by the State of Wisconsin, not Permittee. Regardless, Permittee shall be required to supplement the Town's annual shared revenue payments actually received, by an amount equal to the annual percentage change of the Consumer Price Index as of January 1 of each calendar year beginning on the first January following the date the Town receives its first payment. For purposes of this escalator clause, the Consumer Price Index means the U.S. Department of Labor, Bureau of Statistics, Consumer Price Index for the United States, All Urban Consumers, all items, unadjusted index.

- B. Property Taxes.** If the property tax exemption for SES under current state law is revised or revoked by future Legislatures, Permittee will be responsible for all related assessments and taxes associated with the permit and SES site. Failure to pay such tax obligation shall be considered a non-compliance with this ordinance.
- C. Reimbursement of Fees and Costs.** Permittee shall reimburse the Town for its actual reasonable fees and costs incurred in the application, negotiation, administration and enforcement of this ordinance, including, without limitation, the Town's attorney fees, engineering and consultant fees, Town Board meeting and hearing fees, and the costs of public notices relative to the review and consideration of each application filed by an applicant under this ordinance. The preceding fees are payable within 30 days of invoice. Unpaid invoices shall bear interest at the rate of 1% per month until paid. The Town may recover all reasonable costs of collection, including attorneys fees.

SES Neighbor Agreement.

- A. Neighbor Agreement.** Permittee may offer to non-participating landowners the opportunity to enter into a Solarpower Facilities Neighbor Agreement, provided:
- B.** Landowner has not otherwise entered into a Ground Lease, Easement or Setback Waiver Agreement with Permittee;
- C.** Has a primary residence or private business located within the setbacks provided for under this ordinance; and
- D.** Owns the property in fee simple and has applied for a building permit on or before the issuance of a permit pursuant to this ordinance. A landowner who enters into such an agreement is not a Participating Residence for purposes of this ordinance.

Town Approval. The terms and form of such agreements shall be subject to negotiation between the Permittee and non-participating landowners who may be interested in such an agreement. However, such agreements, once signed, shall be subject to review and approval by the Town Board.

Administration, Enforcement, Penalties, Relationship to Other Ordinance and Severability

- A. Inspections.** The Town Board or its designee may enter upon any property for which a special

exception permit has been issued under this ordinance to conduct inspections to determine whether the conditions stated in the special exception permit and other standards and requirements of this ordinance are being complied with.

- B. Enforcement.** The Town Board or its designee may issue orders to abate any violation of this ordinance, or any condition attached to a special exception permit approved by the Town Board. The Town Board or its designee may issue a citation for any violation of this ordinance. The Town Board may refer any violation of this ordinance to the Town's legal counsel or to special counsel for enforcement through litigation. Nothing in this ordinance shall be construed to prevent or limit the Town from using any other lawful means of enforcing this ordinance.
- C. Penalties.** Any person, applicant or permittee who fails to comply with any provision of this ordinance or of any permit issued pursuant to this ordinance shall, upon conviction thereof, forfeit at least five-hundred dollars (\$500.00) but not more than one- thousand dollars (\$1,000.00) for each offense. A separate offense shall be deemed committed on each day during which a violation occurs or continues. Any person, applicant or permittee who is in default of payment of a forfeiture or costs may be imprisoned in the county jail until the forfeiture or costs are paid, except that the period of imprisonment may not exceed thirty (30) days.

Relationship to Other Ordinances. This ordinance does not abrogate, annul, impair, interfere with, or repeal any existing ordinance of the Town or any other governmental body.

Severability. The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Definitions

The following terms shall have the meaning given to them in this section. To the extent a term is used in this ordinance is not defined in this section, the term shall have the meaning given in the Town of Lincoln Zoning Ordinances.

Applicant. Means the person, firm, corporation, company, limited liability corporation or other entity which applies for approval under this ordinance, as well as the applicant's successor(s), assign(s) and/or transferee(s) as to any approved WECS or testing facility. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the WECS or testing facility. The duties and obligations regarding any approved WECS or testing facility shall be with the owner of the WECS or testing facility, and jointly and severally with the owner and operator or lessee of the WECS or testing facility. Also known as owner or operator.

Awning. A sheet of material stretched on a frame and used to keep the sun or rain off a storefront, window, doorway, patio, or deck.

Board. Means the Town Board for the Town of Lincoln, Eau Claire County, Wisconsin.

Decibel – A unit of measure of sound pressure.

dB(A), A-Weighted Sound Level – A measure of over-all sound pressure level in decibels,

designed to reflect the response of the human ear.

Generator Nameplate Capacity – The maximum rated output of electrical power production of a generator under specific conditions designated by the manufacturer with a nameplate physically attached to the generator.

Maximum Design Tilt (Solar Energy System) – Maximum tilt, or angle, is vertical, or ninety (90) degrees for a Solar Energy System designed to track daily or seasonal sun position or capable of manual adjustment on a fixed rack.

Minimum Design Tilt (Solar Energy System) – Minimum tilt, or angle, is horizontal, or zero (0) degrees for a Solar Energy System designed to track daily or seasonal sun position or capable of manual adjustment on a fixed rack.

Nameplate Capacity – The total maximum rated output of a Solar Energy System.

Panel. A solar collector of approximately 20 nominal square feet or 3-4 feet in width by 4-6 feet in height.

Permittee. Means the applicant and/or successor who has received a permit under this ordinance.

Power Line – An overhead or underground conductor and associated facilities used for the transmission or distribution of electricity.

Power Purchase Agreement – A legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

Qualified Independent Acoustical Consultant – A person with Full Membership in the Institute of Noise Control Engineers (INCE), or other demonstrated acoustical engineering certification. The Independent Qualified Acoustical Consultant can have no financial or other connection to an applicant.

Receptor – Structures intended for human habitation, whether inhabited or not, including but not limited to churches, schools, hospitals, public parks, state and federal wildlife areas, the manicured areas of recreational establishments designed for public use, including but not limited to golf courses, and campgrounds.

Roof Pitch – The final exterior slope of a building roof calculated by the rise over the run, typically but not exclusively expressed in twelfths, such as 3/12, 9/12, or 12/12.

Solar Collector – A device, structure, or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Daylighting – A device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

Solar Energy – Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy Device – A system or series of mechanisms designed primarily to provide heating, cooling, electrical power, mechanical power, solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Said systems may also have the capacity to store energy for future utilization. Passive Solar Energy Systems shall clearly be designed as a solar energy device, such as a Trombe Wall, and not merely part of a normal structure, such as a window.

Solar Energy System (SES)– A set of devices that the primary purpose is to collect solar energy and convert it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring or converting solar energy. This definition also includes structural design features, the purpose of which is to provide daylight for interior lighting. Battery Energy Storage System (BESS) shall not constitute a Solar Energy System.

Solar Energy System, Accessory Use – A Solar Energy System that is secondary to the primary use of the parcel on which it is located, and which is directly connected to or designed to serve the energy needs of the primary use. Excess power may be sold to a power company.

Solar Energy System, Active – A Solar Energy System whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar Energy System, Building Integrated – An active Solar Energy System that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Such systems include, but are not limited to, Solar Energy Systems that function as roofing materials, windows, skylights, and awnings.

Solar Energy System, Grid-intertie – A photovoltaic Solar Energy System that is connected to an electric circuit served by an electric utility company.

Solar Energy System, Ground-mounted – A solar collector, or collectors, located on the surface of the ground. The collector or collectors may or may not be physically affixed or attached to the ground. Ground-mounted systems include pole-mounted systems.

Solar Energy System, Large (LSES) (Large Solar Energy System) – A Solar Energy System with a nameplate capacity of five (5) kilowatts or more, including greater than 100 megawatt systems, or a size greater than 300 square feet inclusive of panels and supporting

equipment.

Solar Energy System, Off-grid – A photovoltaic Solar Energy System in which the circuits energized by the Solar Energy System are not electrically connected in any way to electric circuits that are served by an electric utility company.

Solar Energy System, Passive – A Solar Energy System that captures solar light or heat without transforming it to another form of energy or transferring the heat via a heat exchanger.

Solar Energy System, Photovoltaic – An active Solar Energy System that converts solar energy directly into electricity.

Solar Energy System, Primary Use – A Large Scale Solar Energy System which generates power for sale to a power company, or other off-premise consumer.

Solar Energy System, Reflecting – A Solar Energy System that employs one or more devices designed to reflect solar radiation onto a solar collector. This definition includes systems of mirrors that track and focus sunlight onto collectors located at a focal point. The collectors may be thermal or photovoltaic.

Solar Energy System, Roof-mounted – A solar collector, or collectors, located on the roof of a building or structure. The collector or collectors may or may not be physically affixed or attached to the roof.

Solar Energy System, Small – A Solar Energy System with a nameplate capacity of less than five (5) kilowatts.

Solar Heat Exchanger – A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

Solar Hot Air System – Also referred to as solar air heat, or a solar furnace. An active Solar Energy System that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance typically means vertically mounted on a south-facing wall.

Solar Hot Water System – Also referred to as a solar thermal. A system that includes a solar collector and heat exchanger that heats or preheats water for building heating systems or other hot water needs, including domestic hot water and hot water for commercial or industrial purposes.

Solar Mounting Devices – Devices that allow the mounting of a solar collector onto a roof surface, wall, or the ground.

Substation – Any electrical facility containing power conversion equipment designed for interconnection with power lines.

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Transmission line – See Power Line.

Total Name Plate Capacity – The total of the maximum rated output of the electrical power production equipment for a combined solar project.

Chapter 18.31

ADMINISTRATION

Sections:

- 18.31.001 Purpose.
- 18.31.010 Planning Commission.
- 18.31.020 Board of land use appeals.
- 18.31.030 Site plan approval.
- 18.31.040 Permits required.
- 18.31.050 Amending the Zoning Code.
- 18.31.060 Enforcement and penalties.
- 18.31.070 Notification to affected towns and county supervisors.

18.31.001 Purpose.

The purpose of this chapter is to outline the procedures for the administration and enforcement of this subtitle.

18.31.010 Planning Commission.

The commission shall have the following duties in the administration and enforcement of this subtitle:

- A. Advise applicants for permits concerning the provisions of this subtitle and assist applicants in preparing applications and assure that the regional flood elevation for a proposed development is shown on all permit applications;
- B. Issue land use permits and certificates of occupancy, and maintain records thereof;
- C. Receive and forward to the town board all applications for special exception permits and amendments to this subtitle;
- D. Receive and forward all applications, petitions and other matters to come before the board of land use appeals;
- E. Perform field inspections for individual permits to verify compliance with this subtitle;
- F. Provide public information relative to this subtitle, including notifying town clerks and town board chair of commission activity;
- G. Review and approve site plans as required by this subtitle;
- H. Maintain permanent and current records of matters pertaining to this subtitle including all original and current zoning district maps, text and map amendments, permits and variances issued, status of nonconforming uses and structures, inspections made;
- I. Investigate, prepare reports, and issue notices of violations to this subtitle. Copies of violation reports and notice of violations shall be forwarded to the township counsel and, when appropriate, to the DNR.

18.31.020 Board of land use appeals.

A. Authorization and Composition.

1. The chair of the town board shall appoint a board of land use appeals consisting of 3 members plus 1 alternate members appointed for staggered 3 year terms. All appointments shall be subject to confirmation by the town board. Members of the board of land use appeals, including alternates, shall reside in the unincorporated areas of the township.

2. The initial terms of office for members of the board of land use appeals shall be as follows: Members 1 shall be appointed for 3 years; members 2 for 2 years; member 3 for 1 year. Thereafter, all appointments shall be made for 3 year terms.

B. Procedural Rules.

1. The board of land use appeals shall select its own chair, shall meet at the call of the chair and at such other times as the board may determine.

2. All meetings of the board shall be open to the public.

3. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact. The board shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the commission and shall be of public record.

C. Powers and Duties. The board of land use appeals shall:

1. Adopt such rules as it considers necessary for the conduct of business, subject to the provisions of this subtitle and Wis. Stat. ch. 59.694;

2. Hear and decide appeals where it has been alleged there is an error in any order, requirement, decision or determination made by the commission in the enforcement or administration of this subtitle:

a. Appeals to the board may be taken by any person aggrieved, or by the commission. Such appeal shall be taken within 30 days after the written decision is filed, by filing with the commission and with the board a notice of appeal specifying the grounds thereof. The commission shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken;

b. An appeal shall stay all legal proceedings of the action appealed unless the officer from whom the appeal is taken certifies to the board that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such cases, proceedings shall not be stayed except by a restraining order from the board or a court of law;

c. The final disposition of an appeal shall be in the form of a written resolution or order signed by the secretary of the board. Such resolution or order shall state the specific facts which are the basis for the board's determination, and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or part, or shall dismiss the appeal for lack of jurisdiction or prosecution;

3. Grant variances from the terms of this subtitle where, owing to special conditions, the literal enforcement of this subtitle would result in unnecessary hardship. For the purposes of this section, "unnecessary hardship" is defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district, caused by facts such as rough terrain or soil conditions uniquely applicable to that particular piece of property, as distinguished from those conditions applicable to most or all other property in the same zoning district. Variances must be consistent with the purpose of the ordinance. Variances must not be contrary to the public interest. Variances may be granted:

a. To permit a yard of less dimension than required by this subtitle;

b. To permit construction of a building or structure which will exceed the height limit for the district in which it is located;

c. To permit off-street parking which does not conform in quantity or other particulars with the requirements of this subtitle;

4. Application for Variance. Application for a variance shall be filed with the commission, and shall contain the following information:

a. Name and address of the applicant;

b. Statement that the applicant is the owner of the property, or Authorized agent of the owner;

c. Address and legal description of the property;

d. An accurate drawing of the site and surrounding area for a distance of 100 feet, including buildings and other structures;

e. The specific subtitle provision sought to be varied;

f. A statement detailing the need for the variance.

5. Disposition by the Board of Land Use Appeals.

a. The board shall hold at least one public hearing on the proposed variance or appeal after the publication of a class 2 notice described in Wis. Stat. ch. 985, and notification of adjacent property owners.

b. The board shall make a decision within 30 days after the public hearing. The concurring vote of a majority of the members present and voting shall be necessary to authorize a variance. Decisions of the board shall be based on findings of fact according to the standards of 18.31.020.

6. Standards for the Granting of Variances. The following are standards and principals to guide the board's decisions:

a. The burden is upon the appellant to prove the need for a variance.

b. Pecuniary hardship, loss of profit, self-imposed hardships, such as that caused by ignorance, deed restrictions, proceeding without a permit, or illegal sales are not sufficient reasons for getting a variance.

- c. The plight of the applicant must be unique, such as a shallow or steep parcel of land or situation caused by other than his or her own action.
- d. The hardship justifying a variance must apply to the appellant's parcel or structure and not generally to other properties in the same district.
- e. Variances allowing uses not expressly listed as permitted or special exceptions in a given zoning district shall not be granted.
- f. The variance must not be detrimental to adjacent properties.
- g. The variance must by standard be the minimum necessary to grant relief.
- h. The variance will not be in conflict with the spirit of this subtitle or other applicable ordinances, nor contrary to state law or administrative order.
- i. The variance shall not permit any change in established flood elevations or profiles.
- j. Variances shall not be granted for actions which require an amendment to Chapter 18.20, the Floodplain Overlay District.
- k. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE.
- l. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

7. Conditions Attached to Variances. In granting a variance, the board may prescribe appropriate conditions which are in conformity with the purposes of this subtitle. In case of variances in the floodplain district, provisions of Chapter 18.20 shall be considered.

Violations of such conditions, when made part of the terms under which the variance is granted, shall be deemed a violation of this subtitle. A variance granted in a floodplain district shall advise the applicant that increased flood insurance premiums may result.

8. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map and shall follow the procedures below:

a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.

b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board.

c. If the boundary is incorrectly mapped, the board should inform the zoning commission and the person contesting the boundary location to petition the governing body for a map amendment.

9. For appeals concerning increases in regional flood elevation the Board shall:

a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater the 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

18.31.030 Site plan approval.

A. All applications for land use permits for construction, reconstruction, expansion or conversion of use shall be accompanied by a site plan to be reviewed and approved by the commission for conformance with the requirements of this subtitle.

B. Site plan submittal shall include the following:

1. Current and proposed land uses.
2. Projected number of dwelling units and total residents if the proposed use includes residential land uses.
3. Projected employees, number of daily customers, and hours of operation if the proposed use includes commercial or industrial land uses.
4. Possible future expansion and related implications.

C. A site plan drawn to scale shall be submitted with the permit application form and shall contain:

1. A north arrow and a graphic scale. Said scale shall not be smaller than 1 inch equals 100 feet.
 2. A legal description of the property.
 3. All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled.
 4. All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose.
 5. All required setback lines.
 6. Location, dimension, area, and elevation of the lot.
 7. Location of the ordinary highwater mark of any abutting navigable waterways.
 8. The location of any existing and all proposed structures, with distances measured from the lot lines and street centerlines and any other site improvements such as parking lots, building entrances, drainage facilities, sanitary systems, wells and access roads.
 9. The location and type of any permanently protected open space areas.
 10. Building elevation and floor plans drawn to scale, including attics, are required for all structures, excluding agricultural accessory structures.
 11. Location of floodplain and floodway limits as determined from the official floodplain zoning maps.
 12. The elevation of the lowest floor of the proposed building(s) and any fill using National Geodetic and Vertical Datum (NGVD).
 13. Data sufficient to determine the regional flood elevation in NGVD at the location of the development and to determine whether or not the requirements of the floodway and flood fringes have been met.
 14. Data to determine if the proposed development has sufficient provisions for storm water capacity in accordance with Chapter 17.05; will cause an obstruction to flow or an increase in the regional flood height or discharge according to hydraulic and hydrologic analysis based on the impervious surface area of the development.
 15. Additional information may be requested if such information is needed to make a thorough and accurate review of the project.
- D. Review and approval process.
1. A complete application for site plan approval and the applicable fee shall be submitted to the commission along with an 11" x 17" copy of the site plan and any written material or other information required by this chapter.

E. Review Criteria. The commission shall review the site plan per the following considerations:

1. Compliance with the requirements of this subtitle;
2. The suitability of the location of buildings and structures to the physical character of the site and adjacent land uses including but not limited to site coverage, paved areas, landscaped areas, building scale, setbacks, and open spaces;
3. The existing natural topographic and landscape features of a site shall be incorporated into a development plan. Such plan shall include all prudent and necessary steps required to protect environmentally sensitive areas of the site and surrounding area during and after construction.
4. The layout of the site relative to public street access, arrangement and improvement of interior roadways, overall circulation, parking and loading;
5. Driveways to the site shall be located in a manner to minimize traffic congestion and difficult turning movements.
6. The adequacy of the proposed water supply and sanitary disposal;
7. Outdoor activity areas, parking lots, storage yards, trash areas, recyclable materials storage areas and other exterior features or uses shall be of sufficient size to meet the needs of the development and shall be adequately landscaped or screened to minimize any potential nuisance features of the use of the site on existing or potential adjacent land uses.

F. Upon approval of the site plan, the commission shall issue a land use permit. A copy of the site plan shall be kept on file and become part of the permit.

G. In the case of rejection of a site plan by the commission, the applicant may appeal such decision within 30 days after the written decision is filed to the board of land use appeals. The board may approve the site plan as presented or attach conditions within the parameters of this subtitle and other applicable ordinances and regulations.

H. The applicant may be required to pay the cost of any extraordinary costs for site plan approval such as consultant fees or engineering studies.

18.31.040 Permits required.

The commission shall receive applications for the following permits, and shall process the applications in the following manner, except as provided in 18.30.100:

A. Land Use Permit.

1. When Required. A land use permit shall be issued before any of the following may occur:
 - a. Any building or structure is erected, moved or structurally altered;
 - b. Any use of a building, structure or land is changed to another use, including the development or use of vacant land.
2. Application and Issuance. Applications for land use permits shall be made on forms furnished by the commission. If a land use permit is denied, the commission shall specify in writing the specific provisions which caused denial.
3. Fees. The fee for a land use permit shall be as set by the town board. A double fee shall be charged by the commission if construction or structural alteration is started or a use is changed prior to the issuance of a land use permit. Such double fee shall not release the applicant from full compliance with this subtitle nor from prosecution for violation of this subtitle. There shall be no fees for accessory structures complying with 18.30.100.
4. Land use permits are valid for 6 months to start construction. After 2

years from date of issuance, a land use permit becomes null and void unless construction has been completed.

5. Reasonable accommodations for handicapped or disabled persons.

a. The commission may issue a land use permit that waives specified requirements of this ordinance if it is determined that the requested accommodation:

i. Is necessary to afford handicapped or disabled persons equal housing opportunities or equal access to public accommodations;

ii. Is the minimum accommodation that will give the handicapped or disabled persons adequate relief; and

iii. Will not unreasonably undermine the basic purposes of this ordinance.

b. If the commission issues a land use permit that waives specified zoning provisions pursuant to 5. above, the permit will include a condition that the structure authorized by the permit (such as an entrance ramp) shall be removed not more than 30 days after the handicapped or disabled person vacates the property or the structure ceases to be a public accommodation.

c. The permit will not become effective until the property owner records a deed restriction with the register of deeds setting forth the condition that the structure authorized by the permit shall be removed as required in 5. b.

d. If the commission denies a permit requesting an accommodation under this subsection, the denial may be appealed to the board of land use appeals pursuant to

18.31.020 C. 2.

B. Certificate of Occupancy.

1. When Required. A certificate of occupancy shall be required in the C-2, and C-3 districts for all uses requiring a special exception permit or a variance, and for all development in a floodplain. Certificates shall be issued whenever vacant land is occupied, structures erected or a principal use is changed to another principal use. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this title. Application for such certificate shall be concurrent with the application for a permit.

2. Notification. The commission shall inspect the premises within two working days after notification by property owner or agent, and issue or deny a certificate. If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed. If the certificate of occupancy is denied, the commission shall state the reasons for denial in writing. No certificate shall be issued until all objections have been corrected.

18.31.050 Amending the Zoning Code.

A. Authority. In order to meet the public necessity, convenience, general welfare, and promote good zoning practice, the town board of supervisors may, by ordinance, amend the district boundaries or amend or supplement the regulations established herein.

B. Initiation. A petition for amendment may be initiated by the owner of any property to be affected by the change or amendment, by the town board of the town to be affected by the change, by the commission.

C. Petition. Petition for amendment shall be made to the commission on forms

furnished by it. Amendments to the text of this subtitle shall list the changes to be made and state reasons justifying the change. Petitions for map amendments shall contain the following information:

1. Petitioner's name, address and telephone number;
2. Legal description and address of property to be rezoned;
3. Existing zoning district;
4. Proposed zoning district;
5. Other relevant information as may be requested by the commission.

D. Procedure. The procedure for adoption or denial of a petition for a change in district boundaries or text amendments to this subtitle shall follow those set forth in Wis. Stat. ch. 59.69, which are hereby adopted by reference except that notification to abutting land-owners shall be 660 feet from the petitioner's property lines.

E. Fees. A fee shall be charged for the amendment petition.

18.31.060 Enforcement and penalties.

A. Investigation of Compliance, Notice of Violation.

1. The commission is responsible for conducting the necessary inspection and investigation to insure compliance with this subtitle and, through field notes, photographs and other means, documenting the presence of violations.

2. If, upon investigation, the commission becomes aware of a condition it concludes to be unlawful under the terms of this subtitle, it shall immediately notify responsible parties and those potentially liable. Such notice shall include a demand that the condition that is alleged to constitute a violation be halted or remedied, and a statement that a complaint about the condition will be transmitted to the town counsel for prosecution if remedial action has not occurred within a minimum of 10 days. Responsible parties and those potentially liable shall include but not be limited to the landowner, tenants, and contractors.

3. Allowed uses not requiring permits are subject to compliance and enforcement procedures.

4. If a violation reoccurs within a 2 year period, the 30 day notification of violation may be waived by the commission or town counsel and immediate legal action can be commenced to prosecute the violation.

5. The commission may issue a citation for any violation within the 10 day notification period.

B. Prosecution, Injunctions and Penalties in Court Proceedings.

1. It shall be the duty of the town counsel to expeditiously prosecute all violations of this subtitle reported by the commission.

2. Subject to counsel's discretion, for violation of this subtitle, a forfeiture of not less than \$100 or more than \$250 shall be imposed upon conviction and adjudication, in addition to the penalty for each violation, plus the cost of prosecution for each violation if so ordered by the court.

3. Upon failure to pay a forfeiture, the violator shall be confined in the county jail until such forfeiture is paid, for a period not exceeding 6 months.

4. Each day a violation exists or continues shall be considered a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state or any citizen thereof pursuant to Wis. Stat. § 87.30.

5. As a substitute for or in addition to forfeiture actions, the town counsel may, on behalf of the town, seek enforcement of any and all parts of this subtitle by court actions seeking injunctive orders or restraining orders.

~~6.~~ Nothing in this section shall be deemed to prevent private prosecutions pursuant to Wis. Stat. § 59.69 (11).

Chapter 18.32

A-P AGRICULTURAL PRESERVATION DISTRICT

Sections:

- 18.32.001 Purpose.
- 18.32.010 Permitted principal uses.
- 18.32.015 Permitted principal structures.
- 18.32.020 Permitted accessory uses.
- 18.32.025 Permitted accessory structures.
- 18.32.030 Special exceptions.
- 18.32.035 Structures allowed under special exception special exception permits.
- 18.32.040 Standards for approval of special exceptions.
- 18.32.050 Lot, height and yard requirements.
- 18.32.055 Standards for rezoning.
- 18.32.060 Notification of rezoning.

18.32.001 Purpose. The A-P Agricultural Preservation District is established to:

- A. Preserve and protect those areas best suited for agricultural, forestry or open- space uses by minimizing fragmentation of contiguous agricultural or forest lands for the benefit and use of current and future generations;
- B. Preserve and protect farmland by recognizing industrial wind and solar are incompatible with preserving farmland;
- C. Provide for a wide range of agricultural uses typically associated with the continued production of food and fiber while recognizing that such uses may involve noise, dust, odor, or operation of heavy equipment for long periods of time;
- D. Comply with standards contained in Wis. Stat. ch. 91 to permit eligible landowners to receive tax credits under Wis. Stat. § 71.09, in conjunction with their agricultural operations;
- E. Promote environmental quality through the use of conservation practices designed to minimize erosion of productive soils and deter the delivery of sediment and nutrients to the waters of our state;
- F. Minimize land use conflicts which occur when agricultural and non-agricultural uses are intermixed or not adequately separated.

18.32.010 Permitted principal uses.

The following principal uses are permitted in the A-P district:

- A. Agricultural use for the purpose of earning an income or livelihood such as: crop or forage production; keeping livestock; beekeeping; nursery or Christmas tree production; sod production; floriculture; silviculture; horticulture; orchards; paddocks; stabling and equestrian operations; aquaculture; viticulture; and enrolling land in a federal agricultural commodity payment program or federal or state agricultural land conservation payment program;
- B. Farm residences and single family housing which existed prior to January 1, 2014;
- C. Livestock Facility:
 - 1. Not closer than 1,000 feet from a residential district;
 - 2. The facility has an approved nutrient management plan;
 - 3. Fencing or screening; and
 - 4. No structure shall be placed within 100 feet of any lot line, except when adjacent to A-P; the structure may then be placed 50 feet from a lot line.
- D. Undeveloped open space land uses which may include environmentally sensitive areas; and
- E. Agriculture-related businesses which are consistent with or secondary to the primary agricultural use of the property or that are an integral support service of agriculture, such as: agricultural service and repair including welders and machinists; veterinarian services primarily serving agricultural operations; livestock groomers or breeding services; direct sales of agricultural-related products such as feed, seed, fertilizer, herbicides and pesticides; agri-tourism; community-supported agricultural operations; direct marketing operations; u-pick operations; livestock and commodity trucking services; and manure handling services.

18.32.015 Permitted principal structures.

The following principal structures are permitted in the A-P district:

- A. Farm residences and non-farm single family dwellings which existed prior to January 1, 2014; and
- B. A building, structure, or improvement that is an integral part of, or incidental to, an agricultural or agriculture-related use such as: barns, sheds, shops, parlors, silos, grain bins, greenhouses, and stables.

18.32.020 Permitted accessory uses.

The following accessory uses are permitted in the A- P district provided the use complies with Wis. Stat. § 91.01(1):

- A. Storage of recreational or motor vehicles and agriculture equipment in accessory structures that were in existence as of January 1, 2014 as specified under 18.23.035 B.;
- B. Home occupations and home businesses, as provided in Chapter 18.23;
- C. Seasonal sales of agricultural products primarily produced upon the premises;
- D. A second housing unit for a parent or child of the owner or operator of the farm, or persons earning more than 50% of his or her gross income on the farm;
- E. Family day care homes;
- F. The sale of crafts or related products which are incidental to the agricultural use of the property;
- G. The rental of principal or secondary residences in existence on a farm as of

January 1, 2014 and no longer utilized in the operation of a farm; and

H. Non-commercial alternative energy facilities such as solar, wind energy, biofuels and methane digesters.

18.32.025 Permitted accessory structures.

The following accessory structures are permitted in the A-P district:

- A. Private garages, greenhouses and other similar accessory structures;
- B. Private recreational structures, as allowed in Chapter 18.30;
- C. Single family or two family dwellings that are either farm residences or non-farm single family dwellings which existed prior to January 1, 2014;
- D. Produce stands;
- E. Seasonal structures which meet the criteria under 18.17.035 C.; and
- F. One (1) on premise sign shall be allowed stating the name of the business, the owner/operator and the product being sold or service offered. The sign shall not exceed 24 sq. feet in area, shall be non-illuminated, and shall not be placed within a vision triangle.

18.32.030 Special exceptions.

The following uses are special exceptions in the A-P district, and subject to the provisions of Chapter 18.21:

- A. Temporary housing for seasonal farm help;
- B. Sawmill operations;
- C. Game farms and the commercial raising of fur-bearing animals for the purpose of earning an income or livelihood or which comply with Wis. Stat. § 91.01(1), provided the following criteria are met:
 - 1. Not closer than 1,000 feet from a residential district;
 - 2. Animal waste handling plan;
 - 3. Fencing or screening; and
 - 4. No structure shall be placed within 100 feet of any lot line.
- D. Governmental, institutional, religious or nonprofit community uses;
- E. Agriculture-related businesses that may entail some level of processing or that are retail-oriented in nature, such as: nano-wineries or nano-breweries in which a significant portion of the agricultural inputs are produced on-site, slaughtering or meat processing for commercial purposes, agricultural equipment dealership, agriculturally-related supplies other than those listed in 18.32.010 D., sale of equestrian tack or related supplies, facilities for off-site storing or processing of agricultural products such as granaries or creameries, processing of agricultural wastes, and incidental use of agricultural structures or facilities for special events in accordance with 18.30.270;
- F. Cottage industries in accordance with 18.23.030, bed and breakfast operations in accordance with 18.30.150, or tourist rooming houses or retreats in accordance with 18.30.290 that are accessory to an agricultural use or conducted by the owner or operator of a farm in accordance with Wis. Stat. § 91.01(1);
- G. Housing for more than two units when the person or family to be housed earns more than 50% of his or her gross income on the farm operation;
- H. Temporary asphalt and concrete batching or ready mix operations or concrete crushing provided they meet the following criteria:
 - 1. The operation is used solely for a specific Wisconsin Department of Transportation project;

2. A restoration plan for the site is provided which describes or illustrates measures taken to restore the site to its original land use. The restoration plan will describe methods for establishing vegetative cover on all exposed soil;

3. The temporary concrete or asphalt batch plants shall be removed from the premises within 60 days of completion of project;

4. A storm water and erosion control plan in compliance with Eau Claire County Chapters 17.05 and 17.06 shall be submitted to and approved by the land conservation division; and

5. The maximum area devoted for facility operations shall not be larger than 5 acres, including, but not limited to, the stockpiling of materials, equipment and vehicle storage, associated buildings, access roads, batch plants, storm water facilities and crushers.

18.32.035 Structures allowed under special exception permits.

In the A-P district, the following structures may be allowed under special exception permits, issued pursuant to the provisions of Chapter 18.21:

- A. Temporary structures for the purpose of housing for seasonal farm help;
- B. Sawmills;
- C. Governmental structures, for police, fire and highway purposes; landfill site improvements; schools; parks and playgrounds;
- D. Structures used for religious purposes;
- E. Single family or two family dwellings that are either farm residences or non-farm single family dwellings which existed prior to January 1, 2014;
- F. Structures associated with temporary asphalt, concrete batch, ready mix operations, or concrete crushing operations;
- G. A building, structure, or improvement that is an integral part of, or incidental to, an agricultural-related business such as: barns, machinery sheds, shops, silos, grain bins, greenhouses, and residential structures; and

18.32.040 Standards for approval of special exceptions.

When reviewing special exception permit requests for the A-P district, the commission shall consider the following factors:

- A. The use and its location in the farmland preservation zoning district are consistent with the purposes of the A-P Agricultural Preservation zoning district;
- B. The use and its location in the A-P Agricultural Preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law;
- C. The use is reasonably designed to minimize 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 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 greatest extent feasible;
- F. The availability of local units of government to provide services without unreasonable burden; and
- G. The effect of the proposed use on water and air pollution, soil erosion, sedimentation and other possible environmental damage.
- H. That the special use will not be injurious to the use and enjoyment of other

property in the immediate vicinity for the purpose already permitted, nor diminish and impair property values within the neighborhood.

18.32.050 Lot, height and yard requirements.

The following lot, height and yard requirements are established for the A-P district:

A. Lot Size.

1. The minimum lot size is 35 acres;
2. The lot size for a farm residence or structure, which existed prior to the adoption of the ordinance codified in this subtitle, or which is situated upon a parcel or lot separated and distinct from a principal parcel acquired through farm consolidation or acquisition, shall be a minimum of one acre with a maximum lot size of 5 acres; and
3. The minimum lot width shall be 150 feet.

B. Height.

1. The maximum height of a residential structure shall be 35 feet;
2. The maximum height of accessory structures shall be 25 feet; and
3. Agricultural structures are exempt from the height requirements under

18.30.020 E.

C. Setbacks.

1. The minimum highway setback shall be regulated under Chapter 18.22;
2. The minimum side-yard setback for residential structures and private garages shall be 20 feet, and for all other structures shall be 50 feet;
3. The minimum rear-yard setbacks for all structures shall be 50 feet; and
4. No accessory structures shall be located within the required front yard.

D. Lot, Height and Yard Requirements for special exceptions. Lot, height and yard requirements shall be established at the time of special exception permit approval, but in no case shall the minimum lot size be less than one acre.

18.32.055 Standards for rezoning.

Rezoning from the A-P district shall be based on findings which consider the following factors:

A. The land is better suited for a use not allowed in the A-P Agricultural Preservation zoning district based on a review of

1. soil type
2. historical productivity
3. location
4. adjacent land uses;

B. The rezoning is consistent with the Town comprehensive plan;

C. The rezoning is substantially consistent with the certified Eau Claire County Farmland Preservation Plan; and

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.-

18.32.060 Notification of rezoning. The Town of Lincoln shall by March 1 of each year provide a report to the Department of Agriculture, Trade and Consumer

Protection indicating the number of acres that were rezoned out of a farmland preservation zoning district during the previous calendar year and a map that clearly shows the location of those acres.

Chapter 18.33

A-3 AGRICULTURAL DISTRICT

Sections:

- 18.33.001 Purpose.
- 18.33.010 Permitted principal uses.
- 18.33.015 Permitted principal structures.
- 18.33.020 Permitted accessory uses.
- 18.33.025 Permitted accessory structures.
- 18.33.030 Special Exceptions.
- 18.33.035 Structures subject to special exception permits.
- 18.33.040 Lot, height and yard requirements.

18.33.001 Purpose.

The A-3 agricultural district is established to:

- (1) protect the agricultural base of the town;
- (2) preserve the town's natural resources and open space;
- (3) provide an area for limited residential and hobby farm development in a rural atmosphere;
- (4) minimize urban sprawl and its associated public costs. The following standards apply in this district.

18.33.010 Permitted principal uses.

The following principal uses are permitted in the district:

- A. Agriculture, including those agricultural uses under 18.04.010 A.;
- B. Housing for a family;
- C. Parks and playgrounds.
- D. Livestock facility not exceeding 150 animal units provided the following:
 1. Not closer than 1,000 feet from a residential district;
 2. The facility has an approved nutrient management plan;
 3. Fencing or screening;
4. No structure shall be placed within 100 feet of any lot line, except when adjacent to A-1; then the structure may be 50 feet from a lot line.

18.33.015 Permitted principal structures.

The following structures are permitted in the district:

- A. Single-family dwellings;
- B. Agricultural structures;
- C. Structures associated with parks and playgrounds.

18.33.020 Permitted accessory uses.

The following accessory uses are permitted in the district:

- A. Home occupations as defined in Chapter 18.23;
- B. Horticulture;
- C. The sale of agricultural products primarily produced on the premises;
- D. Sales of agriculturally related products such as feed, seed, fertilizer, herbicides and pesticides by a farmer to supplement farm income and customarily carried out as part of the farm operation;
- E. The private storage of motor vehicles and farm-related equipment;
- F. Private recreational activities including but not limited to swimming, tennis and playground activities.

18.33.025 Permitted accessory structures.

The following accessory structures are permitted in the district:

- A. Private garages;
- B. Private recreational structures as allowed in Chapter 18.30;
- C. Noncommercial greenhouses, playhouses and storage sheds;
- D. Temporary seasonal roadside stands.

18.33.030 Special Exceptions.

The following uses are special exceptions and are subject to the provisions of Chapter 18.21:

- A. Religious and government uses;
- B. Commercial outdoor recreational areas inclusive of but not limited to golf courses, stable rings, rifle ranges, gun clubs and campgrounds;
- C. Airport operations;
- D. Nonfarm bulk storage processing and distribution of local agricultural products;
- E. Nonfarm storage and sale of seed, feed, fertilizer, herbicides, and pesticides;
- F. Sawmill operations;
- G. Animal kennel operations;
- H. Livestock sales;
- I. Two-family housing;
- J. Agriculture-related businesses which meet the requirements of 18.04.030 F.1 through 5.
- K. Seasonal structures provided that they meet the following criteria:
 - 1. The minimum lot size is 20 acres.
 - 2. The structure meets the criteria of 18.17.035 C.
 - 3. There shall be no outside storage on the property.
- L. Game farms, fisheries, hatcheries and the commercial raising of fur-bearing animals, provided the following criteria are met:
 - 1. Not closer than 1,000 feet from a residential district;
 - 2. Animal waste handling plan;
 - 3. Fencing or screening;
 - 4. No structure shall be placed within 100 feet of any lot line.
- M. Manufactured homes.

N. Commercial auctions, flea markets, artisans markets, and farmers markets meeting the requirements of 18.05.030 Q.

18.33.035 Structures subject to special exception permits.

The following structures are ~~conditional~~ special exceptions and are subject to the provisions of Chapter 18.21:

- A. Structures used to house churches, public and private elementary and high schools, park facilities and cemetery uses;
- B. Accessory structures utilized in connection with commercial outdoor recreational areas, as cited at 18.05.030 B.;
- C. Structures utilized for governmental purposes;
- D. Airport structures;
- E. Structures for the bulk storage, processing and distribution of local agricultural products;
- F. Structures for the nonfarm storage and sale of seed, feed, fertilizer, herbicides and pesticides;
- G. Sawmills;
- H. Kennels;
- I. Livestock sales barns;
- J. Utility structures not covered under Chapter 18.30;
- K. Game farms, fisheries, hatcheries and the commercial raising of fur-bearing animals provided criteria listed in 18.04.030 D. are met;
- L. Manufactured homes as allowed under 18.30.080.

18.33.040 Lot, height and yard requirements.

The following lot, height and yard requirements are established:

- A. Yard Requirements
 - 1. Lot area shall be a minimum of 20 acres
 - 2. Lot width shall be a minimum of 330 feet
- B. Height.
 - 1. The maximum height of a residential structure shall be 35 feet.
 - 2. The maximum height of accessory structures shall be 25 feet
 - 3. Agricultural structures are exempt from the height requirements per 18.30.020 E.
- C. Setbacks.
 - 1. The minimum highway setback shall be regulated under Chapter 18.22.
 - 2. The minimum side yard setback for residential structures and private garages shall be 20 feet and for all other structures, 50 feet.
 - 3. The minimum rear yard setbacks for all residential structures shall be 20 feet and for accessory structures 50 feet.
 - 4. No accessory structures shall be located within the required front yard.
- D. Lot, height and yard requirements shall be established at the time of special exception permit approval.

Chapter 18.34

NONMETALLIC MINING OVERLAY DISTRICT

Sections:

- 18.34.001 Purpose.
- 18.34.3 Applicability.
- 18.34.4 Exempted activities.
- 18.34.5 Definitions.
- 18.34.010 Permitted principal uses.
- 18.34.015 Permitted principal structures.
- 18.34.020 Permitted accessory uses.
- 18.34.025 Permitted accessory structures
- 18.34.030 Condition uses.
- 18.34.035 Structures subject to special exception permits.
- 18.34.040 Lot, height and yard requirements.
- 18.34.050 Standards for zoning.

18.34.001 Purpose.

It is the purpose of this overlay district to establish through impartial standards governing the extraction, processing, utilization and transport of nonmetallic resources and products to ensure maximum protection to surrounding properties and the physical environment, protection for the public health, safety and general welfare, and to promote aesthetic values. This district is also created to protect mineral extraction operations against problems caused by intrusion of incompatible land uses, and to allow for protection of deposits of minerals.

18.34.3 Applicability.

A. Overlay district boundaries will follow platted lot lines, quarter-quarter section lines, or municipal boundaries, centerlines of streets, highways, railroads, or lakes, streams, and other water bodies.

B. The overlay district does not remove land use restrictions from the underlying zoning district.

C. The overlay district will remain in effect until the applicant receives a certificate of compliance in accord with the nonmetallic mining reclamation standards of Subtitle IV from the planning commission.

18.34.4 Exempted Activities. The following are exempt from this chapter:

- A. As exempted under 18.90.050.
- B. Borrow sites as regulated under Wis. Stat. § 85.193.

18.34.5 Definitions

The definitions found in 18.90.030 A. shall apply unless the context dictates otherwise.

18.34.010 Permitted Principal Uses.

- A. Uses allowed by the underlying zoning district.
- B. Conservancy uses allowed under Title 20 and 18.20.
- C. Nonmetallic mining operations operated by a unit of government conforming to Chapter 18.28 and Subtitle IV Nonmetallic Mining Reclamation Code.
- D. Nonmetallic mining operations owned and operated privately and less than 10 acres in size based on the life of the mine conforming to Chapter 18.28 and Subtitle IV Nonmetallic Mining Reclamation Code.
- E. Pre-existing nonmetallic mining sites. Pre-existing nonmetallic mining operations that have been previously permitted with a special exception permit and/or by a nonmetallic mining reclamation permit to operate shall be allowed to continue to operate under the terms and conditions of those permits on file prior to the effective date of this ordinance.

18.34.015 Permitted Principal Structures.

- A. Structures allowed by the underlying zoning district.
- B. Nonmetallic mining structures and related equipment.

18.34.020 Permitted Accessory Uses.

Uses allowed by the underlying zoning district.

18.34.025 Permitted Accessory Structures.

- A. Accessory structures allowed by the underlying zoning district.
- B. Accessory structures associated with nonmetallic mining operations.

18.34.030 Condition uses.

In the nonmetallic mining overlay district, the following are conditional and are subject to the provisions of Chapter 18.21:

- A. Nonmetallic mining operations, as per Chapter 18.28.
- B. Temporary hot mix and concrete batch plants as defined in 18.04.030.

18.34.035 Structures subject to special exception permits.

- A. Structures associated with nonmetallic mining operations and its accessory uses.
- B. Structures for temporary hot mix and concrete batch plant operations.

18.34.040 Lot, height and yard requirements.

The following lot, height and yard requirements are established for the nonmetallic mining overlay district:

- A. Lot size and access.

The minimum lot size of the district shall conform to the underlying zoning district lot size.

1. The overlay district shall directly about a public highway and shall have direct access to that highway.

- B. Height.

1. Structures shall conform to the underlying zoning district provisions.

Nonmetallic mining structures are exempt from the height requirements per 18.30.020 F.

- C. Setbacks

- 1. The minimum highway setback shall be regulated under chapter 18.22.
- 2. The minimum side-yard setback for nonmetallic mining structures shall be

3. The minimum rear-yard setback for nonmetallic mining structures shall be 75 feet.
- D. Lot, Height and Yard Regulations for Special exceptions. Lot, height and yard requirements shall be established at the time of special exception permit approval.
- E. The commission may consider allowing lesser property line setbacks for nonmetallic mining conveyors or pipes during the special exception permit approval process consistent with a signed agreement between property owners. The commission may allow a lesser setback to the highway setbacks and yard setbacks provided the applicant has obtained approval from the unit of government having jurisdiction over the road.

18.34.050 Standards for overlay zoning.

Zoning to the nonmetallic mining overlay district shall be based on the findings that consider the following factors:

- A. The land is suitable for nonmetallic mineral extraction based on a review of the mineral deposits found onsite.
- B. Compliance with Wis. Stat. § 91.46 (6).
- C. Adequate public facilities to serve the development are present or will be provided, without placing an unreasonable burden on local government. The land use is consistent with local comprehensive plans.

Chapter 18.50

MOBILE TOWER SITING REGULATIONS

Sections:

<u>18.50.001</u>	<u>Purpose</u>
<u>18.50.005</u>	<u>Definitions</u>
<u>18.50.010</u>	<u>Siting and construction of any new mobile service support structure and facilities and Class 1 collocation.</u>
<u>18.50.020</u>	<u>Class 2 collocation</u>
<u>18.50.030</u>	<u>Performance Standards</u>
<u>18.50.040</u>	<u>Severability</u>
<u>18.50.050</u>	<u>Transferability</u>
<u>18.50.060</u>	<u>Administration</u>
<u>18.50.070</u>	<u>Limitation</u>
<u>18.50.080</u>	<u>Exceptions</u>
<u>18.50.090</u>	<u>Airport Zoning</u>

18.50.001 Purpose.

The purpose of this ordinance is to regulate 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. It is intended that Town of Lincoln shall apply these regulations to accomplish the following:

A. Maintain and ensure that a nondiscriminatory, competitive and broad range of telecommunications services and high-quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996 are provided to serve the community, as well as serve as an important and effective part of the Town of Lincoln law enforcement, fire and emergency response network.

B. Provide a process for obtaining necessary permits for telecommunications facilities while at the same time protecting the interests of Town of Lincoln citizens.

C. Encourage the use of alternative support structures, co-location of new antennas on existing support structures and construction of support structures with the ability to locate at least 3 additional users (minimum of 4 total users required for each mobile tower facility).

18.50.005 Definitions.

A. All definitions contained in Wis. Stat. § 66.0404(1) are hereby incorporated by reference.

B. All definitions in 18.02.020 shall apply unless specifically defined in this chapter.

18.50.010 Siting and construction of any new mobile service support structure and facilities and Class 1 Collocation.

A. Application Process

1. A land use permit is required for the siting and construction of any new mobile service support structure and facilities.

2. A written permit application must be completed by any applicant and submitted to the planning commission. The application must contain the following information:

- a. The name and business address of, and the contact individual for, the applicant.
- b. An original signature of the applicant, land owner, lessees and holders of easements.
- c. Copy of the lease agreement that includes the legal description and amount of property leased.
- d. A plat of survey showing the parcel boundaries, tower, accessory structures, ancillary facilities, location, access, landscaping and fencing.
- e. Plans showing security measures such as, but not limited to, access, fencing and lighting.
- f. The location of the proposed or affected support structure.
- g. The location of the proposed mobile service facility.
- h. 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.

i. 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.

j. 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.

k. A copy of the applicant's search ring used to select the proposed location and the applicant's existing mobile services locations within Town of Lincoln.

3. A permit application will be provided by the commission upon request to any applicant.

B. Completed Applications. If an applicant submits to the commission 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 commission shall consider the application complete. If the commission does not believe that the application is complete, the commission shall notify the applicant in writing, within 10 business 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.

C. Town Responsibilities. Within 90 days of its receipt of a complete application, the commission shall complete all of the following or the applicant may consider the application approved, except that the applicant and the commission may agree in writing to an extension of the 90 day period:

a. 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.

b. Make a final decision whether to approve or disapprove the application.

c. Notify the applicant, in writing, of its final decision.

d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

D. Disapproval. The commission 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 paragraph 2.f.

E. Application of Setback/Fall Zone. If an applicant provides the commission 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 commission provides the applicant with substantial evidence that the engineering certification is flawed.

F. Fees. The fee for the permit is \$500.00. Where an independent verification of the analysis is required of the application, it shall be at the applicant's expense and shall not exceed \$3,000.00

18.50.020 Class 2 collocation.

A. Application Process

1. A land use permit is required for a class 2 collocation.
2. A written permit application must be completed by any applicant and submitted to the commission. The application must contain the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.
3. A permit application will be provided by the commission upon request to any applicant.
4. 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.

B. Completed Applications. If an applicant submits to the commission 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 commission shall consider the application complete. If any of the required information is not in the application, the commission shall notify the applicant in writing, within five (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.

C. Town Responsibilities. Within 45 days of its receipt of a complete application, the commission shall complete all of the following or the applicant may consider the application approved, except that the applicant and the commission may agree in writing to an extension of the 45 day period:

- a. Make a final decision whether to approve or disapprove the application.
- b. Notify the applicant, in writing, of its final decision.
- c. If the application is approved, issue the applicant the relevant permit.
- d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

D. Fees. The class 2 collocation is subject to the same requirements for the issuance of a land use permit to which any other type of commercial development or land use

development is subject, except that the maximum fee for a land use permit shall be the same as Chapter 18.35.090

18.50.030 Performance Standards

A. Removal. It is the express policy of Town of Lincoln and this ordinance that mobile service support structures be removed once they are no longer in use and not a functional part of providing mobile service and that it is the mobile service support structure owner's responsibility to remove such mobile service support structures and restore the site to its original condition or a condition approved by the Town of Lincoln Planning Commission. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the mobile service support structure down to three feet below the surface. After a mobile service support structure is no longer being used for mobile service that is in operation, the mobile service support structure owner shall have one hundred eighty (180) days to effect removal and restoration unless weather prohibits such efforts. Permittee shall record a document with the Eau Claire County Register of Deeds showing the existence of any subsurface structure remaining below grade. Such recording shall accurately set forth the location and describe the remaining structure.

B. Security for Removal. The owner of any mobile service support structure other than a municipality or other unit of government shall provide to Town of Lincoln, prior to the issuance of the land use permit, a performance bond in an amount based on a written estimate of a qualified remover of said types of structures, or twenty thousand dollars (\$20,000), whichever is less, to guarantee that the mobile service support structure will be removed when no longer in operation. Town of Lincoln will be named as obligee in the bond and must approve the bonding company. The town may require an increase in the bond amount after five (5) year intervals to reflect increases in the Consumer Price Index, but at no point shall the bond amount exceed twenty thousand dollars (\$20,000). The provider shall supply any increased bond within a reasonable time, not exceeding sixty (60) days, after the town's request. A permittee may submit a letter of credit in the amount set forth above, or, in the alternative, a permittee with several sites in the town may submit a master bond to cover all of said sites. A master bond or a letter of credit may, in the commission's discretion, be in an amount sufficient to secure removal from one site if the master bond or letter of credit provides for replenishing any amount used as the master bond or letter of credit covers any other site in the county.

C. Security. All telecommunications facilities shall be reasonably protected against unauthorized access. The bottom of all towers from ground level to 12 feet above ground shall be designed to preclude unauthorized climbing and shall be enclosed with a minimum of a 6 foot high chain link fence with a locked gate. Guy anchors of guyed towers shall be similarly protected.

D. Signs. Signs shall be mounted on the fenced enclosure, on or adjacent to the gate prohibiting entry without authorization, warning of the danger from electrical equipment and unauthorized climbing of the tower, and identifying the owner of the tower and telephone number for contact in case of emergency. The sign shall be no larger than 6 square feet. No commercial advertising signs may be located on the telecommunications facility site.

E. Screening & Landscaping. All telecommunications facilities, except exempt facilities, shall be designed to blend into the surrounding environment to the greatest extent feasible.

1. The tower location shall provide for the maximum amount of screening of the facilities. The site shall be landscaped and maintained with a buffer of plant materials that

effectively screen the view of all facility structures, equipment and improvements at ground level from adjacent properties. The standard buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the area where tower accessory structures and equipment are located at ground level.

2. In locations where the visual impact of the facility would be minimal the landscaping requirement may be reduced or waived by the commission. Existing mature vegetation and natural landforms on the site shall be preserved to the maximum extent possible or replaced with vegetative screening meeting the intent of this section.

3. Upon project completion the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping during the current growing season.

F. Parking and Access. Telecommunications facilities shall comply with all parking requirements of 18.25 and all access requirements of 18.22. Access must be provided by an all-weather gravel or paved driveway.

G. Accessory buildings. Accessory buildings, structures, cabinets and other accessory facilities may be allowed and shall not exceed 15 feet in height, measured from the original grade, and 250 square feet in area. All visible surfaces shall be constructed of nonreflective materials and designed to blend with the existing architecture in the area. (~~Ord. 157-35, Sec. 1, 2014; Ord. 145-96, Sec. 3, 2002; Ord. 145-21, Sec. 2, 2001~~).

18.50.040 Severability. 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. (Ord. 157-35, Sec. 1, 2014; Ord. 145-96, Sec. 3, 2002; Ord. 145-21, Sec. 2, 2001).

18.50.050 Transferability. Permits granted under this chapter go with the land and are transferable. All chapter and permit requirements shall apply to subsequent owners. The commission shall be notified of any change in ownership including, but not limited to, facility leases, mortgages, liens or other instruments which may affect title to the property.

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SUBTITLE IV. NONMETALLIC MINING RECLAMATIONS

Chapter 18.90

INTRODUCTION

Sections:

- 18.90.010 Authority
- 18.90.020 Purpose
- 18.90.030 Definitions
- 18.90.040 Applicability
- 18.90.050 Exempt activities

18.90.010 Authority.

Wis. Stat. § § 295.13 and 59.02 grant the county the authority to establish a nonmetallic mining ordinance.

18.90.020 Purpose.

Nonmetallic mining is recognized as an important industry which contributes to the county's economic and social well-being. However, the long-term damage to the physical environment and tax base that can be caused by nonmetallic mining must be reduced. It is the purpose of this chapter to establish regulations for nonmetallic mining site reclamation that will restore the site to a purposeful and acceptable landscape appearance and use.

18.90.030 Definitions.

A. The following definitions shall apply in this title unless the context dictates otherwise:

1. "Board of land use appeals" means the Town of Lincoln Board of Land Use Appeals as defined in 18.31.020.
- ~~2.~~ "Commission" means the Town of Lincoln Planning Commission
3. "DNR" means the Wisconsin Department of Natural Resources.
4. "Enlargement" means any vertical or horizontal increase beyond dimensions of the original application for the project site.
5. "Environmental Pollution" means the contaminating or rendering unclean or impure the air, land, or waters of the State or making the same injurious to public health, harmful for commercial or recreational use or deleterious to animal, or plant life.
6. "Highwall" means a vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that is steeper than 3:1.
7. "Licensed professional geologist" means a person who is licensed as a professional geologist pursuant to Wis. Stat. § 470.

8. "Modification" means any vertical or horizontal decrease within the dimensions of the original application for the project site.

9. "Nonmetallic mineral" means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.

10. "Nonmetallic mining" means operations or activities for the extraction from the earth of mineral aggregates and nonmetallic minerals and related operations or activities, including, but not limited to, excavation, grading, or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes including, but not limited to, stockpiling, crushing, screening, scalping, dewatering, and blending. It does not include removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic mining minerals such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.

11. "Nonmetallic mining reclamation or reclamation" means the rehabilitation of a nonmetallic mining site to achieve a land use specified in an approved nonmetallic mining reclamation plan, including removal or reuse of nonmetallic mining refuse, grading of the nonmetallic mining site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution and if practicable the restoration of plant, fish and wildlife habitat.

12. "Nonmetallic mining refuse" means waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining operation that are to be removed from the nonmetallic mine prior to completion of the reclamation of the mine or incorporated into the post mine land use specified in the approved reclamation plan.

13. "Nonmetallic mining site, project site, or site" means the location where a nonmetallic mining operation is proposed or conducted including all surface areas from which minerals are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation and by activities, including but not limited to, the construction or improvement of roads or haulage ways.

14. "Operator" means any person or business entity engaged in nonmetallic mining-who/which applies for or holds a nonmetallic mine reclamation permit issued under a nonmetallic mining reclamation ordinance whether individually, jointly, or through subsidiaries, agents, employees, contractors, or subcontractors.

15. "Permit" means any permit which may be required under this chapter of an operator as a condition precedent to commencing or continuing nonmetallic mining at a project site.

16. "Person" means an individual, owner, operator, corporation, limited liability company, partnership, association, county, municipality, interstate agency, state agency or federal agency.

17. "Registered Professional Engineer" means a person who is registered as a professional engineer pursuant to Wis. Stat. § 443.04 and 443.09.

18. "Replacement of topsoil" means the replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by nonmetallic mining for the purpose of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved post mining land use and as required by the reclamation plan approved pursuant to this Subtitle.

19. "Topsoil" means that material (normally the A and upper part of the B horizon) which, based upon the official national cooperative soil survey, is acceptable for resspreading on the surface of regraded areas to provide a medium which sustains a dense plant growth and soil stability needed to achieve the approved post mining land use specified in the reclamation plan approved under this chapter.

20. "Topsoil substitute" means soil or other unconsolidated material either used alone or mixed with other beneficial materials and which can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the reclamation plan.

21. "Unreclaimed acre" or "unreclaimed acres" means those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed. However, the term does not include any areas described below:

a. Those areas where reclamation has been completed and certified as reclaimed.

b. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.

c. Those portions of nonmetallic mining sites which are included in a nonmetallic mining reclamation plan approved pursuant to this chapter but are not yet affected by nonmetallic mining.

d. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.

e. For purposes of fees under Chapter 18.27, those areas within a nonmetallic mining site which the commission has determined to have been successfully reclaimed on an interim basis in accordance with 18.92.020 F.6.

18.90.040 Applicability.

A. The requirements of this chapter apply to all operators of nonmetallic mining sites within Eau Claire County operating on or commencing to operate after August 1, 2001 except as exempted in 18.90.050 and for nonmetallic mining sites located in a city, village or town within Eau Claire County that has adopted an ordinance pursuant to Wis. Stat. § 295.14 and Wis. Admin. Code § NR 135.32(2). This chapter does not apply to nonmetallic mining sites where nonmetallic mining permanently ceases before August 1, 2001. This chapter applies to nonmetallic mining conducted by or on behalf of the state of Wisconsin, by or on behalf of a municipality or for the benefit or use of the state or any state agency, board, commission, except for the waiver of financial assurance in Chapter 18.96.

B. This chapter is applicable to a site located in more than one county if it is less restrictive than or equally as restrictive as the adjacent county's nonmetallic mining reclamation ordinance, or if the other county has no nonmetallic mining reclamation ordinance and shall apply to the entire site.

C. It is the responsibility of the operator to obtain all applicable local, state, and federal permits or approvals.

18.90.050 Exempt Activities.

This chapter does not apply to the following activities:

A. Excavations or grading by a person solely for domestic use at their residence or farm operation.

B. Excavation or grading conducted for highway construction purposes within the highway or railroad right-of-way, excavating or grading done within the boundary of an airport or other transportation facility or for highway safety in or adjacent to a vision clearance triangle and where a reclamation plan is in place meeting the requirements of the Wisconsin Department of Transportation.

C. Preparing a construction site for a project which has been issued a building or zoning permit or is consistent with applicable zoning ordinances or restoring land following a flood or natural disaster.

D. Excavations for building construction purposes on the construction site for a project which has been issued a building or zoning permit.

E. Nonmetallic mining at nonmetallic mining sites where less than one acre of total affected acreage occurs on a parcel over the life of the mine.

F. Any mining operation, the reclamation of which is required in a permit obtained under Wis. Stat. ch. 293.

G. Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Wis. Stat. chs. 289 or 291. This chapter applies to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic mining site separate from the solid or hazardous waste disposal facility, such as activities to obtain nonmetallic minerals to be used for lining, capping, covering, or constructing berms, dikes, or roads.

H. Any nonmetallic mining site or portion of a site which is subject to permit and reclamation requirements of the DNR under Wis. Stat. § § 30.19, 30.195 and 30.20 and complies with Wis. Admin. Code § ch. NR 340.

I. Nonmetallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of the Wisconsin Department of Transportation concerning the restoration of the nonmetallic mining site.

J. This exemption only applies to a nonmetallic mining operation with limited purpose and duration where the Wisconsin Department of Transportation actively imposes reclamation requirements and the operator reclaims the nonmetallic mining site in accordance with these requirements. The duration of the exemption shall be specific to the length of the Wisconsin Department of Transportation contract for construction of a specific transportation project.

K. If a nonmetallic mining site covered under I. and J. is used to concurrently supply materials for projects unrelated to the Wisconsin Department of Transportation project, the exemption in this paragraph still applies, provided that the site is fully reclaimed under Wisconsin Department of Transportation contract and supervision.

L. Dredging for navigational purposes, to construct or maintain farm drainage ditches and for the remediation of environmental contamination and the disposal of spoils from these activities.

M. Excavations subject to the permit and reclamation requirements of Wis. Stat. §§ 30.30 or 30.31.

Chapter 18.91

PERMITS

Sections:

18.91.010 Effective Date

18.91.020 Nonmetallic Mining Reclamation Permit Application Required

18.91.030 Local Transportation Site Permits

18.91.040 Applications

18.91.050 Project Site Modification and Transfer of Permits

18.91.010 Effective Date.

Effective June 1, 2001, no new nonmetallic mine shall be opened prior to obtaining a nonmetallic mining permit and no existing mines shall operate after September 1, 2001 without meeting the requirements of this Subtitle.

18.91.020 Nonmetallic Mining Reclamation Permit Application Required.

No person may engage in nonmetallic mining or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued pursuant to the applicable reclamation ordinance unless the activity is specifically exempted in 18.90.050.

A. Permit requirements.

1. A permit application by the commission.
2. The fees as specified in this title.
3. A reclamation plan conforming to this title.
4. A certification that the operator will provide, as a condition of the reclamation permit, provide financial assurance as required by Chapter 18.96 upon granting of the reclamation permit and before mining commences.
5. To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the

requirements of this title.

18.91.030 Local Transportation Site Permits.

A permit shall be issued under this section for any nonmetallic mine that meets the following conditions:

- A. The mine will be opened and reclaimed under contract with a municipality within a period not exceeding 36 months.
- B. The mine is intended to provide stone, soil, sand or gravel for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or other transportation facility under contract with the municipality. Municipality has the meaning defined in Wis. Stat. § 299.01(8).
- C. The mine is regulated and will be reclaimed under contract with the municipality in accordance with the requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites.
- D. The mine is not a commercial source of nonmetallic minerals.
- E. All applicable zoning requirements have been met.
- F. The applicant shall provide the following information:
 - 1. A copy of the contract which outlines the terms and conditions of the reclamation of the borrow site.
 - 2. A scaled drawing that identifies the area that will be impacted by the contract.

18.91.040 Application.

All operators of nonmetallic mining sites shall apply for a reclamation permit from the commission. The application for a permit shall be submitted to the commission on forms provided by the commission. The applicant shall submit 12 complete hard copies, along with 1 digital copy in PDF searchable form, of the application and required documents required by this chapter. The application for a mining reclamation permit shall be signed and dated by the applicant. All applications for reclamation permits under this section shall be accompanied by the following information:

- A. General Information.
 - 1. The name, address, and telephone number of the operator, plus fax number and e-mail address if available.
 - 2. Lease. A signed copy of the lease or a letter signed by the owner(s) of record which authorizes the operator to enter upon the lessor's land for the purpose of mining as defined in this chapter. The expiration date of the lease or agreement shall clearly be indicated thereon.
 - 3. Legal Description. A legal description and general location map of the tracts of land to be involved and affected by the proposed operation and the approximate total number of acres involved.
 - 4. A description of the nature of the deposit and the mining methods that will be used to extract and process the material.
 - 5. The names, addresses and telephone numbers of all persons or organizations who are owners or lessors of the property on which the nonmetallic mining site is located.
 - 6. A certification by the operator of his or her intent to comply with the statewide nonmetallic mining reclamation standards established by this chapter..

B. Reclamation Permit Application Contents. The operator of any nonmetallic mine site shall submit an application that meets the requirements specified below to the Commission prior to beginning operations.

1. The information required by 18.91.040 A.
2. The plan review and annual fees required by Chapter 18.27.
3. A reclamation plan conforming to 18.91.040 C.
4. A certification that the operator will provide, as a condition of the reclamation permit, financial assurance as required by 18.91.040 E. upon granting of the reclamation permit and before mining begins.
5. To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.

C. Reclamation Plan. All operators who conduct or plan to conduct nonmetallic mining shall submit a reclamation plan to the commission that meets all of the following requirements and complies with the reclamation standards of Chapter 18.92 and provide four copies of the required site information on maps drawn at a scale of no less than 1 inch equals 200 feet. The reclamation plan shall include site information sufficient to describe the existing natural and physical conditions of the site, including, but not limited to:

1. The extent of the deposit and the property boundaries of the operator's owned or leased land and the location of other owners' property boundaries at the point where they abut the boundary of the project site.
2. Topography of affected lands at contour intervals no greater than 10 feet.
3. Location and names of all streams, lakes, other water features and roads on or within 300 feet of the project site.
4. The aerial extent with the boundaries of the nonmetallic mining site shown.
5. The geologic composition and depth of the nonmetallic mineral deposit.
6. Indicate the distribution, thickness, and type of topsoil.
7. Identify the drainage patterns on a contour map.
8. The approximate elevation of ground water, as determined by existing hydro geologic information. In specific instances where the existing hydro geologic information is insufficient for purposes of the reclamation plan, the applicant may supplement the information with the opinion of a licensed professional geologist or hydrologist.
9. Information available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine sites.
10. Location of all man-made features on or adjacent to the site and the purpose for which each man-made feature and the adjoining land is used.
11. For proposed nonmetallic mining sites that include previously mined areas, a plan view drawing showing the location and extent of land previously affected by nonmetallic mining, including the location of stockpiles, wash ponds and sediment basins.
12. Location and description of mining site boundary stakes, which delineate the permit area and a permanent reference point.
13. Location of phase boundary stakes if the site will be mined in phases.
14. Location and description of the permanent reference point with all horizontal and vertical measurements.

15. Topsoil or topsoil substitute material, if required to support revegetation needed for reclaiming the site to approved post-mining land use, can be identified using county soil surveys or other available information, including that obtained from a soil scientist or the University of Wisconsin soil science extension agent or other available information resources.

D. Reclamation Measures.

1. A description of the proposed reclamation and post-mine land use including methods and procedures to be used and a proposed timetable for completion of various stages of reclamation of the nonmetallic mining site including provisions for interim reclamation.

2. A plan drawing showing the location of erosion control practices necessary during reclamation including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures; including a description of anticipated topography, water impoundments, artificial lakes and anticipated post-mining land use. If necessary a specific engineering analysis performed by a registered professional engineer as provided by 18.92.060.

3. Description of the volume of topsoil or topsoil substitute and other earth materials that will be necessary to complete the proposed reclamation, and the methods for stripping, storage, stabilization, reapplication and conservation methods that will be used during replacement. If off-site material will be used in site reclamation, a description of the source, nature and volume of material.

4. A statement from the applicable planning or zoning authority that the proposed post-mine land use is consistent with zoning and land use plans in effect at the time the application is submitted, unless a change in the zoning or land use plan is proposed.

5. Description of plans for disposition of man-made features and related facilities after cessation of mining unless they serve to support the post-mine land use.

6. The estimated cost of reclamation for each stage of the project or the entire site if staging is not planned.

7. A seeding plan which shall include methods of seed bed preparation, seeding rates, mulching, netting and/or other techniques needed to accomplish soil and slope stabilization.

8. A timetable of the commencement, duration, and cessation of reclamation activities.

9. Quantifiable standards for revegetation adequate to show that a suitable stand of vegetation has been established which will support the post-mine land use. Standards for revegetation may be based on the percent of vegetative cover, productivity, plant density, diversity or other applicable measures.

E. Certification of Reclamation Plan.

1. The operator shall provide a signed certification that reclamation will be carried out in accordance with the reclamation plan. The landowner and lessee, if different from the operator, shall also provide signed certification that they concur with the reclamation plan and will allow its implementation, except as provided in 2.

2. For the following situations, the landowner and lessee if different from the mine operator, are not required to submit a written certification in accordance with 1. For these situations, the operator shall provide written evidence that the landowner and lessee, if different from the operator, have been provided with a written copy of the reclamation plan.

a. The mine operator has a nonmetallic mine reclamation permit in compliance with this Subtitle or has applied for a permit for an existing mine in accordance with 18.91.030.

b. The operator has submitted a reclamation plan for a new or reopened mine which is located on land for which a lease agreement or memorandum of lease between the landowner and the applicant was recorded prior to August 1, 2001.

F. Other Information. The commission may require the submittal of such other information as may be necessary to determine the feasibility of the proposed reclamation.

18.91.050 Project Site Modification and Transfer of Permits.

A. Site Modification. An operator may apply in writing for a modification or cancellation of a permit or for a change in the reclamation plan for a project site. The application for permit or plan modification shall be acted on using the standards and procedures of Chapter 18.91.

B. Transfer of Permit. When one operator succeeds to the interest of another in an uncompleted site, the commission shall release the first operator of the responsibilities imposed by the permit only if:

1. Both operators are in compliance with the requirements and standards of this chapter.
2. The new operator assumes the responsibility of the former operator to complete the reclamation of the entire project site by a written, witnessed document.
3. Site enlargement. Any proposed enlargement shall be reviewed by the commission and shall be approved only if it meets all of the standards and procedures of Chapter 18.91.
4. The new operator shows proof of financial responsibility.

Chapter 18.92

RECLAMATION STANDARDS

Sections:

<u>18.92.010</u>	<u>Generally</u>
<u>18.92.020</u>	<u>General Standards</u>
<u>18.92.030</u>	<u>Surface Water and Wetland Protection</u>
<u>18.92.040</u>	<u>Groundwater Protection</u>
<u>18.92.050</u>	<u>Topsoil Management</u>
<u>18.92.060</u>	<u>Final grading and Slopes</u>
<u>18.92.070</u>	<u>Revegetation and Site Stabilization</u>
<u>18.92.080</u>	<u>Assessing Completion of Successful Reclamation</u>
<u>18.92.090</u>	<u>Intermittent Mining</u>
<u>18.92.100</u>	<u>Maintenance</u>

18.92.010 Generally.

All nonmetallic mining sites subject to this chapter shall be reclaimed in conformance with the standards contained below.

18.92.020 General Standards.

A. Refuse and Other Solid Wastes. Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid waste shall be disposed of in accordance with applicable rules of the DNR adopted pursuant to Wis. Stat. chs. 289 and 291.

B. Area Disturbed and Contemporaneous Reclamation. Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for reclamation of portions of the site while nonmetallic mining continues on other portions of the site.

C. Public Health Safety and Welfare. All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.

D. Habitat Restoration. When the land use required by the reclamation plan approved pursuant to this chapter requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

E. Compliance With Environmental Regulations. Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning or land use control.

F. Standards Applied to All Permits.

1. Right of Access. The filing of an application shall grant the commission the right of access onto the site and contiguous lands owned or leased by the applicant for any purposes relative to this chapter.

2. Boundary Staking. All excavation and phase boundaries shall be staked or otherwise marked and the operator shall notify the commission that the site is staked at least 2 workdays prior to commencing operations on a site. Stakes shall be made of steel, fiberglass or other material acceptable to the commission. Stakes may be removed after reclamation is completed and accepted. Painted wood lath may be used for operations of one year or less. Staking may be waived with commission approval if an operation boundary is the same as an existing fence line or other easily identifiable feature.

3. Conflicts with Other Regulations. The operator shall obtain any local, state and federal permits or approvals. Copies of these permits must be provided before a county nonmetallic mine reclamation permit will be issued.

4. Compliance with Reclamation. The operator shall comply with contemporaneous and final reclamation plans for the site.

5. Notification of Completion of Reclamation. The operator shall notify the commission in writing that interim or complete reclamation has been completed. All stages within a site shall also comply with the notification requirements above. When a stage is complete, the operator shall notify the commission for approval of the reclamation before entering the next stage.

6. Once a nonmetallic mining site or a portion of a nonmetallic mining site has been certified as reclaimed, no fees shall be assessed for the area reclaimed and the financial assurance for the area reclaimed shall be released or reduced.

7. Unless permitted under State or Federal authority, no solid or hazardous waste shall be stored, buried, or deposited in or on any nonmetallic mining site.

8. Other Standards. The commission may apply such other requirements as are reasonably necessary to ensure progressive and final reclamation in a manner consistent with this chapter and to limit environmental pollution including but not limited to the financial assurance provisions of this chapter.

18.92.030 Surface Water and Wetlands Protection.

Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the DNR's water quality standards for surface waters and wetlands contained in Wis. Admin. Code chs. NR 102 to NR 105. Before disturbing the surface of a nonmetallic mining site and removal of topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this chapter. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

18.92.040 Groundwater Protection.

A. Groundwater Quantity. A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters of a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.

B. Groundwater Quality. Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Wis. Admin. Code ch. NR 140, to be exceeded at the point of standards application.

18.92.050 Topsoil Management.

A. Removal. Topsoil and topsoil substitute material shall be provided as specified in the reclamation plan approved pursuant to this chapter in order to achieve reclamation to the approved post-mining land use. Removal of onsite topsoil and topsoil substitute material removal, when specified in the reclamation plan, shall be performed, prior to any mining activity associated with any specific phase of the mining operation.

B. Volume. The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this chapter.

C. Storage. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this chapter, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbances or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

D. Topsoil Redistribution For Reclamation. Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this chapter in a manner which minimizes compaction and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

18.92.060 Final Grading and Slopes.

A. All areas affected by mining shall be addressed in the approved reclamation plan, pursuant to 18.91.040 C, to provide that a stable and safe condition consistent with the post mining land use is achieved. The reclamation plan may designate highwalls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this subsection, the regulatory authority may require that either: a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope, or the operator perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.

B. Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless found acceptable through one or more of the following: alternative requirements are approved pursuant to Wis. Adm. Code §. NR 135.26; steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved reclamation plan; or stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

C. When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically 6 feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

18.92.070 Revegetation and Site Stabilization.

Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this chapter, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by revegetation or other means.

Revegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

18.92.080 Assessing Completion of Successful Reclamation.

A. The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this chapter. Criteria to evaluate reclamation success shall be quantifiable.

B. Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:

1. On-site inspections by commission staff.
2. Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met.
3. A combination of inspections or reports.

C. In those cases where the post-mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.

D. Revegetation success may be determined by:

1. Comparison to an appropriate reference area.
2. Comparison to baseline data acquired at the mining site prior to its being affected by mining.
3. Comparison to an approved alternate technical standard.

G. Revegetation using a variety of plants indigenous to the area is favored.

18.92.090 Intermittent Mining.

Intermittent mining may be conducted provided that the possibility of intermittent cessation of operations is addressed in an operator's reclamation permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to Chapter 18.96 is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed. An intermittent mine is a mine where the operator has periods of inactivity greater than one year but has a long-term mining operation plan for the site. Reclamation of the mined area is required.

18.92.100 Maintenance.

During the period of the site reclamation, after the operator has stated that reclamation is complete, but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this chapter, or to meet the goals specified in the reclamation plan approved pursuant to this chapter.

Chapter 18.93

PUBLIC NOTICE AND RIGHT OF HEARING

Sections:

18.93.010 Public Notice

18.93.020 Public Hearing

18.93.010 Public Notice.

A. The commission shall publish a public notice of application within 30 days of the receipt of a complete application for a nonmetallic mine reclamation permit.

B. The notice shall be published as a class 2 notice pursuant to Wis. Stat. § 985.07(2). The notice shall contain the following:

1. A description of the mining and reclamation planned at the proposed site.
2. The opportunity for a public hearing pursuant to this section.
3. The location at which the public may review the application.

C. Copies of the notice shall be forwarded by the commission to the clerk of the municipality in which the proposed site is located, the land conservation division and owners of land within one-half mile of the boundaries of the parcel or parcels of land on which the proposed site is located.

18.93.020 Public Hearing.

A. Sites Located in Towns Under County Zoning Jurisdiction. If a public hearing is required for a special exception permit under Chapter 18.28, an opportunity shall be provided to give testimony on reclamation related matters. The commission shall consider the reclamation related testimony in deciding on a permit application pursuant to this chapter.

B. Sites Located in Municipalities That Are Independently Zoned. If a public hearing is required by the local zoning authority and if the local zoning authority requests that the commission be represented at the public hearing, an opportunity shall be provided for the commission to take testimony on reclamation related matters. The commission shall consider

the reclamation related testimony in deciding on a permit application pursuant to this chapter.

C. All Other Sites. If there was not an opportunity for the commission to take testimony under A. or B., an opportunity for a public hearing shall be provided as follows: Any person residing within, owning property within, or whose principal place of business is within 660 feet of the boundary of a parcel or parcels of land in which the nonmetallic mining site is proposed may request a public informational hearing. The request must be made within 30 days of the date of the public notice specified in sub (a). The hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comments from affected persons on the nature, feasibility and effects of the proposed reclamation.

D. The subject matter and testimony at this informational hearing, if it is held separately from any zoning related hearing, shall be limited to the reclamation of the proposed nonmetallic mine site.

Chapter 18.94

PERMIT DECISIONS AND APPEAL PROCESS

Sections:

18.94.010 Municipality Notification

18.94.020 Permit Decisions

18.94.030 Appeals Procedures

18.94.010 Municipality Notification.

Upon receipt of a complete permit application or appeal, the commission shall notify by mail the clerk of the town in which the operation is located.

18.94.020 Permit Decisions.

A. Standard procedure for permit application. Permits shall be granted or denied no sooner than 30 days nor later than 60 days following receipt of a complete application, where the commission finds that the provisions of this chapter and the relevant standards have been met unless a public hearing is held per Chapter 18.93. If a public hearing is held, the permit decision shall be made no later than 30 days after the public hearing. One copy of all plans will be stamped "Approved" and returned to the applicant at the time of permit issuance. Failure of the applicant to notify the commission within 5 workdays of the receipt of the permit will constitute acceptance of the permit and all conditions and amendments to the application and plans. Permits shall be denied where the provisions of this chapter have not been met or if the applicant has failed or continues to fail to comply in a significant manner with this chapter.

B. Walk-through procedure for permit application. Any person who wishes to obtain a permit more quickly than outlined in the standard procedure above, may request a walk-through appointment with the commission. Plans and other pertinent documents will be reviewed at the time of the appointment and if the application is complete, the permit will be granted or denied

within 30 days of the appointment unless a public hearing is required under Chapter 18.93. If a public-c hearing is required a decision shall be made within 10 workdays following the public hearing. All other conditions outlined in A. shall apply.

C. Automatic permits shall be approved within 5 working days if the application meets the standard.

18.94.030 Appeals Procedures.

A. Board of Land Use Appeals. At the written request of any aggrieved person, the operator, or the commission, the board of land use appeals shall hold a public hearing.

B. Applicable sections of zoning code. 18.31.020 applies.

C. Appeals and application.

1. A notice of appeal and variances shall be filed with both the board of land use appeals and the commission within 30 days after the date of written notice of the decision or the order of the commission.

2. All appeals or variances shall be filed on applications provided by the commission.

3. A variance shall include:

a. A map drawn to scale of no less than 1 inch equals 200 feet of the mineral deposit the property boundaries of the operators owned or leased land.

b. Topography of affected lands at a contour interval no wider than 2 feet.

c. Location and names of all navigable waters and roads within 500 feet of the project site.

d. Location of all man-made features or structures on or adjacent to the site and their purpose and adjoining land use.

e. Boundaries of previous excavations, stockpiles, sediment basins, wash plants, or other land previously affected by nonmetallic mining on the site.

f. Location and description of mining site boundary stakes which delineate the permit area and a permanent reference point.

g. Location of phase boundaries stakes and a permanent reference point.

Chapter 18.95

FEES

Sections:

- 18.95.010 Application and Annual Report Fee
- 18.95.020 Department of Natural Resources Fees
- 18.95.030 Public Notice and Hearing Fees

18.95.010 Application and Annual Report Fee.

- D. An application for a permit shall be accompanied by a reclamation plan review fee. The reclamation plan review fee shall be as follows:
- PLAN REVIEW FEES (one-time fee based on the life of the mine)
 - a. 1-10 acres: \$1,500,
 - b. 11-25 acres: \$3,500,
 - c. 26-50 acres: \$8,500,
 - d. 51-100 acres: \$12,500,
 - e. 101-200 acres: \$15,000,
 - f. 201-400 acres: \$18,000,
 - g. 401-600 acres: \$21,000,
 - h. 601-800 acres: \$23,000,
 - i. 801-1,000 acres: \$27,000,
 - j. 1,000 acres or more: \$30,000.

*Fees are established as base rate fees. In addition to the plan review fee, applicants shall be responsible for the payment of all reasonable expenses of the commission for retaining outside expert assistance in analyzing the applicant's application and its conformity to the requirements of the Subtitle IV, Nonmetallic Mining Reclamation Ordinance.

- A separate plan review fee of \$1000 shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to 18.91.050 A.
- Proposed changes to a previously approved reclamation plan shall be subject to plan review fees based on the area affected by the plan changes.
- Mine size is in acres rounded to the nearest whole acre. Does not include mines less than 1 acre.
- In addition to the stated fees, applicants shall be responsible for the payment of all reasonable expenses of the commission for retaining outside expert assistance in determining conformity with the requirements of the Nonmetallic Mining Reclamation Ordinance.
- Reclamation plans which include transportation facilities (i.e. railroad spurs/roads) and/or water features, including but not limited to: lined ponds, wetland restorations, and lakes will be charged any additional costs exceeding the plan review fees

under sub.(1) to fully process the permit application.

E. The annual report fee shall be paid no later than January 31. The annual report fee is based on the unreclaimed acreage of the nonmetallic mining site from the previous year. A fee of \$100 per acre shall be submitted for each acre rounded to the nearest whole acre not released pursuant to 18.96.060, but the total annual fee shall not be less than \$100.

F. Walk-through and after-the-fact permit fees shall be double the application fees.

G. Fees are not refundable after a permit has been issued.

H. Reduced Fee for Inactive Mines. Any site on which no nonmetallic mining activity has taken place in the previous calendar year shall be assessed a fee as follows:

- ANNUAL FEES FOR INACTIVE MINES

a.	1-5 acres:	\$100,
b.	6-10 acres:	\$200,
c.	11-15 acres:	\$300,
d.	16-25 acres:	\$400,
e.	26-50 acres:	\$500,
f.	51-100 acres:	\$600,
g.	101-200 acres:	\$700,
h.	201 acres or more:	\$800.

- For nonmetallic mining sites at which no nonmetallic mining has taken place in the previous calendar year, the share for the Wisconsin Department of Natural Resources shall be \$15.

18.95.020 DNR Fee.

In addition to the fee listed in 18.27.010 the operator shall submit to the department an annual permit fee which shall be paid to the DNR as set forth in Wis. Admin. Code § NR 135.39(3).

18.95.030 Public Notice and Hearing Fees.

D. Public Notice Fee. A public notice fee of \$800.00 shall accompany applications which require a public notice under this chapter.

E. Public Informational Hearing Fee. A public informational hearing fee of \$300.00 shall be paid by the applicant when a public information hearing is required under this chapter.

F. All requests for a public hearing before the board of land use appeals shall be accompanied by a fee as set forth in Chapter 18.35. This fee is in addition to any other fee required by this chapter.

Chapter 18.96

FINANCIAL ASSURANCE

Sections:

<u>18.96.010</u>	<u>Notification</u>
<u>18.96.020</u>	<u>Bond Requirements</u>
<u>18.96.030</u>	<u>Alternate Financial Assurance</u>
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18.96.010 Notification.

The commission shall review the proposed financial assurance level submitted by the operator and determine the required financial assurance level of the project site and shall notify the applicant. Following approval of the permit, and as a condition of the permit, except for governmental units and local transportation projects, the commission shall require a financial assurance to be filed with the commission equal to the estimated cost of fulfilling reclamation. Upon notification of financial assurance levels by the commission, but prior to commencing nonmetallic mining, the operator shall file with the commission financial assurance conditioned on faithful performance of all requirements of this chapter, and the reclamation plan. Upon notification by the commission of bonding or deposit approval and conformance with permit conditions, the operator may commence nonmetallic mining and reclamation operations.

18.96.020 Bond Requirements.

A. Bonds shall be issued by a surety company licensed to do business in Wisconsin. At the option of the operator, a performance bond or a forfeiture bond may be filed. Surety companies may have the opportunity to complete the reclamation in lieu of cash payment to the commission.

B. Each bond shall provide that the bond shall not be canceled by the surety, except after not less than 90 days notice to the commission, in writing, by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator must deliver to the commission a replacement bond or approved alternate financial assurance in absence of which all nonmetallic mining shall cease.

C. The bond shall be payable to "Town of Lincoln, Wisconsin".

D. Bond may be provided to the commission for phases of a site, but in no instance shall the bond be for an area less than ½ acre. Nonmetallic mining shall be limited to the phases which have bonds approved for them.

18.96.030 Alternate Financial Assurance.

A. An operator may deposit cash, irrevocable letters of credit, irrevocable trusts, established escrow accounts, negotiable certificates of deposit or negotiable government securities with the commission in lieu of a bond or may demonstrate financial responsibility by meeting net worth requirements as outlined in Wis. Stat. § 289.41. Certificates of deposit shall be automatically renewed or replaced with an alternate security before the maturity date. Any interest earned by the financial assurance will be paid to the operator. Interest will be paid on cash bonds annually according to county procedures.

B. Alternate Financial Assurance may be provided to the commission for stages of a site but in no instance shall such assurance be for an area of less than ½ acre or for less than a one month supply of material whichever is larger. Excavation and reclamation activities shall be limited to the stage(s) which have financial assurance approved for them.

18.96.040 Financial Assurance Reevaluation.

A. The commission may reevaluate and adjust accordingly the amount of the project financial assurance. Reclaimed areas may be released from the bond coverage and the amount of the bond may be lowered proportionately.

B. The operator shall notify the commission in writing at the time he or she determines that reclamation of a portion of the site or the entire site is complete.

C. The commission shall notify the operator in writing within 60 days of receipt of the notification whether or not the reclamation is complete, unless weather conditions or snow cover make a determination impractical.

18.96.050 Financial Assurance on Multiple Projects.

Any operator who obtains a permit from the commission for two or more project sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance on each site. Any single financial assurance so posted shall be in an amount equal to the estimated cost to the county for reclaiming all sites the operator has under project permits. When an operator elects to post a single financial assurance in lieu of separate financial assurance previously posted on individual sites the separate financial assurance shall not be released until the new bond or deposit has been accepted by the commission.

18.96.060 Multiple jurisdictions.

In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid requiring the permittee to prove financial assurance with more than one regulatory authority for the same mining site. Financial assurance is required for each site and two or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.

18.96.070 Financial Assurance Release.

The commission shall release the operator's financial assurance if it finds, after

inspection of the project site and review of documentation provided by the operator, that the operator has fully carried out and completed reclamation of the project site in accordance with the reclamation plan, and has otherwise complied with this chapter.

18.96.080 Cancellation.

The financial assurance shall provide that it may not be canceled by the surety or other holder or issuer except after no less than 90-day notice to the commission in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall deliver to the commission a replacement financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.

18.96.090 Changing Methods of Financial Assurance.

The operator of a nonmetallic mining site may change from one method of financial assurance to another. This may not be done more than once a year unless required by an adjustment imposed pursuant to this chapter. The operator shall give the commission at least 60 days notice prior to changing methods of financial assurance and may not actually change methods without the written approval of the commission.

18.96.100 Bankruptcy Notification.

The operator of a nonmetallic mining site shall notify the commission by certified mail of the commencement of voluntary or involuntary proceedings under bankruptcy code, 11 USC, et seq., naming the operator as a debtor, within 10 days of commencement of the proceedings.

Chapter 18.97

ADMINISTRATION AND ENFORCEMENT

Sections:

- 18.97.010 Inspections
- 18.97.020 Annual Operator Reporting
- 18.97.030 Enforcement
- 18.97.040 Waiver of Liability
- 18.97.050 Penalties

18.97.010 Inspections.

A. Commission staff may enter the premises of a nonmetallic mining site in the performance of their official duties or pursuant to a special inspection warrant issued under Wis. Stat. § 66.122, in order to inspect those premises and to ascertain compliance with this chapter and permit or to investigate an alleged violation.

B. Each active project site shall be inspected by commission personnel at least once annually to ensure that the site is in conformance with the operator's permit and shall make a report of the inspection. The report of the inspection shall contain a map or diagram which illustrates the area that has been affected by nonmetallic mining, the area that has been reclaimed and the unreclaimed area and shall document any activity that is inconsistent with the terms of the permit for the site. The operator shall be provided a copy of the information obtained during the inspection.

C. The commission shall retain the inspection reports for a period of 10 years and shall make the information available to the DNR upon request.

D. The commission shall inspect a nonmetallic mining site for which an operator has submitted a report under 18.92.020 F.5. of the completion of reclamation or interim reclamation within 60 days of receipt of the report and make a determination in writing. If it is determined that interim or final reclamation is complete, including revegetation meeting the quantifiable standard as specified in the reclamation plan approved under 18.91.040 C., the commission shall issue the mine operator a written certification of completion.

18.97.020 Annual Operator Reporting.

Annual operating reports that satisfy the requirements of this section shall be submitted by the operator of nonmetallic mining sites.

- A. Contents. The annual report shall include the following:
1. The name and address of the operator.
 2. The parcel identification number.
 3. The nonmetallic mine reclamation permit number.
 4. The acreage currently affected by nonmetallic mining and not yet reclaimed.
 5. The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.
 6. A plan, map, or diagram, drawn to scale, accurately showing the acreage described in 4. and 5.
 7. The following certification signed by the operator:
"I certify that this information is true and accurate, and that the nonmetallic mining site described herein complies with all conditions of the applicable nonmetallic mine reclamation permit and Wis. Admin. Code NR 135."

B. Deadline. The annual report shall cover the activities for a calendar year and be submitted within 60 days following the end of the year.

C. Annual reports shall be submitted by an operator for all active and intermittent mining sites to the commission for each calendar year until the nonmetallic mine reclamation is complete and a notice as specified in 18.97.020 F.5. is filed with the commission.

18.97.030 Enforcement.

A. The commission may issue a compliance order, field directive, suspension order or termination order to assure compliance with a permit or the provisions of this chapter.

B. Special orders. The commission may issue a special order as set forth in Wis. Stat. § 295.19(1)(b) and (c). To enforce Wis. Stat. ch. 295, subch. I, Wis. Admin. Code ch. NR 135, or this Subtitle, a permit issued pursuant to this Subtitle or a reclamation plan required by 18.91.040 shall be considered a violation of Wis. Stat. ch. 295, subch. I and Wis. Admin. Code ch. NR 135 or this Subtitle until the necessary permits are obtained.

C. Review of Orders. A person holding a reclamation permit who is subject to an order pursuant to this section shall have the right to review the order in a contested case hearing under Wis. Stat. § 68.11. Notwithstanding the provisions of Wis. Stat. §§ 68.001, 68.03(8) and (9), 68.06, and 68.101(b).

18.97.040 Waiver of Liability.

A. In carrying out any of the provisions of this chapter or in exercising any power or authority granted to them thereby, there shall be no personal liability upon the commission, its agents and employees.

B. In such matters, it is understood that they act as agents and representatives of the county.

C. In performing their duties, commission or commissions agent, in so far as practical, shall conform to safety rules governing mining sites.

18.97.050 Penalties.

Any operator who fails to comply with any provisions of this chapter or who fails to comply with any field directive, compliance order, suspension order or termination order issued by the commission shall be subject to the penalties as directed in 18.31.060 B. with the exception that forfeitures of not less than \$500 or more than \$2500 per day shall be imposed.