

TOWN OF TEXAS

MARATHON COUNTY, WISCONSIN

ZONING CODE

Chapter 17, Town Code of Ordinances

Comprehensive Revisions Adopted: June 11, 2007
Comprehensive Revisions Posted/Published: June 21, 2007
Comprehensive Revision Approved by Marathon County Board of Supervisors:
October 16, 2007

Amendments Adopted May 13, 2024
Posted May 14, 2024
Approved by Marathon County Board of Supervisors June 18, 2024

Amendments Adopted July 14, 2025

Approved By Marathon County Board Of Supervisors October 21, 2025

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INTRODUCTION

17.01 OBJECTIVES.

To achieve the objectives outlined in §60.61, 60.62, 61.35 and 62.23 Wis. Stats., the Town of Texas adopts the zoning regulations contained in this chapter.

17.02 SHORT TITLE.

This chapter shall be known and cited as the Town of Texas Zoning Code.

17.03 PURPOSE AND INTENT.

This chapter is adopted to promote and protect public health, safety, comfort, convenience, aesthetics and other aspects of the general welfare; and, more specifically, to fix reasonable standards to which buildings and structures shall conform, to regulate and restrict lot coverage and population density, to guide the proper distribution and location of various land uses by the establishment of zoning districts which are applied where the Town has zoning jurisdiction, to promote the safety and efficiency of the streets and highways, to provide for adequate light, air, sanitation and drainage, to conserve natural resources, to provide safety from fire, flooding, water pollution, contamination and other hazards, to define the powers and duties of the administrative bodies as provided in this chapter, and to prescribe penalties for the violation of the provisions of this chapter or any amendment to this chapter.

17.04 APPLICATION OF OVERLAPPING REGULATIONS.

- (1) This chapter shall not repeal, impair or modify private covenants or other ordinances, except that it shall apply whenever it imposes stricter regulations.

17.05 APPLICABILITY.

The Town of Texas has legally adopted this independent comprehensive zoning ordinance. The Town of Texas shall be subject to all the provisions of the Marathon County Zoning Code within the floodplain, shoreland and wetland areas as these areas are defined in §17.30, §17.31 and §17.32. of the Marathon County Zoning Code.

17.06 SEVERABILITY AND NONLIABILITY.

Should any section, clause, provision or portion of this chapter be adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

17.07 GENERAL INTERPRETATIONS.

The following rules of construction shall apply to this chapter:

- (1) The particular shall control the general; in case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control; "shall" is mandatory, "may" is permissive; words used in the present tense shall include the future and words used with singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary; "building" or "structure" includes any part

thereof; "used for"; includes "arranged for", "person" includes an individual, corporation, partnership, incorporated association or any other similar entity; unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and", "or" or "either/or," the conjunction shall be interpreted as follows: "and" indicates that all the connected items, conditions, provisions or events shall apply; "or" indicates that the connected items, conditions, provisions or events shall apply singly or in any combination; "either/or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination. All measured distances shall be to the nearest integral foot. If a fraction is ½ foot or more, the integral foot next above shall be taken. The masculine gender includes the feminine and neuter.

- (2) The provisions of this chapter 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 the Wisconsin Statutes and related administrative codes.

17.08 DEFINITIONS.

The following words, phrases and terms, wherever they occur in this chapter shall be interpreted as defined in this section:

ADMINISTRATOR, TOWN ZONING. A person appointed by the Town Board to administer and enforce this ordinance.

ANIMAL FEEDING OPERATION. A feedlot or facility other than a pasture, where animals have been, are, or will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12-month period.

ANIMAL UNITS. As defined in NR 243, or as amended as follows:

Subcategory of Animal Types	Animal Equivalency Factor	Subcategory of Animal Types	Animal Equivalency Factor
Dairy Cattle		Sheep	
Milking & Dry Cows	1.4	Per Animal	0.1
Heifers (800-1200 lbs)	1.1		
Heifers (400-800 lbs.)	0.6	Horses	
Calves (less than 400 lbs.)	0.2	Per Animal	2.0
Beef Cattle		Ducks	
Steers/Cows (600-Market)	1.0	Per Bird (Wet Lot)	0.2
Calves (less than 600 lbs.)	0.5	Per Bird (Dry Lot)	0.01
Bulls	1.4		
		Chickens	
		Layers	0.01
Swine		Boilers	0.005
Pigs (55 lbs.-Mkt)	0.4		
Pigs (up to 55lbs.)	0.1	Turkeys	
Sows	0.4	Per Bird	0.018
Boars	0.5		
		Combined Animal Units	
		Calculated Total	

Examples for determining maximum allowable animals:

Animal units/acre (number of acres) = Number of animals

Animal Equivalency Factor (AEF)

Example 1: 40 acres/400-800 lb. heifers: at 5 animal units/acre (40) acres = 333 (400-800 lb. heifers)
 Animal Units per acre – 5 .6 AEF

Example 2: Property: 9 acres
 Animals (400-800 lb. heifers)
 Animal unit Density: 0.5 Animal Units per acre (Rural Estate Density)
0.5 animal units/acre (9) acres = 7.5 animals (400-800 lb. heifers)
 .6 AEF

Example 3: Property: ? acres
 Animals: 2-Steers/Cows (1000-Mkt)
 2-Pigs (55 lbs.-Mkt)
 25- Layers
 Animal unit Density: 0.5 Animal Units per acre (Rural Estate Density)

Steers - 0.5 animal units per acre x 1 acre = # of animals # of animals = .5

1 Animal Equivalency Factor
.5 animals = 2 animals
 1 acre x acres
 X=4 acres

Pigs - 0.5 animal units per acre x 1 acre = # of animals # of animals = 1.25
 0.4 Animal Equivalency Factor
1.25 animals = 2 animals

1 acre x acres x=1.6 acres

Layers - 0.5 animal units per acre x 1 acre = # of animals # of animals = 50

.01 Animal Equivalency Factor
50 animals = 25 animals
 1 acre x acres x=0.5 acres

Total Acres Required = 4 acres (Steers) + 1.6 acres (Pigs) + .5 acres (Layers) = 6.1 Acres

Animal unit density equivalents for non-typical species or exotics such as bison, llamas, emu and ostriches shall be determined based on recommendation from the Marathon County Land Conservation Committee or DNR.

ANIMAL WASTE FACILITY. Any site or area specifically designed and/or constructed for the purpose of storage or holding of animal waste and manure.

APARTMENT HOUSE. A building containing accommodations for more than two families living independently of each other.

AQUIFER. A saturated, permeable, geologic formation that contains and will yield significant quantities of water.

AUTO DEALER. Any person may sell, offer to sell, or display three (3) vehicles per year on property which they own or control providing the vehicles are part of their personal fleet. Sale of, offer to sell, or display of more than three (3) vehicles requires proper zoning for an auto dealership.

AUTO LAUNDRY/CAR WASH. A building or portion thereof containing facilities for washing vehicles using a steam cleaning device, cleaning solutions and water under pressure, blower, chain conveyor or other mechanical devices.

AUTOMOBILE SERVICE STATION. Any building, structure or premises or other place used for the dispensing, sale or offering for sale of any motor fuel or oils, having pumps and storage tanks; also where battery, tire and similar services are rendered, but not including buildings and premises where such business is incidental to the conduct of a public garage used for the repair or storage of motor vehicles.

AUTOMOBILE WRECKING YARD, JUNK YARD, OR SALVAGE YARD. Any area of land where three or more vehicles, unlicensed and/or not in running condition, an accumulation of auto parts, or both, are stored in the open and are not being restored to operation. Any land, building or structure used for the wrecking or storing of such motor vehicles, or parts thereof, not in running condition. Any area where tire carcasses are stored or recycled. Any area where 3 or more pieces of unlicensed or inoperative construction equipment, motorcycles, snowmobiles, boats or appliances or their parts are stored and are not being restored to operation, or any land or structure for the wrecking or storing of such vehicles, equipment or appliances, or parts thereof, not in working condition. The examples listed by this definition are examples and not intended to be an inclusive list.

BED AND BREAKFAST ESTABLISHMENT. A business as defined in Wis. Stat. § 254.61(1).

BOARD OF APPEALS. The body established under Wis. Stat. § 62.23(7)(e),

BOARDING HOUSE. A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for 5 or more persons not members of a family, but not exceeding 20 persons and not open to transient customers.

BOAT LIVERIES. Establishments offering the rental and repair of boats and fishing equipment.

BOATHOUSE. A residential accessory building designed and used for storage of boats and boating accessories belonging to the resident. A boathouse shall not be used for storage of land vehicles, lawn, garden or shop equipment or supplies.

BUILDING. A building” is any structure built, used, designed, or intended for the support, shelter, protection, or enclosure of persons, animals, chattels, or property of any kind, and which is permanently affixed to the land. When a building is divided into separate parts by unpierced fire or

party walls extending continuously from the ground through all stories to and above the roof, each part shall be deemed a separate building.

BUILDING, ACCESSORY. A subordinate or supplemental building, the use of which is incidental to that of the principal building on the same lot or incidental to the use of the premises on which it is located.

BUILDING, MINOR ACCESSORY. A building not requiring a zoning permit shall include any small, easily moveable construction and any building which has a footprint of no more than 150 square feet. Minor accessory buildings must meet all setbacks for zoning district in which they are located with the exception of school bus waiting shelters. Small easily moveable buildings include but are not limited to objects such as play equipment, tree houses, farm calf hutches, permanent deer stands (without living quarters, plumbing, or running water), outside woodstoves/boilers, and other hand moveable objects such as grills, etc. See also Structure, Minor Accessory.

BUILDING HEIGHT. Unless otherwise specified in this ordinance, the vertical distance from the average grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip and gambrel roofs.

BUILDING SITE AREA. The ground area of a building or buildings, together with all open spaces required by this chapter.

CAMPGROUNDS. Any premises established for overnight habitation by persons, not the owner of the property, using equipment designed for the purposes of temporary camping and whether or not a fee is charged.

CAMPING UNIT. Any portable device, no more than 400 square feet in area, used as a temporary shelter, including, but not limited, to a camping trailer, motorhome, bus, van, pickup truck, tent or other mobile recreational vehicle.

CERTIFICATE OF COMPLIANCE. A certification issued by the Town Zoning Administrator stating that the construction and the use of land or a building is in compliance with all of the provisions of this ordinance.

CHANNEL. A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

CLUB. An association for some common purpose, but not including a group organized for or which is actually engaged in rendering a service which is customarily carried on as a business. A roadhouse or tavern shall not be construed as a club.

CONDITIONAL USE. Uses which may be permitted in a district through the granting of a Conditional Use by the Town Board, upon finding and recommendation by the Planning Commission that specified conditions are met.

CONDOMINIUM. For the purpose of this code, condominium shall have the same definition as contained in Wis. Stat. § 703.02(4)

CONE OF DEPRESSION. The area around a well in which the water level has been lowered at least one tenth (1/10) of a foot by pumping of the well.

CONSERVANCY AREA. An area of land where the water table is generally at, near or above the land surface.

DAY CARE OR CHILD CARE FACILITY. For the purpose of this code a day care or child care facility shall have the same definition as contained in Wis. Stat. § 48.65(1).

DETENTION BASIN. An artificial depression or diked structure designed to be part of a stormwater and/or sediment control project which may or may not have permanent shallow water.

DEVELOPMENT. Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of building or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; and the storage, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities.

DISTRIBUTION EQUIPMENT. Poles, towers, wires, cable, conduits, vaults, laterals, pipes, mains, valves for telephone or other communications and electric power, gas, water and sewer lines, the sole purpose of which is to connect the utility service to retail customers. Distribution equipment does not include transmission equipment as further defined herein.

DISTRICT. A designated area of the Town of Texas for which the regulations governing the use of the land and buildings are uniform.

DOG KENNEL, BREEDING AND/OR BOARDING (Land Use). More than three (3) dogs that are more than six (6) months old and/or a business where dogs are bred and sold and/or boarded, cared for, and/or trained, generally for a fee.

DOG KENNEL, STRUCTURE. The pen(s), run(s), and accessory structure(s) associated with land used for the harboring of dogs.

DRAINAGE SYSTEM. One or more artificial ditches, tile drains or similar devices which collect surface runoff on ground water and convey it to a point of discharge.

DRYLAND ACCESS. 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.

DUPLEX. A dwelling divided into two (2) living units or residences, usually having separate entrances.

DWELLING. A building or portion thereof designed exclusively for residential occupancy, including one family, two family and multiple family dwellings.

ENCROACHMENT. An encroachment is any fill, structure, building, accessory use, principle use or development in the floodway.

FAMILY. One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house.

FARM. An area of land devoted to the production of field or truck crops, livestock or livestock products, which constitute the major use of such property. This includes fur farms in which the animals are housed and fed under artificial conditions.

FARM OPERATOR. An owner occupant of a parcel of land as defined in Wis. Stat. § 91.01 (6)

FEEDLOT. A feedlot shall be determined to be any of the following facilities, when they are a business and means of livelihood:

1. Any tract of land or structure wherein any type of fowl or the byproducts thereof are raised in close quarters for sale at wholesale or retail.
2. Any structure, pen or corral wherein cattle, horses, sheep, goats, swine, and other animals domestic and/or exotic are maintained in close quarters for the purpose of fattening, milking or production of other animal products for final sale and/or shipment to market.

FLOOR AREA. The gross horizontal areas of the several stories within the outer lines of the exterior walls of a building or from the centerline of party walls; provided that the floor area of a dwelling shall not include space not usable for living quarters, such as attics, utility or unfinished basement rooms, garages, breezeways and unenclosed porches or terraces.

FUR FARM. Any property comprising land or building or both, used for the purpose of raising or harboring fur bearing animals including those defined in Wis. Stat. § 29.001(30), and also including chinchillas and other fur bearing animals, whether the animals are kept for breeding or slaughtering or pelting purposes.

GARAGE, PRIVATE. An accessory building or accessory portion of the main building, used or designed or intended to be used for the storage of private motor vehicles.

GARAGE, PUBLIC. A building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor driven vehicles.

GRADING. The physical disturbance of the ground by the addition, removal, or re-distribution of soil.

HABITABLE STRUCTURE. Any structure, or portion of a structure, used or intended to be used for permanent or intermittent human occupancy.

HEARING NOTICE. A publication or posting which meets the requirements of Wis. Stat. Ch. 985.

HISTORIC STRUCTURE. Any structure that is listed preliminarily determined to meet the requirements for listing, as an individual structure part of a district, or on an inventory of the National Register, determined by the Secretary of the Interior, or on a State or local inventory of Historic Places.

HOME OCCUPATION. Any occupation for gain or support, when such occupation is incidental to the residential use of the premises and does not involve any external alteration that would effect a substantial change in the residential character of the building; provided further that no article is sold or offered for sale that is not produced by such home occupation, that no stock in trade is kept or sold, that no person other than a member of the resident family is employed on the premises and

that no more than 25% of the floor area of any floor of the residence or accessory building is used for the home occupation. A home occupation includes uses such as babysitting, millinery, dressmaking, canning, laundering and crafts, but does not include the display of any goods nor such occupations as barbering, beauty shops, non-retail cabinet making, real estate brokerage or photographic studios.

HOME PROFESSIONAL BUSINESS. Any professional occupation for gain or support when such occupation is incidental to the residential use of the premises and does not involve any external alteration that would effect a substantial change in the residential character of the building; provided further that such business is conducted solely by a member or members of the resident family entirely within the residence, that not more than 50% of only one floor of the dwelling shall be devoted to such business and that no more than two persons not members of the resident family are employed in nonprofessional capacities in any such office. A home professional business includes uses such as attorneys, doctors and dentistry offices, real estate brokerages, photographic studios and service oriented shops such as beauty and barber shops, offices for tax preparation and licensed children's day care for no more than twelve (12) children. Before any home professional business may be opened, a complete septic system evaluation shall be conducted and any improvement to or replacement of the system must be completed before the business may commence.

HOTEL. A building in which board and lodging are provided to the transient public for compensation.

HOUSEBOAT. A water craft intended for temporary occupancy.

HUMAN HABITATION. The act of occupying a structure as a dwelling or sleeping place, whether intermittently or as a principal residence.

INTERCHANGE. A grade separated intersection with one or more turning lanes for travel between intersecting highways.

LAND USE. Any nonstructural use made of unimproved or improved real estate. Also see: "DEVELOPMENT".

LANDING. An uncovered platform at the end of a flight of stairs or a platform for ingress and egress to a structure or a jump platform. A landing is a structural appurtenance not more than six (6) feet wide unless further restricted in this Chapter.

LOT. A parcel of land occupied or designed to be occupied by one principal structure or use and its accessory structures or uses, including the open spaces required by this chapter, and abutting on a public street or other officially approved means of access. A lot may be a parcel designated in a plat or described in a conveyance recorded in the Office of the Register of Deeds, or any part of a large parcel when such part complies with the requirements of this chapter as to width and area for the district in which it is located. No land included in any street, highway or railroad right-of-way shall be included in computing lot area.

LOT, CORNER. A lot located at the intersection of two streets, any two corners of which have an angle of 120 degrees or less, or is bounded by a curved street, any two chords of which, on the inside of the curve, form an angle of 120 degrees or less.

LOT, WATERFRONT. Any lot where any developments including stairs, grading, tree-cutting, etc are taking place within 100 feet of the OHWM.

LOT, WIDTH. For the purpose of this chapter the width of a lot shall be the shortest distance between the side lines at the building setback line. Such building line may be the setback line or a line designated on a plat or in a conveyance of an unplatted parcel.

MAINTENANCE AND REPAIR. Includes the replacement of windows, doors, roofing, wiring and siding; upgrading of insulation; internal remodeling and improvements; repair, but not replacement, of an existing foundation.

MANUFACTURED HOME. A home certified and labeled as a manufactured home under 42 USC Sections 5401 to 5426, which is set upon a foundation constructed at a minimum to the requirements of Wisconsin Administrative Code DILHR 21.18, or a comparable foundation as approved by the local Zoning Administrator or Building Inspector, is installed according to manufacturer's instructions, and is properly connected to utilities. For purposes of this Code, a "manufactured home" shall be treated the same as a "single-family residence" and, where appropriate, a "two-family residence."

MOBILE HOME. Is a vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of 45 feet. "Mobile home" includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty.

MOBILE HOME PARK. Any park, court, site, lot, parcel or tract of land designed, maintained, intended or used for the purpose of supplying a location or accommodations for two or more mobile homes and shall include all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the mobile home park and its facilities. Mobile home park shall not include automobile or mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sale.

MOBILE RECREATIONAL VEHICLE. 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.

MOTEL OR TOURIST CABIN. A building or group of buildings which contain living or sleeping accommodations used primarily for transient occupancy, and have individual entrances from outside the building to serve each such living or sleeping unit.

NONCONFORMING STRUCTURE. Any structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

NONCONFORMING USE: A use, building or structure *existing* at the time of enactment of this Code and which does not conform to the requirements set by the District in which said use, building or structure exists.

NONMETALLIC MINERAL EXTRACTION. The removal of rock, gravel, decomposed granite, sand, topsoil or other natural material from the earth by excavating, stripping, leveling or any other process whereby these materials are substantially removed from the site.

NOXIOUS MATTER. Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

OCCUPANCY. Pertains to and is the purpose for which a building is used or intended to be used. A change of occupancy is not intended to include a change of tenants or proprietors.

OPEN SPACE USE. Those uses having a relatively low flood damage potential and not involving structures.

PARK. A pleasure ground set apart for recreation of the public, to promote its health and enjoyment.

PARK, AMUSEMENT. An area publicly or privately owned, containing amusement and recreational facilities and devices, whether operated for profit or not.

PARKING LOT. A lot where automobiles are parked or stored temporarily, but not including the wrecking of automobiles or other vehicles or storage for the purpose of repair or wrecking.

PARK (MODEL) UNIT. A structure resembling a mobile home or manufactured home in construction and design, generally having less than 400 square feet of total floor area, and not a travel trailer due to its inability to be towed by conventional cars or trucks.

PASTURE. Grazing animals on growing vegetation with no supplemental feed at up to five animal units per acre. Also rotational grazing systems designed periodically to exceed five animal units per acre, which comply with the standards in the County Technical Guide adopted by the Marathon County Land Conservation Committee.

PERSON. An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

PIER. Any structure extending into navigable waters from the shore with water on both sides, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft.

POND. A seasonal or permanent body of water, created by excavation, by dike construction or by a combination of both. The only ponds within this definition subject to shoreland regulations by this chapter are those which have been excavated within 500 feet of a navigable body of water under Wis. Stat., § 30.19, or which are navigable in fact. Pursuant to Wis. Stat. § 30.19, ponds constructed within 500 feet of navigable waters are defined as public waters.

PRINCIPAL BUILDING. The main structure of a lot which houses the principal use of the premises.

PRIVATE SEWAGE SYSTEM/PRIVATE ON-SITE WASTE TREATMENT SYSTEM (POWTS). For the purpose of this code a private sewage system shall have the same definition as contained in Wis. Stat. § 145.01(12).

PROFESSIONAL OFFICE. The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other recognized profession.

PUBLIC UTILITIES. 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.

RECHARGE AREA. Area in which water reaches the zone of saturation by surface infiltration and encompasses all areas or features that supply groundwater recharge to the well.

RECREATION OR YOUTH CAMP. An area containing one or more permanent buildings used occasionally or periodically for the accommodation of members of associations or groups for recreational purposes.

RENDERING PLANT. A plant for the reduction of dead animals or slaughtered animals not suitable for human consumption to by-products such as hide, skin, grease, bones, glue and soap and for the storage of such by-products.

RIDING STABLE. A building or premises used for the rent or lease of horses or animals for hire.

ROADSIDE STAND. A structure having a ground area of not more than 300 square feet, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products more than ½ of which were produced on the premises or adjacent premises. There shall not be more than one such roadside stand on any single premise.

SETBACK LINE / BUILDING LINE. The minimum allowable distance from a given point or line of reference, such as a thoroughfare right-of-way, water line or property line to the nearest vertical wall or other element of a building or structure.

SHOPPING CENTER. A group of contiguous retail stores, originally planned and developed as a single unit, with immediate adjoining off street parking facilities.

SHOOTING RANGE, PUBLIC. Any permanent or semi-permanent target shooting range for use by the general public and/or for competitive shoots, whether or not a charge/fee/donation is required to use the facility.

SIGN. Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface. Signs placed or erected by governmental agencies or nonprofit civic associations for a public purpose in the public interest shall not be included herein.

SIGN, BILLBOARD, DIRECTIONAL. Signs which direct potential patrons or visitors to a specific place of business interest or community and which may indicate either goods or services offered or both.

SIGN, FLASHING. Any illuminated sign on which the artificial light is not maintained stationary, or constant in intensity and color at all times when such sign is in use.

SLAUGHTERHOUSE. Any building or premises used for the killing or dressing of fowl, cattle, sheep, swine, goats or horses and the storage, freezing and curing of meat and preparation of either meat products, by-products or both.

STORY. The vertical distance between the surface of any floor and the floor next above it, or if there be no floor above it, the space between such floor and the ceiling next above it.

STREET. A public or private thoroughfare which affords a primary means of access to abutting property. A driveway to a farm building shall not be considered a street for the purpose of determining setback, even though such driveway may have been designated a town road for the purposes of maintenance.

STRUCTURAL ALTERATIONS. Any changes in the supporting members of a structure such as bearing walls, columns, beams or girders, footing and piles.

STRUCTURE. Anything constructed or erected, the use of which requires a location in or on the premises, or any other attachment to something having a permanent location on the ground, which includes, but is not limited to, objects such as buildings, factories, sheds and cabins, mobile homes, gas or liquid storage tanks, bridges, culverts, decks, satellite dishes or swimming pools. Also included are items of personal property that may have been designed as transportable or as a vehicle, but stand in a seasonal or permanent location for storage or intermittent human habitation. Such incidental structures may include (but are not limited to) truck campers, travel trailers, buses, and motor homes.

STRUCTURE, ACCESSORY. A structure which is incidental or subordinate to the principal structure on the same parcel and may be desirable but not necessary for the use of the parcel as permitted by this code.

STRUCTURE, MINOR ACCESSORY. A structure not requiring a zoning permit shall include any small, easily moveable construction and any structure which has a footprint of no more than 150 square feet. Minor accessory structures must meet all setbacks for zoning district in which they are located with the exception of school bus waiting shelters. Small easily moveable structures include but are not limited to objects such as play equipment, tree houses, farm calf hutches, permanent deer stands (without living quarters, plumbing, or running water), outside woodstoves/boilers, and other hand moveable objects such as grills, etc.

STRUCTURE, NONCONFORMING. A structure erected prior to the effective date of this chapter or amendment thereto, that conforms to use limitations but does not conform to dimensional or other standards including setbacks, floor area, parking, distance, or floodproofing.

STRUCTURE, PRINCIPAL. A structure which contains or is directly related to the main use of the property on which it is located, conforms to the purpose section of the zoning district in which it is or is to be located and is a structure listed as a permitted or Conditional Use in the zoning district. Only one principal structure is permitted on each lot or parcel.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement of a structure, the value of which equals or exceeds 50% of the present equalized assessed value of the structure either

before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure or site documented as deserving preservation by the State Historical Society or listed on the National Register of Historic places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and replacement of doors, windows and other nonstructural components.

TRANSMISSION EQUIPMENT. Poles, towers, wires, cables, conduits, vaults, laterals, pipes, main valves for high voltage electrical transmission, natural gas, and other utility products and services not intended for direct access by retail customers, but whose purpose is transmission from point of origin to distribution stations or similar locations.

UNNECESSARY HARDSHIP. A circumstance where special conditions, which are not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

USE, ACCESSORY. A use customarily incidental and accessory to the principal use of a lot or parcel, or building or structure on the same lot or parcel as the principal use.

USE, CONDITIONAL. Uses which may be permitted in a district through the granting of a Conditional Use by the Town Board, upon finding and recommendation by the Planning Commission that specified conditions are met.

USE, NONCONFORMING. A use, building or structure *existing* at the time of enactment of this Code and which does not conform to the requirements set by the District in which said use, building or structure exists.

USE, PRINCIPAL. A principal use is the main use of land or building as distinguished from a subordinate or accessory use.

UTILITIES. Any public or private water supply, waste collection or disposal system including, but not limited to, septic systems, private and public wells and their attendant facilities, public sewage collection systems and treatment facilities.

VARIANCE. A departure from the dimensional standards of this chapter as applied to a specific building, structure or parcel of land, which the Board of Appeals may permit, contrary to the regulations of this chapter for the district in which such building, structure or parcel of land is located, when the Board finds that a literal application of such regulation will effect a limitation on the use of the property which does not generally apply to other properties in the same district and for which there is not compensating gain to the public health, safety or welfare. (See also 17.91(4)(c).)

VISUAL CLEARANCE. A triangular space which permits an unobstructed view at the intersection of highways or streets with other highways, streets or roads, or at the intersection of highways or streets with railroads.

WAREHOUSE - MINI. Units rented to store residential personal property, sporting equipment such as snowmobiles & boats and other similar non hazardous materials.

WATERSHED. The entire region or area contributing runoff or surface water to a particular watercourse or body of water.

WELL. 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.

WELL FIELD. A parcel of land used primarily for the purpose of locating wells to supply a municipal water system.

WETLANDS. Those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions. Administration and enforcement of zoning provisions for wetlands is under the jurisdiction of Marathon County.

WHARF. Any structure in navigable waters extending along the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft.

WIND ELECTRICAL GENERATION TOWERS (WEGT), PRIVATE. Any WEGT to be primarily used to provide electricity to a structure at the site of generation.

WIND ELECTRICAL GENERATION TOWER (WEGT), COMMERCIAL. Any WEGT to be primarily used to produce electricity that will ultimately be sold and/or used not at the site of generation.

YARD. An open space on a lot which, except for vegetation or specified structures, is unoccupied and unobstructed from the ground up. On a parcel which has a conforming principal building, the street, side and rear yards are presumed to extend from the minimum setback line to the nearest point of the principal structure.

YARD, REAR. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall generally be opposite the street yard but may be the yard opposite the yard used to gain access to the property.

YARD, SIDE. A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

YARD, FRONT (STREET). A yard extending across the full width of the lot between the side lot lines, and is the yard fronting on the street for which the address is assigned.

YARD, CORNER SIDE. A side yard which adjoins a public street.

ZONE A. For wellhead protection Zone A equals the five year time of travel (TOT). The five year TOT is the recharge area inside the boundary from which it is determined or estimated that

groundwater will take five years to reach the pumping well. Where estimates or engineering are not available Zone A may be determined to be a set distance from the municipal well(s).

ZONE B. For wellhead protection Zone B equals the ten year time of travel (TOT). The ten year TOT is the recharge area between the five year time of travel and a boundary from which it is determined or estimated that groundwater will take ten years to reach a pumping well. Where estimates or engineering are not available Zone B may be determined to be a set distance from Zone A boundary.

ZONE C. The outer edge of the recharge area where any portion of the recharge area is farther from the municipal well(s) than the Zone B boundary.

ZONING PERMIT. The zoning permit, as used in this chapter, shall be considered a “certificate of compliance” as issued by the Town of Texas.

GENERAL REGULATIONS

17.10 JURISDICTION.

The provisions of this chapter shall apply to the land, water, air and all structures both above and below ground within the Town of Texas, Marathon County, Wisconsin.

17.11 COMPLIANCE.

- (1) No structure, land, water or air shall hereafter be used without full compliance with the provisions of this chapter and all applicable local, County and State regulations. No structure (with the exception of certain minor structures), or part thereof shall hereafter be located, erected, moved, reconstructed or altered and no substantial land use change made without a zoning, special zoning, or Conditional Use permit. The Town Zoning Administrator, or his/her appointed deputies, shall accept all applications, issue or deny all zoning permits, investigate all complaints, give notice of violations and enforce the provisions of this chapter. The Zoning Administrator shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him/her to ensure compliance with this chapter. If, however, he/she is refused entry after presentation of identification, he/she shall procure a special inspection warrant in accordance with Wis. Stat. § 66.0119, except in case of emergency.

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, 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 or deny a permit or approval on the merits of the application, to the Town Attorney and the Town Zoning Board of Appeals.

Where issuance of an after-the-fact permit or approval would have the effect of correcting a violation it may be granted if all conditions required for issuance can be complied with.

- (2) Municipalities and State Agencies Regulated.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this code and obtain all necessary permits.

- (3) Either the Town of Texas or any owner or owners of property within the district affected by a particular regulation may sue to enforce by injunctive order compliance with this chapter.
- (4) An application filed or permit issued pursuant to this Chapter shall authorize access by the Town Zoning Administrator or his/her appointed deputies onto the property for the purpose of inspecting the site prior to permit issuance and/or for compliance with the terms of the permit and this Chapter. [Also see §17.93(2)(f)]

17.12 PERMITS.

- (1) Zoning Permits. A zoning permit shall be issued before any of the following may occur:
 - (a) Prior to the erection, structural alteration, or moving of any building or structure except as exempted in this chapter.
 - (b) Prior to the establishment of a new use, whether the land is currently vacant or if a substantial change in land use is proposed.
 - (c) Prior to any change in use of an existing building or structure.
 - (d) Applications for a zoning permit shall be made to the Town Zoning Administrator or his/her appointed deputies on forms furnished by the Town Zoning Administrator and shall include the following where applicable:
 1. Name and addresses of the applicant, agent(s) and owner of the property.
 2. Name and address of the architect, professional engineer or contractor.
 3. Description of the property by Parcel I.D. number from tax rolls, lot and block numbers and recorded subdivision or by metes and bounds, section, township and range,
 4. Property boundaries, dimensions, elevations, uses and size.
 5. The following information:
 - a. Existing and proposed structures.
 - b. Existing and proposed easements, streets and other public ways.
 - c. Off street parking, loading areas and driveways.
 - d. Existing highway access restrictions.
 - e. Existing and proposed street, side and rear yards.
 - f. The use of any abutting lands and their structures within 50 feet of the property.

- g. If applicable, the location of the ordinary high-water mark, channel, floodway, floodplain and shoreland boundaries.
 - h. The location of any well(s) and/or septic system(s).
 - i. The zoning district within which the property lies.
 - 6. Payment of the appropriate fee as prescribed at §17.15.
 - 7. A County sanitary permit issued pursuant to Ch. 15 of the Marathon County General Code.
 - 8. Any additional information as required by the Town Zoning Administrator.
- (e) A zoning permit shall be obtained when there is a change of any nonconforming use.
 - (f) The zoning permit shall be issued by the Town Zoning Administrator or his duly appointed deputies. Such permit shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this chapter.
 - (g) The zoning permit shall be granted or denied by the Zoning Administrator in writing within 30 days.
- (2) Exemptions. A zoning permit shall not be required for the following:
 - (a) Alterations involving ordinary maintenance and repair. Square footage and footprint stay the same.
 - (b) For new minor accessory structures as defined in section 17.08.

17.13 CONDITIONAL USE PERMITS.

(1) GENERAL APPLICATION.

- (a) Applications for conditional use permits shall be made on forms furnished by the Town and shall include: the information required in §17.12(1) and payment of the fee to the Town for a public hearing before the Plan Commission.
- (b) Notification by the Town to property owners having land adjacent to the boundaries of the property for which the Conditional Use Permit pursuant to the requirements of Wis. Stat. § 62.23.

(2) REVIEW AND APPROVAL BY TOWN BOARD.

- (a) The Town Zoning Administrator shall provide to the Town Clerk a copy of all maps, plans and other documents submitted by the applicant for a Conditional Use Permit and notice of the time and place of the public hearing to be held on the proposed Conditional Use. Such information shall be provided at least 10 days prior to the hearing. The Town Board may attend the public hearing.

- (b) If, at such hearing, the Town Board or its representative requests an extension, it may be granted by the Plan Commission for a period the Town Board considers reasonable.

(3) STANDARDS IN REVIEWING CONDITIONAL USES.

Standards. The Plan Commission and the Town Board shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards.

- (a) Compatibility with Adjacent Uses. The proposed conditional use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding land. The site design shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:
 - 1. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
 - 2. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
 - 3. The hours of operation of the proposed use. Approval of a conditional use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
 - 4. The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.
- (b) Comprehensive Plan. The proposed conditional use will be harmonious with and in accordance with the general objectives or with any specific objective of the Town Comprehensive Plan.
- (c) Compliance with Applicable Regulations. The proposed conditional use shall be in compliance with all applicable federal, state, and local laws and ordinances.
- (d) Use of Adjacent Property. The proposed conditional use shall not interfere with the use and enjoyment of adjacent property.
- (e) Public Services. The proposed conditional use will be served adequately by essential public facilities and services including, but not necessarily limited to, utilities, highways, streets, police and fire protection, drainage structures, refuse disposal, and school(s); unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the conditional use is completed.
- (f) Impact of Traffic. The location of the proposed conditional use shall minimize, within the zoning district, the impact of traffic generated by the proposed use. In determining whether this requirement has been met, consideration shall be given to the following:
 - 1. Proximity and access to major thoroughfares;

2. Estimated traffic generated by the proposed use;
 3. Proximity and relation to intersections;
 4. Adequacy of driver sight distances;
 5. Location of and access to off-street parking;
 6. Required vehicular turning movements; and
 7. Provision of pedestrian traffic (if applicable).
- (g) **Enhancement of Surrounding Environment.** The proposed conditional use shall provide the maximum feasible enhancement of the surrounding environment, and shall not unreasonably interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. In determining whether this requirement has been met, consideration shall be given to:
1. The provision of landscaping and other site amenities. Provision of additional landscaping over and above the specific requirements of this Ordinance may be required as a condition of approval of a conditional use.
 2. The bulk, placement, and materials of construction of proposed structures in relation to surrounding uses.
- (h) **Impact on Public Health, Safety, and Welfare.** The proposed conditional use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed in a manner that is detrimental to public health, safety, and welfare. In determining whether this requirement has been met, consideration shall be given to the production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, light, and environmental impact.
- (i) **Isolation of Existing Uses.** The location of the proposed conditional use shall not result in a small residential area being substantially surrounded by non-residential development and, further, the location of the proposed conditional use shall not result in a small non-residential area being substantially surrounded by incompatible uses.
- (j) **Substantial Evidence.** Substantial evidence means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions.

(4) **CONDITIONS ATTACHED TO CONDITIONAL USE PERMITS.**

Approval with Conditions. The Plan Commission and Town Board may impose reasonable conditions with the approval of a conditional use to the extent authorized by law. Conditions imposed shall meet all of the following requirements:

- (a) Conditions must be to practical and measurable.

- (b) Conditions shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- (c) Conditions shall be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- (d) Conditions shall be necessary to meet the intent and purpose of this code, related to the standards established in this code for the land use or activity under consideration, and necessary to insure compliance with those standards. These conditions may include, but are not limited to the following:
 - 1. Permit duration, transfer or renewal;
 - 2. Setback and yard dimensions;
 - 3. Specified sewage disposal and water supply facilities;
 - 4. Landscaping and planting screens;
 - 5. Operational controls;
 - 6. Sureties;
 - 7. Deed restrictions;
 - 8. Location of structures docks, piers or signs;
 - 9. Location and amount of parking facilities;
 - 10. Type of construction;
 - 11. The obtaining of other permits required by the state or federal government agencies, and other county requirements based upon other ordinances as conditions that must be met before issuance of such permit.

(5) DECISION.

- (a) The Plan Commission shall decide all applications within 30 days after the public hearing and shall transmit its written decision to the applicant, the Town Clerk, and the Town Board.
- (b) The Town Board shall act upon the recommendation within 30 days of the receipt of the recommendation from the Plan Commission.
- (c) Effect of denial of application. No application for a conditional use which has been denied, wholly or in part, shall be resubmitted for a period of one (1) year from the date of said denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Town Board.

(6) **CONDITIONAL USE ABANDONED.**

In any case where a conditional use has not been established within one (1) year after the date of granting thereof, then, without further action by the Plan Commissions or the Town Board, the conditional use or authorization shall be null and void.

(7) **RESCINDING OF CONDITIONAL USE APPROVAL.**

Approval of a Conditional Use Permit may be rescinded by the Town Board if construction is not in conformance with the approved plans. In addition, the breach of any condition, safeguard or requirement shall automatically invalidate the permit granted, and shall constitute a violation of this Zoning Code.

- (a) Consideration and notice. Should the rescinding be considered, the Zoning Administrator shall ask that the conditional use be placed on the agenda of the Town Board. The Town Board shall notify the original applicant and/or project representative of the date, time and place of the meeting at least 20 days prior to the meeting at which the case will be considered. The applicant shall be given the opportunity to present information and to answer questions. The Town Board, as appropriate, may rescind approval if it finds that a violation exists and has not been remedied prior to the meeting.

17.14. **(RESERVED FOR FUTURE USE).**

17.15 **FEE SCHEDULE.**

- (1) Fees: All persons, firms, or corporations performing work which, by this Ordinance, requires the issuance of a permit, review of plans, or public hearing shall pay a fee for such permit or hearing to the Town to help defray the cost of administration, investigation, advertising, and processing of such actions. All fees shall be established by a separate resolution of the Town Board and amended from time to time as deemed appropriate. Fee schedules are available from the Town Clerk or Zoning Administrator.

- (a) Fee Required: No public hearing shall be held, no plans reviewed, and no permit shall be granted or issued until all fees required under this ordinance have been paid.

- (b) Permit Fees: A fee shall be required for the following permits:

- i. Zoning Permit.
- ii. Industrial/Commercial Building Permit.
- iii. Residential Building Permit.
- iv. Occupancy Permit.
- v. Sign Permit.
- vi. Culvert/driveway permit.

- vii. A zoning permit fee will not be required in the event of a loss due to a natural disaster, fire, or flood if the structure is rebuilt in the same location, size, and use as the previous structure. A zoning permit is still required to confirm compliance with this Code.
- (c) Zoning Ordinance Amendments: A fee shall be required for a zoning text or map amendment, conditional use, zoning appeal or variance.
- (d) Third Party Consultant Fees: In the event that the Town determines that it is necessary to consult with a third party, such as planner, attorney, or engineer in review and considering the application, all reasonable costs and expenses associated with such consultation shall be charged to the applicant.
- (e) Public Hearing: A fee shall be required for all public hearings.
- (2) Double Fees: At the discretion of the Town, a double fee shall be charged by the Town if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.

17.16 EXPIRATION OR CONFLICT.

- (1) If, within 1 year of the date of issuance of a zoning or Conditional Use permit, the proposed construction or preparation of land for use has not commenced, such permit shall expire, except that the Town Zoning Administrator may grant one renewal of such permit for a period not to exceed 6 months, upon the showing of valid cause. No habitation shall be permitted within an incomplete dwelling in excess of one year, unless an additional extension for a period of 6 months is granted by the Board of Appeals.
- (2) Any permit issued in conflict with the provisions of this chapter shall be null and void.

17.17 EXEMPTIONS.

- (1) Except where otherwise stated, the following uses are exempt from the terms of this chapter and permitted in any zoning district: poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, valves or any other similar distribution equipment for telephone or other communications and electric power, gas, water and sewer lines.
- (2) Wherever practicable, transmission equipment shall be prohibited from residential districts, as set forth in Sec. 17.40, first sentence, and conservancy zoning districts. Transmission equipment shall likewise be prohibited, wherever practicable, from bisecting agricultural parcels. Whenever practicable, transmission equipment shall be located on or in close proximity to property lines and shall follow existing easements and/or right-of-ways.
- (3) In the event that either distribution equipment or transmission equipment needs to be relocated in the public interest, it shall be relocated at the sole expense of the utility company in accordance with a signed Agreement as set forth in Sec. 17.26(2) which shall be filed with the Town Zoning Administrator prior to initial installation.

17.18 USE REGULATIONS.

- (1) **USES RESTRICTED.** In any district no building or land shall be used and hereafter no building shall be erected, structurally altered or relocated except for one or more of the uses stated in this chapter for that district.
- (2) **TEMPORARY USES.** Uses such as real estate sales field office or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Town Zoning Administrator.
- (3) **UNCLASSIFIED USES.** In case of a question as to the classification of a use, the question shall be submitted to the Town Planning Commission for determination. Uses already classified in any district are not eligible for a determination.

17.19 NONCONFORMING STRUCTURES AND USES.

- (1) Pre-existing structures - dimensional non-conformance.
 - (a) Structures erected prior to the effective date of this chapter or amendment thereto which are conforming to this chapter as to use but do not conform to dimensional rules (setbacks, height, yard spaces, separation, etc.) and which are proposed to be altered are subject to the following requirements:
 1. Repairs and improvements of a maintenance nature are allowed.
 2. Alterations, additions and expansions which change the exterior dimensions of the structure and which conform to the dimensional rules of this chapter and other applicable regulations are allowed. In addition, roof replacement is allowed on nonconforming structures, including changing the pitch within height limits and provided no overhang exceeds two (2) feet or is no greater than the existing overhang, whichever is greater, and no additional living space is added by the roof pitch change.
 3. Alterations, additions and expansions which change the exterior dimensions of the structure and which do not conform to this chapter, but which do not increase the dimensional non-conformity beyond what currently exists may be allowed provided that the improvements do not exceed 50 percent of the floor area of the existing structure on all levels over the life of the structure and a zoning permit is obtained from the Town.
 4. No alterations, additions or expansions may occur which will increase the dimensional nonconformity.
- (2) Pre-existing uses and structures - use nonconformance.
 - (a) Land uses or uses of structures which were established prior to the effective date of this chapter or amendment thereto which are nonconforming as to use may be continued, provided that:
 1. If a nonconforming use is discontinued for a period of 12 months, any future use of the property shall be in conformity with this chapter.

2. Nonconforming uses shall be subject to the provisions of section 17.19(1) as to any dimensional nonconformity and section 17.19(3).
- (3) Pre-existing structures and uses - other standards and requirements.
 - (a) When a structure which is nonconforming as to dimensional standards or a structure containing a nonconforming use is demolished, removed, or damaged to the extent of more than 50% of its current equalized assessed value it shall not be restored except as a conforming use and at a conforming location.
 - (b) Mobile homes and other structures which are legally nonconforming in the zoning district in which they are located may be added to, provided the addition does not exceed 50% of the equalized value of the original structure at the time of application and a permit is issued by the Town Zoning Administrator for residential uses and a Conditional Use Permit is granted by the Board of Appeals for all non-residential uses.
 - (c) The size and shape of a lot shall not be altered so as to increase the degree of nonconformity of a structure or use.
 - (d) The effective dates for application of the nonconforming structure or use provisions are the date of County Board approval of the Town Zoning map or map amendment.
 - (e) Existing Conditional Uses. All uses existing on the effective date of this chapter which would be classified as conditional uses in the particular zoning district concerned if they were to be established after the effective date of this chapter, are hereby declared to be conforming conditional uses to the extent of the existing operation only. Any proposed change in the existing use shall be subject to the conditional use procedures as if such use were being established anew.

17.20 ACCESSORY USES AND STRUCTURES.

- (1) Accessory structures and uses customarily incidental to and compatible with permitted principal structures and uses shall be permitted subject to the district requirements. Accessory structures and uses shall not be established prior to the principal structure or use unless:
 - (a) A Conditional Use permit is granted by the Town Board, or;
 - (b) The accessory structure is a permitted single family home in an agricultural district, or;
 - (c) The accessory structure is on a parcel zoned A-1 or A-3 and will be used to store tools or machinery used on the land.
- (2) Except in the A-1 or A-3 District, no accessory building or structure with a footprint of more than 1200 square feet and a height of 20 feet from the lowest grade to the highest structural member shall be erected or altered or moved to a location within the required area of a front, side, or rear yard. An accessory building, structure or use in a rear yard that:
 - (a) Has a 150 square foot footprint or less, and is less than 20 feet high shall be not less than 7' from any property line.

- (b) Has a larger than 150 square foot footprint and is less than 20 feet high shall be not less than 25' from any property line.
 - (c) However, on a corner lot or a through lot, such accessory building shall be subject to the same highway or street setback requirements as the principal building, unless otherwise provided herein for a specific permitted or conditional use.
- (3) In the A-1 and A-3 Districts, no accessory building or structures shall be erected or altered or moved to a location within the required area of a front, side or rear yard. An accessory building, structure or use in a rear yard shall be subject to the following additional requirements.
- (a) An accessory structure that has a 150 foot square footprint or less shall have a height of less than 20' from the lowest grade to the highest structural member and shall be set back a minimum of 7' from any lot line.
 - (b) An accessory building or structure that has a 150 foot to a 1200 foot square footprint or less, shall have a height of less than 20' from the lowest grade to the highest structural member and shall be set back minimum of 25' from any lot line.
 - (c) An accessory building or structure that has a footprint of greater than a 1200 square feet and less than 2500 square feet, shall have a height not exceeding 35' from the lowest grade to the highest structural member and shall be set back a minimum of 50' from any lot line.

17.21 AREA REGULATIONS.

- (1) LOT REDUCTION. After adoption of this chapter, no lot area shall be reduced so that the area, dimensional and yard requirements of this chapter cannot be met.
- (2) EXISTING LOT. Lots existing and of record prior to the adoption of this chapter or the establishment or change of zoning districts, but of substandard size, may be devoted to uses permitted in the district in which located, providing the requirements of applicable Wisconsin Administrative Codes can be satisfied and further provided all dimensional setback requirements can also be satisfied. No existing lot shall have its boundaries altered in any way without the resulting parcel(s) being in full compliance with this code and the zoning district in which the parcel(s) are located. The Board of Appeals may waive this requirement where there is not sufficient contiguous ownership to comply but where the parcel(s) to be created will be less nonconforming.
- (3) YARD AND OPEN SPACE REGULATIONS.
 - (a) All yards and other open spaces allocated to a building or group of buildings comprising one principal use shall be located on the same lot as such building. No legally required yards, other open space or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yards, other open space or minimum lot area requirements for any other building.
 - (b) The yard requirements stipulated elsewhere in this chapter may be modified as follows:

1. Within the RS 1/20, RS 1/40, R2 and RM zoning districts uncovered stairs, landings and fire escapes may project into any yard but not to exceed 6 feet and not closer than 4 feet to any lot line. For all other districts, the projection may not exceed 6 feet, and not closer than 30 feet to any lot line.
 2. Marquees, awnings and chimneys adjoining the principal building, as well as overhanging roof eaves and architectural projections may project into any side yards, provided that the projections do not include side walls which enclose any space.
 3. Ornamental light standards, flag poles, trees and outdoor fuel-dispensing equipment are permitted in any yard.
 4. Residential fences are permitted on the property lines in residential districts to separate residential parcels but shall not, in any case, exceed a height of 6 feet, nor shall they be constructed using barbed wire and shall not be electrified. (Note: This shall not apply to parcel boundaries between agricultural and residential parcels). Fences shall not exceed a height of 4 feet in any required street yard or shore yard and shall not be closer than 2 feet to any public right-of-way. Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed 10 feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
 5. All fences, whether or not requiring a permit shall present the non-structural face outward.
- (c) A setback less than the setback required for the appropriate district for a rear yard may be permitted where there are legally established principal buildings on adjacent lots. In such cases, the setback shall be no less than the average of the setbacks of the nearest principal building on each side of the proposed site. When there is no principal building within 200' on one side, the minimum setback for the district shall be used on that side to calculate the average. The average is not to include any building now within 10' of the rear lot line.

For the purpose of this section, measurements shall be the shortest distance from the rear property line to the building foundation or that part of the building which is totally enclosed. The intent is to discount such additions and appurtenances (not limited by enumeration) as roof overhangs, patios, decks, landings, open porches, stoops, etc. All buildings and structures shall be constructed behind the averaged setback line. Construction between the averaged building setback line and the rear property line may only be authorized by a variance pursuant to §17.91(4)(c) of this code. NOTE: Since this is a section dealing with rear yards, 'behind' implies 'toward the front of the lot'.

- (c) The owner of two or more lots shall comply with the yard requirements of each individual lot unless the lots are legally combined into a single lot or redivided to maintain minimum yard setbacks.

- (4) MINIMUM LOT AREA. In all districts the minimum lot area shall be calculated without including any road right-of-way or any other easements for streets or utilities which are greater than 20' wide.

17.22 HEIGHT REGULATIONS AND EXCEPTIONS.

- (1) Height of the following structures may exceed limits for the district in which they are located: cooling towers, stacks, barns, lookout towers, silos, windmills, water towers, church spires, radio and television aerials, masts, antennas and similar mechanical appurtenances.
- (2) Churches, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a greater height not exceeding 60 feet provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.

17.23 HIGHWAY AND RAILROAD SETBACKS.

For the purpose of determining the distance buildings and other structures shall be setback from streets and highways, the streets and highways of the County are divided into the following classes:

- (1) CLASS A HIGHWAYS.
 - (a) All State and federal highways are hereby designated as Class A highways.
 - (b) The setback for Class A highways shall be 110' from the centerline of the highway or 50 feet from the right-of-way line, whichever is greater, except that for any freeway or divided Class A highway the setback distance shall be 50 feet from the right-of-way line.
- (2) CLASS B HIGHWAYS.
 - (a) All County trunk highways are hereby designated as Class B highways. For the purpose of this chapter any road will be considered as a County trunk after it has been placed on the County trunk system by the County Board and approved by the State Department of Transportation.
 - (b) The setback for Class B highways shall be 83 feet from the centerline of such highway or 42 feet from the right-of-way line, whichever distance is greater. Buildings which were legally built at a setback of 75 feet to 83 feet from the centerline may be added to or rebuilt on the existing foundation subject to the limitations in section 17.19(1)(a)4 and 17.25.
- (3) CLASS C HIGHWAYS.
 - (a) All town roads, public streets and highways not otherwise classified are hereby designated Class C highways.
 - (b) The setback from Class C highways shall be 83 feet from the centerline of such highway or 42 feet from the right-of-way line, whichever is greater. Dedicated public

accesses to navigable water shall not be considered Class C highways for setback purposes unless they serve a dual purpose of access to navigable water and vehicular access to adjoining parcels of land.

17.24 REDUCED BUILDING SETBACKS.

- (1) A setback less than the setback required for the appropriate class of highway may be permitted where there are existing principal buildings within 200 feet of the proposed building site that are built to less than the required setbacks. In such cases, the setback shall be no less than the average of the setbacks of the nearest principal building on each side of the proposed site. When there is no principal building within 200 feet on one side, the setback required in §17.23 shall be used to calculate the average. The average is not to include any building now within 10 feet of the right-of-way.

For the purpose of this section measurements shall be the shortest distance from the centerline or right-of-way to the building foundation or that part of the building which is totally enclosed. The intent is to discount such additions or appurtenances (not limited by enumeration) as roof overhangs, patios, decks, landings, open porches, stoops, etc. All buildings and structures shall be constructed behind the averaged setback line.

- (2) Any modification of other highway setbacks may be permitted by the Board of Appeals according to the variance provisions of this chapter. See §17.21(3)(d) for modification of rear yard setbacks.

17.25 VISION CLEARANCE TRIANGLE (VCT).

- (1) Purpose: The VCT setbacks are intended to provide motorists a safe braking and stopping distance to avoid accidents and to provide motorists turning onto roads, streets, and highways a safe accelerating distance to merge with traffic to reduce traffic congestion. As essential as they are to the traffic safety, VCT regulations cannot guarantee unobstructed vision due to topography, natural vegetative growth, and development that may encroach. Obstacles to be kept out of VCTs need only be capable of causing a traffic hazard, they need not actually be shown to cause unsafe traffic conditions. Obstacles which may be allowed are ones which a typical motorist in a vehicle can be expected to see over, under or through reasonably enough to see approaching traffic (See §17.26).

- (2) Standards for VCTs

- (a) At each uncontrolled road intersection or road-railroad intersection there shall be a vision clearance triangle (VCT) bounded by the road centerlines and a line connecting points on them 300 feet from a Class A highway intersection, 200 feet from a Class B highway intersection, and 150 feet from a Class C highway and private easement road intersections.

- (b) At controlled intersections vegetation and landscape restrictions shall be as follows:

1. When one road has a stop or yield sign: The leg of the VCT following the centerline of the road that has no stop or yield sign shall be the length as required in (2)(a). The VCT line shall extend from the end of that line to a point on the center line of

the street which has the stop or yield sign and which is 100 feet from the intersection of the centerlines of the two streets.

2. When both roads have stop signs , yield signs or traffic lights, or the intersection is in a non-agricultural zone, vegetation and landscape restrictions shall be as follows: The VCT line shall be bounded by the street centerlines and a line connecting points on them 100 feet from their intersection.
- (3) Within a VCT, no structure shall be constructed and no vegetative material shall be planted or landscaping done that causes or will cause an obstruction to view between a height of 2½ feet and 10 feet above the elevation of the road or highway. Vegetation or landscaping occurring in the VCT may be ordered to be pruned, thinned and/or removed if it is capable of causing a traffic hazard and removal of the obstacle to view has been requested by the unit of government having jurisdiction over one or more of the intersecting roads, streets or highways, or by a law enforcement agency having jurisdiction.
- (4) The planting and harvesting of field crops is permitted but not so as to constitute a substantial obstruction to the view of motorists and pedestrians across the vision clearance triangle from one highway or street to another.

17.26 STRUCTURES PERMITTED WITHIN SETBACK LINES.

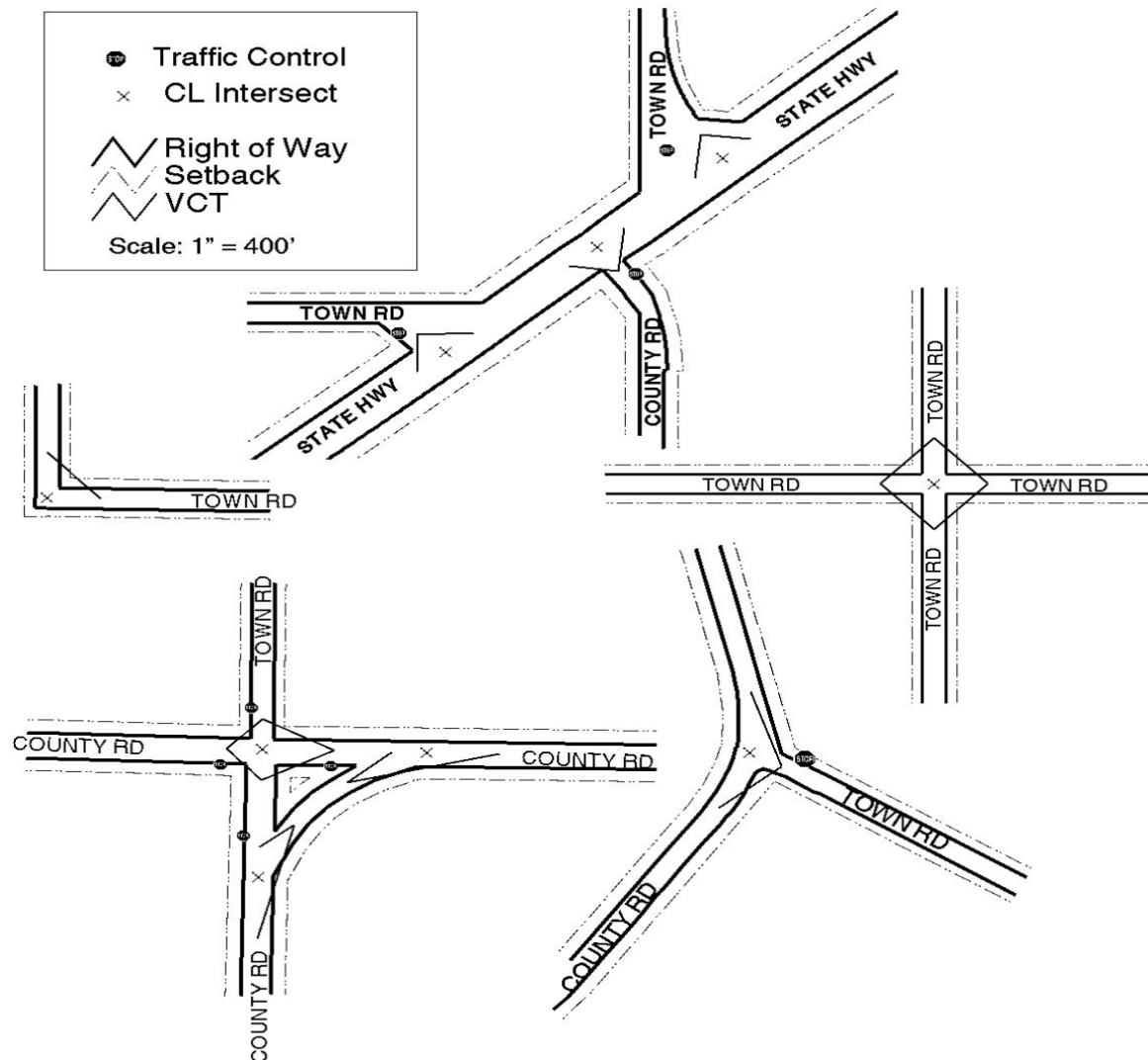
- (1) Open fences.
- (2) Petroleum and gas transmission lines, telephone, telegraph, cable television and power transmission poles and lines and portable equipment both above and below ground that is readily removable in its entirety. Additions to and replacement of all such structures may be made, provided the owner will file with the Town Zoning Administrator an agreement in writing that the owner will move or remove all new construction, additions and replacements erected after the adoption of this chapter at his expense, when necessary to the public interest, i.e. highway construction, airport, sewer and water lines, etc.
- (3) Underground structures not capable of being used as foundations for future prohibited above-ground structures.
- (4) On waterfront properties, bridges, piers, wharves, erosion control structures which are part of an approved grading plan, and one paved walkway and/or stairway leading to the OHWM using the most direct route practical within the view corridor. Stairs and walkways shall not exceed a width of four (4) feet. Landings not exceeding four (4) feet by six (6) feet may be authorized where the vertical rise is sixteen (16) feet or more or where a break in the slope necessitates a horizontal offset in a stairway.
- (5) Access or frontage roads constructed by the public to plans approved by the Town Board.
- (6) Permitted signs and signs placed by the public authorities for the guidance or warning of traffic.

17.27 MOBILE HOME LIMITATION.

Within those districts contained in this code where mobile homes are allowed as independent dwelling units, the mobile home and the land upon which it is located shall be owned in common.

VISION CLEARANCE AND SETBACK REQUIREMENTS

The following example drawings are samples and are not intended to depict all possible combinations of intersections which may include but are not limited by enumeration to “T” intersections, “Y” intersections, curved roads, street and railroad intersections and/or any other configuration which may exist or which may be constructed in the future, as applicable to Section 17.25.



DISTRICTS AND MAPS

17.40 ZONING DISTRICTS.

For the purpose of determining separation of uses, the RS-1/20, RS-1/40, RS-2, RM, RP, AR, and AE are all considered to be residential districts. In A-1, A-3, when the principal structure is a residence the parcel shall be treated as a residential parcel for all use determinations. When the principal structure is a farm structure, such as the main barn on a dairy farm, the parcel shall be treated as an agricultural parcel for all use determinations. The lands areas of the Town may be divided into the following districts:

RS-1/20, RS-1/40 Single Family Residence District
RS-2 Single Family Residence District
RM Multiple Family Residence District
RP Planned Development Residence District
CV Conservancy District
RC Recreation District
A-1 General Agricultural District
A-3 Exclusive Agricultural District
AR Agricultural/Residential and AE Agricultural/Estate Districts
C-1 Commercial District
M-1 Light Industrial and Office District
M-2 Heavy Industrial District
WP Wellhead Protection Overlay District

17.41 MAPS.

These districts are shown upon the map of the Town, and the map is designated as the "Zoning Map of Town of Texas." And as such map is prepared and adopted by the Town under this Chapter they thereby become a part of this chapter. All notations, references and other information shown upon the zoning map of the Town shall be as much a part of this chapter as if the matter and the things set forth by the map were fully described herein.

17.42 BOUNDARIES OF DISTRICTS.

In property that is not subdivided, unless otherwise indicated on the map, the district boundary lines are the centerlines of streets, highways, railroads, section lines, quarter-section lines, quarter-quarter lines, quarter-quarter-quarter lines or such lines extended or connected. Where not otherwise indicated on the map, it is intended that the district boundary line be measured at right angles to the nearest highway right-of-way line and be not less than 300' in depth.

17.43 RS-1/20 and RS-1/40 RESIDENCE DISTRICTS.

- (1) **PURPOSE.** The Residential Districts are designed to encourage a suitable environment for family life by permitting, under certain conditions, such neighborhood facilities as churches, schools, playgrounds and appropriate institutions and by protecting the residential character against incompatible uses. The districts are intended to avoid overcrowding by requiring certain minimum yards, open spaces and site area while making available a variety of dwelling types and densities to serve a wide range of individual requirements.

(2) PERMITTED USES. Only the following uses are permitted in the RS-1/20 and RS-1/40 District:

- (a) Single family dwellings designed for and occupied exclusively by one family, but not including a house trailer or mobile home.
- (b) Churches, cemeteries subject to Wis. Stat. § 157, public and parochial schools, colleges and universities.
- (c) Parks and playgrounds, including swimming pools, golf courses, tennis courts, picnic grounds and bathing beaches.
- (d) Accessory buildings, including private kennels and private garages and buildings clearly incidental to the residential use of the property, provided, however, that no accessory building may be used as a separate dwelling unit. Private garages and other residential accessory storage structures shall be subject to the following standards:
 - 1. Any structure having more than one wall forming an enclosure shall have less floor area than the principal structure and shall not exceed 1200 square feet.
 - 2. The length of the structure shall not be more than two times its width.
 - 3. Side walls shall not exceed 10 feet in height, from the top plate to the finished floor.
 - 4. The maximum building height, measured from the highest point of the roof to the floor shall not exceed 20 feet.
 - 5. Garage doors shall be of the overhead type with a maximum height of 8 feet.
 - 6. Construction and finished appearance shall be compatible with existing neighborhood development. Non-traditional construction for residential structures such as pole or steel or quonset shall generally not be approved.
- (e) Gardening and farming, including nurseries for the propagation of plants only, but not farms operated for the disposal of sewage, rubbish or offal, fur farms, stock farms and poultry farms.
- (f) Telephone exchanges, telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures, such as transformers, unit substations and equipment housings, provided there is no service garage or storage yard.
- (g) Home occupations.
- (h) Home professional businesses.
- (i) Railroad right-of-way but not including switching, classification yards or sidings.
- (j) Vending machines when the use is clearly an indoor accessory use to the primary use.

- (k) Signs. (See §17.80-17.83.)
 - (l) Ponds subject to the conditions contained in §17.49(2)(d) of this chapter. In addition, ponds shall maintain a minimum slope of 4' horizontal to 1' vertical to a water depth of 6' and a 3' horizontal to 1' vertical slope below the 6' depth. Disposal and/or stabilization of spoil from pond excavation shall be addressed on the pond plans and a 3' horizontal to 1' vertical slope shall be the minimum.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission.
- (a) Institutions of a charitable or philanthropic nature, day care or child care facilities, hospitals, clinics and sanatoria, except contagious hospitals and mental institutions.
 - (b) Municipal buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance machinery.
 - (c) Libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business.
 - (d) Bed and Breakfast Establishment and Tourist Rooming House subject to Wis. Stat. § 254.61,
 - (e) Accessory structures with floor area or components differing from the standards listed in subsection 17.43(2)(d), provided the use of the structure is subordinate to a permitted use, and the parcel equals or exceeds the minimum area for the zoning district. The design shall be compatible with existing neighborhood development and not contrary to any existing restrictive covenants. Nontraditional designs such as quonset roofs shall be subject to this section.
 - (f) **Livestock**
 - 1) **Horses**
 - a. Minimum of three acres for one horse, and an additional 1 ½ for each additional horse.
 - 2) **Fowl**
 - a. Allowed fowls includes chickens (hens only; no roosters), ducks, quail, pheasants, and partridge/grouse.
 - b. Maximum total of 6 fowls for lots 0.5 acres to 0.99 acres. Maximum total of 12 fowl for lots 1 acre or greater.
 - c. Fowl must be kept in an enclosure at all times. The enclosure includes the covered structure(s) and fenced area. The enclosure shall be a minimum of 25 feet from any side or rear lot line and completely in the rear yard of the home. Setback shall be measured from the fencing and structure.
 - d. The fenced enclosure and covered structure shall be maintained and kept in a sanitary condition so as not to create a nuisance.
 - 3) **All other livestock**
 - a. Minimum lot size for housing all other livestock is 3 acres.
 - b. Animal Unit Density see 17.08 Animal Units

(4) HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.

- (a) Height. Except as otherwise provided in this chapter, no building shall exceed a height of 35'. (See §17.22.)
- (b) Floor Area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a minimum of 840 square feet of floor area dedicated to living space.
- (c) Lot Area.
 - 1. For platted or unplatted lands where public sewer is not available, the minimum lot area shall be determined by soil test according to the formulas of the Department of Commerce as contained in COMM 83 Wis. Adm. Code, but no such lot or building site shall have an area in the RS-1/20 of less than 20,000 square feet or a width of less than 100' at the building line and in the RS-1/40 of less than 40,000 square feet or a width of less than 150' at the building line.
 - 2. No building, together with its accessory buildings, shall occupy in excess of 30% of the area of any lot.
- (d) Side Yards. There shall be a side yard on each side of a building. The aggregate width of the side yards shall not be less than 25' and no single side yard shall be less than 10' wide. See §17.20(2).
- (e) Rear Yard. The minimum depth of any rear yard shall be 50' except on water front lots.
- (f) Setback Lines (Streets and Waterline). See §17.23, and 17.25.
- (g) Off Street Parking. See §17.70-17.72.

17.44 RS-2 SINGLE FAMILY RESIDENCE DISTRICT.

- (1) PURPOSE. This Residential District is designed to encourage a suitable environment for family life, as in the RS-1/20 and RS-1/40 District, allowing for a higher density of development, and provide for Mobile Home Parks (See Sec. § 17.60-17.66) as a Conditional Use.
- (2) PERMITTED USES. Only the following uses are permitted in the RS-2 District:
 - (a) Any use permitted in the RS-1 Single Family Residence District.
- (3) CONDITIONAL USES. The following are conditional uses permitted when the location of the use shall have been approved in writing and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission:
 - (a) Mobile home parks as provided in §17.60-17.66.
 - (b) Day care or childcare facilities.

- (c) Bed and Breakfast Establishment and Tourist Rooming House subject to Chapter 254.61, Wis. Stats.
 - (d) Accessory structures with floor area or components differing from the standards listed in subsection 17.43(2)(d), provided the use of the structure is subordinate to a permitted use, and the parcel equals or exceeds the minimum area for the zoning district. The design shall be compatible with existing neighborhood development and not contrary to any existing restrictive covenants. Nontraditional designs such as quonset roofs shall be subject to this section.
 - (e) Livestock See 17.43 section 3(f)
- (4) HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.
- (a) Except as otherwise provided in this chapter, no building shall exceed a height of 35'. (See §17.22.)
 - (b) Floor Area. Buildings and mobile homes used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a floor area of not less than 600 square feet.
 - (c) Area: Standard Lots.
 - 1. For other platted or unplatted lands where public sewer is not available, the minimum lot width shall be 100' at the building line and the minimum lot area shall be 20,000 square feet.
 - 2. No building, together with its accessory buildings, shall occupy in excess of 35% of the area of any lot.
 - (d) Side Yards. The minimum width of any side yard shall be 25'. See §17.20(2).
 - (e) Rear Yard. The minimum depth of any rear yard shall be 25', except on waterfront lots.
 - (f) Setback Lines. See §17.23, and 17.25.
 - (g) Off Street Parking. See §17.70-17.72.

17.45 RM MULTIPLE FAMILY RESIDENCE DISTRICT.

- (1) The RM district is intended to provide for duplexes and multiple-family dwellings.

PERMITTED USES. Only the following uses are permitted in the RM District:

- (a) Any use permitted in the RS-1 Single Family Residence District.
- (b) Duplexes.

- (c) Retail consumer goods, sales and service conducted solely for the convenience of the resident of a multifamily development.
 - (d) Bed and Breakfast Establishment and Tourist Rooming House subject to Wis. Stat. § 254.61
- (2) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission.
- (a) Boarding house subject to Wis. Stat. § 254.61.
 - (b) Day care or child care facilities.
 - (c) Three family and larger multiple family dwellings, and apartment complexes. An application for a conditional use permit for apartment complexes shall include an overall site plan showing location and orientation of all structures, parking and driveway areas, well(s), and all areas designated for private sewage systems and any required replacement areas. For the purpose of determining the setbacks from property lines and separating distances between units, the Board may consider the orientation of the structures toward each other and abutting lots, to achieve in purpose the minimum side yards and rear yards required in subsections 17.45(3)(c) and (d). When reviewing applications for conditional use the Board shall consider the following as minimum guidelines and may increase floor and lot areas but shall not reduce them unless municipal sewer and water is available:

<u>Number of families</u>	<u>Lot Area</u>	<u>Total heated living space</u>
2	40,000	1,200
3	50,000	1,800
4	60,000	2,400

For each additional family unit added, a minimum of 10,000 square feet shall be added to the lot area and 600 square feet shall be added to the heated living space.

- 1. When regulations of other State or local agencies require a larger lot area than any of the above, such regulations shall govern for both platted and unplatted areas and lots.
- (3) **HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS NOT OUTLINED AS A CONDITIONAL USE.**
- (a) Height.
 - 1. For single family dwellings and duplexes the maximum building height shall be 35'.
 - 2. For apartments the maximum building height shall be four stories.
 - 3. See §17.22.
 - (b) Lot Area and Floor Area.

1. The lot area, lot width and floor area requirements in the RM Multiple Family Residence District shall be the same as those required under RS-1/20 and RS-1/40 Single Family Residence District.
- (c) Side Yards. There shall be a side yard on each side of a building. The width of the side yards shall not be less than 25' for four (4) family units or smaller. Additional side yard equaling five (5) feet per family shall be added to the 25' base dimension. See §17.20(2).
- (d) Rear Yard. The minimum depth of any rear yard shall be 50' for four (4) family units or smaller, except water front lots. Additional rear yard equaling ten (10) feet per family shall be added to the 50' base dimension.
- (e) Setback Lines. See §17.23, and 17.25.
- (f) Off Street Parking. See §17.70-17.72.
- (g) Livestock. See 17.43 Section 3 (f)

17.46 RP RESIDENTIAL PLANNED DEVELOPMENT DISTRICT.

(1) PURPOSE.

- (a) The purpose of the RP Residential Planned Development District is to provide the means whereby land may be planned and developed as a unit for residential uses under standards and conditions which afford flexibility; encourage good design, open spaces, the preservation of natural features and to minimize the present and future burdens upon the community as a whole which result from poor planning.
- (b) In cluster subdivisions, the grouping of residences will permit individual lot sizes to be reduced provided that the overall density within the development is maintained. The remaining undeveloped area shall be required to remain a common open space, preferably on the shoreline if the subdivision is located in a shore area, in perpetuity. Such grouping of residences facilitates common water supply and sewage disposal systems.
- (c) Such developments shall be site designed as a total unit development and may be developed by subunits in accordance with the approved overall site plan.

(2) GENERAL REQUIREMENTS. A site plan of a continuous area of no less than 20 acres shall be submitted at the time the zone change is requested. The site plan shall be acted upon by the Planning Commission in accordance with §17.90 of this chapter.

(3) PERMITTED USES. Only the following uses are permitted in the RP District:

- (a) Clustered single family lot developments.
- (b) Two family dwellings.

- (c) Multifamily dwellings.
 - (d) Any permitted use in the RS-1 Single Family Residence District.
 - (e) Accessory uses, structures and amenities in the approved development plan.
 - (f) Retail consumer goods, sales and service.
 - (g) Bed and Breakfast Establishment, Tourist Rooming House, and Boarding House, subject to Chapter 254.61 Wis. Stats.
 - (h) Condominiums.
- (4) HEIGHT, YARD, AREA AND OTHER REQUIREMENTS.
- (a) Height. Except as otherwise provided in this chapter, no building shall exceed a height of 35'. See §17.22.
 - (b) Floor Area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a floor area as follows:
 - 1. Minimum 1,200 square feet for single family dwellings.
 - 2. Minimum 1,000 square feet for row houses.
 - 3. Minimum 600 square feet for each apartment.
 - (c) Park Area. The minimum of open space or excess land not used for lots or streets shall be 20% of any platted subdivision and shall be dedicated in perpetuity to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development or to a corporation formed by them, or by dedication to and the acceptance by County, town or municipality. If the land is to be conveyed to owners of lots in the development, a homeowners' association or similar legally constituted body shall be created to maintain the open space land. Any restriction placed on platted land by covenant, grant of easement or any other manner which was required by a public body or which names a public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction.
 - (d) Lot Area and Width.
 - 1. For lots not served by public sewer, the minimum size shall be governed by COMM 83, Wis. Adm. Code, and the minimum width shall be 75' for single family residences and 150' for multiple family residences.
 - 2. The minimum width shall be:
 - a. 75' for single family residences.

b. 150' for row house or apartment development.

- (e) Side Yards. There shall be a side yard on each side of a building having a minimum width of 10' except a corner lot shall have a side yard of 30' from the street right-of-way. See §17.20(2).
- (f) Rear Yard. The minimum depth of any rear yard shall be 50'.
- (g) Setback Lines.

1. Highways. See §17.23 and 17.25.

(5) **CONDITIONAL USE.**

- (a) Livestock see 17.43 3(f)

17.47 **CV CONSERVANCY DISTRICT.**

- (1) **PURPOSE.** The Conservancy District provides for the protection of the environment and conservation of natural resources of this Town. Generally, this includes swamps, marshlands and areas where the highest groundwater is at or near the surface of the ground.
- (2) **PERMITTED USES.** Only the following uses are permitted in the CV District:
 - (a) Forestry.
 - (b) Grazing livestock.
 - (c) Harvesting wild crops, such as wild hay, ferns, moss, berries and tree fruits.
 - (d) Hiking trails and bridle paths.
 - (e) Hunting, fishing and trapping.
 - (f) Hydroelectric power stations, dams and other structures for the use or control of flowing water.
 - (g) Open type shelters for public use and nonresidential buildings or structures used in conjunction with the raising of wildlife and fish and the practice of forestry. This shall include buildings and structures used by the public and semipublic agencies or groups for research in, or the rehabilitation of, natural resources.
 - (h) Telephone, telegraph and power transmission and distribution lines and necessary appurtenant structures.
 - (i) Wildlife preserves, refuges and habitat development.
- (3) **SETBACK LINES.** See §17.23, and 17.25.
- (4) **OFF STREET PARKING.** See §17.70-17.72.

17.48 RC RECREATION DISTRICT.

- (1) **PURPOSE.** This district is intended to provide for the orderly and attractive grouping of recreation-oriented establishments, facilities and structures.
- (2) **PERMITTED USES.** Only the following uses are permitted in the RC District:
 - (a) Agriculture and other open land uses, including beekeeping, field crops, forestry, orchards and wild crop harvesting, truck farming, horticulture or viticulture, but not livestock as defined in Wis. Admin. Code ATCP51.
 - (b) Any use permitted in the Conservancy District.
 - (c) One camping trailer, park unit, mobile camper or houseboat for temporary parking and living purposes for the caretaker or owner and his family only.
 - (d) Fish hatcheries and farm ponds subject to the conditions contained in §17.43(2)(l) of this chapter.
 - (e) Community buildings, private clubs and fraternities, except those whose principle activity is a service customarily carried on as a business.
 - (f) Municipal buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance machinery.
 - (g) Parks and playgrounds, including swimming pools, golf courses, tennis courts, picnic grounds and bathing beaches.
 - (h) Railroad right-of-way but not including switching spurs, classification yards or sidings.
 - (i) Signs. See §17.80-17.83.
 - (j) Telephone exchanges, provided there is no service garage or storage yard. Telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures, such as transformers, unit substations and equipment housings.
 - (k) Vending machines when the use is clearly an indoor accessory to the principle use.
 - (l) Buildings and structures and uses of land customarily incidental to the above permitted uses, but only on same premises with the primary permitted uses.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission.
 - (a) Amusement parks, including baseball batting ranges, commercial skating rinks, go-cart tracks, race tracks, golf driving range, miniature golf course or similar establishments.
 - (b) Concession stands.

- (c) Dwelling, single family, providing it shall be an accessory to a principle use.
- (d) Institutions of philanthropic or educational nature.
- (e) Marinas, boat liveries, sale of bait and fishing equipment. The service and repair of boats and motors.
- (f) Microwave radio relay structures, providing there would be no adverse affect on neighboring properties.
- (g) Recreation camps, youth camps and campgrounds, provided all buildings shall be more than 100' from the side lot line. Recreation camps shall conform to Ch. HFS 175, Wis. Adm. Code, and campgrounds shall conform to Ch. HFS 178, Wis. Adm. Code, which shall apply until amended and then apply as amended.
- (h) Riding stables and riding academies subject to the provisions contained in §17.49, and rodeos, gymkhanas and similar equestrian events.
- (i) Sanitary landfill, provided no location shall be within ½ mile of the boundary of a Residence District and the operation shall be in full compliance with Ch. NR 51, Wisconsin Solid Waste Disposal Standards.
- (j) Shooting ranges.
 - 1. Shooting ranges provided the requirements for such ranges as stated in the Agricultural District are met.
 - 2. Trap and skeet ranges providing the owner of the trap or skeet range has control by ownership or lease an area no less than 1,800' wide and 900' deep and providing further that there shall be no residences within 1,000' of the external boundaries of the range, unless occupants of such residences waive this condition in writing.
- (k) Travel trailer parks, RV parks, primitive or developed campgrounds provided:
 - 1. The minimum size of a campground shall be five acres.
 - 2. The maximum number of camping spaces shall be 15 per acre.
 - 3. Minimum dimension of each camping space shall be 30' wide by 50' long.
 - 4. Each camping space shall be so located that there shall be at least a 15' clearance between spaces.
 - 5. There shall be 1 1/2 automobile parking spaces available for each camping space.
 - 6. In addition to setback line requirements of §17.23 of this chapter, there shall be a minimum setback of 40' from all other exterior lot lines.
 - 7. Travel trailer parks shall conform to the requirements of Ch. HFS 178, Wis. Adm. Code, which shall apply until amended and then apply as amended.

8. Park units and all other structures except non-transient camping units on existing camping spaces shall obtain a zoning permit prior to placement and shall meet all shoreland and street setbacks and be provided with a state approved sewage disposal septic system (POWTS) when intended for human habitation.

(4) HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.

- (a) Height. Except as otherwise provided in this chapter, no building shall exceed a height of 35'.
- (b) Lot Area. One acre minimum, with a minimum width of 150' at building setback line.
- (c) Floor Area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a floor area of no less than 600 square feet.
- (d) Side Yards. There shall be a minimum side yard of 25'.
- (e) Rear Yard. The minimum depth of any rear yard shall be 50', except on waterfront lots.
- (f) Setback Lines. See §17.23, and 17.25.
- (g) Off Street Parking. See §17.70-17.72.

17.49 A-1 GENERAL AGRICULTURAL DISTRICT.

- (1) PURPOSE. This Agricultural District is designed to foster the preservation and use of agricultural land related uses and to provide for limited residential uses in a rural environment but not the division of land as classified in Chapter 15 - Town of Texas Land Division and Access Control Ordinance. It is intended to provide multiple options to guide growth and development in concert with the comprehensive plan.

(2) PERMITTED USES. Only the following uses are permitted in the A-1 District:

- (a) Any use permitted in the RS-1 Family Residence Districts and 2 family dwellings and minor subdivisions as classified in Chapter 15 – Town of Texas Land Division and Access Control Ordinance.

Note: Setbacks and all other rules of the A-1 General Agricultural district as contained in 17.49(5) of this Ordinance shall apply to these uses.

- (b) Campers or camping trailers may be stored or parked indefinitely, provided the unit is stored in or behind a structure or is screened from the road with natural screening so that it is not visible from the right-of-way. Tents and self-contained campers or camping trailers may be occupied by the owner or their immediate family on a temporary basis, not to exceed 60 days in a calendar year, provided that a permit is secured from the Town Zoning Administrator or a duly appointed deputy, if the use is to exceed 30 days.

- (c) Ponds which are outside the jurisdiction of the Marathon County shoreland code. Ponds shall maintain a slope from the shoreline no greater than 3' horizontal to 1' vertical to a water depth of 6' when the pond is at its lowest level due either to seasonally fluctuating ground water levels or pumping for irrigation. Ponds exclusively for stock watering within an area fenced for livestock, with a surface area of 2,500 square feet or less, also with 3 foot horizontal to 1 foot vertical slopes (3:1), and with a maximum depth of 6 feet may be permitted with a reduced fee. All ponds shall be located at least 30' from any property boundary or Right-of Way line, 50' from any septic system drainfield area and 25' from any septic or holding tank. Applications for ponds with earthen dams or dikes greater than six (6) feet high shall be designed, or the design reviewed, by an engineer to ensure structural integrity. Pond outlets shall be designed so as not to concentrate runoff onto adjacent property or to cause erosion. Permits for ponds shall be granted or denied based on plans submitted. The permit holder shall notify the Town Zoning Administrator for an inspection upon completion of the excavation.
- (d) General farming, which complies with other town ordinances, and applicable Wisconsin Administrative Codes and Marathon County ordinances, including dairying, livestock and poultry raising. Where 500 or more animal units are proposed the rules contained in ATCP 51 shall apply. Other agricultural activities such as nurseries, non-commercial greenhouses, beekeeping, vegetable warehouses, seasonal sale of seed and fertilizer and other similar enterprises or uses, except fur farms and farms operated for the disposal or reduction of garbage, sewage, rubbish or offal. Buildings, pens and structures used for the housing, sheltering or feeding of livestock shall be located no less than 100' from any lake or stream. Where meeting this setback is impossible or impractical due to location of existing agricultural facilities, new buildings and building additions may be constructed at a lesser setback provided the degree of non-conformity is not increased as approved by the Town Board.
- (e) Forestry and forest products.
- (f) Hunting and fishing shelters. A building, sometimes referred to as a "hunting shack", intended for temporary occupancy for hunting, fishing or other recreational purposes, provided that the building is located no less than 600' from the nearest residence other than that of the owner and complies with the provisions of Ch.COMM 83, Wis. Adm. Code, and the sanitary requirements of Marathon County. This definition does not include cottages, campers, camping trailers or nonfarm residences.
- (g) Hunting, fishing and trapping.
- (h) Maple syrup processing plant.
- (i) Sawmills. When located 500' minimum distance from a residence other than the owner's.
- (j) Signs. See §17.80-17.83.
- (k) Telephone, telegraph and power transmission and distribution towers, poles and lines, including transformers, substations, relay stations, equipment housings and other similar necessary appurtenant facilities.

- (l) Transient amusements and temporary / intermittent uses such as music festivals, carnivals, rodeos, horse shows and circuses are subject to the Marathon County Assemblies Ordinance and shall require a temporary zoning permit. These activities shall not be permitted for more than three consecutive days nor more than three times in any 365 day period.
 - (m) Uses customarily accessory to a permitted or agricultural use.
 - (n) Governmental uses such as town halls, garages, solid waste transfer stations and recycling collection centers or depots.
 - (o) Land spreading of municipal sewage sludge when done in accordance with and subject to the conditions contained in a permit from the Department of Natural Resources issued pursuant to Wis. Admin. Code NR 204.
 - (p) Private Wind Electrical Generation Towers when the height conforms to §17.22, is located at least 300' from the nearest residential structure other than the owner, is set back from the property line the equivalent of the structure's total height plus 20' or if the structure is engineered to collapse on itself, 50' from property lines.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission.
- (a) Aircraft landing fields, basins and hangars providing the site area is not less than 20 acres.
 - (b) Animal hospitals, and the boarding of animals when the provisions of (i) below can be met.
 - (c) Canneries.
 - (d) Cheese factories.
 - (e) Concrete batching and/or blacktop mix plant (temporary), Processing and recycling of road surface material (temporary).
 - (f) Condenseries.
 - (g) Contractor's storage yards, when any such yard shall be so placed, fenced or screened by a planting so as not to be visible from any public highway or residential building other than that of the owner of such yard, his agent or employee.
 - (h) Creameries.
 - (i) Dog kennels, for training, breeding or boarding, and private dog kennels with more than three (3) dogs that are more than six (6) months old, when located not less than 600' from any residential district or residential building other than that of the owner of such kennels, his agent or employee.

- (j) Pet cemeteries.
- (k) Drive-in theaters, provided there is a distance of not less than 1,000' between the boundary of any Residential District and the drive-in theater site, measured in a straight line.
- (l) Feedlots, provided buildings housing animals or poultry and barnyards or feedlots shall be located not less than 100' from any navigable water.
- (m) Fish hatchery including fishing for a fee (commercial).
- (n) Fur farms, pea viners and charcoal kilns, when located not less than 1,000' from any residential building other than that of the owner of the premises, his agent or employee and not less than 1,000' from the right-of-way line of any federal, State and County trunk highway; provided that this regulation shall not apply to portable pea viners where there is no stacking of the vines.
- (o) Garden or nursery store and commercial greenhouse(s).
- (p) Grain elevators (commercial).
- (q) Housing for migrant workers.
- (r) Game preserves and dog field trial grounds.
- (s) Incinerator (public).
- (t) Medical, correctional or charitable institutions.
- (u) Mini Warehousing. It is generally expected that "Mini Warehousing" as defined will only be allowed in existing farm buildings which would otherwise be vacant due to farm consolidation or for other reasons.
- (v) Mobile Homes.
 - 1. One mobile home used for habitation which is not the primary place of residence shall be permitted as an accessory building on any operating farm providing:
 - a. A determination is made in writing by the Town Planning Commission, or the Town Board in the absence of a planning commission, that one or more of the occupants of the mobile home derives a substantial portion of their livelihood from the farm operation and/or substantially participates in the operation of the farm.
 - b. More than one mobile home on the property may be permitted with Town Board approval and a conditional use permit from the Board of Appeals.
 - c. Continued use shall be subject to annual review by the Town Planning Commission.

2. The temporary use of a mobile home, not to exceed one year, unless an extension is authorized in writing by the Town Board, shall be permitted while a permanent dwelling is under construction, providing the mobile home and the permanent dwelling are located on the same lot or parcel of land and providing a County sanitary permit has been obtained for the permanent dwelling and that an approved private waste disposal system is utilized by the temporary mobile home.

(w) Mobile home parks, subject to the conditions in §17.60-17.66 of this chapter.

(x) Commercial radio or TV broadcasting studio and/or tower and microwave relay towers, cellular telephone towers and similar structures which support antennae, dishes or other broadcast, relay, amplification and other transmission devices and their accessory structures when considering the following, which shall be provided by the applicant.

1. Location of all towers used for similar purposes within a three (3) mile radius and co-location possibilities;
2. Method(s) to camouflage, or stealth technology used, to minimize visual impacts;
3. Number of users that tower will support;
4. An inter-modulation study or other documentation which provides a technical evaluation that indicates potential interference problems.

No new or existing telecommunications service shall interfere with public safety telecommunications. The property line setbacks for towers shall be the height of the tower and any antennae plus 20' from any property line or road right-of-way. These setbacks may be reduced if the tower is engineered to collapse on itself. The setback with certification from an engineer shall be the collapse radius plus 20' from all property lines or the Highway and railroad setbacks as prescribed at §17.23 of this ordinance, whichever is greater. No tower shall be within 600 feet of the nearest residence other than the owner of the property upon which the tower will be constructed.

When considering conditions to attach to any permit which may be issued, the Planning Commission should take into account that monopole towers are preferred, with lattice towers being the second preference, and guyed towers being least desirable. Illumination should be limited to the minimum required by FAA or other federal or state authority. Within 180 days of cessation of operations all abandoned or unused towers and accessory structures not to be used for another purpose shall be removed.

(y) Riding stables and riding academies subject to the following:

1. Lighted equestrian trails shall be no closer than 200 feet from any property line or 300 feet from any residence other than that of the owner unless written approval is

granted by the adjoining owner(s) for a lesser setback and approval is granted by the Board of Appeals.

2. Stables, barns, corrals and exercise yards shall be located no closer than 300 feet from any property line of a residential district or residential use as defined in §17.40.
3. Except in the RC Recreational District no more than 2 persons other than a member of the resident family shall be employed on the premises.
4. Animal unit densities shall be one (1) per three (3) acres or less.

(z) Roadside stand.

(aa) Land disposal of waste material other than agricultural waste and sanitary landfill, provided no location shall be within ½ mile of the boundary of any residence district and the operation shall be in full compliance with applicable Wisconsin Administrative Codes.

(bb) Slaughterhouses, when located not less than 1,000' from any residential building other than that of the owner of the premises, his agent or employee.

(cc) Commercial shooting ranges provided:

1. Shooting stands shall be no less than 1,000' from residential buildings, other than that of the owner, his agent or employee unless owners and occupants of such residences waive this condition in writing.
2. No firing shall be toward or over any named navigable water (determined at the time of application) located within 1,000 feet of the bullet barrier.
3. The range shall be clearly identified from all directions with conspicuous "Danger Shooting Range" signs.
4. There shall be a barrier, impenetrable to any missile fired on the range, which shall extend a distance above and to each side of the targets equal to 1' for each 25 yards to the most remote shooting stand, but in no case less than 4' nor shall barriers be required to be more than 20' above the target or 30' to either side of the target unless land uses down range would require a higher or wider barrier.
5. Trap and skeet ranges providing the owner of the trap or skeet range has under control by ownership or lease an area no less than 1,800' wide and 900' deep and providing further that there shall be no residences within 1,000' of the external boundaries of the range, unless owners and occupants of such residences waive this condition in writing.

(dd) Travel trailer parks, subject to the provisions for travel trailer parks in the Recreation District. See §17.48(3)(k).

- (ee) Bed and Breakfast Establishment, Tourist Rooming House, or Boarding House, subject to Chapter 254.61 Wis. Stats.
- (ff) Dams, power plants and flowages.
- (gg) Institutions of a charitable or philanthropic nature, day care or child care facilities, hospitals, clinics and sanatoria, except contagious hospitals and mental institutions.
- (hh) Libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business.
- (ii) Livestock collection and transfer depots when located not less than 300' from an RS residential district and when accessory to principal agricultural use of the property.
- (jj) Commercial Wind Electrical Generation Towers provided no tower shall be located within 1200 ft. of a residence or residential zoning district and the towers shall be set back from any property boundary a distance equivalent to its height to the top of the arc of the rotor plus 100 feet. No tower shall be located in any floodplain or wetland.
- (kk) Mining of nonmetallic minerals and/or the processing for manufacture of materials incidental to such extraction and/or the erection of buildings and the installation of equipment and machinery may be permitted as a conditional use and in addition to any other conditions placed by the Plan Commission or Town Board:

1. Aerial Photograph and Map.

- a. The boundary of the affected parcel and any adjacent parcel, pipelines, railroads, streams, utilities, and wetland on the proposed extraction site and adjacent parcel.
- b. The name of the owner of each adjacent parcel and the location of all structures within 300 feet of the proposed mine site.
- c. The proposed location, extent, and depth of the intended sand, gravel, and rock excavation, showing the setback distances.
- d. The proposed location of any ponds, sediment basins, and stockpiles showing the setback distances.
- e. The surface drainage and estimated depth to groundwater.

2. Operational Information.

- a. The duration of any applicable lease.
- b. The estimated date that operations will commence and terminate.
- c. Proposed hours of operation.
- d. The proposed primary travel routes to transport material to and from the site.
- e. A description of the excavation and processing equipment to be used.
- f. A description of proposed measures to be taken to screen or buffer the operation from view from any adjacent residential parcel.
- g. A description of proposed measures to be taken to control dust, noise, and vibrations from the operation.

3. Operation.

- a. All blasting must be done by a state licensed and certified blaster, who must have a certificate of liability or proof of insurance.
- b. All excavation equipment must be constructed, maintained, and operated in such a manner as to eliminate, as practicable, dust, noise, or vibration that might adversely affect or injure any person living in the vicinity of the operation.
- c. Any excavation access road must have and be maintained with a dustless surface.
- d. Operations must be conducted in such a manner that any water runoff from the operation does not adversely affect any adjacent parcel.
- e. All equipment and temporary structures, such as stone crusher, conveyor, or screener, must be removed from the site within 90 days of the termination of extraction operations.
- f. Setback Requirements. All operations shall be at least 50' from the public road right-of way and 50' from all property lines of another person or company. All accessory uses such as offices and parking areas shall be at least 100' from any right-of-way or property line.

- (II) Automobile wrecking yard, junk yard, or salvage yard, and portable tire shredders may be permitted as a conditional use and in addition to any other conditions placed by the Plan Commission or Town Board, shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way and shall be at least 600' from the nearest residence except that of the owner, his agent, or employee.

(mm) Special Event Venue/Wedding Barn. A Special Event Venue/Wedding Barn means any activity incidental to the operation of a farm that brings members of the public to the farm which may include but is not limited to educational, recreational, or retail events as well as for special events, such as weddings, receptions, or parties, craft sales, and/or wine tasting may be permitted as a conditional use and in addition to any other conditions placed by the Plan Commission or Town Board.

1. A Special Event Venue/Wedding Barn business must be located in an agricultural building which has existed for at least five (5) years with potential outdoor uses involving rentals for events.
2. This conditional use approval is subject to annual review.
3. The site must meet all applicable Federal, State, County, and local regulations.
4. The structural design of the building shall remain as a barn or other agriculture use with exception of requirements to meet the commercial building code (electrical, plumbing, ADA, etc.). There shall be no furnaces, air conditioning, or kitchens installed in the structure.
5. The capacity of the structure shall be no greater than that allowed by the State Commercial Building Code/Fire Code including caters, band employees, and staff.
6. The property owner shall provide a copy of the commercial building permit and fire inspection approval from the appropriate inspector(s) for the Town file prior to use of the barn for approved events.
7. Bathrooms required by commercial building code. Portable toilets shall be provided for additional services and a pumping contract shall be provided to the Town Clerk to assure maintenance and removal at the end of the season.
8. All food and beverages, including alcohol, shall be brought on site by the person or group renting the barn for the special event or by a caterer and/or licensed bartender hired by the person or group renting the barn.
9. No liquor license shall be permitted or issued
10. Bartenders licensed by the State of Wisconsin shall be required to obtain an annual permit to serve alcoholic beverages from the Town Clerk.
11. Special Event hours shall be Friday and Saturday from 9:00am to 11:00pm and Sunday from 9:00am to 6:00pm. Any other day or time periods may approved during conditional use process.
12. Garbage shall be removed from the property on the Monday after the event or next business day, whichever occurs first.
13. Parking shall be made available on site during the event. There shall be no parking on the public or private streets. Fire/ambulance vehicle access to the parking area and to the venue must be provided. All parking shall meet size, setback, and separation distances of the Town Zoning Ordinance.
14. All signage shall comply with this chapter and all other ordinances of the Town.
15. All lighting must be shielded and directed on to the property and extinguished at the close of each day's event.

(4) **HABITABLE STRUCTURES.** All new habitable structures other than that of the farm operator shall be located at least 300' from buildings, pens, and structures used for the housing, sheltering or feeding of livestock.

(5) **HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.**

(a) Height. Except as otherwise provided in this chapter, no building shall exceed a height of 35'. See §17.22.

(b) Lot Area. Buildings used in whole or in part for residential dwelling purposes which are hereafter erected or structurally altered shall be located on a lot having an area of not less than three (3) acres with a width of 300 feet at the building line and 300' of public road frontage.

This requirement shall not apply to mobile homes permitted on farms as an accessory use.

Riding stable/Academy hereafter established shall be located on a parcel having a contiguous area of not less than 35 acres.

(c) Floor Area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a minimum floor area of 840 square feet, provided that this regulation shall not apply to mobile homes permitted on farms.

(d) Side Yards. There shall be side yards provided between each building and the property line of no less than 50 feet.

(e) Rear Yard. There shall be a minimum rear yard depth of 50 feet.

(f) Nonconforming/Substandard lots. An undeveloped lot which is nonconforming/substandard as defined in Wis. Stat. §66.10015 as to lot dimensions or area may be used for any use permitted in this District provided it was legally created and recorded prior to October 16, 2007, and the development complies with all other requirements of this chapter and subsection. In addition, buildings which were legally constructed on the lot prior to October 16, 2007 and which do not conform to the requirements of this ordinance as to setback, side yards or rear yards, may be continued in use (developed lots). Undeveloped lots, or future additions or structural alterations or additional structures on developed lots shall maintain a minimum side yard and rear yard setback of 25 feet.

(g) Street Setbacks. See §17.23 Highway and Railroad Setbacks for road classifications.

(h) Off Street Parking. See §17.70-17.72.

(nn) Automobile sales, service stations, repair, bodyshops,

17.50 A-3 EXCLUSIVE AGRICULTURAL DISTRICT

(1) **PURPOSE.** The A-3 Exclusive Agricultural District is intended to: preserve productive

agricultural land for food and fiber production, preserve productive farms by preventing land use conflicts between incompatible uses, control public service costs, maintain a viable agricultural base to support agricultural processing and service industries, prevent conflicts between incompatible uses, reduce costs of providing services to scattered nonfarm uses, space and shape urban growth, implement the provisions of the County agricultural plan when adopted and periodically revised, and comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under §71.09(11), Wis. Stats.

- (2) **LANDS INCLUDED WITHIN THESE DISTRICTS.** These districts are generally intended to apply to lands which are limited to exclusive agricultural use, including: lands historically exhibiting good crop yields or capable of such yields, lands which have been demonstrated to be productive for dairying, livestock raising and grazing, other lands which are integral parts of such farm operations, land used for the production of specialty crops such as cranberries, ginseng, mint, sod, fruit and vegetables, and lands which are capable of productive use through economically feasible improvements such as irrigation.
- (3) **PERMITTED USES.** Only the following uses are permitted in the A-3 District:
 - (a) One single family dwelling or duplex, provided all other conditions of this chapter and the Private Sewage System Code are met. All new habitable structures other than that of the farm operator shall be located at least 300' from buildings, pens and structures used for the housing, sheltering or feeding of livestock.
 - (b) Mobile homes.
 - 1. One mobile home used for habitation which is not the primary place of residence shall be permitted as an accessory building on an operating farm providing:
 - a. A determination is made in writing by the Town planning commission, that one or more of the occupants of the mobile home derives a substantial portion of their livelihood from the farm operation and/or substantially participates in the operation of the farm, and provided that each mobile home is provided with proper skirting or a foundation.
 - b. More than one mobile home on the property may be permitted with Town Board approval and a conditional use permit from the Planning Commission.
 - 2. The temporary use of a mobile home, not to exceed one year, unless an extension is authorized in writing by the Town Board, shall be permitted while a permanent dwelling is under construction, providing the mobile home and the permanent dwelling are located on the same lot or parcel of land and providing a County sanitary permit has been obtained for the permanent dwelling and that an approved private waste disposal system is utilized by the temporary mobile home.
 - (c) Single family dwelling, in addition to permitted residences in sub. (3)(a), providing one or more of the occupants is a parent or child of the operator of the farm, or when the dwelling is to be the retirement home of the present farm operator.
 - (d) Pole buildings, garages, private kennels, and any other buildings necessary to the farm operation or permitted residential uses.

- (e) Campers or camping trailers may be stored or parked indefinitely, provided the unit is stored in or behind a structure or is screened from the road with natural screening so that it is not visible from the right-of-way.
- (f) General farming, which complies with other town ordinances, and applicable Wisconsin Administrative Codes and Marathon County ordinances, including dairying, livestock and poultry raising. Where 500 or more animal units are proposed the rules contained ATCP 51 shall apply. Other agricultural activities such as nurseries, non-commercial greenhouses, beekeeping, vegetable warehouses, seasonal sale of seed and fertilizer and other similar enterprises or uses, except fur farms and farms operated for the disposal or reduction of garbage, sewage, rubbish or offal. Buildings, pens and structures used for the housing, sheltering or feeding of livestock shall be located no less than 100' from any lake or stream. Where meeting this setback is impossible or impractical due to location of existing agricultural facilities, new buildings and building additions may be constructed at a lesser setback provided the degree of non-conformity is not increased as approved by the Town Board.
- (g) One roadside stand per farm, of not more than 300 square feet, used solely for the sale of products more than 50% of which were produced on the premises.
- (h) Forest and game management.
- (i) Hunting and fishing shelters. A building, sometimes referred to as "hunting shack," intended for temporary occupancy for hunting, fishing or other recreational purposes, provided that the building is located no less than 600' from the nearest residence other than that of the owner and complies with the provision of Ch. ILHR 83, Wis. Adm. Code, the sanitary requirements of the Marathon County General Code. This definition does not include cottages, campers, camping trailers or non-farm residences.
- (j) Hunting, fishing and trapping.
- (k) Maple syrup processing plant.
- (l) Sawmills. When located 500' minimum distance from any residence other than that of the owner.
- (m) Signs. See §17.80-17.83.
- (n) Public utility equipment such as telephone and electric power, transmission and distribution poles, towers and lines, including transformers.
- (o) Ponds. Ponds shall comply with §17.49(2)(d) of this code.
- (p) Transient amusements and temporary/intermittent uses such as music festivals, carnivals, rodeos, horse shows and circuses. These activities shall not be permitted for more than three consecutive days nor more than three times in any 365 day period.

- (q) Home occupations and professions.
 - (r) Land spreading of municipal sewage sludge when done in accordance with and subject to the conditions contained in a permit from the Department of Natural Resources issued pursuant to Wis. Admin. Code NR 204.
 - (s) Private Wind Electrical Generation Towers subject to the provisions of §17.49(2)(q).
- (4) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use has been approved and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission. Such approval shall be consistent with the general purpose and intent of this chapter and shall be based upon such evidence as may be presented at such public hearing. The Planning Commission, in passing upon applications for these conditional use permits, shall consider the following factors: the statement of purposes of this chapter and the A-3 District, the potential for conflict with agricultural use, the need of the proposed use for a location in an agricultural area, the availability of alternative locations, compatibility with existing or permitted uses on adjacent lands, the productivity of the lands involved, the location of the proposed use so as to reduce to a minimum the amount of productive agricultural land converted, the need for public services created by the proposed use, the availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable burden. These uses are as follows:
- (a) Canneries.
 - (b) Cheese factories.
 - (c) Concrete or blacktop batching plant (temporary only).
 - (d) Condenseries.
 - (e) Commercial feedlots and buildings housing 250 or more animals.
 - (f) Creameries.
 - (g) Dog kennels, for training, breeding or boarding, and private dog kennels with more than three (3) dogs that are more than six (6) months old, when located not less than 600' from any residential district or residential building other than that of the owner of such kennels, his agent or employee. Dog field trial grounds.
 - (h) Facilities used for the centralized bulk collection, storage and distribution of agricultural products to wholesale and retail markets.
 - (i) Facilities used to provide veterinarian services for livestock.
 - (j) Facilities used in processing of agricultural products.
 - (k) Fish hatchery (commercial).
 - (l) Fur farms when located not less than 1,000' from any residential building other than that of the owner of the premises, his agent or employee.

- (m) Governmental uses such as Town Halls, garages, solid waste transfer stations and recycling collection centers or depots.
 - (n) Public utility substations, relay stations and microwave receivers and transmitters, semipublic and private utility towers, receivers, transmitters and other similar necessary appurtenant facilities, commercial radio or TV broadcasting tower(s), cellular telephone towers and similar structures subject to the provisions of §17.49(3)(w).
 - (o) The establishment of farms with a total contiguous land area of less than 35 acres and/or exceeding one animal unit per acre. Provisions for approval must include a suitable manure disposal plan, controlled barnyard runoff, and must address other management concerns.
 - (p) Riding stables and riding academies pursuant to §17.49(3)(x) of this Code.
 - (q) Land disposal of waste material other than agricultural waste and sanitary landfill, provided no location shall be within ½ mile of the boundary of any residence district and the operation shall be in full compliance with Ch. NR 214 and 500-524, or other applicable NR Codes.
 - (r) Bed and Breakfast Establishment, Tourist Rooming House, or Boarding House subject to Chapter 254.61 Wis. Stats.
 - (s) Livestock collection and transfer depots when located not less than 300' from an RS residential district and when accessory to the principal agricultural use of the property.
- (5) CONDITIONS ATTACHED TO CONDITIONAL USES.
- (a) Upon a consideration of information supplied at the public hearing and a review of the standards contained in sub. (4), the following conditions may be attached to the granting of a conditional use: increased setbacks and yards; specifications for water supply, liquid waste and solid waste disposal facilities; landscaping and planting screens, sureties, operational controls and time of operation; air pollution controls; erosion prevention measures; location of the use; and similar requirements found necessary to fulfill the purpose and intent of this chapter. Violation of these conditions shall constitute a violation of this chapter as provided in §17.94.
 - (b) The Department of Agriculture, Trade and Consumer protection shall be notified of the approval of any conditional uses.
- (6) HEIGHT, YARDS, AREA REQUIREMENTS.
- (a) Lot Area.
 - 1. The minimum lot size to establish a residence or farm operation is 35 contiguous acres, except provided in sub-pars 2. through 4. below, (Wis Stat. § 91.75, as amended).

2. The minimum lot size shall be one acre to establish a separate parcel for an additional residence for parents or children of the farm operator, or for persons earning a substantial part of their livelihood from the farm operation. A statement from the Town Board that the intended owner of the lot meets the criteria of this section, and that the parcel is the first (only) parcel intended for the farmer, his child, or parent.
3. Where an additional residence for persons specified in the above subparagraph 2. is located on a farm without creating a separate parcel, the residence shall be at least 40' from other residences.
4. The minimum lot size for farm residences or structures which are separated from a large parcel through farm consolidation shall be one acre outside of the road right-of-way and shall not be less than 150' wide at the building line and road right-of-way. No lot shall be created such that the existing structure or the septic system serving the structure becomes nonconforming due to the property boundary setbacks or other minimum setbacks.
5. Lots or parcels having less than 35 acres that legally existed prior to the Town Board's approval of this section may be developed pursuant to §17.21(2) of this Code.

A lot having an area of more than one acre and less than 35 acres may be reduced to a minimum of one acre provided there is no net increase in the number of lots. Minimum lot width shall be 150 feet. Minimum frontage on a public highway shall be 33 feet.

(b) Height.

1. The maximum height of a farm dwelling shall not exceed 35'.
2. The maximum height of other structures shall meet the provisions of §17.22 of this chapter.

(c) Side Yards. There shall be a side yard provided between each building and the property line of no less than 20'.

(d) Rear Yard. The minimum depth of any rear yard shall be 50', except on waterfront lots.

(e) Setback Lines. See §17.23, and 17.25.

(f) Off Street Parking. See §17.70-17.72.

(g) Floor Area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a minimum floor area of 840 square feet, provided that this regulation shall not apply to mobile homes permitted as accessory buildings on operating farms.

(7) STANDARDS FOR REZONING.

- (a) The State Department of Agriculture, Trade and Consumer Protection shall be mailed a copy of the notice of a public hearing on a petition for a rezone and following the hearing a copy of the findings upon which the decision to deny or grant the petition was based.
- (b) Decisions on petitions for rezoning areas zoned for exclusive agricultural use shall be based on findings which consider the following:
 - 1. Adequate public facilities to serve the development are present or will be provided.
 - 2. Provisions of these facilities will not be an unreasonable burden to local government.
 - 3. The land is suitable for development.
 - 4. Development will not cause unreasonable air and water pollution, soil erosion or adverse effects on rare or irreplaceable natural areas.
 - 5. The potential for conflict with remaining agricultural uses in the area.
 - 6. The need of the proposed development location in an agricultural area.
 - 7. The availability of alternative locations.
 - 8. The productivity of the agricultural lands involved.
 - 9. The location of the proposed development to minimize the amount of agricultural land converted.

17.51 (Reserved for future use)

17.52 RR RURAL RESIDENTIAL AND RE RURAL ESTATE DISTRICTS.

- (1) PURPOSE. The purpose of the RR and RE districts is to provide for and promote small to medium lot residential living with some limited agricultural activities, and as a zoning classification for transition of areas from agriculture to more dense residential development.
- (2) LANDS INCLUDED IN THESE DISTRICTS. These districts are for the accommodation of rural parcels generally less than 35 acres in size that are not part of larger farm operations.
- (3) PERMITTED USES. Only the following uses are permitted in the RR and RE Districts:
 - (a) One single family dwelling provided all other conditions of this chapter and the Private Sewage System Code can be met.
 - (b) "Hobby" farms, forestry, beekeeping, plant nurseries, fish hatcheries and noncommercial greenhouses and ponds subject to the conditions contained in §17.43(2)(1) of this chapter.

- (c) One temporary roadside stand per lot, not more than 300 square feet, used solely for the sale of products at least 50% of which were produced on the premises.
 - (d) Garage and/or usual accessory buildings, private kennels.
 - (e) Public utility equipment such as telephone and electric power, distribution poles, towers and lines, including transformers.
 - (f) Churches, cemeteries subject to Wis. Stat. Ch. 157, public and parochial schools, colleges and universities.
 - (g) Ponds subject to the conditions contained in §17.49(2)(c) of this chapter. In addition, ponds shall maintain a minimum slope of 4' horizontal to 1' vertical to a water depth of 6' and a 3' horizontal to 1' vertical slope below the 6' depth. Disposal and/or stabilization of spoil from pond excavation shall be addressed on the pond plans and a 3' horizontal to 1 vertical slope shall be the minimum.
 - (h) Home occupations and home professions.
- (4) CONDITIONAL USES.
- (a) Stables and riding schools in the RE District only.
 - (b) Fish hatcheries in the RE District only.
 - (c) Livestock See 17.43 section 3(f)
 - (d) Agriculturally related commercial enterprises, including but not limited to, cheese factories, veterinary hospitals and clinics, seed, fertilizer and chemical sales, feed mills, but not farm machinery sales and service.
 - (e) Commercial radio or TV broadcasting studio and/or tower and microwave relay towers, cellular telephone towers and similar structures which support antennae, dishes or other broadcast, relay, amplification and other transmission devices and their accessory structures shall comply with the provisions of §17.49(3)(w).
 - (f) Signs, per §17.80-17.83.
 - (g) Bed and Breakfast Establishment, Tourist Rooming House, or Boarding House subject to Chap 254.61 Wis. Stats.
- (5) HEIGHT, YARD, AREA AND OTHER REQUIREMENTS.
- (a) Height requirements, front, side, and rear yard requirements, and floor area requirements for the AR and AE districts shall be the same as described in §17.49(4).
 - (b) The minimum lot size in the AR district shall be 2 acres. The maximum lot size in the AR district shall be 10 acres. The minimum lot width shall be 150'.
 - (c) The minimum lot size in the AE district shall be 5 acres. The minimum lot width shall be 210'.

17.53 (Reserved for future use)

17.54 C-1 COMMERCIAL DISTRICT.

- (1) **PURPOSE.** This district is designed to provide for a wide range of retail stores and personal service establishments which cater to frequently recurring needs. The regulations are designed to promote stability of retail development by encouraging continuous retail frontage.
- (2) **PERMITTED USES.** Only the following uses are permitted in the C-1 District:
 - (a) Animal hospitals and clinics, but not the boarding of animals.
 - (b) Antique or art shop.
 - (c) Bakery employing not over 8 persons on the premises.
 - (d) Bank, savings and loan or other financial institutions.
 - (e) Barber shop, beauty parlor.
 - (f) Boat and motorcycle sales and service.
 - (g) Book and stationery store.
 - (h) Business, professional offices and clinics.
 - (i) Clothing store, department store, shoe store, shoe repair shop.
 - (j) Clubs and lodges.
 - (k) Commercial entertainment facilities, but not drive-in theater.
 - (l) Dance studios.
 - (m) Drugstore.
 - (n) Dwelling, single family, but only as an accessory to a principle use for the caretaker or owner and his family only.
 - (o) Florist shop, greenhouse.
 - (p) Food products (retail), fruit and vegetable store, grocery store, meat and fish market, supermarket.
 - (q) Funeral homes.
 - (r) Furniture store, appliances, office equipment, upholstering.

- (s) Hardware, household appliances, plumbing, heating and electrical supplies, auto supplies.
- (t) Health club.
- (u) Hotel, motel.
- (v) Insurance firms, real estate firms, stockbrokers.
- (w) Jewelry store.
- (x) Laundry, cleaning and dyeing establishment.
- (y) Libraries, museums.
- (z) Martial arts schools.
- (aa) Music, radio and television store, record shop.
- (ab) Paint store, interior decorator.
- (ac) Parking lot.
- (ad) Photographer, photography supply shop.
- (ae) Printing and duplicating.
- (af) Public utility office or substation, telephone exchanges, fire stations, police station, administration buildings and similar uses.
- (ag) Publishing office.
- (ah) Radio and television broadcasting studio, tower, mast or aerial, microwave radio relay structures.
- (ai) Retail stores and shops offering convenience goods and services.
- (aj) Restaurant, café, but not drive-in restaurant.
- (ak) Signs, billboards, (See §17.80-17.83) sign painting shop.
- (al) Sporting goods stores.
- (am) Theater, except drive-in theater.
- (an) Vocational schools and learning centers conducted for profit.

- (ao) Manufacturing or storage in connection with any of the above uses, when clearly incidental to the conduct of a retail business on the premises.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit granted by the Town Board after a public hearing and recommendation by the Planning Commission.
- (a) Amusement parks including baseball batting ranges, commercial skating rinks, go-cart tracks, golf driving range, miniature golf course or similar establishments.
 - (b) Automobile sales, service stations, repair, body shops, car wash.
 - (c) Bowling alleys, dance halls, skating rinks.
 - (d) Day care or child care facilities.
 - (e) Drive-in restaurant.
 - (f) Drive-in theater.
 - (g) Farm equipment sales and service.
 - (h) Farm machinery sales and service.
 - (i) Feed and seed stores.
 - (j) Fishing bait (live) stores.
 - (k) Lumber yards.
 - (l) Marinas.
 - (m) Mobile homes sales and service.
 - (n) Motorcycle sales, repair and service.
 - (o) Newspaper office and press rooms.
 - (p) Tavern.
 - (q) Transportation terminals, taxi, limo and bus terminals.
 - (r) Wholesale establishments.
 - (s) Outdoor and indoor sports facilities and entertainment facilities which are part of a tavern's operations.

- (t) Commercial radio or TV broadcasting towers , cellular telephone towers and similar structures subject to the provisions of §17.49(3)(w).

- (u) **Storage Facilities**

(4) HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.

- (a) Height. Except as otherwise provided in this chapter, no building shall exceed a height of 35'. One additional foot of extra height may be permitted provided one additional foot of each side and rear yards for each additional foot of extra height is also established up to a maximum height of 60' unless the Board of Appeals approves a greater height. See §17.22.
- (b) Lot area. The minimum lot area shall be 10,000 square feet and the minimum lot width shall be 75' at the building line.
- (c) Floor Area. Buildings used in whole or part for dwelling purposes, as opposed to accommodations for transients, shall have a floor area as required by the regulations of RM Multiple Family Residence District.
- (d) Side Yards. Side yards shall be not less than 10' wide.
- (e) Rear Yard. There shall be a rear yard of not less than 20' in depth.
- (f) Setback Lines. (Streets and Waterlines) See §17.23, and 17.25.
- (g) Off Street Parking. See §17.70-17.72.

17.55 M-1 LIGHT INDUSTRIAL DISTRICT.

- (1) PURPOSE. The light industrial and Office District is intended for any manufacturing or industrial operation which, on the basis of actual physical and operational characteristics would not be detrimental to the surrounding area or to the Town as a whole by reason of noise, dirt, smoke, odor, traffic, physical appearance or other similar factors.
- (2) PERMITTED USES. Only the following uses are permitted in the M-1 District:
 - (a) Automotive heavy repair and upholstery, body shop.
 - (b) Cleaning, pressing and dyeing establishments.
 - (c) Commercial greenhouses.
 - (d) Dwellings, single family, but only as an accessory to a principle use, for the caretaker or owner and his family only.
 - (e) Food locker plants.
 - (f) General or clerical office.

- (g) Light industrial plants such as required for production of millwork, machine tools, paper containers, patterns, die castings, light metal fabrication and similar small industries which do not require loud presses.
 - (h) Manufacture, fabrication, packing, packaging and assembly of products from furs, glass, leather, metals, paper, plaster, plastic, textiles and wood Manufacture, fabrication, packing, packaging and assembly of confections, cosmetics, electrical appliances, electronic devices, instruments, jewelry, pharmaceuticals, tobacco, toiletries and foods except cabbage, fish and fish products, meat and meat products and pea vineries.
 - (i) Manufacturing and bottling of nonalcoholic beverages.
 - (j) Painting.
 - (k) Printing.
 - (l) Professional offices.
 - (m) Publishing.
 - (n) Research and testing laboratories.
 - (o) Schools and training centers.
 - (p) Warehousing, inside storage and mini warehousing. Inside storage of contractors' supplies and equipment, and outside storage when screened from the view of any public right-of-way and residences other than the owner's.
 - (q) Wholesalers and distributors. Common and contract hauler parking and structures for the repair and maintenance of the vehicles.
 - (r) Signs. (See §17.80-17.83).
 - (s) Transportation terminals, taxi, limo and bus terminals.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission.
- (a) Airports, air strip and landing fields providing the site area is not less than 20 acres.
 - (b) Automobile, construction, and farm machinery sales or service businesses.
 - (c) Commercial service facilities, such as restaurants and fueling stations provided all such services are physically and sales-wise oriented toward industrial district users and employees and other users are only incidental customers.
 - (d) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelter, parks, playgrounds and museums.

- (e) Manufacturing, processing and storage of dry ice and building materials, lumber yards.
 - (f) Public passenger transportation terminals, such as heliports, bus and rail depots, provided all principal structures and uses are not less than 100' from any residential district boundary.
 - (g) Commercial wind electrical generation towers subject to the provisions of §17.49(3)(aj).
 - (h) Commercial radio or TV broadcasting towers, cellular telephone towers and similar structures subject to the provisions of §17.49(3)(w).
- (4) HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.
- (a) Height. The maximum height shall be 45' except that this may be increased to 60', provided all yards are increased 3' in width for each 5' of additional height.
 - (b) Lot Area. The minimum lot area shall be 20,000 square feet.
 - (c) Width. The minimum width shall be 150'.
 - (d) Side Yards. The minimum side yard shall be 20', provided further that any such side yard which abuts a boundary of a Residence District shall be not less than 25' wide, unless such Residence District boundary lies within a street or alley.
 - (e) Rear Yard. The minimum rear yard shall be not less than 25' in depth.
 - (f) Prohibited Uses of Yards. Any yard which abuts a boundary of a non-industrial district shall not have an automobile parking lot, stockpile, waste or salvage pile, equipment storage or other accumulation of material or equipment in the open, placed in such yard, except that loading platforms may be established in a yard if it abuts on a railroad.
 - (g) Setback Lines. (Streets and Waterlines) See §17.23, and 17.25.
 - (h) Off Street Parking. See §17.70-17.72.

17.56 M-2 HEAVY INDUSTRIAL DISTRICT.

- (1) PURPOSE. The Heavy Industrial District is intended to provide for uses which by their nature could exhibit characteristics harmful, noxious or detrimental to surrounding uses of the land.
- (2) PERMITTED USES. Only the following uses are permitted in the M-2 District:
 - (a) Any use permitted in the M-1 Light Industrial District.
 - (b) Automobile sales and service stations.
 - (c) Freight yards and depots including livestock collection, transfer and sales.
 - (d) Breweries.

- (e) Inside storage and outside storage when fenced.
 - (f) Lumber yards.
 - (g) Binderies.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission. Such approval shall be consistent with the general purpose and intent of this chapter and shall be based upon evidence presented at such public hearing.
- (a) Airports, airstrips and landing fields provided the site area is not less than 20 acres.
 - (b) Commercial service facilities, such as restaurants and bulk fueling stations provided all such services are physically and sales oriented toward industrial district users and employees and other users are only incidental customers.
 - (c) Creameries, condenseries.
 - (d) Crematories.
 - (e) Manufacture and processing of abrasives, acetylene, acid, alkalies, ammonia, asphalt, batteries, bedding, bleach, bone, cabbage, candle, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal tar, coffee, coke, cordage, creosote, dextrine, disinfectant, dye, excelsior, fish, fuel, gelatin, glucose, hair products, ice, ink, insecticide, lampblack, lime, lime products, linoleum, matches, meat, oilcloth, paint, peas, perfume, pickle, plastics, poison, polish, potash, pulp, pyroxylin, rope, rubber, sausage, shoddy, size, starch, textiles and varnish.
 - (f) Manufacture and bottling of alcoholic beverages, bag cleaning, canneries, cold storage warehouse, electric and steam generating plants, electro plating, enameling, forges, foundries, garbage incinerators, lacquering, lithographing, offal, rubbish or animal reduction, oil, coal and bone distillation refineries, road test facilities, slaughterhouses, smelting, stockyards and tanneries provided such uses shall be at least 600' from residential districts.
 - (g) Manufacturing, processing and storage of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar and yeast.
 - (h) Mining of nonmetallic minerals and the processing for manufacture of materials incidental to such extraction and the erection of buildings and the installation of equipment and machinery may be permitted provided:
 - 1. Nonmetallic mining shall comply with the applicable terms of the General Marathon County Code of Ordinances regarding Nonmetallic Mining.

2. All operations shall be at least 50' from the centerline of any right-of-way and 10' from any property line of another person or company. All accessory uses such as offices and parking areas shall be at least 100' from any right-of-way or property line.

(i) Municipal sewage disposal plants and related facilities.

(j) Adult entertainment, adult bookstore/adult novelty shop whether or not alcohol is served.

(k) Solid waste and recycling transfer stations.

(l) Commercial wind electrical generation towers subject to the provisions of §17.49(3)(aj).

(m) Commercial radio or TV broadcasting towers, cellular telephone towers and similar structures subject to the provisions of §17.49(3)(w).

(n) Automobile wrecking yard, junk yard, or salvage yard, and portable tire shredders shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way and shall be at least 600' from the nearest residence except that of the owner, his agent, or employee.

(4) HEIGHT, AREA, YARDS AND OTHER REQUIREMENTS.

(a) Height. The maximum height of buildings shall be 45' except that this may be increased to 60', provided all yards are increased 3' in width for each 5' of additional height.

(b) Lot Area. The minimum lot area shall be 20,000 square feet.

(c) Width. The minimum width shall be 150'.

(d) Side Yards. The minimum side yard shall be 20', provided further than any such side yard which abuts a boundary of a Residence District shall not be less than 25' wide, unless such Residence District boundary lies within a street or alley.

(e) Rear Yard. The minimum rear yard shall be not less than 25' in depth. Any yard which abuts a boundary of a Residence District shall not have an automobile parking lot, stockpile, waste or salvage pile, equipment storage or other accumulation of material or equipment in the open, placed in such yard, except that loading platforms may be established in a yard if it abuts on a railroad.

(f) Setback lines. See §17.23, and 17.25.

17.57 (Reserved for future use)

17.58 (Reserved for future use)

17.59 WELLHEAD PROTECTION OVERLAY DISTRICT

- (1) **PURPOSE AND AUTHORITY.** The purpose of this Wellhead Protection District is to institute land use regulations to protect the municipal water supplies, and to promote the public health, safety and general welfare.
- (2) **APPLICATION OF REGULATIONS.** The overlay regulations specified in this Wellhead Protection District shall apply to the areas of the Town of Texas that lie within the recharge areas for municipal water supply wells, and are in addition to the requirements in the underlying zoning district. If there is a conflict between this district and the underlying zoning ordinance, the more restrictive provision shall apply.
- (3) **GROUNDWATER PROTECTION OVERLAY DISTRICT ZONE A.**
 - (a) **INTENT.** The primary portion of the municipal well recharge area to be protected is the land within the cone(s) of depression and the area defined as Zone A and as shown on maps on file in the Town. These lands are subject to the most stringent land use and development regulations because of close proximity to the wells and the corresponding high threat of contamination.
 - (b) **PERMITTED USES.** The following uses are permitted uses within Groundwater Protection Overlay District Zone A. Uses not listed here or in Section 17.59(3)(c) are considered prohibited.
 1. Parks and playgrounds, provided there are no petroleum storage tanks or pesticide and fertilizer facilities, also provided that on-site waste disposal facilities or structures shall meet current codes.
 2. Wildlife areas.
 3. Non-motorized trails, such as biking, skiing, nature and fitness trails.
 4. Sewered residential development subject to conditions in Section 17.59(6).
 5. Unsewered single family residential development on existing lots of record on the effective date of this ordinance or amendment and subject to the conditions contained in Section 17.59(6).
 - (c) **CONDITIONAL USES.** The following uses may be permitted on a case-by-case basis providing adequate groundwater protection and monitoring measures are provided as determined by the Town Board after a public hearing and recommendation by the Planning Commission.
 1. Commercial uses served by a municipal sanitary sewer except those listed specifically as being prohibited in Section 17.59(3)(d).
 2. Agricultural activities including but not limited to pasture. Conduct and management of these activities shall be subject to a farm plan based on the potential for groundwater contamination utilizing standards in the Technical Guide adopted by the Marathon County Land Conservation Committee.

(d) PROHIBITED USES. The following are prohibited uses within the Groundwater Protection Overlay District Zone A. These uses are prohibited based on the high probability that activities routinely associated with these uses may cause groundwater contamination.

1. Animal confinement facilities and animal waste facilities.
2. Any manufacturing or industrial business and asphalt product manufacturing.
3. Bus or truck terminals.
4. Bulk fertilizer and/or pesticide facilities.
5. Cemeteries.
6. Dry cleaning businesses.
7. Electroplating facilities.
8. Extermination businesses.
9. Retail and wholesale liquid motor fuel dispensing facilities.
10. Hazardous and/or toxic materials storage and waste facilities.
11. Junk yards or auto salvage yards.
12. Landfills or waste disposal facilities.
13. Paint and coating manufacturing.
14. Printing and duplicating businesses.
15. Radioactive waste facilities.
16. Recycling facilities, solid waste collection centers, and recycling collection centers.
17. Repair shops including vehicle repair establishments and auto body repair shops.
18. Salt storage.
19. Septage, sewage sludge, and/or wastewater spreading.
20. Spray wastewater facilities.
21. Petroleum product storage tanks.
22. Wastewater treatment or disposal facilities.

Where any of the uses listed in 17.59(3)(d) exist within the Groundwater Protection Overlay District Zone A on the effective date of this ordinance, those uses shall be deemed non-conforming. Owners of these facilities will be allowed to upgrade the facilities to facilitate or enhance groundwater protection within the provisions of non-conformity contained in the Zoning Ordinance. Plans for the proposed upgrade must be approved and the appropriate permit issued by the Board of Appeals prior to any work being initiated. Expansion of any pre-existing non-conformity is prohibited.

(4) GROUNDWATER PROTECTION OVERLAY DISTRICT ZONE B

- (a) INTENT. A secondary portion of the municipal well recharge areas to be protected is the land which lies within Zone B as shown on maps on file in the Department. Land use restrictions within Zone B are less restrictive than in Zone A because of longer flow times and a greater potential for remediation, dilution, and attenuation.
- (b) PERMITTED USES. The following uses are permitted within Groundwater Protection Overlay District Zone B. Uses not listed here or in 17.59(4)(c) are considered prohibited uses unless a determination as outlined in Section 17.59(3)(b) is made for similar uses.
 - 1. All uses listed as permitted uses in Groundwater Protection Overlay District Zone A.
 - 2. Agricultural activities which follow Agricultural Best Management Practices.
 - 3. Above ground petroleum product storage tanks up to 660 gallons when located in confinement structures as required by Section 17.59(6)(e).
 - 4. Basement heating fuel storage tanks.
 - 5. Commercial and/or industrial uses served by municipal sanitary sewer, except those listed as prohibited uses in Section 17.59(4)(d).
 - 6. Unsewered single family residential uses subject to the conditions in Section 17.59(6).
- (c) CONDITIONAL USES. The following uses may be permitted on a case-by-case basis providing adequate groundwater protection and monitoring measures are provided as determined by the Town Board after a public hearing and recommendation by the Planning Commission.
 - 1. Nurseries for ornamental plants, greenhouses, and pesticide and fertilizer storage and associated uses for retail sales outlets.
 - 2. Cemeteries.
 - 3. Salt storage, including salt/sand combinations.
 - 4. Recycling facilities, solid waste collection centers and recycling collection centers.

(d) PROHIBITED USES. The following uses are prohibited uses within Groundwater Protection Overlay District Zone B, except as provided in Sections 17.59(4)(c) or 17.59(6). These uses are prohibited based on the high probability that activities routinely associated with these uses may cause groundwater contamination.

1. Underground petroleum product storage tanks.
2. Unsewered commercial and/or industrial development.
3. Commercial pesticide and/or fertilizer storage, mixing and loading facilities.
4. Septage, sewage and/or wastewater spreading.
5. Retail and/or wholesale liquid motor fuel dispensing facilities.
6. Vehicle repair shops including auto body repair.
7. Printing and duplicating businesses which use hazardous chemical as defined by the EPA in their printing process.
8. Bus or truck terminals.
9. Landfills.
10. Wastewater treatment or disposal facilities.
11. Spray wastewater facilities.
12. Automobile salvage yards or junk yards.
13. Animal confinement facilities (except veterinary hospitals and clinics).
14. Asphalt products manufacturing.
15. Dry cleaning facilities.
16. Electroplating facilities.
17. Extermination shops.
18. Painting and coating manufacture.
19. Hazardous and/or toxic material storage and/or facilities.
20. Radioactive waste facilities.
21. Garage and vehicular towing.
22. Public and municipal maintenance garages.

Where any of the uses listed in Section 17.59(4)(d) exist within Groundwater Protection Overlay District Zone B on the effective date of this ordinance, owners of these facilities will be allowed to upgrade the facilities to facilitate or enhance groundwater protection pursuant to the provisions outlined in Section 17.59(3)(d). Expansion of any pre-existing non-conforming use is prohibited.

(5) GROUNDWATER PROTECTION OVERLAY DISTRICT ZONE C.

- (a) INTENT. The outermost portion of the municipal well recharge area to be protected is the land which lies within Zone C as shown on maps on file in the Department. Land use restrictions within Zone C are less restrictive than in either Zone A or Zone B because it is the portion of the recharge area most distant from the well(s).
- (b) PERMITTED USES. The following uses are permitted within Groundwater Protection Overlay District Zone C. Uses not listed here or in 17.59(5)(c) are considered prohibited uses.
 - 1. All uses listed as permitted uses in Groundwater Protection Overlay District B.
 - 2. Nurseries for ornamental plants, greenhouses and pesticide and fertilizer storage at the location of retail sales, provided that these products are delivered in retail quantity containers and no repackaging and/or mixing is done on the site.
 - 3. Veterinary hospitals and clinics (but not the training, breeding or boarding of animals).
- (c) CONDITIONAL USES. The following may be permitted on a case-by-case basis providing adequate groundwater protection and monitoring measures are provided as determined by the Town Board after a public hearing and recommendation by the Planning Commission.
 - 1. Cemeteries.
 - 2. Salt storage including sand/sand combinations.
 - 3. Recycling facilities, solid waste collection centers and recycling collection centers.
- (d) PROHIBITED USES. The following uses are prohibited uses within the Groundwater Protection Overlay District Zone C except as provided in Section 17.59(5)(c) or 17.59(6). These uses are prohibited based on the high probability that activities routinely associated with these uses may cause groundwater contamination.
 - 1. Underground petroleum product storage tanks.
 - 2. Unsewered commercial and/or industrial development.
 - 3. Commercial pesticide and/or fertilizer storage, mixing and loading facilities.
 - 4. Septage, sewage and/or wastewater spreading.

5. Retail and/or wholesale liquid motor fuel dispensing facilities.
6. Vehicle repair shops including auto body repair.
7. Printing and duplicating businesses which use hazardous chemical as defined by the EPA in their printing process.
8. Bus or truck terminals.
9. Landfills.
10. Wastewater treatment or disposal facilities.
11. Spray wastewater facilities.
12. Automobile salvage yards or junk yards.
13. Animal confinement facilities (except veterinary hospitals and clinics).
14. Asphalt products manufacturing.
15. Dry cleaning facilities.
16. Electroplating facilities.
17. Extermination shops.
18. Painting and coating manufacture.
19. Hazardous and/or toxic material storage and/or facilities.
20. Radioactive waste facilities.
21. Garage and vehicular towing.
22. Public and municipal maintenance garages.

Where any of the uses listed in Section 17.59(5)(d) exist within Groundwater Protection Overlay District Zone B on the effective date of this district, owners of these facilities will be allowed to upgrade the facilities to facilitate or enhance groundwater protection pursuant to the provisions outlined in Section 17.59(3)(d). Expansion of any pre-existing non-conforming use is prohibited.

(6) DESIGN AND PERFORMANCE STANDARDS.

- (a) INTENT. The following standards and requirements shall apply to all uses permitted within the Groundwater Protection Overlay District.
- (b) LOT SIZE. Minimum lot size for unsewered residential uses shall be 2 acres except for:

1. Existing lots of record on the effective date of this ordinance.

(c) LANDSCAPING AND MAINTAINED LAWN OR GRASS.

1. All commercial and industrial uses shall be allowed a maximum of 50% of the lot area to be maintained lawn or grass. In no instance shall the area of maintained lawn or grass exceed the area of impervious surfaces on the lot.
2. Sewered residential uses are permitted a maximum area of maintained lawn or grass as shown below:

<u>Lot Area</u>	<u>Lawn Area</u>
15,000 square feet	6,000 square feet
½ Acre	8,000 square feet
¾ Acre	11,000 square feet
1 Acre	14,000 square feet
1½ Acres	20,000 square feet
2 Acres	26,000 square feet

Maximum lawn areas for lot sizes not listed shall be based on the average percentage of lawn area allowed on the two nearest lot sizes listed.

3. Unsewered residential uses are permitted a maximum area of maintained lawn or grass as shown below:

<u>Lot Area</u>	<u>Lawn Area</u>
2 Acres	8,000 square feet
3 Acres	21,000 square feet
4 Acres	31,000 square feet
5 Acres or larger	44,000 square feet

Maximum lawn areas for lot sizes not listed shall be based on the average percentage of lawn area allowed on the two nearest lot sizes listed.

4. Natural vegetative covers not requiring the use of pesticides or fertilizer after initial establishment are encouraged as an alternative to lawn or grass.
- (d) STORM DRAINAGE AND SNOW MELT. All storm drainage for commercial and industrial sites shall be retained on the site or discharged to a municipally operated storm drain. If retained on the site, storm water shall be discharged to settling basins where it shall percolate through at least six inches of topsoil with vegetation established as in Section 17.59(6)(c). Use of drywells or other subsurface drains for storm water drainage is prohibited, as is the use of a groundwater pond.
- (e) PETROLEUM, PESTICIDE, FERTILIZER AND SALT STORAGE.

1. All petroleum product storage tanks shall provide leak-proof containment not less than 125% of the tank volume except basement heating fuel storage tanks.
2. Pesticide and fertilizer storage is permitted at the location of retail sales of these products provided that the products are delivered in retail quantity containers and no re-packaging and/or mixing is done on the site.
3. Pesticide and fertilizer storage is permitted on a farm for use on that farm by the owner or farm operator.
4. Bulk liquid pesticide/fertilizer storage containers exceeding 55 gallons are permitted providing the containers are located within a leak-proof containment area not less than 125% of the volume of the largest container. ICC approved transport containers do not require containment.
5. Salt storage must conform to standards in Chapter Trans. 277, Wisconsin Administrative Code.

(f) ANIMAL WASTE - STORAGE AND HANDLING.

1. Animal waste storage facilities must meet the standards of the County Animal Waste Management Ordinance.
2. Animal waste, in combination with chemical fertilizer or other soil amendments, shall not be applied at rates which exceed the nutrient requirements of the crops grown on the application site.
3. Conduct and management of agricultural activity shall be subject to a plan utilizing standards of the County Technical Guide, as adopted by the County Land Conservation Committee.

(7) ADMINISTRATION.

- (a) DETERMINATIONS. The boundaries of the Groundwater Protection Overlay District shall be shown on the maps for Town of Texas.
- (b) APPEALS. Appeals to any administrative decision by the Town Zoning Administrator connected with this ordinance shall be made to the Board of Appeals as provided in Section 17.91 of this Ordinance and shall be supported with appropriate technical documentation as determined by the Board of Appeals.

MOBILE HOME PARKS

17.60 DISTRICTS ALLOWED.

Mobile home parks may be allowed as a conditional use in the RS-2 Single Family Residence District and the A-1 and A-2 Agricultural Districts subject to the requirements of this section and upon issuance of a conditional use permit by the Board of Appeals after public hearing.

17.61 APPLICATION FOR PERMIT.

- (1) An application for a conditional use permit for a mobile home park shall be filed as outlined in §17.13(1) and contain the information required by COMM 82 & 83, and NR 811 & 812. Plans shall be prepared showing all features required by this ordinance and Chapters ADM 65. Upon receipt of the plans, one set shall be forwarded to the County Health Department for their review and comments. Written comments or testimony shall be provided to the Board of Appeals on all applications by a Health Department representative.

17.62 REQUIREMENTS.

- (1) The minimum size of a mobile home park shall be 10 acres.
- (2) Each park shall provide mobile home lots and each such lot shall be clearly defined or delineated. Each lot shall have an area of not less than 5,000 square feet and an average width of not less than 50', provided, however, that mobile home parks which existed lawfully at the time of the adoption of this chapter and have lots that do not comply with any of the foregoing minimum area and width requirements may continue to operate. New site development within or contiguous to an existing park shall conform to the standards of this chapter.
- (3) Mobile homes shall be so located on each lot that there shall be at least a 20' clearance between mobile homes. No mobile home shall be located closer than 5' to any accessory building within the park. Mobile homes and accessory structures shall meet the street, side and rear yard requirements for the zoning district in which the mobile home park is located.
- (4) Private internal streets shall comply with ADM 65.09(3). There shall not be more than 2 entrances from or exits to such street or highway from any one such park. Access shall be approved by the unit of government having jurisdiction over the street or highway.
- (5) Walkways to service buildings shall be not less than 36" wide and shall be graveled or paved.
- (6) All driveways and walkways within the park shall be well lighted at night.
- (7) Electrical connections shall meet the requirements of Ch. COMM 16.
- (8) Each mobile home lot shall be provided with 2 parking spaces.
- (9) Each mobile home park shall be completely surrounded, except for permitted entrances and exits, by a yard, in addition to all other required yards and open spaces, which shall be planted to permanent grasses, flowers, shrubs and trees so as to provide a 50% opacity to a height of 8' during all seasons of the year. Plantings shall comply with §17.25 and §17.26. Plantings

and time frame for achieving the prescribed opacity shall be determined by the Board of Appeals based upon a proposal submitted with the conditional use permit application.

- (10) Mobile home parks shall conform to the requirements of all applicable statutes and Wisconsin Administrative Code.
- (11) Service buildings housing sanitation facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems.
- (12) Metal garbage cans with tight fitting lids shall be provided in quantities adequate to permit disposal of all garbage and rubbish. The cans shall be kept in sanitary condition with contents disposed of at least twice each week.
- (13) Every park shall be equipped at all times with fire extinguishing equipment in good working order, of such type, size and number and so located within the park as to satisfy applicable regulations of the Fire Department. No open fires shall be permitted at any place which may endanger life or property.
- (14) Adequate provisions shall be made for the disposal of all sewage from a mobile home park into a municipal sanitary sewer where available, or by properly constructed and maintained sewage system approved by the State Department of Industry, Labor and Human Relations.
- (15) Open space commons and/or play areas shall be included in the design at the ratio of 9,000 square feet per each ten (10) lots or fraction thereof, exclusive of setbacks required by §17.62(3).

17.63 MOBILE HOME USE RESTRICTIONS.

No business other than home occupations as defined in §17.08 shall be conducted in any mobile home within a mobile home park.

17.64 REGISTERS.

Each mobile home park shall maintain an office where a register complying with ADM 65.15 shall be kept. The register shall be open to town officials for inspection.

MOTOR VEHICLE AND PARKING REGULATIONS

17.70 LOADING REQUIREMENTS.

In all Districts adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

17.71 PARKING REQUIREMENTS.

- (1) In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended or increased, off street parking stalls for all vehicles in accordance with the following:

- (a) Adequate access or a public street shall be provided for each parking stall and driveways shall be at least 12' wide.
- (b) Each parking stall shall be not less than 9' in width and not less than 180 square feet in area exclusive of the space required for ingress and egress. Unpaved and unstriped parking lots for use by the general public shall provide 360 square feet per parking space, exclusive of ingress/egress lanes.
- (c) No parking stall or driveway except in residential districts shall be closer than 25' to a residential district lot line or a street line opposite a residential district.

(2) Number of parking stalls required:

Single Family Dwellings and Mobile Homes	2 Stalls/Dwelling Unit
Two Family and Multi-family Dwellings	2 Stalls/Dwelling Unit
Hotels, Motels	1 Stall/Guest Room + 1 Stall/3 Employees
Hospitals, Clubs, Lodges, Sororities, Dormitories Lodging and Boarding Houses	1 Stall/2 Beds + 1 Stall/3 Employees
Sanitariums, Institutions, Rest and Nursing Homes	1 Stall/5 Beds + 1 Stall/3 Employees
Medical and Dental Clinics	4 Stalls/Doctor + 1 Stall/Employee
Churches, Theaters, Auditoriums Community Centers, Vocational and Night Schools and Other Places of Public Assembly	1 Stall/5 Seats
Colleges, Secondary and Elementary Schools	1 Stall/2 Employees + A Reasonable Number of Stalls for Student and Other Parking
Restaurants, Bars, Places of Entertainment, Repair Shops, Retail and Service Stores	1 Stall/150 Square Feet of Floor Area
Manufacturing and Processing Plants, Laboratories and Warehouses	1 Stall/2 Employees During Any 12 hr. Period

Financial Institutions, Business, Governmental and Professional Offices	1 Stall/300 Square Feet of Floor Area
Funeral Homes	1 Stall/4 Seats
Bowling Alleys	3 Stalls/Bowling Lanes
Golf Courses	4 Spaces/Hole
Ball Diamonds	40 Spaces/Diamond
Volleyball Courts	20 Spaces/Court
Bars w/live music or DJ, banquet halls, dance clubs	1 Space/50 Square Feet of Patron Space, Including Outdoor Decks and Patios

- (a) In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use during such periods of time as the various uses are reasonably likely to be simultaneously requiring parking for employees, customers and other persons.
- (b) Parking lots containing 10 or more stalls which are located in the Residence Districts or adjoining residential lots shall be screened along the side or sides of such lots which abut the lot lines of residential lots by a solid wall, fence, evergreen planting of equivalent opacity or other equally effective means, built or maintained at a minimum height of 4'. If parking lots so located are lighted, the lights shall be so shielded as to prevent glare or illumination of adjoining residential property.

17.72 DRIVEWAYS.

- (1) No direct access shall be permitted to the existing or proposed right-of-way of: expressways, freeways or interstate highways; nor to any other road, street or highway without permission of the authority maintaining the facility.
- (2) Vehicle entrances and exits to drive-in theaters, banks and restaurants; motels, funeral homes, vehicular sales, service, washing and repair stations; garages or parking lots shall be not less than 200' from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or place of public assembly.

SIGNS

17.80 GENERAL.

- (1) No signs or billboards shall be permitted in any district except as specifically permitted herein.
- (2) At no time shall signs be permitted within a vision clearance triangle in such a manner as to restrict vision or impair safety. (See §17.25.)
- (3) No sign located within 150' of a highway or street right-of-way shall contain, include or be illuminated by a flashing or rotating beam of light.
- (4) No sign shall be illuminated by any source of light that is not shielded to prevent glare of illumination of residential property other than that of the sign owner; nor shall the glare of any light source be so directed as to impair the safety of moving vehicles.
- (5) No signs, except of a public nature normal to public right-of-ways, shall be permitted within any public right-of-way without approval in writing from the jurisdictional governmental unit.
- (6) No sign larger than 5 square feet shall be located, erected, moved, reconstructed or enlarged until a zoning permit has been issued.
- (7) No permanent sign shall be located closer than 75' from the ordinary high-water mark of any navigable or perennial body of water, in the floodway of any stream or in any shoreland-wetland.
- (8) Area measurements of signs shall include any border or trim but not the standard or supporting structure.
- (9) Signs placed by or on behalf of individuals or businesses who contributed to the development or maintenance of a community park, recreation area or similar project may be allowed by the Town Zoning Administrator and the Town Board with no permit(s) required. These signs shall not conflict with state or federal sign regulations, shall not exceed 32 square feet in area and shall meet all setbacks or be part of an existing legal fence.

17.81 SIGNS IN RESIDENTIAL, CONSERVANCY, AND AGRICULTURAL DISTRICTS.

The following signs are permitted when located no less than 15' from the public right-of-way line, except as otherwise provided in this section:

- (1) Customary, professional and home occupation signs not exceeding 20 square feet and "For Rent" or "For Sale" signs, not exceeding 4 square feet in area or as provided for in §17.49(2)(k).
- (2) One on premises announcement sign or bulletin board of an appropriate nature, identifying a hospital, school, church or other similar facility or institution, not exceeding 20 square feet in area.

- (3) Temporary signs of not more than 50 square feet in area for the purpose of advertising an auction, bazaar, festival, political or other special event. Signs shall be removed at the conclusion of the event.
- (4) Temporary signs as defined in 17.81 (3) shall not require a permit. Notwithstanding, any temporary sign on display for a period exceeding 60 days in length of duration shall be required to obtain a permit. If issued a permit, the temporary sign shall be removed within 30 days of issuance. No temporary sign permit may be extended or reissued for any said sign location.
- (5) Off premises signs provided they are directional only, the outside dimensions of which do not exceed 20 square feet, are located within a 3 mile radius of the advertised business or activity and are not in conflict with Ch. HY-19, Wis. Adm. Code, or §84.30 and Ch. 196, Wis. Stats.
- (5) Signs necessary to the public safety and welfare or for the identification, operation or protection of a public utility installation shall be no larger than 3 square feet and may be located any distance outside of the public right-of-way.
- (6) In all agricultural districts, signs which advertise agricultural products that are produced on the property where the sign is located shall be permitted provided the following conditions are met:
 - (a) Signs shall not conflict with State or federal sign regulations. (Note: it shall be the responsibility of the person wishing to erect or paint the sign to obtain any and all other permits or approvals.)
 - (b) For signs larger than 32 square feet, all conditions set forth in §17.82(2)(a)-(d) shall be met.
 - (c) Signs shall be located on an operating farm and adjacent to the principal building or buildings used in the production of the agricultural product being advertised.
 - (d) Signs shall contain only one message per face, and no more than one double face or 2 single face signs larger than 32 square feet per face shall be permitted.
 - (e) Signs which are 32 square feet in area or less shall be permitted as farm identification signs. These signs shall include the farm name and/or surname of the farm operator. Farm identification signs shall be no less than 15' from the right-of-way.
 - (f) No sign other than a farm identification sign as defined in par. (e) above, shall contain a brand name, trade name, organization, co-op, union or bureau name.

17.82 SIGNS IN RECREATIONAL, COMMERCIAL AND INDUSTRIAL DISTRICTS.

The following signs are permitted:

- (1) All signs permitted in §17.81.

- (2) Identifying signs advertising a business or activity conducted on the premises in accordance with the following provisions:
 - (a) Wall signs placed against the exterior walls of buildings shall not extend more than 1' from the wall surface and shall not exceed 300 square feet in area.
 - (b) Projecting signs fastened to, suspended from or supported by attached structures shall not exceed 40 square feet in area on a side.
 - (c) Ground signs shall meet all yard requirements for the district in which they are located, shall not exceed 200 square feet on a side and shall not exceed 25' in height above the main road grade.
 - (d) Roof signs shall not exceed 10' in height above the roof or parapet nor may such a sign extend beyond the building upon which it is located and shall not exceed 200 square feet on a side.
- (3) Off premises signs and billboards:
 - (a) Signs and billboards shall meet the requirements of Ch. HY 19, Wis. Adm. Code, or §84.30 and Ch. 196, Wis. Stats. Signs and billboards shall meet all yard requirements for the district in which they are located, have a minimum separation of 1,000' from all other billboards which exceed 300 square feet in area. (See definition, SIGN, BILLBOARD, DIRECTIONAL, in §17.08 of this chapter.)
 - (b) Signs and billboards which are not within the jurisdiction of the Wisconsin Administrative Code or State Statutes, shall meet the same size requirements as on premises signs in sub. (2) of this section.

17.83 UNSAFE AND UNLAWFUL SIGNS AND ADVERTISING DEVICES.

The following signs and advertising devices are hereby declared to be unlawful:

- (1) A revolving sign.
- (2) A sign advertising an article or product not manufactured, assembled, processed, or repaired on the premises.
- (3) A sign relating to the lease, hire or sale of a building or premises other than the building or premises upon which the sign is displayed.
- (4) A sign advertising a service not rendered on the premises upon which the sign is located.
- (5) The exterior use of any advertising device as herein defined.

Removal of unsafe signs:

- (1) When any sign becomes insecure, in danger of failing or otherwise unsafe, or if any sign or advertising device shall be unlawfully installed or maintained in violation of this Chapter, the Town Board, the Town Zoning Administrator, or duly authorized agents, shall have the authority to remove same immediately and recoup from the owner of said sign the reasonable costs of said removal, provided however, that notice shall be given by the Town Zoning Administrator, or authorized agents, in writing to the owner of such sign and the owner of property upon which same is located, which such notice shall be sent to the last known address of said owners promptly upon removal of such sign.

17.84 EXISTING SIGNS/SPECIAL PROVISIONS.

Signs lawfully existing at the time of the adoption or amendments of this chapter may be continued although the use, size or location does not conform with the provisions of this chapter. Any sign or any part thereof which is blown down, destroyed or removed may be re-erected, reconstructed, rebuilt or relocated unless in compliance with all of the applicable requirements of this Ordinance. However, such signs shall be deemed nonconforming uses or structures and shall therefore be subject to the provisions of §17.19, Nonconforming Structures and Uses.

17.85 WIND

Purpose. The purpose of this Ordinance is to adopt and incorporate the requirements of Wis. Stat. § 66.0401 and Wis. Admin. Code PSC Ch. 128 as a local ordinance and to establish local regulations on the installation and use of wind energy systems that are authorized by, compliant with, and no more restrictive than the rules promulgated by the Wisconsin Public Service Commission and that serve to preserve or protect the public health or safety; or 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.

AUTHORITY

This Ordinance is adopted pursuant to Wis. Stat. § 66.0401 and Wis. Admin. Code PSC Ch. 128.

DEFINITIONS

Terms found in this Ordinance shall have the same meaning as defined in Wis. Admin. Code PSC § 128.01 unless noted specifically below or unless context requires otherwise.

1. Agricultural Use means any of the following activities for the purpose of producing an income or livelihood: crop or forage production, keeping livestock, beekeeping, nursery, sod or Christmas tree farming, floriculture, aquaculture, fur farming, forest management, or enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

1. Community Building means a school, church, or similar place of worship, daycare facility, public library, or other community building.

1. Confined Animals means an animal on a lot or in a facility where animals are or will be stabled or confined and fed or maintained.

1. dBA means a-weighted decibels which is a measurement of the relative loudness of sounds in air as perceived by the human ear.

Decommissioning means removal of all of the following: The above ground portion of a wind energy system, including wind turbines and related facilities, except for access roads if removal has been waived by the property owner.

Underground collector circuit facilities.

Those portions of concrete structures 4 feet or more below grade.

1. kW means a Kilowatt.

1. Large Wind Energy System or large wind means a Wind Energy System that has a total installed nameplate capacity of more than three hundred (300) kilowatts and that consists of individual Wind Turbines that have an installed nameplate capacity of more than one hundred (100) kilowatts.

1. Line-of-Sight Communications means the direct path from a transmitter to a receiver.

1. Maximum Blade Tip Height means the nominal hub height plus the nominal blade length of a wind turbine, as listed in the wind turbine specifications provided by the wind turbine manufacturer. If not listed in the wind turbine specification, Maximum blade tip height means the actual hub height plus the blade length.

1. Meteorological Measuring Device means an instrument, such as an anemometer that measures wind speed.

1. Nameplate Capacity means the maximum rated output of a wind turbine under specific conditions designated by the manufacturer.

1. Owner means a person with a direct ownership interest in a wind energy system, regardless of whether the person was involved with acquiring the necessary rights, permits, and approvals, or otherwise planning for the construction and operation of a wind energy system.

a. At the time a wind energy system is being developed, a person who is acting as a wind energy system developer by acquiring the necessary rights, permits, and approvals for or by planning for the construction and operation of a wind energy system, regardless of whether the person will own or operate the wind energy system.

. Participating Property means any of the following: A turbine host property.

1 Real property that is subject of an agreement that does all of the following: Provides for the payment of monetary compensation to the landowner from an owner regardless of whether any part of a wind energy system is constructed on the property.

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— Specifies in writing any waiver of a requirement or right under this chapter and that the landowner's acceptance of payment establishes the landowner's property as a participating property.

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1. Participating Residence means a residence located on participating property.
1. Participating Resident means a residence located on a participating property.
1. Permit means a zoning permit issued by the Town.
1. PSC refers to Wisconsin Administrative Code PSC.
1. Nonparticipating Property means real property that is not a participating property.
1. Nonparticipating Residence means a residence located on nonparticipating property.
1. Shadow Flicker means a pattern of moving shadows caused by sunlight shining through moving wind turbine blades resulting in alternating changes in light intensity.
1. Small Wind Energy System or small wind means a Wind Energy System that has a total installed nameplate capacity of three hundred (300) kilowatts or less and that consists of individual Wind Turbines that have an installed nameplate capacity of not more than one hundred (100) kilowatts.
1. Turbine Host Property means real property on which at least one wind turbine is located.
1. Wind Access Easement means a written document that creates a legal interest in real property that restricts the use of the property to avoid interference with the wind resource on another property.
1. Wind Energy System Easement means a written document that creates a legal interest in real property that permits an owner to place, construct, or operate a wind turbine or other wind energy system facility on the property.
1. Wind Energy System means equipment and associated facilities that convert and then store or transfer energy from the wind into usable forms of energy.
1. Wind Turbine means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator. Wind Turbine includes a nacelle, rotor, tower, pad transformer, and other appurtenant structures and/or facilities.
1. Windmill means a wind-driven machine that does not produce electricity.

PERMIT REQUIREMENT AND FEE

1. The Owner, or his agent, shall apply for and receive a zoning permit from the Town before a proposed Wind Energy System is installed, constructed, or expanded. The Owner shall obtain a zoning permit before any such work can commence. The Owner shall pay an application review fee, which is applied to the cost of reviewing the application. The Owner shall pay a separate permit fee before any permit is issued. All fees shall as from time to time be set by the Town Board.

1. Costs:

. The Owner is responsible for paying all costs incurred by the Town in connection with the review and processing of the application, including the cost for services provided by outside attorneys, engineers, environmental specialists, planners, and other consultants and experts deemed necessary by the Town.

. The Town shall invoice the Owner for the actual and necessary costs incurred pursuant to this Ordinance. The Owner will be provided fifteen (15) days from the date of the invoice to reimburse the Town.

. The Town is authorized to contract with one (1) or more engineers, environmental specialists, planners, and other consultants and experts to perform necessary services in connection with the application for a Wind Energy System.

. PERMIT EXPIRATION AND EXTENSION

A Zoning Permit issued under this Ordinance shall expire if at least fifty-one (51) percent of the project construction has not been completed within twelve (12) months of the permit issue date. An extension may be requested in writing to the Town Board for up to twelve (12) additional months provided the original permit has not yet expired. The Town Board may grant an extension provided the project is not inconsistent with any subsequently enacted law, rule, or regulation. 19.06 Application requirements.

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1. For small Wind Energy Systems, the Owner shall file an application with the Town that, at a minimum, includes the following information:

a. Wind Energy System description and maps showing the locations of all proposed wind energy facilities. The description and maps shall include:

i. The location of each Wind Turbine.

ii. Each Wind Turbine's setback distance from the closest Wind Energy System boundary.

iii. Access roads and turnout locations.

iv. Location of wells, abandoned or active, adjacent to the Wind Energy System.

b. Technical description of Wind Turbines and Wind Turbine sites.

c. Timeline and process for constructing the Wind Energy System.

d. Information regarding anticipated impact of the Wind Energy Systems on local infrastructure.

e. Information regarding noise anticipated to be attributable to the Wind Energy System.

f. Information regarding shadow flicker anticipated to be attributable to the Wind Energy System.

g. Information regarding the anticipated effects of the Wind Energy System on existing land uses adjacent to the Wind Energy System.

h. Information regarding the anticipated effects of the Wind Energy System on airports and airspace.

j. Information regarding the anticipated effects of the Wind Energy System on Line-of-Sight Communications.

k. A list of all state and federal permits required to construct and operate the Wind Energy System.

1. Information regarding the planned use and modification of roads during the construction, operation, and decommissioning of the Wind Energy System, including a process for assessing road damage caused by Wind Energy System activities and for conducting road repairs at the owner's expense.

A representative copy of all notices issued under PSC § 128.10(5) and PSC § 128.105(1), which are: Pre-application notice. At least sixty (60) days before an Owner files an application to construct a Wind Energy System, an Owner shall use commercially reasonable methods to provide written notice of the planned Wind Energy System to all of the following:

- i. Adjacent landowners to the planned Wind Turbine host property; and
- ii. Political subdivisions within which the Wind Energy System may be located.

2. For large Wind Energy Systems, the Owner shall file an application with the Town that, at a minimum, includes the following information:

a. All information required under sec. (6)(a)1-6 and 8-11 of this Ordinance.

b. Information regarding the anticipated effects of the Wind Energy System on existing land uses within one (1) mile of the Wind Energy System.

c. A representative copy of all notices issued under PSC §§ 128.105(1) and 128.42, which are:

i. PSC § 128.105(1): Pre-application notice. At least ninety (90) days before the Owner files an application to construct a Wind Energy System, the Owner shall use commercially reasonable methods to provide written notice of the planned Wind Energy System to all of the following:

A. Land owners within one mile of the planned Wind Turbine host property.

B. Political subdivisions within which the Wind Energy System may be located.

C. Emergency first responders and air ambulance service providers serving the political subdivisions within which the Wind Energy System may be located.

D. The Wisconsin Department of Transportation.

E. The Public Service Commission.

F. The Wisconsin Department of Natural Resources.

G. The Wisconsin Department of Agriculture, Trade and Consumer Protection.

H. The Office of the Deputy Undersecretary of the U.S. Department of Defense.

ii. PSC § 128.42(1): Notice of process for making complaints. Before construction of a Wind Energy System begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within one (1) mile of any Wind Energy System facility. An owner shall include in the notice the requirements under PSC § 128.40(1) for submitting a complaint to the Owner, a petition for review to the political subdivision, and an appeal to the commission, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning.

APPLICATION PROCESSING

A. A copy of all emergency plans developed in collaboration with appropriate first responders under PSC § 128.18(4)(b). An Owner may file plans using confidential filing procedures as necessary.

B. A decommissioning and site restoration plan providing reasonable assurance that the Owner will be able to comply with PSC § 128.19.

iii. For all applications, the Owner shall ensure that information contained in the application is accurate.

iv. Evidence shall be included for all applications to show that, on the same day an owner filed an application under this Ordinance, the owner did use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents as required under PSC §§ 128.10(5), 128.105(1) and 128.42 as applicable.

1. Within forty-five (45) days of receiving the application, the Zoning Administrator shall notify the Owner in writing whether the application is complete and, if it is not, what the Owner must do in order to make it complete.

- a. The Owner shall provide the additional information specified in the notice to the Zoning Administrator within sixty (60) days of the date of the notice.
 - b. An additional forty-five (45)-day completeness review period shall begin the day after the Zoning Administrator receives responses to all items identified in the notice under subsection 1.
 - c. If the Owner fails to provide additional information specified in the notice to complete the application within sixty (60) days of the date of the notice, the application shall be deemed abandoned. The Owner may file a new application at a later date, subject to payment of a new application fee. There is no limit to the number of times that an Owner may file an application.
 - d. An application shall be deemed complete if it complies with the filing requirements of section (6) of this Ordinance and of PSC § 128.50.
2. A date and time for a public hearing before the Plan Commission on the application shall be set as soon as possible after receiving a complete application. The Plan Commission shall publish a class 1 notice, under Wis. Stat. Ch. 985 stating that an application has been filed with the Town. If the application is deemed incomplete, the notice shall state the reason for the determination. The notice shall include a brief description of the proposed Wind Energy System and its proposed location, the locations where the application is available for public review, the method and time period for the

REVOCATION OF PERMIT

Approval of an application may be rescinded by the Town Board if construction of the Wind Energy System is not in conformance with the approved plans. A deviation from the approved plans shall constitute a violation of this Ordinance.

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submission of public comments to the Plan Commission, and the approximate schedule for review of the application by the Town.

4. The Town Board and Plan Commission shall make a record of its decision making on an application, including a written record of the public hearing, copies of documents submitted at the public hearing, and copies of any other documents provided to the Town in connection with the application.
5. The Town Board shall base its decision and the Plan Commission shall base its recommendation on an application on written findings of fact that are supported by the evidence in the record of the public hearing.
6. The Town Board shall grant or deny an application for a Wind Energy System no later than ninety (90) days after the day on which it notifies the Owner that the application for approval is complete. The Town Board may extend this time period in writing provided the extension is done during the initial ninety (90)-day period. Any combination of the following extensions may be granted:
 - a. An extension of up to forty-five (45) days if the Town Board needs additional information to determine whether to approve or deny the application.
 - b. An extension of up to ninety (90) days if the Owner makes a material modification to the application.
 - c. An extension of up to ninety (90) days for other good cause specified in writing by the Town. If the Town fails to act within the initial ninety (90) days, or within any extended time period, the application is considered approved.
7. The Town Clerk shall provide a written decision to the Owner and the Public Service Commission.
8. The Town Board may enter into a development agreement with an Owner that supersedes in whole or in part the requirements of this Section.
1. The Town Board shall notify the Owner of the date, time, and place of the meeting at which the revocation shall be considered at least twenty (20) days prior to the meeting at which the case will be considered. The Owner shall be given the opportunity to present information and to answer questions.

The Town Board, as appropriate, may revoke approval if it finds that a violation exists and has not been remedied prior to the meeting.

REAL PROPERTY PORVISIONS

1. Easement recording required. A Wind Energy System easement or wind access easement shall be recorded under Wis. Stat. Ch. 706. A Wind Energy System easement or wind access easement shall include the term of the easement and a full legal description of the property subject to the easement.
2. Wind lease and waiver provisions. A Wind Energy System lease and any waiver under sections 19.11(4) and 19.15(2) shall hold harmless and indemnify the real property owner for all of the following:
 - a. Any violation of federal, state or local law by the Owner of the Wind Energy System.
 - b. Any damages or bodily injury caused by the construction, operation or decommissioning of the Wind Energy System.

EXISTING PROPERTY USES

1. Land use and commercial enterprises. An Owner shall make reasonable efforts to ascertain and accommodate any land use or commercial enterprise located on a nonparticipating property within one (1) mile of a proposed Wind Turbine site if the land use or commercial enterprise exists when the Owner gives notice under PSC § 128.105(1), or if complete publicly-available plans for construction are on file with a political subdivision within thirty (30) days of the date the Owner gives notice under PSC § 128.105(1).
2. Land use and commercial enterprises – Small wind. Subsection (a) applies to small Wind Energy Systems but only for existing land uses and enterprises that are located on adjacent nonparticipating properties.
3. Agricultural use. An Owner shall design a Wind Energy System to reasonably minimize the conversion of land from agricultural use.

SHADOW FLICKER

1. Planning.
 - a. The shadow flicker requirements in this section apply to a nonparticipating residence or Community Building that exists when the Owner gives notice under PSC § 128.105(1) or for which complete publicly-available plans for construction are on file with a political subdivision within thirty (30) days of the date on which the Owner gives notice under PSC § 128.105(1).
 - b. An Owner shall design the proposed Wind Energy System to minimize shadow flicker at a residence or Community Building to the extent reasonably practicable.
 - c. An Owner of a large Wind Energy System shall use shadow flicker computer modeling to estimate the amount of shadow flicker anticipated to be caused by a Wind Energy System and shall design the Wind Energy System so that computer modeling indicates that no nonparticipating residence or Community Building will experience more than thirty (30) hours per year of shadow flicker under planned operating conditions.
2. Shadow flicker limits. An Owner shall operate the Wind Energy System in a manner that does not cause more than thirty (30) hours per year of shadow flicker at a nonparticipating residence or Community Building. If a nonparticipating residence or Community Building experiences more than thirty (30) hours per year of shadow flicker under the Wind Energy System's normal operating conditions, the Owner shall use operational curtailment to comply with this subsection.
3. Shadow flicker mitigation.
 - a. An Owner of a Wind Energy System shall work with an Owner of a nonparticipating residence or Community Building to mitigate the effects of shadow flicker to the extent reasonably practicable.
 - b. An Owner of a large Wind Energy System shall provide reasonable shadow flicker mitigation at the Owner's expense for a nonparticipating residence or Community Building experiencing twenty (20) hours or more per year of shadow flicker.
 - c. An Owner of a large Wind Energy System shall model shadow flicker and a nonparticipating residence or Community Building is eligible for mitigation if computer modeling shows that there will

be shadow flicker at the nonparticipating residence or occupied Community Building will be twenty (20) hours or more per year. Community Building. An Owner of a nonparticipating residence or Community Building is not required to document the actual hours per year of shadow flicker if modeling indicates the nonparticipating residence or Community Building is eligible for mitigation. A nonparticipating residence or Community Building that experiences twenty (20) hours or more per year of shadow flicker based on records kept by the resident of a nonparticipating residence or the occupant of a Community Building shall also be eligible for mitigation.

d. An Owner of a large Wind Energy System may provide shadow flicker mitigation for any residence or Community Building in addition to the mitigation required under subsection 2.

e. The requirement under subsection 3. to mitigate shadow flicker applies when the Owner of a large Wind Energy System receives a complaint or request for mitigation regarding shadow flicker for an eligible nonparticipating residence or Community Building. If shadow flicker mitigation is required, the Owner of the Wind Energy System shall allow the owner of the nonparticipating residence or Community Building to choose a preferred reasonable mitigation technique, including installation of blinds or plantings at the Wind Energy System Owner's expense.

4. Waiver. Upon request by an Owner of a Wind Energy System, an owner of an affected nonparticipating residence or Community Building may relieve the Wind Energy System Owner of a requirement under subsection (2) or (3)b. at the affected nonparticipating residence or Community Building by written contract with the Wind Energy System Owner.

5. Notification.

a. Before entering into a contract under subsection (d), a large Wind Energy System Owner shall provide notice of the requirements of this section to individual owners of an affected nonparticipating residence or Community Building.

b. Before the initial operation of the large Wind Energy System, a large Wind Energy System Owner shall provide notice of the requirements of this section to an owner of a nonparticipating residence or Community Building within one-half (0.5) mile of a constructed Wind Turbine that has not entered into a contract under subsection (d).

SIGNAL INTERFERENCE

1. Planning.

a. Except as provided in section (11)(d), the signal interference requirements in this section apply to commercial communications and personal communications in use when the Wind Energy System begins operation.

b. An Owner shall use reasonable efforts to avoid causing interference with commercial communications and personal communications to the extent practicable.

c. An Owner may not construct Wind Energy System facilities within existing Line-of-Sight Communications paths that are used by government or military entities to provide services essential to protect public safety. The Town may require an Owner to provide information showing that Wind Turbines and other Wind Energy System facilities will be in compliance with this paragraph.

2. Commercial communications interference mitigation. An Owner of a large Wind Energy System shall use reasonable and commercially available technology to mitigate interference caused by a Wind Energy System with commercial communications in use when a Wind Energy System begins operation. Before implementing mitigation measures,

the Owner shall consult with affected parties regarding the preferred mitigation solution for commercial communications interference problems. Except as provided in section 11(d), an Owner shall mitigate commercial communications interference caused by the Wind Energy System by making the affected party's preferred reasonable mitigation solution effective until either the Wind Energy System is decommissioned or the communication is no longer in use, whichever is earlier.

3. Personal communications interference mitigation.

1. a. An Owner of a large Wind Energy System shall use reasonable and commercially available technology to mitigate interference with personal communications in use when a Wind Energy System begins operation caused by a Wind Energy System. The Town may require an Owner to use reasonable and commercially available technology to mitigate interference with personal communications that were not in use when the Wind Energy System began commercial operation, if a Wind Energy System is causing the interference and the interference occurs at a location at least one-half (0.5) mile from a Wind Turbine.

b. Before implementing mitigation measures, the Owner of a large Wind Energy System shall consult with affected parties regarding the preferred mitigation solution for personal communications interference problems. Except as provided in section (11)(d), an Owner shall mitigate personal communications interference caused by the Wind Energy System by making the affected party's preferred reasonable mitigation solution effective until either the Wind Energy System is decommissioned or the communication is no longer in use, whichever is earlier.

4. Mitigation protocol. The Town may, under a protocol established under PSC § 128.50(2), require an Owner to implement a new mitigation solution that becomes commercially available before the Wind Energy System is decommissioned to address interference for which mitigation is required under section (11)(b) or 11(c) and for which the original mitigation solution implemented is only partially effective.

STRAY VOLTAGE

1. Testing required.

a. An Owner shall work with the local electric distribution company to test for stray voltage at all dairy and confined animal operations within one-half (0.5) mile of a Wind Energy System facility pursuant to the stray voltage protocol established by the commission before any Wind Energy System construction activity that may interfere with testing commences and again after construction of the Wind Energy System is completed, except as otherwise specified by commission staff under subsection 2.

b. Before any testing under subsection 1. begins, an Owner shall work with the Town to determine the manner in which stray voltage testing will be conducted and on which properties. The electric distribution company serving a dairy or confined animal operation where testing is required under subsection 1. shall conduct or arrange to conduct all required testing at the expense of the Owner.

2. Results of testing. An Owner and the electric distribution company shall provide to the commission and the Town staff the results of all stray voltage testing in writing.

3. Requirement to rectify problems. An Owner shall work with the electric distribution company and farm Owner to rectify any stray voltage problems attributable to the construction and operation of the Wind Energy System, in compliance with the commission's stray voltage protocol.

19.14 Lighting.

1. Large Wind Energy Systems:

a. An Owner shall use shielding or control systems approved by the federal aviation administration to reduce visibility of light to individuals on the ground.

2. Small Wind Energy Systems:

a. A small Wind Energy System may be artificially lighted only if lighting is required by the Federal Aviation Administration.

b. An Owner shall use shielding or control systems approved by the Federal Aviation System to reduce visibility of light when viewed from the ground.

NOISE

1. The noise generated by the operation of a Wind Energy System may not exceed fifty (50) dBA during the daytime hours and forty-five (45) dBA during the nighttime hours as measured at the outside wall of a nonparticipating residence or Community Building that existed when the Owner gave notice pursuant to PSC § 128.105(1) or for which complete publicly available plans for construction were on file with the Town within thirty (30) days of the date when the Owner gave notice pursuant to PSC § 128.105(1).
2. The Owner of an adjacent nonparticipating residence or adjacent Community Building may relieve the Owner of a Wind Energy System of the requirement to meet any of the noise limits in this section by written contract as provide in PSC § 128.14(5) and (6).
3. The Owner shall provide the notice as prescribed by PSC § 128.14(6)(b) and PSC § 128.61(4) as applicable.
4. If an Owner receives a complaint of a violation of the noise standards contained in PSC 128.14 and the Owner has not provided the Town with the results of an accurate test conducted within two (2) years of the date of the complaint showing that the Wind Energy System is in compliance with the noise standard at the location relating to the complaint, the Owner shall promptly conduct a noise study to evaluate compliance with the noise standards at that location using the most current version of the noise measurement protocol as described in PSC § 128.50(2).
5. In the event audible noise due to Wind Energy System operations contains a steady pure tone, such as a whine, whistle, screech, or hum, the Owner shall promptly take corrective action to permanently eliminate that noise. This paragraph does not apply to sound the Wind Energy System produces under normal operating conditions.

SETBACKS

1. An Owner shall measure Wind Turbine setback distances as a straight line from the vertical centerline of the Wind Turbine tower to the nearest point on the permanent foundation of a building or residence or to the nearest point on the property line or feature, as applicable.
2. An Owner shall work with owners of Participating and Nonparticipating Properties to site Wind Turbines to minimize individual hardships.
3. For small Wind Energy Systems:
 - a. A small Wind Energy System must be set back at least one (1.0) times the maximum blade tip height from any nonparticipating property line, nonparticipating residence, Community Building, or overhead communication and electrical transmission line, not including utility service lines to individual houses or outbuildings.
 - b. The owner of an adjacent nonparticipating property, adjacent nonparticipating residence or adjacent Community Building may waive the required setback distance by providing a written agreement with the Owner to the Town.
4. For large Wind Energy Systems:
 - a. A large Wind Energy System shall comply with the following setbacks distances as follows:
 - i. A Large Wind Energy System shall be setback the lesser of One Thousand and Two-Hundred and Fifty feet (1,250') or 3.1 times the maximum blade tip height from Community Buildings.
 - ii. A Large Wind Energy System shall be setback no less than 1.1 times the maximum blade tip height from Participating Residences.

- iii. A Large Wind Energy System shall be setback the lesser of One Thousand and Two-Hundred and Fifty feet (1,250') or 3.1 times the maximum blade tip height, from Nonparticipating Residences.
 - iv. A Large Wind Energy System shall be setback no less than 1.1 times the maximum blade tip height from Nonparticipating Property lines.
 - v. A Large Wind Energy System shall be setback no less than one 1.1 times the maximum blade tip height from overhead communication and electric transmission or distribution lines, not including utility service lines to individual houses or outbuildings.
 - vi. A Large Wind Energy System shall be setback no less than one 1.1 times the maximum blade tip height from public road rights-of-way.
 - vii. There shall be no minimum setback for a Large Wind Energy System from Participating Property lines and overhead utility services lines, including lines to individual houses and outbuildings.
 - b. The owner of a Nonparticipating Residence or Community Building may waive the applicable Wind Turbine Setback distances in subsection 4(a) for those structures to a minimum setback distance of 1.1 times the maximum blade tip height. The owner of a Nonparticipating Property may waive the applicable Wind Turbine Setback distance in subsection 4(a) from a nonparticipating property line.
5. Wind Energy Systems shall meet the noise decibel requirements of Section (15)(a) and shadow flicker requirements of Section (11) at said setbacks.

MATERIAL CHANGE/MODIFICATIONS

An Owner may not make a material change in the approved design, location or construction of a Wind Energy System without the prior written approval of the Town. An Owner shall submit an application for a material change to an approved Wind Energy System to the Town. The Town may not reopen the merits of the earlier approval, but shall consider only those issues relevant to the proposed change. An application for material change is subject to PSC § 128.35. At its discretion, the Town may hold at least one (1) public meeting to obtain comments on and to inform the public about a proposed material change to an approved Wind Energy System.

OWNERSHIP CHANGE

An Owner shall provide the Town with notice of any change in ownership of the Wind Energy System thirty (30) days before the effective date of the change. A notice of change in ownership of a large Wind Energy System shall include information showing that the financial responsibility for decommissioning specified under this Ordinance will be met by the new Owner.

CONSTRUCTION, OPERATION, AND MAINTENANCE

Physical characteristics are as follows:

- 1. An Owner may not display advertising material or signage other than warnings, equipment information, or indicia of ownership on a Wind Turbine. An Owner may not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices to a Wind Turbine. An Owner may attach a safety feature or wind monitoring device to a Wind Turbine.
- 2. An Owner shall ensure that a Wind Turbine has a conventional or unobtrusive finish.
- 3. An Owner shall install lighting at a Wind Energy System that complies with standards established by the federal aviation administration. A political subdivision may not establish lighting requirements for a Wind Energy System that conflict with standards established by the federal aviation administration. A political subdivision may require use of shielding or control systems approved by the federal aviation administration to reduce visibility of lighting to individuals on the ground.
- 4. An Owner shall take appropriate measures to ensure that a Wind Turbine is not readily climbable except by authorized personnel.
- 5. An Owner shall ensure that all Wind Turbine access doors and electrical equipment are locked when authorized personnel are not present.

6. An Owner shall place appropriate warning signage on or at the base of each Wind Turbine.
7. An Owner of a large Wind Energy System shall post and maintain up-to-date signs containing a 24-hour emergency contact telephone number, information identifying the Owner, and sufficient information to identify the location of the sign within the Wind Energy System. An Owner shall post these signs at every intersection of a Wind Energy System access road with a public road and at each Wind Turbine location.
8. An Owner shall clearly mark guy wires and supports for a Wind Energy System, meteorological tower or other device for measuring wind speeds so that the wires and supports are visible to low flying aircraft under fair weather conditions.

ELECTRICAL STANDARDS

1. An Owner shall construct, maintain, and operate collector circuit facilities in a manner that complies with the national electrical safety code and PSC Ch. 114 and shall construct, maintain, and operate all Wind Energy System facilities in a manner that complies with the national electrical code.
2. An Owner of a large Wind Energy System shall construct collector circuit facilities for a Wind Energy System underground to the extent practicable.
3. An Owner of a large Wind Energy System shall establish an inspection schedule for all overhead collector circuits to ensure that third-party facilities, including cable television and telecommunications cables, are not attached or bonded to overhead collector circuit grounding. If third-party facilities are found attached to the overhead collector facilities, the Owner shall ensure that the third-party facilities are promptly removed.

CONSTRUCTION, OPERATION, AND MAINTENANCE STANDARDS

1. An Owner shall construct, operate, repair, maintain and replace Wind Energy System facilities as needed to keep the Wind Energy System in good repair and operating condition and in a manner that protects individuals from injury.
2. Large Wind Energy Systems.
 - a. An Owner of a large Wind Energy System shall carry general liability insurance relating to claims for property damage or bodily injury arising from the construction, operation, and decommissioning of the Wind Energy System and shall include turbine host property owners as additional insured persons on the policy.
 - i. The Owner's insurance policy shall provide sufficient coverage for any personal injuries, deaths, or property damage that could be caused by the Wind Energy System.
 - ii. The Owner's insurance policy shall provide a level of coverage that is mutually agreeable with the Town.
 - iii. The insurance policies shall contain an endorsement obligating the insurance company to provide the Town with thirty (30) days written notice in advance of an Owner's policy cancellation.
 - iv. Prior to construction of a Wind Energy System, the Owner shall deliver to the Town a copy of each of the policies or certificates representing the Owner obtained the necessary insurance.
 - b. An Owner shall minimize soil compaction, topsoil mixing and damage to drainage systems on agricultural land during the construction or decommissioning of the Wind Energy System. .
 - c. An Owner shall utilize all applicable best practices in the placement, construction, operation, and maintenance of its wind energy facilities in order to minimize soil compaction, protect the topsoil, prevent topsoil mixing, and avoid and repair any damage to drainage systems on agricultural land.

- d. An Owner shall describe the applicable best practices that it intends to use in the placement, construction, operation, and maintenance of its wind energy facilities in its application.
- e. Except for the area physically occupied by the large Wind Energy System facilities, an Owner shall restore the topography, soils and vegetation of the project area to original condition after construction is complete, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with the Wisconsin Department of Natural Resources requirements.

Emergency procedures for small Wind Energy Systems. An Owner shall notify a political subdivision of the occurrence and nature of a Wind Energy System emergency within twenty-four (24) hours of the Wind Energy System emergency.

EMERGENCY PROCEDURES FOR LARGE WIND ENERGY SYSTEM

1. An Owner shall notify the Town of the occurrence and nature of a Wind Energy System emergency within twenty-four (24) hours of the Wind Energy System emergency.
2. An Owner shall establish and maintain liaison with the Town and with fire, police, and other appropriate first responders serving the Wind Energy System to create effective emergency plans that include all of the following:
 - a. A list of the types of Wind Energy System emergencies that require notification under subsection (a).
 - b. Current emergency contact information for first responders and for the Wind Energy System Owner, including names and phone numbers.
 - c. Procedures for handling different types of Wind Energy System emergencies, including written procedures that provide for shutting down the Wind Energy System or a portion of the system as appropriate.
 - d. Duties and responsibilities of the Owner and of first responders in the event of a Wind Energy System emergency.
 - e. An emergency evacuation plan for the area within one (1) mile of any Wind Energy System facility, including the location of alternate landing zones for emergency services aircraft.
3. The Owner shall review the emergency plan at least annually in collaboration with fire, police and other appropriate first responders to update and improve the emergency plan as needed.
4. The Owner shall distribute current copies of the emergency plan to the Marathon County Emergency Management Department, fire, police and other appropriate first responders as identified by the Town.
5. The Town may require the Owner to provide, at the Owner's expense, annual training for fire, police, and emergency manager, the Town, and other appropriate first responders regarding responding to a Wind Energy System emergency until the Wind Energy System has been decommissioned.
6. An Owner of a large Wind Energy System shall do all of the following:
 - a. Furnish its operator, supervisors and employees who are responsible for emergency action a copy of the current edition of the emergency procedures established under this subsection to ensure compliance with those procedures.
 - b. Train the appropriate operating personnel to ensure they have knowledge of the emergency procedures and verify that the training is effective.
 - c. As soon as possible after the end of a Wind Energy System emergency, review employee activities to determine whether the procedures were effectively followed.

THIRD-PARTY CONSTRUCTION INSPECTOR

For a large Wind Energy System, the Town may contract with a third-party inspector to monitor and report to the Town regarding the Owner's compliance with permit requirements during construction. The inspector monitoring compliance under this section shall also report to a state permitting authority upon the state permitting authority's request. The inspector shall make monthly written reports to the Town. The Owner shall reimburse the Town for the actual and necessary cost of the inspector.

POST-CONSTRUCTION FILING REQUIREMENT

1. Within ninety (90) days of the date a large Wind Energy System commences operation, the Owner shall file with the Town and the public service commission an as-built description of the Wind Energy System, an accurate map of the Wind Energy System showing the location of all Wind Energy System facilities, geographic information system information showing the location of all Wind Energy System facilities, and current information identifying the Owner of the Wind Energy System.
2. An Owner shall label each Wind Turbine location described in its filing and shown on the map of the Wind Energy System with a unique identifier consistent with the information posted at the Wind Turbine location under section (18)(g).

COMPLIANCE MONITORING

This section applies to large Wind Energy Systems only.

1. An Owner shall maintain a maintenance log for each Wind Turbine. The log must contain the following information:
 - a. Date and time maintenance was performed;
 - b. Nature of the maintenance performed; and
 - c. Reason for the maintenance.
2. An Owner shall, at the Owner's expense, provide the Town with a copy of the maintenance log for each Wind Turbine for each month upon the request of the Town.
3. The Town may retain such consultants or experts as it deems necessary to assess and determine whether the Wind Energy System facilities are compliant or to assess whether the Wind Energy System facilities are being maintained in good repair and operating condition.

19.28 Information.

1. An Owner shall, within thirty (30) days of consulting with any federal or state agency about the construction, operation, or decommissioning of the Wind Energy System, provide the Town with information about the reason for the consultation.
2. An Owner shall, within thirty (30) days of receiving any non-binding recommendation for the construction, operation, or decommissioning of the Wind Energy System from any federal or state agency, provide the Town with information about the consultation.

STUDIES

An Owner shall cooperate with any study of the effects of Wind Energy Systems that is coordinated by a state agency.

ABANDONMENT AND DECOMMISSIONING

1. For small Wind Energy Systems:
 - a. A small Wind Energy System that does not generate electricity for a continuous period of five hundred forty (540) days will be deemed abandoned and the Town may issue a notice of abandonment to the Owner.
 - b. If, within thirty (30) days of receipt of a notice of abandonment, the Owner provides the Town with information showing that the small Wind Energy System has not been abandoned, the Town will withdraw the notice.
 - c. Unless the Town withdraws the notice of abandonment, a small Wind Energy System tower must be decommissioned as prescribed by PSC § 128.19. If the Owner fails to remove a small Wind Energy System and reclaim the site, the Town may remove or cause the removal of the small Wind Energy System and arrange for the reclamation of the site. The cost of removal and reclamation will become a lien upon the property and may be collected in the same manner as property taxes.
2. For large Wind Energy Systems:

- a. An Owner of a large Wind Energy System shall decommission and remove the Wind Energy System when the system is at the end of its useful life.
- b. A large Wind Energy System is presumed to be at the end of its useful life if the large Wind Energy System generates no electricity for a continuous three hundred sixty (360)-day period. This presumption may be rebutted under subsection 3.
- c. Upon application by the Owner, and except as provided in subsection 4., the Town may grant an extension of the time period for returning the Wind Energy System to service by one or more additional one hundred eighty (180)-day periods if the Owner demonstrates it is likely the Wind Energy System will operate again in the future and any of the following occur:
 - i. The Owner submits a plan to the Town that demonstrates an ongoing good faith effort to return the large Wind Energy System to service and outlines the steps and schedule for returning the large Wind Energy System to service in a reasonable period of time, including by repairing, replacing or repowering the large Wind Energy System facilities as necessary to generate electricity.
 - ii. The Owner demonstrates that the large Wind Energy System is part of a prototype or other demonstration project being used for ongoing research or development purposes.
 - iii. The Owner demonstrates that the large Wind Energy System is being used for educational purposes.
- d. The Town may deny a request for an extension under subsection 3. if the large Wind Energy System has not generated any electricity for a continuous period of five hundred forty (540) days or more and the Town finds that the Owner is not capable of returning the Wind Energy System to service within a reasonable period of time.
- e. A large Wind Energy System is irrefutably presumed to be at the end of its useful life if the large Wind Energy System generates no electricity for a period of five hundred forty (540) days and any of the following occur:
 1. The Town shall conduct a decommissioning review to determine whether the Owner has decommissioned and removed the Wind Energy System as required by PSC § 128.19 and whether the Owner has complied with its site restoration obligation under PSC § 128.19(4).
 - i. The Owner does not request an extension of the time period for returning the large Wind Energy System to service under subsection 3.
 - ii. The Town denies a request for an extension under subsection 4. and any appeal rights have expired.
- f. When decommissioning is required, the Owner shall begin decommissioning within three hundred sixty (360) days after the large Wind Energy System has reached the end of its useful life. The Owner shall complete decommissioning and removal of the large Wind Energy System within five hundred forty (540) days after the large Wind Energy System has reached the end of its useful life.

DECOMMISSIONING REVIEW

An Owner of a large Wind Energy System with a nameplate capacity of one (1) megawatt or larger shall file a notice of decommissioning completion with the Town and any political subdivision within which its Wind Energy System facilities are located when a Wind Energy System approved by the Town has been decommissioned and removed.

2. The Owner shall cooperate with the Town by participating in the decommissioning review process.

FINANCIAL RESPONSIBILITY – LARGE WIND ENERGY SYSTEM

1. An Owner of a large Wind Energy System with a nameplate capacity of one (1) megawatt or larger shall provide the Town with financial assurance of the Owner's ability to pay the actual and necessary cost to decommission the Wind Energy System before commencing any construction activities.
2. An Owner shall provide the Town with three (3) estimates of the actual and necessary cost to decommission the Wind Energy System. The cost estimates shall be prepared by third parties agreeable to the Owner and the Town. The amount of financial assurance required by the Town will be the average of the three (3) estimates.

3. An Owner, prior to the start of construction of a Wind Energy System, shall provide the Town an Irrevocable Letter of Credit. The Letter or Credit shall be substantially similar to the form provided by the Town and approved by the Town and shall be from an FDIC insured financial institution. The Letter of Credit shall be payable at sight to the Town, authorize partial draws, and shall include a provision requiring that the Town be given written notice not less than 45 days nor more than 60 days prior to expiration of the Letter of Credit. The Letter of Credit shall be payable to the Town at any time upon presentation of the following:

A sight draft drawn on the issuing bank in the amount to which the Town is entitled;

An affidavit executed by the Town Chairman certifying the Town's request under subsection (d).; and

The Letter of Credit. The Letter of Credit shall bear an expiration date set by the Town Board.

4. The Letter of Credit shall provide that the funds may be used for decommissioning the Wind Energy System until such time as the Town determines that the Wind Energy System has been decommissioned, as provided for in PSC § 128.19(5)(b), or the Town approves the release of the funds, whichever occurs first and to cover any other costs incurred by the Town under this Section. The financial assurance must also provide that the Town may access the funds for the purpose of decommissioning the Wind Energy System if the Owner does not decommission the system when decommissioning is required.

5. The Town may periodically request information from the Owner regarding industry costs for decommissioning the Wind Energy System. If the Town finds that the future anticipated cost to decommission the Wind Energy System is at least ten (10) percent more or less than the amount of financial assurance provided under this section, the Town may correspondingly increase or decrease the amount of financial assurance required. The Town may not adjust the financial assurance under this paragraph more often than once in a five (5)-year period.

6. The Town may require an Owner to submit a substitute financial insurance of the Owner's choosing if an event occurs that raises material concern regarding the viability of the existing financial assurance.

LARGE WIND ENERGY SYSTEM INDEMNIFICATION

An Owner shall indemnify the Town. The Owner shall defend, indemnify, protect, hold safe, hold harmless, and exempt the Town, and its officers, Board members, committees, councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, cost or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by delivery, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Wind Energy System, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town or its employees or agents. With respect to the penalties, damages, or charges referenced herein, reasonable attorney's' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.

COMPLAINT PROCESS FOR WIND ENERGY SYSTEMS

1. An aggrieved person who has made a complaint to an Owner in accordance with PSC § 128.40 may petition the Town for review of the complaint if it has not been resolved within forty-five (45) days of the day the Owner received the original complaint.
2. The petition for review must be filed with the Town within ninety (90) days of the date of the original complaint and shall contain the following:
 - a. Name, address, and telephone number of the person filing the petition;
 - b. Copy of the original complaint to the Owner;
 - c. Copy of the Owner's original response;
 - d. Statement identifying the specific Wind Turbine or site of the problem;
 - e. Statement describing the unresolved complaint;
 - f. Statement describing the desired remedy;
 - g. Any other information the complainant deems relevant to the complaint; and
 - h. Notarized signature of the person filing the petition.
3. The Town shall forward a copy of the petition to the Owner by certified mail within ten (10) days of the Town receiving the petition.
4. The Owner shall file an answer to the petition with the Town and provide a copy of its answer to the complainant within thirty (30) days of its receipt of the petition.
5. The answer must include the following:
 - a. Name, address, and telephone number of the person filing the answer;
 - b. Statement describing the actions taken by the Owner in response to the complaint.
 - c. Statement of the reasons why the Owner believes that the complaint has been resolved or why the complaint remains unresolved;
 - d. Statement describing any additional action the Owner plans or is willing to take to resolve the complaint;
 - e. Any other information the Owner deems relevant to the complaint; and
 - f. Notarized signature of the person filing the answer.
6. The complainant and the Owner may, within thirty (30) days following the Owner's filing of its answer, file such additional information with the Town as each deems appropriate.
7. The Town may request such additional information from the complainant and the Owner as it deems necessary to complete its review.
8. The Town may retain such consultants or experts as it deems necessary to complete its review. The cost of the Town's consultants or experts shall be paid for by the Owner.
9. The Town shall issue a written decision and may take such enforcement action as it deems appropriate with respect to the complaint.
10. The decision of the Town and enforcement action is subject to review under Wis. Stat. § 66.0401(5).

ADDITIONAL PROCESS FOR LARGE WIND ENERGY SYSTEMS

1. An Owner shall comply with the notice requirements contained in PSC § 128.42(1).
2. An Owner, before construction of a large Wind Energy System begins, shall provide the Town with a copy of the notice issued pursuant to PSC § 128.42(1), along with a list showing the name and address of each person to whom the notice was sent and a list showing the name and address of each political subdivision to which the notice was sent.
3. An Owner shall, before construction of a large Wind Energy System begins, file with the Town the name and telephone number of the Owner's contact person for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning. The Owner shall keep the current name and telephone number of the contact person on file with the Town.
4. Pursuant to PSC § 128.41, a monitoring committee may be established to oversee resolution of complaints regarding a Wind Energy System.

VIOLATIONS

1. It is unlawful for any person to violate any provision of this Ordinance.
2. It is unlawful for any person to knowingly provide false information, make a false statement, fail to provide, or misrepresent any material fact to a Town agent, board, commission, committee, department, employee, official, or officer acting in an official capacity under this Ordinance.
3. It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist a permit or order issued pursuant to this Ordinance.

ENFORCEMENT

1. Authority. The Town shall enforce this Ordinance and may conduct inspections and investigate complaints relating to compliance with this Ordinance.
2. Inspection authority. The Zoning Administrator may request permission to inspect, at a reasonable time and date, any premises or structure for which a permit has been applied for or granted to determine compliance with this Ordinance. Refusal to grant permission is grounds for denial or revocation of a permit. If permission is not given, the Zoning Administrator may apply for, obtain, and execute a special inspection warrant pursuant to Wis. Stat. § 66.0119.
3. Notice of noncompliance. If the Town Board finds a violation of any provision of this Ordinance, the Town Board may issue a written notice to the Owner stating the conditions of non-compliance, specifying the action required to come into compliance, and providing a reasonable amount of time within which compliance is required.
4. Permit revocation authority. The Town Board may revoke a permit for substantial noncompliance with any provision of this Ordinance, refusal to permit inspection of Wind Energy Systems facilities for which a permit has been granted, or failure to comply with the action requirement contained in a notice of noncompliance.
5. Other enforcement means. Nothing in this section may be construed to prevent the Town from using any other lawful means to enforce this Ordinance.

19.38 Penalties.

1. A person will, upon conviction for any violation of this Ordinance, shall forfeit not less than One Hundred and 00/100 Dollars (\$100.00) nor more than One Thousand and 00/100 (\$1,000.00) for each offense, together with the costs of prosecution for each violation, and may be ordered to take such action as is necessary to abate the offense within a specified time. Each day a violation continues to exist or occur shall constitute a separate offense.

SECTION 2: If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is found invalid or unconstitutional by a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provisions or application of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.

SECTION 3: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

17.86 SOLAR ENERGY SYSTEMS (SES)

1. **Purpose and intent:** The purpose of this Chapter is to adopt and incorporate the requirements and standards of Wis. Stats. §§ 66.0401 and 66.0403, to regulate Solar Energy Systems to produce electricity and/or conversion of energy for uses on-site as well as those systems which produce electricity for off-site use and distribution. The regulations of this section have been established to ensure Solar Energy Systems are sited, constructed, maintained, and decommissioned in a manner that maximizes utilization of the Town of Texas solar energy resources, health, safety, and welfare of the community.

a. No Solar Energy System shall be erected, enlarged, or extended without conformance to the provisions of this section and other applicable regulations, as evident by the issuance of a zoning permit by the Zoning Administrator and/or where required, conditional use permit approval by the Town of Texas Plan Commission and Town Board.

b. All applications regulated by this section may be subject to additional conditions and restrictions consistent with but no more restrictive than those in Wis. Stat. § 66.0401(1M). Where such conditions are considered and applied on a case-by-case basis; as well as satisfy one of the following:

- i. Serves to preserve or protect the public health or safety.
- ii. Does not significantly increase the cost of the system or significantly decrease its efficiency.
- iii. Allows for an alternative system of comparable cost and efficiency.

DEFINITIONS

1. Building-integrated Solar Energy System means a 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. Building-integrated systems include but are not limited to photovoltaic or hot water Solar Energy Systems that are contained within roofing materials, windows, skylights, and awnings.

2. Collector Surface means any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. "Collector surface" does not include frames, supports and mounting hardware.

3. Commercial Use WES or Solar Energy System means any use/purpose of the WES and/or Solar Energy System is to convert wind and/or solar energy into electricity which is to be used, distributed, or sold offsite. These uses may be deemed to be accessory to an existing residential, commercial, or agricultural use but are subject to all the standards, requirements, and conditional use processes set forth in this Ordinance.

4. Ground-mount means a Solar Energy System mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either private or commercial uses.

5. Passive Solar Energy System means A Solar Energy System that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

6. Photovoltaic System means A Solar Energy System that converts solar energy directly into electricity.

7. Private Use WES or Solar Energy System means the primary purpose of the WES and/or Solar Energy System is to convert wind and/or solar energy into electricity which is to be used and/or stored onsite. These WES and Solar Energy Systems must be accessory to an existing residential, commercial, industrial, or agricultural use and are subject to all the standards, requirements, and processes set forth in this Ordinance.

8. Renewable Energy Easement, Solar Energy Easement means an easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land, consistent with Wis. Stat. § 700.35.

9. Renewable Energy System means a solar energy or wind energy system. Renewable energy systems do not include passive systems that serve a dual function, such as a greenhouse or window.

10. Roof-mount means a Solar Energy System mounted on a rack that is fastened to or ballasted on a building roof. Roof-mount systems are accessory to the principal use.

11. Solar Access means an unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a Solar Energy System. 3

12. Solar Collector means a device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

13. Solar Collector Surface means any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. The collector's surface does not include frames, supports and mounting hardware.

14. Solar Daylighting means 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.

15. Solar Energy means a radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

16. Solar Energy System means a device, array of devices, or structural design feature, which has the primary purpose of harvesting 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.

17. Solar Heat Exchanger means a component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

18. Solar Hot Air System (also referred to as Solar Air Heat or Solar Furnace) means a Solar Energy System that includes a solar collector to provide direct supplemental space heating by heating and recirculating conditioned building air. The most efficient performance typically uses a vertically mounted collector on a south-facing wall.

19. Solar Hot Water System (also referred to as Solar Thermal) means a system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

20. Solar Mounting Devices means the racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

21. Solar Resource means a view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on all days of the year.

22. Solar Storage Unit means a component of a solar energy device that is used to store solar generated electricity or heat for later use.

PRIVATE USE: PERMIT, APPLICATION, AND FILING REQUIREMENTS

1. **Permitted:** Private use of Solar Energy Systems shall be permitted use in all zoned districts, subject to the requirements, standards, and processes set forth in this Town Ordinance.

2. **Height:** Solar Energy Systems shall meet the following height requirements:

a. Building or roof mounted Solar Energy Systems shall not exceed the maximum allowed height in any zoning district unless the system protrudes less than one foot from the surface from which it is directly attached.

b. Ground or pole mounted Solar Energy Systems shall not exceed 35 feet in height when oriented at maximum tilt.

2. **Setback(s):** Ground mounted Solar Energy Systems (and systems located on accessory structures) shall meet the accessory structure setbacks for the zoning district on which the system is located. Whereas roof or building-mounted Solar Energy Systems located on a principal or accessory structure shall adhere to the applicable zoning district's setbacks.

Roof or Building Mounted Solar Energy Systems: In addition to the building setback, the collector surface and mounting devices for roof mounted Solar Energy Systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the

perimeter of the building on a side yard exposure. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and are regulated as awnings.

Ground Mounted Solar Energy Systems: Ground mounted Solar Energy Systems may not extend into the required setbacks when oriented at minimum design tilt.

3. **Visibility:** Solar Energy Systems shall be designed to blend into the architecture of the building to the extent such provisions do not diminish solar production or increase costs, consistent with Wis. Stat. § 66.0401.

Building Integrated Photovoltaic Systems: Building integrated photovoltaic Solar Energy Systems shall be permitted, provided the building component in which the system is integrated meets all required setbacks for the district in which the building is located, as well as UDC and performance standards.

Roof Mounted Solar Energy Systems: Solar Energy Systems that are flush mounted on pitched roofs are blended with the building architecture. Non-flush mounted pitched roof systems shall not be higher than the roof peak, and the collector shall face the same direction as the roof on which it is mounted, to minimize wind loading and structural risks to the roof.

Reflectors: All Solar Energy Systems using a reflector to enhance solar production shall minimize reflected light from the reflector affecting adjacent or nearby properties. Measures to minimize reflected light include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit reflected light.

4. **Coverage:** Roof or building-mounted Solar Energy Systems, excluding building-integrated systems, shall allow for adequate roof access for fire-fighting purposes to the south-facing or flat roof upon which the panels are mounted.

5. **Historic Buildings:** Solar Energy Systems on buildings within designated historic districts or on locally designated historic buildings (exclusive of State or Federal historic designation) must receive approval of the community Heritage Preservation Commission, consistent with the standards for Solar Energy Systems on historically designated buildings published by the U.S. Department of Interior.

6. **Plan Approval Required:** All Solar Energy Systems shall require approval by the Town Board.

Plan Applications: Plan applications for Solar Energy Systems shall be accompanied by two-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.

For All Roof-Mounted Systems Other Than a Flat Roof: the elevation drawing(s) must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

For Flat Roof Applications: A drawing shall be submitted showing the following in addition to all applicable requirements set forth in this Ordinance.

- i. The distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side.
- ii. The proposed distance to property lines, rights-of-way, and/or easements.

iii. The highest finished height of the solar collector as well as the finished surface of the roof. 7.

Approved Solar Components: Electric Solar Energy System components must have an UL (Underwriters Laboratories), or equivalent listing and solar hot water systems must have an SRCC (Solar Rating and Certification Corporation) rating.

8. Compliance with Building Code: All Solar Energy Systems shall meet the approval of local building code officials, consistent with the State of Wisconsin Building Code or the Building Code adopted by the local jurisdiction, and solar thermal systems shall comply with HVAC-related requirements of the Energy Code. Compliance with State Electric Code - All photovoltaic systems shall comply with the Wisconsin State Electric Code.

a. **Structural Integrity:** All building-mounted integrated Solar Energy Systems shall only be permitted if it is determined the additional weight, infrastructure, and/or modifications will not compromise the structural integrity of the building.

9. Compliance with State Plumbing Code: Solar thermal systems shall comply with applicable Wisconsin State Plumbing Code requirements.

10. Utility Notification: All grid-intertied Solar Energy Systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

18.04 Commercial Use Solar Energy System, Permit, Application, And Filing Requirements.

1. Commercial Use: The Town encourages the development of commercial use Solar Energy Systems where such systems present few land use conflicts with current and future development patterns.

a. **Commercial Use Conditional Permit Requirements:** Ground-mounted Solar Energy Systems that are not an accessory use to existing parcels, structures, or uses, as well as are designed for providing energy to off-site uses and/or export to the wholesale market require a conditional use permit in all zoning districts.

2. Stormwater and NPDES: Commercial Use Solar Energy Systems are subject to the Wisconsin DNR stormwater management, erosion, sediment control provisions as well as NPDES permit requirements.

3. Ground Cover and Buffer Areas: The following provisions shall be met related to the clearing of existing vegetation and establishment of vegetated ground cover. Additional requirements and standards may apply as required by the Zoning Administrator, Planning Commission, and/or the Town Board.

a. Large-scale removal of mature trees on the site is discouraged.

b. To the greatest extent possible, the topsoil shall not be removed during development, unless part of a remediation effort.

c. Soils shall be planted and maintained for the duration of operation in perennial vegetation to prevent erosion, manage runoff, and improve soil.

d. Seeds should include a mix of grasses and wildflowers, exclusively native to the region of the project site that, which will result in a short stature prairie with a diversity of forbs or flowering plants that bloom throughout the growing season. Blooming shrubs may be used in buffer areas as appropriate for visual screening.

e. Seed mixes and maintenance practices shall be consistent with those recommendations made by the Town and/or Wisconsin DNR.

f. Plant material must not have been treated with systemic insecticides, particularly neonicotinoids.

g. The applicant shall submit a financial guarantee in the form of a letter of credit, cash deposit, or bond equal to one-hundred and twenty-five percent (125%) of the costs to meet the ground cover and buffer area standard. The financial guarantee shall remain in effect until vegetation is sufficiently established.

4. Foundations: A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.

5. Other Standards and Codes: All commercial use Solar Energy System shall be in compliance with all applicable local, state, and federal regulatory codes, including the State of Wisconsin Uniform Building Code, as amended; and the National Electric Code, as amended.

6. Power and Communication Lines: Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Town Board in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible.

7. Site Plan Required: A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, electric equipment, screening features, and all other characteristics requested by the Zoning Administrator. The site plan should also show all zoning districts and overlay districts.

8. Aviation Protection: For solar farms within 1,000 feet of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solare Glare Hazard Analysis Tool (SGHAT) for the airport Traffic Control Tower cab and final approach paths, consistent with the interim policy, FAA review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

9. Agricultural Protection: Commercial use Solar Energy System must comply with site assessment or soil identification standards that are intended to protect agricultural soil.

10. Decommissioning: A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life.

a. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months.

b. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site.

c. Structures and/or foundations shall be disposed of at a licensed solid waste disposal facility and/or otherwise in a manner consistent with federal, state, and local regulations.

d. The Town Board may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

APPLICATION APPROVAL AND PERMIT ISSANCE

1. Commercial Use Approval Process: The Planning Commission shall approve or deny the Commercial use Solar Energy System conditional use request after a public hearing.

2. Commercial Issuance Process: The Town Board shall issue the zoning permit and grant the conditional use permit if it is determined the Solar Energy System application and proposal conforms to the requirements of this Chapter, all applicable standards of this Ordinance, as well as meets or will meet any additional conditions placed on the conditional use permit by the Planning Commission.

3. Private Use Approval Process: All Private Use Solar Energy System are subject to administrative review and approval of the zoning permit based on the standards and conditions of this section in all zoning districts.

ADMINISTRATION

17.90 PLANNING COMMISSION.

(1) **ESTABLISHMENT.** There is hereby established a Town Planning Commission as provided for in Wis. Stats. 62.23.

(2) **MEMBERSHIP.**

(a) Membership shall consist of 7 members and shall be appointed by the Town Chairman and confirmed by the Town Board.

- (b) The Town Chairman shall also choose the Chair of the Commission.
- (c) Only one member of the Town Board may serve on the Commission at any one time. If, however, the Town Board is increased to five members, two members of the Town Board shall be permitted to serve at any one time.
- (d) The Town Chairman may appoint him/her self to the Commission and may appoint other Town elected or appointed officials, except that the Commission shall always have at least 4 citizen members who are not Town officials.
- (e) The members of the Commission shall be appointed to hold office for a period of three (3) years. Appointments shall be made by the Town Chairman during the month of April for terms that expire in April or at any other time if a vacancy occurs during the middle of a term.
- (f) By virtue of the duties of the office, the Town Zoning Administrator shall be ineligible to become a member of the Commission.

(3) POWERS.

- (a) Recommend to the Town Board amendments to this Ordinance, with or without modifications or conditions as the Commission shall deem appropriate, consistent with the provisions of §17.92.
- (b) Recommend to the Town Board approval or denial of conditional use permits as set forth in this §17.13 of this Chapter.
- (c) Review development proposal site plans for, consistent with the provisions of this Ordinance, and recommend approval or denial.

17.91 BOARD OF APPEALS.

- (1) ESTABLISHMENT. There is hereby established a Board of Appeals for the purpose of hearing certain appeals and applications and granting variances from the provisions of this chapter in harmony with the general purpose and intent of this chapter.
- (2) MEMBERSHIP.
 - (a) The Board of Appeals shall consist of 5 members and two alternates appointed by the Town Chairman and confirmed by the Town Board.
 - (b) The members of the Board of Appeals shall all reside within the Town Terms shall be for staggered 3 yr. periods beginning July 1.
 - (c) The Board of Appeals shall choose its own chairman and secretary. Official oaths shall be taken by members in accordance with §19.01, Wis. Stats., within 10 days of receiving notice of their appointment.
 - (d) Vacancies shall be filled for an unexpired term in the same manner as appointments for a full term.

(3) RULES.

- (a) The Board of Appeals may adopt such rules as it deems necessary to carry into effect the regulations of the Town of Texas.
 - (b) Meetings shall be held at the call of the Chairman or at such other times as the Board of Appeals may determine and shall be open to the public.
 - (c) Minutes of the proceedings and a record of all actions shall be kept by the Secretary, showing the vote of each member upon each question or, if absent or failing to vote indicating such fact, the reasons for the Board of Appeal's determination and its findings of facts. These records shall be filed in the office of the Town Clerk and shall be a public record.
 - (d) The concurring vote of a majority of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant or appellant on any matter upon which it is required to pass under this chapter or to effect any variation in this chapter.
- (4) POWERS.
- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by any administrative official in the enforcement or administration of this chapter.
 - (b) To authorize upon appeal, in specific cases, such variance from the dimensional standards of this chapter as will not be contrary to the public interest, where owing to special conditions, such as terrain, cover or nearby existing buildings, a literal enforcement of the provisions herein will result in unnecessary hardship, and so that the spirit and intent of this chapter shall be observed and substantial justice done. The Zoning Board of Appeals must determine that any variance:
 - 1. Shall not have the effect of permitting or expanding any use where prohibited by any district regulation.
 - 2. Shall not permit standards lower than those required by the Wisconsin Statutes, or Wisconsin Administrative Code.
 - 3. Shall not be granted solely on the basis of economic gain or loss.
 - 4. Shall not be granted for a self-created hardship.
 - 5. Shall not damage the rights or property values of other persons in the area.
 - (c) To hear and grant applications for substitution of nonconforming uses, provided no structural alterations are to be made and the Planning Commission has made a review and recommendation. Whenever the Board of Appeals permits such a substitution, the use may not thereafter be changed without a new application.
 - (d) The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have

all the powers of the office from whom the appeal is taken.

- (e) The Board of Appeals may request assistance from other Town officers, departments, commissions and boards.
 - (f) The Chairman may administer oaths and compel the attendance of witnesses.
 - (g) Any officer from whom an appeal is taken shall transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- (5) HEARING NOTICE. The Board of Appeals shall fix a reasonable time and place for the hearing of the appeal or application, give public notice thereof by Class 2 notice, and shall give due notice to the parties in interest, the officer from whom the appeal is taken and the Town Board. At the hearing, the appellant or applicant may appear in person, by agent or by attorney.
- (6) DECISION.
- (a) The Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a copy of the Board's decision, signed by the Secretary and Chairman, to the appellant or applicant, the officer from whom the appeal is taken and the Town Board.

17.92 ORDINANCE AMENDMENT.

- (1) AUTHORITY. The regulations imposed and the zoning districts created under authority of this chapter may be amended from time to time by ordinance in accordance with Wis. Stat. § 62.23. An amendment shall be granted or denied by the Town Board after a public hearing before the Planning Commission and a report of its findings and recommendations has been submitted to the Town Board.
- (2) INITIATION. A petition for an amendment may be made by any property owner in the area to be affected by the change or amendment, by the Town Board, by the Town Zoning Administrator, by any member of the Town Board or the Town Planning Commission.
- (3) PETITIONS. Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Town Clerk. The petition shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
 - (a) Plot plan drawn to a scale of not less than 1" equals 200' showing the area proposed to be rezoned, its location, dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within 300' of the area proposed to be rezoned.
 - (b) Additional information as may be required by the Planning Commission or Town Board including but not limited to:
 - 1. Written approval from the Wis. Dept. of Transportation or County Highway Dept. authorizing the construction/use of a driveway in their respective jurisdictions for the use proposed in the zone change request. Failure to provide approval for a

driveway or alternate access (i.e. shared access, frontage road, backage road or other) will cause the petition to be considered incomplete and it will not be advertised or heard.

- (4) **RECOMMENDATIONS.** The Planning Commission shall review all such proposed changes or amendments and shall recommend that the petition be granted as requested, modified or denied. Recommendation shall be made in a written report to the Town Board.

- (5) **HEARINGS.**

The Planning Commission shall hold a public hearing upon each proposed change or amendment, giving notice of the time and place of such hearing by publication of a Class 2 notice, under Wis. Stat. Ch. 985.

- (6) **TOWN BOARD ACTION.**

- (a) Following such hearing and after careful consideration of the Planning Commission's recommendation, the Town Board shall vote on the passage of the proposed change or amendment.

- (7) **PROTEST.** If a protest against a proposed change or amendment is filed with the Town Clerk at least 24 hours prior to the date of the meeting of the Town Board at which the recommendation of the Planning Commission is to be considered, duly signed and acknowledged by the owners of 50% or more of the area proposed to be altered, or by abutting owners of over 50% of the total perimeter of the area proposed to be altered included within 300' of the parcel or parcels proposed to be rezoned, action on such ordinance may be deferred until the Planning Commission has had a reasonable opportunity to ascertain and report to the Town Board as to the authenticity of such ownership statements. Each signer shall state the amount of area or frontage owned by him and shall include a description of the land owned by him. If such statements are found to be true, such ordinance shall not be adopted except by the affirmative vote of 3/4 of the members of the Town Board of Supervisors present and voting. If such statements are found to be untrue to the extent that the required frontage or area ownership is not present, such protest may be disregarded.

- (8) **EFFECTIVE DATE OF AMENDMENT AND THE ORDINANCE.** Upon passage of the amendment by the Town Board, the amending ordinance shall become effective upon:

- (a) Publication and posting of the ordinance by the Town Clerk;
- (b) Pursuant to Wis. Stat. § 60.62, the Town Clerk shall forward the amendment to the County Clerk for consideration by the Marathon County Board of Supervisors.
- (c) Approval by the County Board.

17.93 ADMINISTRATION.

- (1) **TOWN ZONING ADMINISTRATOR.** There is hereby created the office of Town Zoning Administrator for the administration and enforcement of the provisions of this chapter. The Town Board may appoint deputy zoning administrators with the concurrence of the Town Zoning Administrator from the names of qualified applicants. Deputy zoning administrators shall assist the Town Zoning Administrator in carrying out the function of the office. The

specific duties of any Deputy Zoning Administrator shall be determined by the Town Zoning Administrator and the Town Board. Compensation of the Zoning Administrator and any Deputy Zoning Administrator(s) shall be determined by the Town Board.

- (2) **POWERS AND DUTIES.** In the administration and enforcement of this chapter, the Town Zoning Administrator shall have the following powers and duties:
 - (a) Advise applicants as to the provisions of this chapter and assist them in preparing permit applications.

- (b) Issue permits and inspect properties for compliance with this chapter and issue certificates of compliance when appropriate.
- (c) Keep records of all permits issued, inspections made, work approved and other official actions.
- (d) Report violations of this chapter or other land use regulations to the Town Board and Town Attorney.
- (e) Have access to any structure or premises for the purpose of performing his duties between 8 a.m. and 8 p.m., by permission of the owner or upon issuance of a special inspection warrant in accordance with Wis. Stat. § 66.0119.
- (f) Make on-site investigations required for administration of this Code.
- (g) Upon reasonable cause or question as to proper compliance, to revoke any zoning or conditional use permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this chapter or order restoration and/or after-the-fact compliance.
- (h) Delegate duties and supervise deputy zoning administrators.

17.94 VIOLATIONS AND PENALTIES.

- (1) VIOLATIONS. No person shall construct or use any structure, land or premises in violation of any of the provisions of this chapter. In case of any violation, the Town Zoning Administrator, Planning Commission, Town Board or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this chapter. Every structure, fill or development placed or maintained in violation of this chapter is a public nuisance; and the creation thereof may be enjoined and maintenance thereof may be abated by an action instituted by the Town.
- (2) PENALTIES. Any person who fails to comply with the provisions of this chapter or any order of the Town Zoning Administrator issued in accordance with this chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture of not less than \$10 nor more than \$200 and costs of prosecution for each violation. Each day a violation exists or continues shall constitute a separate offense.
- (3) PROCEEDINGS.
 - (a) Civil Proceedings. Pursuant to the provisions of Wis. Stat. § 66.14, an action for violation of this Code is deemed a civil action. Accordingly, Wis. Stats. §801-847, shall apply where applicable.
 - (b) Town Attorney. The town attorney may, in the town attorney's discretion, commence legal action or proceedings and may proceed pursuant to the proceedings outlined in Wis. Stat. §§ 66.119, 66.12 or 778.10, or pursuant to the issuance of a summons and complaint.

- (c) Citations. Requests for necessary citations may be directed by the Town Board for approval.
- (d) Special Inspection Warrants. The provisions of Wis. Stat. §§ 66.122 and 66.123, shall govern the issuance of all special inspection warrants.
- (e) Statute of limitations. Pursuant to Wis. Stat. § 893.93(2)(b), any action to recover a forfeiture or penalty imposed by Code or regulation, when no other limitation is prescribed by law, shall be commenced within two years of the violation. In those situations in which there occurs a continuing violation in existence for more than two years prior to the issuance of the complaint and wherein each day the violation exists continues to constitute a separate offense, no penalty may be imposed for each day of violation occurring more than two years prior to the commencement of the action; a penalty may be imposed, however, for each day of violation occurring within the two year period prior to the issuance of the complaint.