

**TOWN OF JOHNSTOWN  
ROCK COUNTY, WISCONSIN**

**REVISED MUNICIPAL CODE  
December 15, 2025**

**As amended by ordinances adopted through December 15, 2025**

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## TABLE OF CONTENTS

Chapter 1:	Zoning .....	1 – 1
Chapter 2:	Regulation of Dogs .....	2 – 1
Chapter 3:	Operation of Motor Vehicles off Public Roads .....	3 – 1
Chapter 4:	Public Roads .....	4 – 1
Chapter 5:	Wisconsin Uniform Dwelling Code .....	5 – 1
Chapter 6:	Salvage Dealers .....	6 – 1
Chapter 7:	Speed Limit .....	7 – 1
Chapter 8:	Fires .....	8 – 1
Chapter 9:	Public Nuisance .....	9 – 1
Chapter 10:	Citations .....	10 – 1
Chapter 11:	Recycling .....	11 – 1
Chapter 12:	Authority to Pay Taxes .....	12 – 1
Chapter 13:	Driveway Regulations .....	13 – 1
Chapter 14:	Landspreading .....	14 – 1
Chapter 15:	Sludge Hauling .....	15 – 1
Chapter 16:	Confidentiality of Income and Expense Records .....	16 – 1
Chapter 17:	Land Division and Development .....	17 – 1
Chapter 18:	Board Size .....	18 – 1
Chapter 19:	Wind Energy Systems .....	19 – 1
Chapter 20:	Solar Energy Systems .....	20 – 1
Chapter 21:	All-Terrain Vehicle and Utility Terrain Vehicle Routes and Regulations .....	21 – 1

**ALL-TERRAIN VEHICLE AND UTILITY TERRAIN  
VEHICLE ROUTES AND REGULATIONS**

Chapter 22: Sex Offender Residency ..... 22 – 1

Chapter 23: Town Cemeteries ..... 23 – 1

## TABLE OF CONTENTS

### CHAPTER 1 - ZONING

#### SECTION 1.0 – INTRODUCTION

1.1	<u>Authority</u>	1 – 1
1.2	<u>Purpose</u>	1 – 1
1.3	<u>Intent</u>	1 – 1
1.4	<u>Abrogation and Greater Restrictions</u>	1 – 1
1.5	<u>Interpretation</u>	1 – 2
1.6	<u>Severability</u>	1 – 2
1.7	<u>Repeal</u>	1 – 2
1.8	<u>Title</u>	1 – 2
1.9	<u>Effective Date</u>	1 – 2

#### SECTION 2.0 – GENERAL PROVISIONS

2.1	<u>Jurisdiction</u>	1 – 3
2.2	<u>Compliance</u>	1 – 3
2.3	<u>Use Restrictions</u>	1 – 3
2.4	<u>Recovery of Town Costs and Expenses</u>	1 – 4
2.5	<u>Penalties</u>	1 – 6
2.6	<u>Violations</u>	1 – 6
2.7	<u>Civil Enforcement</u>	1 – 7

#### SECTION 3.0 – PLANNING AND ZONING COMMITTEE

3.1	<u>Establishment of Committee</u>	1 – 8
3.2	<u>Membership and Organization</u>	1 – 8
3.3	<u>Zoning Officer</u>	1 – 8
3.4	<u>Matters Referred to the Planning &amp; Zoning Committee</u>	1 – 9
3.5	<u>Powers</u>	1 – 9
3.6	<u>Meetings</u>	1 – 10
3.7	<u>Minutes</u>	1 – 11
3.8	<u>Quorum</u>	1 – 11
3.9	<u>Compensation</u>	1 – 11
3.10	<u>Town Board</u>	1 – 11

#### SECTION 4.0 – ZONING DISTRICTS

4.1	<u>Establishment</u>	1 – 12
4.2	<u>Zoning Map and District Boundaries</u>	1 – 12
4.3	<u>General District Regulations</u>	1 – 12

#### EXCLUSIVE AGRICULTURAL DISTRICT ONE (A-1)

(1)	<u>Purpose and Intent of Agricultural District One (A-1)</u>	1 – 16
-----	--	--------

(2)	<u>Permitted Uses</u> .....	1 – 16
(3)	<u>Conditional Uses</u> .....	1 – 17
(4)	<u>Requirements for Permitted and Conditional Uses</u> .....	1 – 19
(5)	<u>Rezoning Land in a Farmland Preservation Zoning District</u> .....	1 – 21
(6)	<u>Prohibited Uses</u> .....	1 – 22
 GENERAL AGRICULTURAL DISTRICT TWO (A-2)		
(1)	<u>Purpose and Intent of Agricultural District Two (A-2)</u> .....	1 – 23
(2)	<u>Permitted Uses</u> .....	1 – 23
(3)	<u>Conditional Uses</u> .....	1 – 24
(4)	<u>Requirements for Permitted and Conditional Uses</u> .....	1 – 25
(5)	<u>Prohibited Uses</u> .....	1 – 27
 SMALL SCALE AGRICULTURAL DISTRICT THREE (A-3)		
(1)	<u>Purpose and Intent of Agricultural District Three (A-3)</u> .....	1 – 28
(2)	<u>Permitted Uses</u> .....	1 – 28
(3)	<u>Conditional Uses</u> .....	1 – 29
(4)	<u>Requirements for Permitted and Conditional Uses</u> .....	1 – 30
(5)	<u>Prohibited Uses</u> .....	1 – 32
 LOCAL COMMERCIAL DISTRICT (B-1)		
(1)	<u>Purpose and Intent of Local Commercial District (B-1)</u> .....	1 – 33
(2)	<u>Permitted Uses</u> .....	1 – 33
(3)	<u>Conditional Uses</u> .....	1 – 34
(4)	<u>Requirements for Permitted and Conditional Uses</u> .....	1 – 35
(5)	<u>Prohibited Uses</u> .....	1 – 35
LOWLAND CONSERVANCY DISTRICT (C-1) HAS BEEN DELETED .....		1 – 36
HIGHLAND CONSERVATION DISTRICT TWO (C-2) HAS BEEN DELETED .....		1 – 36
 RURAL RESIDENTIAL DISTRICT (R-R)		
(1)	<u>Purpose and Intent of R-R District</u> .....	1 – 37
(2)	<u>Permitted Uses</u> .....	1 – 37
(3)	<u>Conditional Uses</u> .....	1 – 38
(4)	<u>Requirements for Permitted and Conditional Uses</u> .....	1 – 39
(5)	<u>Prohibited Uses</u> .....	1 – 36
 MOBILE HOME PARK (MHP)		
(1)	<u>Introduction</u> .....	1 – 41
(2)	<u>Procedures and Applications</u> .....	1 – 41
(3)	<u>Administration</u> .....	1 – 44
(4)	<u>General Provisions</u> .....	1 – 46
(5)	<u>Standards</u> .....	1 – 47

(6)	<u>Prohibited Uses</u> .....	1 – 50
SPECIAL PURPOSE DISTRICT (SP)		
(1)	<u>Purpose and Intent of Special Purpose Districts (SP)</u> .....	1 – 51
(2)	<u>Permitted Uses</u> .....	1 – 51
(3)	<u>Conditional Uses</u> .....	1 – 51
(4)	<u>Requirements for Conditional Uses</u> .....	1 – 52
(5)	<u>Prohibited Uses</u> .....	1 – 53
LIGHT INDUSTRIAL DISTRICT (M-1)		
(1)	<u>Purpose and Intent of Light Industrial District (M-1)</u> .....	1 – 54
(2)	<u>Permitted Uses</u> .....	1 – 54
(3)	<u>Conditional Uses</u> .....	1 – 55
(4)	<u>Parking and Loading Requirements</u> .....	1 – 55
(5)	<u>Screening</u> .....	1 – 56
(6)	<u>Requirements</u> .....	1 – 57
(7)	<u>Prohibited Uses</u> .....	1 – 58
SECTION 5.0 – CONDITIONAL USE PERMITS		
5.1	<u>General Provisions</u> .....	1 – 58
5.2	<u>Required Information</u> .....	1 – 58
5.3	<u>Procedure</u> .....	1 – 58
5.4	<u>Standards Applicable to All Conditional Uses</u> .....	1 – 59
5.5	<u>Standards Applicable to Conditional Uses within the A-1 District</u> .....	1 – 60
5.55	<u>Approval or Denial of Conditional Use Permits</u> .....	1 – 61
5.6	<u>Conditions Attached to Conditional Use Permit</u> .....	1 – 61
5.7	<u>Notice and Public Hearing</u> .....	1 – 62
5.8	<u>Conditional Use Permit Fee</u> .....	1 – 62
5.9	<u>Conditional Use Permit Procedure for Livestock Facilities</u> .....	1 – 62
SECTION 6.0 – ZONING PERMITS		
6.1	<u>Issuance</u> .....	1 – 68
6.2	<u>Requirements</u> .....	1 – 68
6.3	<u>Application for Zoning Permit</u> .....	1 – 68
6.4	<u>Zoning Permit Fee</u> .....	1 – 69
SECTION 7 HAS BEEN DELETED .....		1 – 71
SECTION 8.0 – BOARD OF ADJUSTMENT		
8.1	<u>Establishment</u> .....	1 – 72
8.2	<u>Membership and Organization</u> .....	1 – 72
8.3	<u>Administration</u> .....	1 – 73
8.4	<u>Powers</u> .....	1 – 73

8.5	<u>Appeals</u> .....	1 – 73
8.6	<u>Applications for Interpretation</u> .....	1 – 74
8.7	<u>Variances</u> .....	1 – 74
8.8	<u>Hearing</u> .....	1 – 77
8.9	<u>Decision</u> .....	1 – 77
8.10	<u>No Jurisdiction Over Conditional Use Permits</u> .....	1 – 77
SECTION 9.0 – HIGHWAY SETBACK LINES & ROADSIDE REGULATIONS		
9.1	<u>Classification and Setbacks</u> .....	1 – 78
9.2	<u>Vision Clearance at Intersections</u> .....	1 – 79
9.3	<u>Objects Permitted Within Setback Lines and Vision Triangles</u> .....	1 – 80
9.4	<u>Access Control – Town Roads</u> .....	1 – 80
	Basic Illustration of Clear Vision Triangles .....	1 – 81
	Illustration of Designation of Centerline for Clear Vision Triangles .....	1 – 82
SECTION 10.0 – NONCONFORMING USES, STRUCTURES, AND LOTS		
10.1	<u>Existing Nonconforming Uses</u> .....	1 – 83
10.2	<u>Abolishment or Replacement</u> .....	1 – 83
10.3	<u>Existing Nonconforming Structures</u> .....	1 – 84
10.4	<u>Changes and Substitutions</u> .....	1 – 84
10.5	<u>Substandard Lots</u> .....	1 – 84
SECTION 11.0 – CHANGES AND AMENDMENTS		
11.1	<u>Authority</u> .....	1 – 86
11.2	<u>Initiation</u> .....	1 – 86
11.3	<u>Petitions</u> .....	1 – 86
11.4	<u>Recommendations</u> .....	1 – 86
11.5	<u>Guidelines for Zoning Changes</u> .....	1 – 87
11.6	<u>Rezoning from Farmland Preservation Zoning District</u> .....	1 – 87
11.7	<u>Notice</u> .....	1 – 88
11.8	<u>Town Board’s Action</u> .....	1 – 88
11.9	<u>Protest to Proposed Change</u> .....	1 – 88
SECTION 12.0 – PERFORMANCE STANDARDS		
12.1	<u>Compliance</u> .....	1 – 89
12.2	<u>Air Pollution</u> .....	1 – 89
12.3	<u>Fire and Explosive Hazards</u> .....	1 – 89
12.4	<u>Glare and Heat</u> .....	1 – 89
12.5	<u>Liquid or Solid Wastes</u> .....	1 – 89
12.6	<u>Noise</u> .....	1 – 90
12.7	<u>Odors</u> .....	1 – 90
12.8	<u>Radioactivity and Electrical Disturbances</u> .....	1 – 90
12.9	<u>Vibration</u> .....	1 – 91

12.10	<u>Water Quality Protection</u> .....	1 – 91
SECTION 13.0 – SIGNS		
13.1	<u>Permit Required</u> .....	1 – 92
13.2	<u>Signs Permitted in All Districts Without a Sign Permit</u> .....	1 – 92
13.3	<u>Signs Permitted in All Commercial and Industrial Districts</u> .....	1 – 93
13.4	<u>Traffic</u> .....	1 – 94
13.5	<u>Existing Signs</u> .....	1 – 94
13.6	<u>Bonds</u> .....	1 – 95
13.7	<u>Moveable or Temporary Signs</u> .....	1 – 95
13.8	<u>Lighting of Signs</u> .....	1 – 95
13.9	<u>Roof-mounted Signs</u> .....	1 – 95
13.10	<u>Areas of Special Control</u> .....	1 – 95
13.11	<u>Permit Fees</u> .....	1 – 96
SECTION 14.0 – DEFINITIONS		
14.1	<u>Purpose</u> .....	1 – 97
14.2	<u>Words and Terms Defined</u> .....	1 – 97



**TOWN OF JOHNSTOWN**  
**CHAPTER 1 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**ZONING**

**SECTION 1.0 – INTRODUCTION**

**1.1     Authority**

The Town Board of the Town of Johnstown, Rock County, Wisconsin has proceeded under the provisions of Section 60.61(4) of the Wisconsin Statutes and this Chapter is adopted under the authority granted by Section 60.61 of the Wisconsin Statutes.

**1.2     Purpose**

The purpose of this Chapter is to promote the comfort, health, safety, morals, prosperity, aesthetics, and general welfare of this community. Furthermore, the purpose of this Chapter is to implement the land use goals, objectives, policies, and map resulting from the Town's comprehensive planning process in preparing the previously adopted Town of Johnstown Development Plan.

**1.3     Intent**

It is the general intent of this Chapter to regulate and restrict the use of all lands and waters; preserve productive and historic agricultural soils; regulate and restrict lot coverage, number of stories and size of buildings and other structures, population distribution and density, and to stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the community; and implement the community's comprehensive plan or plan components. It is further intended to provide for the administration and enforcement of this Chapter and to provide penalties for its violation.

**1.4     Abrogation and Greater Restrictions**

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

## 1.5 Interpretation

In their interpretation and application, 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.

## 1.6 Severability

- (1) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- (2) If any application of this Chapter to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment.

## 1.7 Repeal

The Town Board herein repeals without limitation all other ordinances, maps, or parts of ordinances of the Town inconsistent or conflicting with this Chapter, to the extent of the inconsistency only, including without limitation a certain zoning ordinance originally dated September 20, 1982, the Official Zoning (District) Map, and any amendments to said zoning ordinance and zoning map that is a part of that ordinance originally dated September 20, 1982.

## 1.8 Title

This Chapter shall be known, referred to, and cited as the Town of Johnstown Zoning Ordinance.

## 1.9 Effective Date

This Chapter became effective after a public hearing, adoption by the Town Board, and posting as provided by law. Changes or Amendments to the text of this Chapter or the "Official Zoning Map" shall be effective after the provisions of Section 11 have been complied with and the Change or Amendment has been posted as provided by law.

(Amended by Ordinance No. 09-1)

## **SECTION 2.0 – GENERAL PROVISIONS**

### **2.1 Jurisdiction**

The jurisdiction of this Chapter shall include all structures, lands, and waters within the Town.

(Amended by Ordinance No. 09-1)

### **2.2 Compliance**

No structure, land, or water shall hereafter be used without full compliance with the provisions of this Chapter and all other applicable local, county, and state regulations.

(Amended by Ordinance No. 09-1)

### **2.3 Use Restrictions**

The following use restrictions and regulations shall apply:

- (1) Permitted Uses. Only those principal uses specified, their essential services, and uses listed in paragraphs (2)-(5) below shall be permitted in each district.
- (2) Accessory Uses and structures are permitted in any district but not until the principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry unless a conditional use is authorized under this Chapter.
- (3) Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Town Board and issuance of a conditional use permit in accordance with Section 5 of this Chapter.  
(Amended by Ordinance No. 09-1)
- (4) Unclassified or Unspecified Uses may be considered and utilized as a permitted or conditional use as determined by the Planning & Zoning Committee, provided that such uses are similar in character and impact to the principal uses permitted in the district.
- (5) Temporary Uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Town Board for a period not to exceed one (1) Year.  
(Amended by Ordinance No. 09-1)
- (6) Performance Standards listed in this Chapter shall be complied with by all uses in

all districts.

- (7) Soil Restrictions. Certain soil types in the Township, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service, have severe or very severe limitations for on-site soil absorption sewage disposal facilities because of one or more of the following reasons: High or fluctuating water table, flooding, groundwater contamination, silting, slow permeability, steep slopes, or proximity to bedrock. The Rock County Standard Soils Survey prepared by the U.S. Soil Conservation Service is hereby adopted by reference as a determining factor in land use decisions. When a question arises as to the accuracy of a soil mapping unit, an intensive soil survey of the site in question shall be requested from the Rock County Sanitarian and/or a Soil Scientist from the Soil Conservation Service by either the Township or the applicant.

## 2.4 Recovery of Town Costs and Expenses

- (1) General Provisions.

In addition to any other fees required to be paid in conjunction with the filing of an application requesting any consideration on the part of the Town Board and/or the Plan Commission to establish or modify any use of land within the Town, including but not limited to: annexations; subdivision, including plat approval; developer agreements; utility cost agreements; conditional use permits; rezones; and all contracts or agreements related to any of the foregoing, the person, partnership, or entity requesting such consideration (hereinafter referred to as the "Applicant") shall compensate the Town for all costs and expenses that exceed \$250.00 that the Town incurs in the consideration of any such application or request. The obligation to compensate the Town for its costs and expenses shall extend to pre-submission costs and expenses arising from submissions to or discussions with the Town or its representatives which precede an application to the Town, if any.

- (2) Applicant Certificate.

Before the Town shall incur any costs or expense in consideration of any application described in this Chapter, the Applicant shall sign an acknowledgement and certificate, on a form to be made available by the Town Clerk, stating the Applicant's responsibility for all Town costs and expenses exceeding \$250.00 directly or indirectly related to the Applicant's request. The original of said acknowledgment and certificate shall be kept on file with the Town Clerk. A copy shall be given to the Applicant at the time of signing.

(3) Recoverable Costs.

All costs exceeding \$250.00 incurred by the Town in the consideration of a request described in Section 1.0, above, shall be recoverable, including without limitation, the following:

- A. All professional and technical consultant services and fees retained by the Town and rendered in review of any application, including but not limited to, the Town Attorney or any other professional or expert hired by the Town for purposes of review of the application or pre-submission request.
- B. Legal publication costs.
- C. Court reporter costs, as deemed necessary by the Town.
- D. Copy reproduction.
- E. Postage.
- F. Telephone charges.
- G. Fees and costs incurred by the Town Building Inspector.
- H. Document recordation (if required).
- I. Any other cost or expense incurred by the Town.

(4) Notice and Billing of Costs.

- A. Advance Notice of Anticipated Costs. The Town Clerk shall notify the Applicant if the Town Clerk anticipates that the costs to review the Applicant's request will exceed \$250.00. Such notice shall be provided at the time the Applicant's request is made or at such time thereafter as the Town Clerk believes notice should be given. Such notice need not be in writing. Failure of the Town Clerk to provide such notice shall not alter the obligations of any Applicant as set forth herein.
- B. Billing of Costs. The Town Clerk shall, on a monthly basis, bill all costs recoverable under this Chapter to the Applicant, which costs shall be paid by the Applicant within 30 days of the transmission or mailing of the bill. The Town Clerk may, at any time, require an Applicant to submit an advance deposit or continuing advance deposits against future billings by the Town for the recovery of costs provided by this Chapter. Surplus deposits shall be returned to the Applicant at the conclusion of the project if such deposits exceed the amount of billings for recoverable costs. Any billed costs from the Town unpaid at the expiration of said 30-day period shall bear interest at the rate of 18 percent per annum.

(5) Condition of All Applications.

Notwithstanding anything in the Town's Municipal Code to the contrary, payment in full of all recoverable costs pursuant to this Chapter shall be a precondition to the final approval of any applications as well as the issuance of any building or construction permits related to such application. This pre-condition shall extend to any Town Board request for an advance deposit against future billings for recoverable costs as called for herein.

(6) Enforcement.

In addition to any provision for enforcement contained in the Town's Municipal Code, in the event the Town is not paid all recoverable costs as called for herein, the Town shall be entitled to recover actual attorney fees, litigation expenses, witness fees, filing fees, expert witness fees, and all other costs or expenses incurred by the Town in the prosecution of a violation of this Chapter, regardless of whether the Town prevails in such prosecution or not, or whether an action is filed or not.

(7) Fees.

In addition to any fees called for herein, a subdivider shall, in the course of submitting any land division for pre-submission consideration or for review and action by the Town, at all times comply with the provisions of Section 1.0 above, related to the recovery of Town costs and expenses.

(Section created by Ordinance No. \_\_\_\_)

2.5 Penalties

Any person, firm or corporation who violates or fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit not less than \$100 nor more than \$5000, together with the costs of prosecution, for each violation. Each day a violation exists or continues shall constitute a separate offense.

2.6 Violations

It shall be unlawful to construct or use any structure, land, or water in violation of any of the provisions of this Chapter. In case of any violation, the Town Board, the Zoning Officer, the Planning & Zoning Committee, or any neighboring property owner who would be specifically damaged by such violation may institute an appropriate action or proceeding to enjoin a violation of this Chapter or cause a structure to be vacated or removed.

(Amended by Ordinance No. 09-1)

## 2.7 Civil Enforcement

Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the Penalties described above.

## **SECTION 3.0 – PLANNING AND ZONING COMMITTEE**

(Amended by Ordinance No. 09-1)

### **3.1 Establishment of Committee**

There is hereby established a Planning & Zoning Committee for the Town.

### **3.2 Membership and Organization**

The Town Planning & Zoning Committee shall be formed and organized as follows:

- (1) The Committee shall consist of five members, one of which shall be a Town Board member, and all of whom shall be adult residents of the Town appointed by the Town Chairperson and approved by the Town Board.
- (2) The Zoning Officer shall be an ex officio member of the Committee and shall attend all meetings but shall not be a voting member.
- (3) The Committee's Chairperson and Secretary shall be appointed by the Town Chairperson.

(Amended by Ordinance No. 09-1)

- (4) The term of the Town Board member who sits on the Committee shall be one year, and the terms of the four other members shall be staggered three-year periods.
- (5) Vacancies in the Board shall be filled for an unexpired term in the same manner as appointments for a full term.
- (6) Each member of the Committee shall take an official oath in accordance with Section 19.01 of the Wisconsin Statutes within ten days of receiving notice of appointment.
- (7) Compensation for Committee members shall be determined by the Town Board.
- (8) Terms of members of the Committee hereunder shall begin on the first day of May.
- (9) Any member of the Committee who has any interest in a matter before the Board shall not vote thereon and shall remove himself or herself from any meeting or hearing at which said matter is under consideration.

### **3.3 Zoning Officer**

- (1) There is herewith created the office of Zoning Officer, which office may be a full-time or part-time position, as the Town Board in its discretion shall determine. The



Zoning Officer shall be a Johnstown resident, shall be appointed by the Town Board, and shall hold office until replaced by the Town Board. His or Her duties shall be to administer, supervise, and literally enforce the provisions of this Chapter. His or Her compensation shall be determined by the Town Board.

- (2) The duty of the Zoning Officer shall be to investigate all complaints, give notice of violations, and to enforce this Chapter. The Zoning Officer may enter, at any reasonable time as permitted by the property owner, onto any public or private lands or waters to make inspection. If the Zoning Officer is refused entry, a special inspection warrant shall be issued for said premises pursuant to Sections 66.122 and 66.123 of the Wisconsin Statutes. The Zoning Officer may set time limits and conditions for the correction of violations.
- (3) The Zoning Officer shall make an annual report of his or her activities to the Town Board.
- (4) The Zoning Officer shall prepare zoning permit forms, assist the applicant as to the provisions of this Chapter; inspect each project for which a permit has been applied for or granted; report violations; and provide this information to the Planning & Zoning Committee. The Zoning Officer may issue zoning permits which are within strict compliance with the requirements of this Chapter when delegated such authority by the Planning & Zoning Committee. Whenever there is a question other than the literal requirements of this Chapter, it is to be brought directly to the Planning & Zoning Committee Chairperson.

#### 3.4 Matters Referred to the Planning & Zoning Committee

The Town Board or other public body having authority thereon shall refer to the Planning & Zoning Committee for its consideration and report before final action is taken by the Town Board or public body, the following matters:

- (1) The location and architectural design of any public building.
- (2) The location of any statue or other memorial.
- (3) The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition, or lease of land for any street, alley or other public way, park, playground, airport, area for parking facilities, or other memorial or public grounds.
- (4) The location, extension, authorization, or abandonment of any public utility, whether publicly or privately owned.
- (5) All proposed and final certified surveys and subdivision plats in the Town.

- (6) The location, character, and extent of acquisition, leasing, or sale of lands for public or semi-public housing, slum clearance, relief of congestion, or vacation camps for children.
- (7) The abandonment or repeal of any ordinance adopted relating to planning and zoning.
- (8) Conditional use permit applications.

(Amended by Ordinance No. 09-1)

Unless such report is made within 45 days or such longer period as may be stipulated by the Town Board, the boards or other public body may take final action without it.

### 3.5 Powers

The Planning & Zoning Committee shall have the following powers:

- (1) To issue zoning permits when within the provisions of this Chapter and to delegate this authority to the Zoning Officer.
- (2) To review and recommend to the Town Board the approval, conditional approval, or denial of preliminary land divisions and conditional use permits. Conditions of approval may be recommended by the Committee to the Town Board as part of obtaining preliminary approval.

(Amended by Ordinance No. 15-1)

- (3) To review and recommend approval, conditional approval, or denial of amendment to the Official Zoning Map or the text of this Chapter.

(Amended by Ordinance No. 09-1)

- (4) To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses, provided no structural alterations are to be made. Whenever the Committee permits such a substitution, the use may not thereafter be changed without another application for substitution.

- (5) To hear and grant applications for unclassified and unspecified uses, provided that such uses are similar in character to the principal uses permitted in the district.

(Amended by Ordinance No. 09-1)

### 3.6 Meetings

Meetings shall be called when necessary, as specifically determined by the Chairperson of the Planning & Zoning Committee. Special meetings may be called by the Chairperson or

upon written request of two committee members. Notice of special meetings shall be given by personal service or telephone calls to all members at least 24 hours prior to the called special meeting.

3.7 Minutes

The minutes shall be kept by the Secretary.

3.8 Quorum

Three (3) members shall constitute a quorum to transact any business and formulate proper action thereon.

3.9 Compensation

The members shall be compensated as determined by the Town Board.

3.10 Town Board

The Town Board is the public body having authority thereon to change or amend this Chapter. The Town Board may also direct by majority vote that Zoning Permits and Conditional Use Permits be issued when in compliance with this Chapter.

## **SECTION 4.0 – ZONING DISTRICTS**

### **4.1 Establishment**

For the purpose of this Chapter the Town of Johnstown is hereby divided into the following Zoning Districts:

Exclusive Agricultural District One (A-1)  
General Agricultural District Two (A-2)  
Small Scale Agricultural District Three (A-3)  
Local Commercial District (B-1)  
Lowland Conservancy Overlay District (C-1)  
Highland Conservation District (C-2)  
Rural Residential District (R-R)  
Mobile Home Park District (MHP)  
Special Purpose District (SP)  
Light Industrial District (M-1)

### **4.2 Zoning Map and District Boundaries**

- (1) The boundaries of such districts are hereby established as shown on a map entitled "Official Zoning Map, Town of Johnstown, Rock County, Wisconsin, September 1, 2015", as amended, which accompanies and is made a part of this Chapter. Such boundaries shall be construed to follow: town and corporate limit lines, U.S. Public Land Survey Lines; lot or property lines; topographic lines; Road right-of-ways, centerline of streets, roads, highways, alleys, easements, and railroad right-of-way lines or such lines extended; unless otherwise noted on the Zoning Map. Said map shall be kept on file in the office of the Town Clerk. The Town Clerk shall forward all map amendments approved by the Town Board to the Rock County Planning and Development Agency and maintain a revised current map reflecting current zoning boundary locations.
- (2) Overlay districts, if any, as presented in this Chapter, are created for the purpose of imposing special regulations in given designated areas to accomplish stated purposes that are set forth for each such overlay district. Overlay districts shall be in addition to, and shall overlap and overlay all other zoning districts within which lands placed in each district also lie, so that any parcel of land lying in an overlay district shall also lie in one or more of the other zoning districts provided for by this Chapter.

(Amended by Ordinance No. 15-1)

#### 4.3 General District Regulations

The following regulations set forth requirements that may not apply universally throughout the town, but rather cover issues that are applicable to one or more districts.

- (1) Agricultural Districts. This Chapter is intended to qualify as a "farmland preservation zoning ordinance" as that term is defined in Chapter 91 (the Farmland Preservation Law) of the Wisconsin Statutes. Any ambiguity in this Chapter shall be interpreted in a manner consistent with the ordinance standards for certified farmland preservation ordinance under Section 91 of the Wisconsin Statutes.  
(Amended by Ordinance No. 15-1)
- (2) Exceptions to Height Regulations. The height limitations contained in the requirements for permitted and conditional uses do not apply to grain elevators, silos, barns, spires, belfries, cupolas, antennas, water tanks, fire towers, windmills, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy, except as otherwise expressly provided in this Municipal Code.  
(Amended by Ordinance No. 15-1)
- (3) Structures to Have Access. Every residential building hereafter erected or moved shall be on a lot adjacent to a public street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
- (4) Parking and Storage of Certain Vehicles. Motor vehicles without current license plates shall not be parked or stored unless they are in completely enclosed buildings.
- (5) Setback. A setback less than the setback required by this Chapter may be permitted where there are at least 2 existing main buildings existing at the date of enactment of this Zoning Ordinance within 200 feet on both sides of the proposed site that are built to less than the required setback. In such case, the setback shall be the average of the nearest main building on each side of the proposed site, or if there is no building on one side, the average of the setback for the main building on one side and the required setback. Such setback shall be granted by a permit from the Planning & Zoning Committee and shall not require a special exception or variance.
- (6) Loading Space. In Commercial or Industrial districts, sufficient space for loading or unloading of vehicles shall be provided off the highway in connection with any commercial or industrial use so that the highway shall at all times be free and unobstructed to the passage of traffic.

- (7) Undersized Lots. Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located, and was of record as such at the time of the passage of this Zoning Ordinance, such lot may be occupied by a one-family structure.
- (8) Applicable Zoning for Vacated Street. Vacation of public streets, alleys, and rights-of-way shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- (9) Underground Utility Lines. For all new land divisions, utility lines which will serve individual lots (to include electric lines under 12,400 volts, cable television, telephone, Internet, natural gas, etc.) shall be installed underground within the utility easements indicated on the land division map shall be required to be on the Zoning Permit map and provisions made to assure that installation of said utilities will take place prior to conveyance of any lots so created. The only exception will be where existing overhead or underground lines can provide direct service to a structure on an immediately adjacent parcel.
- (Amended by Ordinance No. 09-1)
- (10) Overhead Utility Lines. No overhead power, telephone, or telegraph lines shall be erected within one-half mile of any boundary of the site of any airport, landing field, or landing and takeoff strip.
- (11) Community Living Arrangements. Community living arrangements as provided in Section 60.62 of the Wisconsin Statutes shall be permitted without restriction as to the number of facilities so long as the total capacity of all the community living arrangements does not exceed 25 people or 1% of the town's population, whichever is greater. No community living arrangement may be established after March 27, 1978, which is located within 2500 feet of any other such facility. Two community living arrangements may be adjacent if authorized by the Planning & Zoning Committee and if both comprise essential components of a single program.
- (12) Mobile Homes. Mobile Homes are permitted only in a Mobile Home Park District.
- (13) Habitation of Recreational Vehicle. Habitation of any recreational vehicle, tent, or camper shall not take place on a parcel located in the Town unless a primary residence is available for use of required services such as sewer and water, and unless such habitation is temporary in nature and does not exceed 30 days in any calendar year.
- (14) Permanent Foundation. A permanent foundation is required for all residential structures as provided in the design standards of the Wisconsin Uniform Dwelling Code.

(Amended by Ordinance No. 09-1)

- (15) Required Compliance of New Land Parcels. No new land parcel shall be created that is not in compliance with the requirements and standards of this Chapter.
- (16) Minimum Dwelling Size. Every dwelling erected in the Town of Johnstown shall provide not less than 1200 square feet of floor area for a one story building for each family dwelling therein, nor less than 1900 square feet of floor area for a two story building for each family dwelling therein. Floor area does not include garage, attic, basement, or breezeway.
- (17) Kennels. No kennels are permitted in the Town of Johnstown without a license issued pursuant to Section 174.053 of the Wisconsin Statutes, and unless a conditional use permit is granted for such a kennel under the provisions of this chapter allowing kennels as conditional uses in certain districts.

(Amended by Ordinance No. 01-2)
- (18) Motorized Bike and All-Terrain Vehicle Tracks. Tracks for motorized bicycles and all-terrain vehicles are not prohibited uses but are not permitted except upon issuance of a Conditional Use Permit.

(Amended by Ordinance No. 09-1)
- (19) Outdoor Furnaces. Outdoor furnaces are not prohibited uses, but are not permitted uses, unless they are located on a parcel zoned A-1 and are not within 1,000 feet of the nearest residence that is not on the same property as the outdoor furnace, except upon issuance of a Conditional Use Permit. An outdoor furnace is defined as a furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

(Amended by Ordinance No. 09-1)

## **EXCLUSIVE AGRICULTURAL DISTRICT ONE (A-1)**

(Amended by Ordinance No. 15-1)

- (1) Purpose and Intent of Agricultural District One (A-1): The purpose of the A-1 District is to provide a means of obtaining the agricultural goals and objectives of the Comprehensive Plan. This district exclusively provides for agricultural uses and uses compatible with agriculture. The intent of this district is to maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development while minimizing land use conflicts among incompatible uses and to be eligible for the state of Wisconsin Farmland Preservation Program.

(2) Permitted Uses

The following are permitted uses in the A-1 District

- (A) Agricultural Uses: Any of the following activities conducted for the purpose of producing an income or livelihood:
- a. Crop or forage production.
  - b. Keeping livestock up to three (3) animal units per acre in average collective density for the parcel.
  - c. Beekeeping.
  - d. Nursery, sod, or Christmas tree production.
  - e. Floriculture.
  - f. Aquaculture.
  - g. Fur farming.
  - h. Forest management.
  - i. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (B) Accessory Uses: Any of the following accessory uses:
- a. A building or structure, improvement, activity or business operation that is an integral part of, or is incidental to, a permitted agricultural use.
  - b. One farm residence.
- (C) Existing residences: Residences, regardless of occupancy, existing as of January 1, 2014.
- (D) Undeveloped Natural resource and open space areas.
- (E) Transportation, utility, communication uses: A transportation, utility,



communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

(3) Conditional Uses

The following are conditional uses in the A-1 District:

- (A) Farm Family Business: A business, activity or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those that are an integral part of, or incidental to, an agricultural use, that employs no more than 4 full-time non-family employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
- (B) Agriculture-Related Uses:
  - a. An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
  - b. A facility integral to an agricultural use, regardless of whether the facility is located on a farm, that relies on agricultural uses conducted primarily off-site.
- (C) Transportation, Communications, Pipeline, Electric Transmission, Utility, or Drainage. Those transportation, communications, pipeline, electric transmission, utility, and drainage uses if the Town Board determines that all of the following apply:
  - a. The use and its location in the district are consistent with the purposes of the district.
  - b. The use and its location the district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
  - c. The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.
  - d. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

- (D) Governmental, Institutional, Religious, or Nonprofit Community Uses: Governmental, institutional, religious, or nonprofit community uses if the Town Board determines that all of the following apply:
- a. The use and its location in district are consistent with the purposes of the district.
  - b. The use and its location in the district are reasonable and appropriate, considering alternative locations, or are specifically approved under state and federal law.
  - c. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
  - d. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- (E) Nonmetallic mineral extraction: Nonmetallic mineral extraction if the Town Board determines that all of the following apply:
- a. The operation complies with Wisconsin Statutes and administrative rules and county and town ordinances and with any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites.
  - b. The operation and its location in district are consistent with the purposes of the district.
  - c. The operation and its location in the district are reasonable and appropriate, considering alternative locations, or are specifically approved under state and federal law.
  - d. The operation is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
  - e. The operation The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  - f. The conditional use permit issued requires the owner to restore the land to agricultural use, consistent with any locally approved reclamation plan, when extraction is completed.
- (F) Oil and Gas Exploration or Production: Oil and gas exploration that is licensed by the Wisconsin Department of Natural Resources under state law.

- (G) Uses permitted by DATCP rule: Other uses allowed by the Wisconsin Department of Agricultural, Trade and Consumer Protection by rule in an exclusive agricultural use zoning district.
- (H) Lagoon Wastewater Application: Application of lagoon wastewater or other liquid by-products of animal waste by the use of Center Pivot Waste Distribution Systems.
- (I) Additional Farm Residences.
- (J) Keeping of Livestock: Keeping of livestock of more than three (3) animal units per acre in average collective density of the parcel.

(4) Requirements for Permitted and Conditional Uses

Within the A-1 District the following standards shall apply:

- (A) Minimum Lot Size: The minimum lot size in this District shall be 35 acres, provided that a smaller lot size may be allowed by conditional use permit.
- (B) Maximum Building Height .....35 ft. Residential Structures;  
No maximum on other structures
- (C) Minimum Front Yard Setback.....50 ft.
- (D) Minimum Rear Yard Setback .....50 ft.
- (E) Minimum Side Yard:  
Principal Buildings .....20 ft. on each side  
Accessory Buildings .....10 ft. on each side
- (F) Minimum Lot Width at Building Line .....100 ft.
- (G) All minimum front yard setbacks are also subject to Section 9.1 of this Chapter in relation to Arterial, Collector and Local Roads.
- (H) Animal Units per Acre: Three (3) animal units per acre, on continuous acreage. Additional units per acre will require a Conditional Use Permit.
- (I) Minimum Residential Structure Size ..... per subsection 4.3(16)
- (J) Minimum Residential Structure Width .....24 ft.
- (K) Minimum Lot Width on Public Road.....100 ft.

- (L) All new livestock facilities with 500 animal units or more must as a minimum meet the agricultural performance standards and prohibitions, prior to populating the site with animals, as identified in WI ADMIN CODE NR 151. The Rock County Land Conservation Department will verify that all performance standards are met and will report findings of fact to the board.

All expanding livestock facilities for which the expansion results in more than 500 animal units and for which the expansion is greater than 20% of the existing facility size, must as a minimum meet the agricultural performance standards and prohibitions, prior to populating the site with animals, as identified in WI ADMIN CODE NR 151. This requirement is only applicable to the proposed expansion component. The Rock County Land Conservation Department will verify that all performance standards are met and will report findings of fact to the board.

- (M) Minimum acreage under this Section shall be calculated by treating contiguous parcels as a single parcel. Parcels that are only separated by a lake, stream, or transportation or utility right-of-way are contiguous for the purpose of this Chapter.

- (N) General Setbacks Applicable to Livestock Structures

(1) Property lines

Except as provided hereunder for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 1,000 animal units, and 200 feet from the property line if the livestock facility will have 1,000 or more animal units. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of this setback requirement, except that a structure may not be expanded closer to the property line.

(2) Public Road Right-of-Way

Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from a public road right-of-way if the livestock facility will have fewer than 1,000 animal units, and 150 feet from a public road right-of-way if the livestock facility will have 1,000 or more animal units. This setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of this setback requirement, except that a structure may not be expanded closer to the public road right-of-way.

### (3) Waste Storage Structure

A new waste storage structure may not be located within 350 feet of a property line, or within 350 feet of the nearest point of any public road right-of-way.

A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:

- located on the same tax parcel as a waste storage structure in existence before May 1, 2006;
- no larger than the existing structure;
- no further than 50 feet from the existing structure; and
- no closer to the road or property line than the existing structure.

This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line may not expand toward that property line or road.

(Created by Ordinance No. 9-06)

## (O) Water Quality and Related Setback Requirements

### (1) Navigable waters and wetlands

A livestock facility shall comply with setback and related requirements in any applicable Rock County shore land or wetland zoning ordinances or chapter enacted within the scope of authority granted under §§ 59.692, 61.351 or 62.231 of the Wisconsin Statutes.

### (2) Flood Plain

A livestock facility shall comply with setback and related requirements in any applicable flood plain zoning ordinance enacted within the scope of statutory authority under § 87.30 of the Wisconsin Statutes.

### (3) Wells

All wells located within a livestock facility shall comply with Chapters NR811 and 812 of the Wisconsin Administrative Code. New or substantially altered livestock structures shall be separated from existing wells by the distances required in said Chapters NR811 and 812, regardless of whether the livestock facility operator owns the land in which the wells are located. A livestock structure in existence on May 1, 2006, may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.

(5) Rezoning Land in a Farmland Preservation Zoning District

- (A) The Town Board may rezone land out of a farmland preservation zoning district if, after a public hearing, it makes written findings that the rezoning meets the following standards:
1. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
  2. The rezoning is consistent with any applicable comprehensive plan.
  3. The rezoning is substantially consistent with the County certified farmland preservation plan.
  4. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
- (B) The Town shall by March 1 of each year provide to DATCP and the County a report of the number of acres rezoned out of an Agricultural Zoning District during the previous calendar year and a map that clearly shows the location of those acres.

(6) Prohibited Uses

No structure or improvement may be built, or land used, in this District unless it is a Permitted or an approved Conditional Use in this District."

## **GENERAL AGRICULTURAL DISTRICT TWO (A-2)**

### **(1) Purpose and Intent of Agricultural District Two (A-2)**

The purpose of the A-2 District is to provide a means of accomplishing the agricultural goals and objectives in the Development Plan for land parcels in the General Agricultural Area. This district is designed to promote the maintenance and preservation of areas that have been historically utilized for agricultural purposes. The intent of the A-2 District is to provide for agricultural activities and uses that are compatible with agriculture and are generally best suited for smaller farm units.

### **(2) Permitted Uses**

The following uses are permitted in this district:

- (A) General farming including dairying, livestock and poultry raising, nurseries and other similar enterprises or uses, but not fur farms or farms operated for the disposal or reduction of garbage, sewage, rubbish, or offal, provided that such permitted uses shall not include the spreading of sewage sludge unless a conditional use permit is obtained as described in subsection 3(F) below, and provided that such permitted uses shall not include the use of Center Pivot Manure Distribution Systems, and further provided that no buildings for the housing of livestock or poultry shall be located within 100 feet of any boundary of a residential or commercial lot other than that of the owner or lessee of such buildings containing such livestock or poultry.

(Amended by Ordinance No. 11-1)

- (B) Forestry, grazing, hatcheries, nurseries, orchards, paddocks, stables, truck farming, and other appropriate agricultural pursuits, sale of farm products produced on the premises that do not require outside processing before they are offered for sale, and up to two signs with each sign face no larger than 4' x 8' (totaling up to 32 square feet) advertising such sale.
- (C) One single family residential dwelling.
- (D) Pre-existing residences whose initial construction began before September 29, 1982, are hereby considered a permitted use and are exempt from the limitations imposed and authorized under Section 10 of this Chapter.
- (E) Livestock facilities up to one (1) animal unit per acre.

(Created by Ordinance No. 07-\_\_)

(3) Conditional Uses

A conditional use in this district is to permit the following uses only after public hearing and approval of the Town Board. The Board will review the applicable facts pertaining to the proposed conditional use according to the standards established in Section 5 of this Chapter.

(Amended by Ordinance No. 09-1)

- (A) Churches, veterinary hospitals, publicly owned parks, and publicly owned recreational areas.
- (B) Water storage facilities and power stations, provided they are enclosed by an 8-foot or higher protective fence.
- (C) Farm dwellings and related farm structures existing as of September 29, 1982, *may* be separated from the farm plot provided that no parcel thus created shall exceed 5 acres or be less than 3 acres. The remaining portion of the original parcel shall conform to the standards of this district, and the new parcel shall conform to the standards of the A-3 district.
- (D) Fur farms, kennels, insect-breeding facilities, commercial or wholesale greenhouses, holding pens, confinement operations, and other agricultural uses that may cause noxious odors or noise, provided that written permissions is obtained from the Town Board on the recommendation of the Planning & Zoning Committee. Any conditional use permit issued hereunder for a kennel shall require as a condition that the operator of such kennel obtain a kennel license pursuant to Section 174.053 of the Wisconsin Statutes.  
(Amended by Ordinance No. 01-2)
- (E) Riding stables, riding schools, and shooting preserves.
- (F) The hauling of sewage sludge for the purpose of fertilizer, provided that adequate provision for the protection of town roads is made pursuant to subsection 5.4(2) of this Chapter.
- (G) Creameries, milk condenseries, and cheese factories, provided, however, that the same are not located or operated within 500 feet of any dwelling.
- (H) Supportive agri-business activities to include grain elevators, seed, fertilizer, and farm chemical sales, commercial feedlots, feed mills, and similar agricultural activities, provided that adequate provision is made to protect town roads pursuant to subsection 5.4(2) of this Chapter.
- (I) Storage of non-agriculture items for commercial purposes in buildings existing as of



September 29, 1982, or in new buildings in the immediate vicinity of buildings existing as of September 29, 1982.

- (J) Additional farm dwellings for those resident owners and workers actually engaged in the principal permitted uses.
- (K) Telephone, telegraph, and electric transmission lines, buildings, and structures.
- (L) Sale of agricultural products not produced on premises.
- (M) Single-family dwellings occupied by parents or children of the farm operator.
- (N) Farm family business.

(Created by Ordinance No. 04-02)
- (O) Livestock facilities over one (1) animal unit per acre or over 500 animal units total, whichever is less.

(Created by Ordinance No. 07-\_\_)

(4) Requirements for Permitted and Conditional Uses

Within the A-2 District the following standards shall apply:

- (A) Minimum Lot Size ..... 10 acres  
(unless a conditional use permit is granted under Section (3)(C))
- (B) Maximum Building Height .....35 ft. Residential Structures;  
No maximum on other structures
- (C) Minimum Front Yard Setback.....50 ft.
- (D) Minimum Rear Yard Setback .....50 ft.
- (E) Minimum Side Yard:  
Principal Buildings .....20 ft. on each side  
Accessory Buildings ..... 10 ft. on each side
- (F) Animals Units per Acre: One (1) animal unit per acre. Additional animal units per acre will require a conditional use permit.
- (G) All front yard setbacks are also subject to Section 9.1 of this Chapter for setbacks on Arterial, Collector, and Local roads.

- (H) Minimum Lot Width on Public Road.....100 ft.
- (I) Conditional Use Requirements:
1. Lot size shall be no greater than the minimum lot area needed to include existing building, primary and reserve septic system areas, required setbacks, and acreage needed to accommodate the proposed number of animal units.
  2. Lots created for new residential structures for a parent, child, or farm worker shall be located on the least productive land on the farm operation and/or adjacent to existing buildings.
- (J) Minimum Residential Building Size ..... per subsection 4.3(18)
- (K) Minimum Residential Building Width .....24 ft.
- (L) General Setbacks Applicable to Livestock Structures
1. Property Lines: Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 1000 animal units, and 200 feet from the property line if the livestock facility will have 1000 or more animal units. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of this setback requirement, except that a structure may not be expanded closer to the property line.
  2. Public Road Right-of-Way: Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from a public road right-of-way if the livestock facility will have fewer than 1000 animal units, and 150 feet from a public road right-of-way if the livestock facility will have 1000 or more animal units. This setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of this setback requirement, except that a structure may not be expanded closer to the public road right-of-way.
  3. Waste Storage Structures: A new waste storage structure may not be located within 350 feet of a property line, or within 350 feet of the nearest point of any public road right-of-way.

A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:

- a. Located on the same tax parcel as a waste storage structure in existence before May 1, 2006;
- b. No larger than the existing structure;
- c. No further than 50 feet from the existing structure; and
- d. No closer to the road or property line than the existing structure.

This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line may not expand toward that property line or road.

(Subsection (L) Created by Ordinance No. 07-\_\_)

(M) Water Quality and Related Setbacks

1. Navigable Waters and Wetlands: A livestock facility shall comply with setback and related requirements in any applicable shoreland or wetland zoning ordinances enacted within the scope of authority granted under Sections 59.692, 61.351, or 62.231 of the Wisconsin Statutes.
2. Flood Plain: A livestock facility shall comply with setback and related requirements in any applicable flood plain zoning ordinance that is enacted within the scope of statutory authority under Section 87.30 of the Wisconsin Statutes.
3. Wells: All wells located within a livestock facility shall comply with Chapters NR 811 and 812 of the Wisconsin Administrative Code. New or substantially altered livestock structures shall be separated from existing wells by the distances required in said Chapters NR 811 and 812, regardless of whether the livestock facility operator owns the land in which the wells are located. A livestock structure in existence on May 1, 2006, may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.

(Subsection (M) Created by Ordinance No. 07-\_\_)

(5) Prohibited Uses

No structure or improvement may be built or land used in this district unless it is a Permitted or approved Conditional Use in this District.

### **SMALL SCALE AGRICULTURAL DISTRICT THREE (A-3)**

(1) **Purpose and Intent of Agricultural District Three (A-3)**

The purpose of the A-3 District is to provide a mixture of low density residential and agricultural land uses which are consistent with the goals and objectives of the Development Plan for parcels of land in the Small Scale Agricultural Area. This district is designed to permit utilization of relatively small land parcels in predominantly agricultural areas for combined rural residential/agricultural use. The A-3 District is intended to be applied to those rural lands that have marginal utility for agricultural use because of soil type, lot configuration and/or topography. The A-3 District is to consist of soils which do not have on-site sewer limitations and are not prime agricultural soils.

(2) **Permitted Uses**

The following uses are permitted in this district:

- (A) One single family dwelling per parcel.
- (B) General farming including livestock and poultry raising, nurseries, and other similar enterprises or uses, except fur farms and farms operated for the disposal or reduction of garbage, sewage, rubbish, or offal, provided that such permitted uses shall not include the use of Center Pivot Manure Distribution Systems, and further provided that no buildings for the housing of livestock or poultry shall be located within 100 feet of any boundary of a residential or commercial lot other than that of the owner or lessee of such buildings containing such livestock or poultry.  
(Amended by Ordinance No. 11-1)
- (C) In-season roadside stands for the sale of farm products produced on the premises, and up to two signs not larger than eight square feet each advertising such sale.
- (D) Gardening, including truck gardens, nurseries, and greenhouses.
- (E) Governmental buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance machinery.
- (F) The following uses if they are publicly owned: parks, playgrounds, and recreational and community center buildings and grounds.
- (G) Pre-schools, K-8 grade schools, churches, and their affiliated uses.
- (H) Public buildings, except sewage plants, garbage incinerators, landfills, warehouses,

garages, shops, and storage areas.

- (I) Water storage facilities and their accessory structures.
- (J) Accessory buildings, including buildings clearly incidental to the residential use of the property, provided that no accessory building may be used as a separate dwelling unit, and that the square footage of the accessory building may not exceed the square footage of the living area of the residence on the premises or, if there is no residence, the square footage of the principal building on the premises.
- (K) Uses customarily incident to any of the above uses provided that no such use generates traffic or noise that would create a public or private nuisance.
- (L) Livestock facilities up to one (1) animal unit per acre.

(Created by Ordinance No. 07-\_\_)

(3) Conditional Uses

A conditional use in this district is to permit the following uses only after public hearing and approval of the Town Board. The Board will review the applicable facts pertaining to the proposed conditional use according to the standards established in Section 5 of this Chapter.

(Amended by Ordinance No. 09-1)

- (A) Home occupation, when such operation 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.
- (B) Professional offices, when such office is conducted solely by one or more members of the resident family, if the use is conducted entirely within the residence and is incidental to the residential use of the premises.
- (C) Institutions of a charitable or philanthropic nature, hospitals, clinics and sanitariums, libraries, museums, community buildings, private clubs (including, but not limited to, riding clubs), and fraternities, except those whose principal activity is a service customarily carried on as a business.
- (D) Fur farms, kennels, insect-breeding facilities, commercial or wholesale greenhouses, holding pens, and confinement operations. Any conditional use permit issued hereunder for a kennel shall require as a condition that the operator of such kennel obtain a kennel license pursuant to Section 174.053 of the Wisconsin Statutes.

(Amended by Ordinance No. 01-2)

- (E) The hauling of sewage sludge for the purpose of fertilizer, provided that adequate provision for the protection of town roads is made pursuant to subsection 5.4(2) of this Chapter.
- (F) Accessory buildings exceeding the size allowed as a permitted use.
- (G) Livestock facilities over one (1) animal unit per acre or over 500 animal units total, whichever is less. (Created by Ordinance No. 07-\_\_)

(4) Requirements for Permitted and Conditional Uses

- (A) Maximum Building Height .....35 ft. Residential Structures;  
No maximum on other structures
- (B) Minimum Side Yard:  
Principal Buildings .....20 ft. on each side  
Accessory Buildings .....10 ft. on each side
- (C) Minimum Front Yard Setback .....50 ft.
- (D) Minimum Rear Yard Setback .....50 ft.
- (E) Minimum Lot Area ..... 3 acres
- (F) Animal Units per Acre: One (1) animal unit per acre. Additional units per acre will require a Conditional Use Permit.
- (G) All front yard setbacks are also subject to Section 9.1 of this Chapter for setbacks on Arterial, Collector, and Local roads.
- (H) Minimum Lot Width on Public Road .....100 ft.
- (I) Minimum Residential Building Width .....24 ft.
- (J) Minimum Residential Building Size ..... per subsection 4.3(18)
- (K) General Setbacks Applicable to Livestock Structures
  - 1. Property Lines: Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 1000 animal units, and 200 feet from the property line if the livestock facility will have 1000 or more animal units. The setback requirement does not prevent the use or expansion of a

livestock structure that was located within the setback area prior to the effective date of this setback requirement, except that a structure may not be expanded closer to the property line.

2. Public Road Right-of-Way: Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from a public road right-of-way if the livestock facility will have fewer than 1000 animal units, and 150 feet from a public road right-of-way if the livestock facility will have 1000 or more animal units. This setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of this setback requirement, except that a structure may not be expanded closer to the public road right-of-way.
3. Waste Storage Structures: A new waste storage structure may not be located within 350 feet of a property line, or within 350 feet of the nearest point of any public road right-of-way.

A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:

- a. Located on the same tax parcel as a waste storage structure in existence before May 1, 2006;
- b. No larger than the existing structure;
- c. No further than 50 feet from the existing structure; and
- d. No closer to the road or property line than the existing structure.

This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line may not expand toward that property line or road.

(Subsection (K) Created by Ordinance No. 07-\_\_)

(L) Water Quality and Related Setbacks

1. Navigable Waters and Wetlands: A livestock facility shall comply with setback and related requirements in any applicable shoreland or wetland zoning ordinances enacted within the scope of authority granted under Sections 59.692, 61.351, or 62.231 of the Wisconsin Statutes.
2. Flood Plain: A livestock facility shall comply with setback and related requirements in any applicable flood plain zoning ordinance that is enacted within the scope of statutory authority under Section 87.30 of the Wisconsin Statutes.

3. Wells: All wells located within a livestock facility shall comply with Chapters NR 811 and 812 of the Wisconsin Administrative Code. New or substantially altered livestock structures shall be separated from existing wells by the distances required in said Chapters NR 811 and 812, regardless of whether the livestock facility operator owns the land in which the wells are located. A livestock structure in existence on May 1, 2006, may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.

(Subsection (L) Created by Ordinance No. 07-\_\_)

(5) Prohibited Uses

No structure or improvement may be built or land used in this district unless it is a Permitted or approved Conditional Use in this district.



## **LOCAL COMMERCIAL DISTRICT (B-1)**

### **(1) Purpose and Intent of Local Commercial District (B-1)**

The purpose of the B-1 District is to provide a means of obtaining the commercial goals and objectives of the Development Plan. The intent of this District is to accommodate certain limited sales and service facilities adjacent to residential areas which constitute a convenience to residents in the neighborhood and are compatible with residential uses.

### **(2) Permitted Uses**

The following uses are permitted in the B-1 District:

- (A) Stores and shops in which items are sold directly to the public, to include grocery, hardware, clothing and apparel stores, pharmacies and beverage stores, bakeries, magazine and tobacco stores, coffee shops, gift shops, parking areas, and similar retail establishments normally found in neighborhood shopping centers.
- (B) Professional offices for physicians, dentists, attorneys, real estate agents, insurance sales, and similar professional services in which services are offered to the general public on the premises.
- (C) Personal services to include barbershops, beauty salons, tailor shops, and coin-operated laundromats.
- (D) Governmental and public facilities such as fire and police stations, community centers, libraries, public emergency shelters, parks, and playgrounds.
- (E) Banks, office buildings, and restaurants.
- (F) Sales and retail of new and used automobiles, trucks, trailers, construction equipment, and agricultural equipment.
- (G) Gasoline/Convenience stores which do not provide mechanical services.
- (H) Model Homes for sales promotion (habitation as dwelling only as a conditional use), lumber yards, building services, and building supplies.
- (I) Mini-warehousing and general warehousing of merchandise in enclosed buildings.
- (J) Television, video, radio, and electrical equipment sales, service, and rental.
- (K) Plumbing, heating, and air-conditioning sales and repair shops.

(L) Technical schools and training centers.

(3) Conditional Uses

A conditional use in this district is to permit the following uses only after public hearing and approval of the Town Board. The Board will review the applicable facts pertaining to the proposed conditional use according to the standards established in Section 5 of this Chapter.

(Amended by Ordinance No. 09-1)

- (A) Single-family residences, but only in conjunction with and accessory to another permitted use for residential quarters for the owner, proprietor, commercial tenant, employee, or caretaker located in the same building as the business.
- (B) Lodges and fraternal buildings, nursing homes, retirement homes, and nursery and day care centers.
- (C) All public utility facilities, including sewage treatment facilities.
- (D) Animal hospitals and clinics, excluding open kennels and exercise yards.
- (E) Maintenance and repair of equipment and vehicles.
- (F) Construction contractor offices, equipment storage yards, and maintenance facilities.
- (G) Fabrication, assembly, processing, and/or packaging of plastics products, electrical equipment, jewelry, and pottery.
- (H) Automotive upholstery shops and automotive body repair shops.
- (I) Feed and grain dealers and grain storage.
- (J) Stores dealing with sexually explicit materials, books, magazines, movies, clothing, and paraphernalia.
- (K) Tactical war game areas.
- (L) Metal fabrication which does not interfere with residential or agricultural uses.

(Amended by Ordinance No. 99-1)

(4) Requirements for Permitted and Conditional Uses

Within the B-1 District the following standards shall apply:

- (A) Maximum Building Height .....35 ft.
- (B) Minimum Frontage on Public Road .....100 ft.
- (C) Parking Requirements .....One 200 sq. ft. parking space  
for each 200 sq. ft. of building
- (D) Minimum Lot Area ..... 1 acre

Setbacks

- Front Yard .....50 ft.
- Rear Yard.....25 ft.
- Side Yard .....15 ft.
- Width at Building Line.....100 ft.
- (E) Accessory Building Side Yard Setback .....10 ft.
- (F) All front yard setbacks are to also refer to Section 9.1 of this Chapter for setbacks on  
Arterial, Collector and Local Roads.

(5) Prohibited Uses

No structure or improvement may be built or land used in this district unless it is a Permitted or approved Conditional Use in this district.

**LOWLAND CONSERVANCY DISTRICT (C-1) HAS BEEN DELETED**

**HIGHLAND CONSERVATION DISTRICT TWO (C-2) HAS BEEN DELETED**

## **RURAL RESIDENTIAL DISTRICT (R-R)**

### **(1) Purpose and Intent of R-R District**

The purpose of the R-R District is to provide a means of obtaining the residential goals and objectives of the Development Guide. The R-R District is to provide a quiet, pleasant and relatively spacious living area protected from traffic hazards and the intrusion of incompatible land uses. The intent of the R-R District is to provide for rural residential development at slightly higher population densities, on soils that are compatible for on-site sewage disposal systems.

(Amended by Ordinance No. 09-1)

The following described soil types have severe limitations due to high water table, slow permeability, lateral seepage, easy liquification, floatation of pipes, subjection to frost heave, bedrock, low bearing capacity, or frequent overflow, and therefore no residential development shall take place thereon unless an on-site soil test of the parcel is used to indicate specific locations on the parcel that will support development:

#### **ON-SITE LIMITATIONS**

Ad	Eke	KaA	To	SoB
Aw	ElA	KdD	Pa	SoC2
AzA	EmA	KdD2	Ro	SoD
BmA	EoA	KeE	RpB	SoF
Br	EvD	LkA	RpC2	TrA
CaD2	EvE	LoD	RpD2	Wb
CaE	GoD	Ma	RrE	WcA
Co	GpB2	Mb	ReF	WlA
Da	GpC2	Mc	Rs	WlB2
DrD2	GrD2	Md	RtD	WlC2
EdB2	Ha	Me	RuE	WlD2
EdC2	Ho	Mf	RuF	WhB2
EdD2	JuA	Na	SaD	WhC2
		OoD2	SbC2	WoA

### **(2) Permitted Uses**

The following uses are permitted uses in this District:

- (A) One single-family or two-family structure, and one private garage for each residential unit which is not to exceed the square footage of the residential structure.
- (B) Governmental buildings, except sewage disposal plants, garbage incinerators, and

buildings for the repair or storage of road building or maintenance machinery.

- (C) Public and quasi-public-owned parks, playgrounds, and community buildings and grounds.
- (D) Grade schools, churches, and their affiliated uses.
- (E) Water-storage facilities and their accessory structures
- (F) Accessory buildings, including buildings clearly incidental to the residential use of the property, provided that no accessory building may be used as a separate dwelling unit, and that the square footage of the accessory building may not exceed the square footage of the living area of the residence on the premises or, if there is no residence, the square footage of the principal building on the premises.
- (G) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create a public or private nuisance.
- (H) Community living arrangement which has a capacity for 8 or fewer persons being served by the program, provided that it is located at least 2500 feet from any other such facility.

(3) Conditional Uses

A conditional use in this district is to permit the following uses only after public hearing and approval of the Town Board. The Board will review the applicable facts pertaining to the proposed conditional use according to the standards established in Section 5 of this Chapter.

(Amended by Ordinance No. 09-1)

- (A) Home occupation, when such operation 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.
- (B) Professional offices, when such office is conducted solely by one or more members of the resident household, entirely within the residence, and incidental to the residential use of the premises.
- (C) Public buildings such as colleges and universities, private music schools, dancing schools, business schools, and vocational schools, but not to include sewage disposal plants, garbage incinerators, warehouses, garages, or storage areas.
- (D) Institutions of a charitable or philanthropic nature, hospitals, clinics and

sanitariums, libraries, museums, other community buildings, private clubs, and fraternities, except those whose principal activity is a service customarily carried on as a business, and also excluding riding clubs.

- (E) Telephone, telegraph, and electric transmission lines, buildings, or structures.
- (F) Community living arrangement having a capacity for 9-15 persons being served by the program, provided that it is located at least 2500 feet from any other facility, and that the design of the structure and landscaping is compatible with the surrounding neighborhood.
- (G) Community living arrangement having a capacity for 16 or more persons, provided that it is located at least 2500 feet from any other such facility, and that it is adequately designed and landscaped to be in keeping with the neighborhood and to prevent the appearance of an institution.
- (H) Accessory buildings exceeding the size allowed as a permitted use.
- (I) Boarding houses and rooming houses.

(Amended by Ordinance No. 99-1)

(4) Requirements for Permitted and Conditional Uses

Within the R-R District the following standards shall apply:

- (A) Maximum Building Height .....35 ft.
- (B) Minimum Front Yard Setback.....50 ft.
- (C) Minimum Rear Yard Setback .....25 ft.
- (D) Accessory Buildings Side Yard Setback.....10 ft.
- (E) Minimum Lot Width at Building Line .....100 ft.
- (F) Minimum Lot Frontage on Public Road .....100 ft.
- (G) Minimum Lot Area ..... 1 acre
- (H) Minimum Lot Area per Two-Family Dwelling .....55,000 sq. ft.
- (I) Minimum Side Yard Setback.....20 ft.

- (J) Minimum Floor Area per Family .....1,200 so. ft.
- (K) Minimum Building Width .....24 ft.
- (L) Maximum Accessory Building Height.....35 ft.  
not to exceed the height  
of the principal building.
- (M) Maximum Number of Small Animals..... 10 rabbits, 10 chickens, 3 dogs and 3 cats
- (N) All front yard setbacks are also subject to Section 9.1 of this Chapter for setbacks on  
Arterial, Collector, and Local roads.

(5) Prohibited Uses

No structure or improvement may be built or land used in this district unless it is a Permitted or approved Conditional Use in this district.



## **MOBILE HOME PARK (MHP)**

### **(1) Introduction**

The purpose of the MHP District is to provide a means of obtaining the residential goals and objectives of the Development Guide. The intent of the MHP District is to provide for the location of mobile home parks and travel trailer camps and establish regulations governing their construction and use for the health and well-being of the residents of the community.

The following described soil types have severe limitations due to high water table, slow permeability, lateral seepage, easy liquification, low bearing capacity, or frequent overflow and therefore no residential development shall take place thereon:

#### **ON-SITE LIMITATIONS**

Ad	Eke	KaA	To	SoB
Aw	ElA	KdD	Pa	SoC2
AzA	EmA	KdD2	Ro	SoD
BmA	EoA	KeE	RpB	SoF
Br	EvD	LkA	RpC2	TrA
CaD2	EvE	LoD	RpD2	Wb
CaE	GoD	Ma	RrE	WcA
Co	GpB2	Mb	ReF	W1A
Da	GpC2	Mc	Rs	W1B2
DrD2	GrD2	Md	RtD	W1C2
EdB2	Ha	Me	RuE	W1D2
EdC2	Ho	Mf	RuF	WhB2
EdD2	JuA	Na	SaD	WhC2
		OoD2	SbC2	WoA

### **(2) Procedures and Applications**

(A) **Approvals Required.** No person shall construct, expand, or operate a mobile home park within the Town unless he or she holds a valid license issued annually by the Town Clerk.

1. Any person owning or controlling a mobile home park in existence on the effective date of this Zoning Ordinance may apply for and receive an annual license for his existing park or camp by complying with (D) below.
2. The Town Clerk shall issue an initial license only after the following actions have taken place:

- a. The land has been zoned mobile home park by the Town Board.
- b. The applicant completes an application form and submits it to the Town Clerk together with the required license fee
- c. The Town Board approves the license.

(B) Fees and Expiration Date (per Section 66.058 of the Wisconsin Statutes)

1. Fee Schedule

- a. Initial mobile home park license fee – to be determined by the Town Board
- b. Renewal mobile home park license fee – to be determined by the Town Board  
(Amended by Ordinance No. 09-1)
- c. Mobile home park license transfer fee – to be determined by the Town Board

2. Expiration. All such licenses are to expire on June 30 of each year and shall be renewed annually. There shall be no pro-ration of fees.

(C) Initial License Application

- 1. Application for an initial license shall be made to the Town Clerk on an initial license application form. Such application shall be for a conditional use permit and the initial license. Fees as provided in (2)(B)1. above are required prior to taking action on each of the approval steps listed herein.
- 2. Preliminary Plan
  - a. The applicant shall apply to the Planning & Zoning Committee for preliminary plan approval. Such applicant shall submit six (6) copies of the preliminary plan. Such preliminary plan shall be drawn on a topographic map with a scale of at least 200 feet per inch, showing 2-foot contours, the area, location, and proposed layout of lots, roadways, buffer strips, and park areas. Approval by the Planning & Zoning Committee shall be in concept only, which will enable the applicant to prepare final plan.

3. Final Plan

Upon approval by the Planning & Zoning Committee of the preliminary plan, the applicant shall submit to the Planning & Zoning Committee a review fee (to be determined by the Town Board) and six (6) copies of the general development plan which shall include:

- a. Three (3) prints of a certified survey map or subdivision plat of the property showing existing features of the property.
- b. A complete plan of the park or camp drawn to a scale of not less than 100 feet per inch.
- c. The number, location, and dimensions of all mobile home lots.
- d. The location and width of roadways, walkways, easements, setback lines, planting strips, and recreation areas.
- e. The location of automobile parking areas and service buildings, if provided.
- f. The location and size of utility service lines for water, storm, and sanitary sewers, and electrical, telephone, fuel, and, if provided, cable television service.
- g. Plans and specifications of all buildings and other improvements constructed within the park or camp, including a detailed sketch of a typical mobile home lot.

4. Upon submission of the final plan to the Planning & Zoning Committee, the Committee shall set a public hearing on the final plan. After hearing any interested party, staff report, recommendation, or other information, the Committee shall make a recommendation and report to the Town Board concerning such plan after determining the following:

- a. That the uses, values, and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance, or operation of the intended park.
- b. That adequate utilities, access roads, drainage, and other necessary site improvements have been or are being provided.
- c. That adequate measures have been or will be taken to provide

ingress or egress so designed as to minimize traffic congestion in the public street.

5. Approval by the Town Board. After receiving the final plan and the recommendation and report from the Planning & Zoning Committee, the Town Board may, after a public hearing, grant a permit for a conditional use. Such permit shall not be issued until the requirements of this section have been fulfilled. After the conditional use permit is issued, the Town Clerk is authorized to issue an initial license upon payment of the required fee.

(Amended by Ordinance No. 09-1)

6. Procedure After Permit Granted. Upon approval of a conditional use permit, the owners of the land shall cause to be recorded with the Register of Deeds for Rock County, Wisconsin, a certified survey map or plat (per Chapter 236 of the Wisconsin Statutes) of the gross land area, including the final approved plans and the deeding to the Town those lands and easements called for in the plans submitted to the Planning & Zoning Committee and Town Board, and containing a statement that the land is to be developed pursuant to the approved conditional use permit. Upon the submission of proof of such recording to the Town Clerk, said Clerk shall issue the initial license allowing said owners or their successors to develop the land according to the conditional use permit and recorded plans. Construction pursuant to such permit must commence within 1 year of the date of issuance of the license or the license shall become null and void.

- (D) Renewal License Application. The applicant shall apply to the Town each year for renewal of the license, and the renewal license shall be subject to the approval of the Town Board. The application for such renewal license shall be accompanied by a fee as provided in (2)(B)1. above.

(Amended by Ordinance No. 09-1)

- (E) Transfer of License. A transfer of license application shall be applied for and may be approved by the Town Board in the same manner as an application for a renewal license. The fee for such transfer license is provided in (2)(B)1. above.

### (3) Administration

- (A) Zoning Officer. It shall be the responsibility of the Zoning Officer to enforce the provisions of this Chapter by authorizing and directing inspections to be made of all mobile home parks and travel trailer camps.
- (B) Violations. Whenever the Zoning Officer determines that violations of pertinent regulations exist, he or she shall notify the licensee or permittee of such alleged

violations. Such notice shall

1. Be in writing.
2. Include a statement of the violations enumerated.
3. Allow a reasonable time for the performance of any act it requires to correct such violations, but not to exceed 90 days.

(C) Revocation of License. Upon failure to comply with such notice of violation or upon complaint by any citizen of the Town, the license for such park or camp is subject to revocation by the Town Board as provided in Section 66.058(2)(d) of the Wisconsin Statutes unless the alleged violation is corrected within the period specified by the Town Board.

(D) Emergency Order. Whenever the Zoning Officer finds that an emergency exists which requires immediate action to protect the public health, safety and/or welfare, he or she may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as he or she may deem necessary to meet the emergency, including suspension of the license. Said order shall be in writing, shall be notwithstanding any other provisions of this Chapter, and shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately or be subject to revocation of the mobile home park license.

(Amended by Ordinance No. 09-1)

(E) Duty of License Holder.

1. It shall be the duty of the license holder to file with the Town Clerk a monthly report containing the following information on a form sheet:
  - a. Name of the mobile home park and name and address of the owner, agent, or operator.
  - b. A tabulation of the mobile home park's occupancy, listing lot designation, occupants' names, monthly tax, and date of departure or arrival.
2. Within five days of the arrival of each new mobile home occupant, the owner shall submit in duplicate to the Town Assessor Form 130-2 of the Wisconsin Department of Revenue.

- (F) Restrictions on Occupancy of Mobile Homes. No mobile home shall be occupied for dwelling purposes unless it is properly placed on a mobile home lot and connected to water, sewer, electrical, and other utilities and complies with all provisions of this Chapter.

(4) General Provisions

- (A) Applicability. Every MPH District added to after the effective date of this Zoning Ordinance shall conform to and be governed by the provisions of this Chapter. No area shall be rezoned to Mobile Home Park District unless it is planned for residential use on the Development Plan Map. Every mobile home park or travel trailer camp developed and governed by this Chapter shall first have an approved conditional use permit prior to being licensed.
- (B) It shall be unlawful to permit a mobile home to be located in a park or camp unless it is placed in a designated stand, on an improved lot, in a licensed park.
- (C) Parking of Mobile Homes
1. Only one mobile home shall be placed on a lot, except that an unoccupied travel trailer may be parked behind the setback line of the owner's yard to the rear of the principal building.
  2. Each mobile home shall abut upon a roadway within an approved park.
- (D) Non-Residential Uses. No part of any park shall be used for non-residential purposes except for the management and maintenance of the park or camp as approved by the Town Board.
- (E) Signing. No signs shall be permitted except the following:
1. One non-flashing identification ground-mounted sign or a wall sign stating only the name of the park may be permitted, provided that the sign does not project into the public way.
  2. One ground or on-premise wall sign per street frontage may be permitted for travel trailer camps in accordance with the sign overlay requirements.
  3. Any necessary regulatory signs such as street name signs, entrance and exit signs, etc.

Signs and their installation shall comply with all other applicable codes and regulations.

(5) Standards

- (A) Minimum Park Size. There shall be a minimum of 10 acres of land developed as a MPH in the initial development.
- (B) Minimum Number of Lots. There shall be a minimum of 10 mobile home lots completed and ready for occupancy before first occupancy is permitted.
- (C) Length of Residential Occupancy. No lot shall be rented for residential use of a mobile home in any such MPH except for periods of 30 days or more.
- (D) Minimum Lot Width and Setback Standards
1. Setback Standards
    - a. Front setback.....50 ft.
    - b. Side setback.....15 ft.
    - c. Rear setback .....35 ft.
    - d. Corner Street Side Yard..... 50 ft. on each street
  2. Minimum Lot Width .....100 ft.
  3. Minimum Lot Area .....40,000 sq. ft.
  4. Minimum Accessory Side Yard Setback .....10 ft.
- (E) Parking. At least two (2) off-street hard surfaced parking spaces shall be provided on each mobile home lot. The size of each space must be at least 10 feet by 20 feet.
- Street parking on both sides of the street shall be permitted if the roadway is at least 36 feet wide. Street parking shall be permitted on one designated side only if the roadway is at least 30 feet wide.
- (F) Screening. There shall be provided a screening buffer strip along the boundary of the mobile home park where it abuts any other residence district. Such screening shall be at least 5 feet in width and 10 feet in height. Such strip shall be a densely planted hedge or shrubbery so as to effectively create a visual barrier and still allow a breeze to pass.
- (G) Recreation Requirements. Recreation facilities such as playgrounds, swimming pools, or tot lots shall be provided to meet the needs of the clientele the mobile home park is designed to serve. Not less than 10% of the total gross park area shall be devoted to recreational facilities and open space. Recreational facilities shall be

convenient to the project center.

(Amended by Ordinance No. 09-1)

- (H) Tenant Storage. One storage building accessory to a mobile home will be permitted on a mobile home lot, provided that the storage building does not exceed 400 cubic feet and does not exceed 8 feet in height. Such storage building shall be fully enclosed and located on the mobile home lot.

- (I) Fuel Supply. All fuel shall be distributed in conformity with the rules and regulations of the Wisconsin Department of Commerce.

(Amended by Ordinance No. 09-1)

- (J) Additions and Alterations

1. Permit Required. A permit issued by the Zoning Officer shall be required before any construction on a mobile home lot or any structural addition or alteration to the exterior of a mobile home. No permit is required for addition of steps, awnings, skirting, windows, doors, or tenant storage structures as defined below.
2. Size of Expansion. No addition to a mobile home shall be greater than the area in square feet of the existing mobile home. No addition or alteration to the mobile home shall exceed in height the height of the existing mobile home, and all such alterations or additions shall be factory built.
3. Conform to setbacks. Any addition to a mobile home shall be deemed a part of the mobile home and have the same setbacks as the existing mobile home.
4. Skirting Required. Vented skirting of non-flammable material for mobile homes is required. Areas enclosed by such skirting shall be maintained so as not to provide a harborage for rodents or create a fire hazard. It is recommended that insulation be provided inside the skirting to prevent pipes from freezing.

- (K) Utilities shall be installed underground and shall meet State and County statutes and codes.

1. Electrical Requirements.
  - a. Each mobile home and travel trailer lot shall be connected to the park electrical wiring system by underground cable and by approved receptacle, disconnecting means, and over-current protective equipment. The minimum service for each mobile home



lot shall be 120-240 volts AC, 100 amperes.

(Amended by Ordinance No. 09-1)

- b. Adequate lights shall be provided in mobile home parks to illuminate streets, driveways, and walkways for the safe movement of vehicles and pedestrians at night. A minimum of 1 foot-candle shall be provided for safe pedestrian and vehicle movement.
2. Sewer Service. All mobile homes shall be served by common sewer. Each mobile home lot shall be equipped with at least a 3-inch sewer connection so located as to provide a suitable connection from the home with a continuous grade, not subject to surface drainage.
3. Water. Common water shall be provided by separate lateral at each mobile home lot.

(L) Mobile Home Stand, Patio, and Tie-downs

1. A mobile home stand shall be a continuous 4" concrete single slab or an approved alternate to support the mobile home.
2. The mobile home stand shall be provided with six anchors and tie-downs such as cast-in-place concrete "dead man" eyelets embedded in concrete foundations, arrowhead anchors, or other devices for securing the mobile home. Anchors and tie-downs shall be placed at least at each corner of the mobile home stand and at the middle of each side, and each shall be able to sustain a minimum tensile strength of 2800 pounds.

(M) Roadways

1. All roadways constructed in a mobile home park shall be hard surfaced, built according to Town road standards established by the County Highway Department.
2. The minimum pavement width of roadways shall be 22 feet. The minimum pavement diameter of cul-de-sacs shall be 140 feet.
3. The alignment and gradient shall be properly adapted to topography, to safe movement of types of traffic anticipated, and to satisfactory control of surface water and ground water.
4. The names of roadways within the park shall not duplicate the names of streets within Rock County.

- (N) Lot Markers. The limits of each mobile home park lot shall be clearly marked on the ground by permanent flush stakes and markers, and each lot shall have a unique number and street name that is not duplicated within Rock County.

(Amended by Ordinance No. 09-1)

- (O) Fences and Hedges. Fences and hedges may be permitted, provided that they do not exceed a height of 3 feet in the front yard or corner side yard and 6 feet in height in all other yards.

- (P) Garbage and Rubbish Storage Areas. Garbage and rubbish shall be stored in fly-tight, water-tight, approved containers stored within a completely enclosed building, or may be permitted outside the building, provided that such storage area is effectively screened from view.

- (Q) Service Building for Travel Trailer Camps. There shall be at least one (1) service building in any travel trailer camp to provide sanitation and laundry facilities.

1. Location, Construction, and Maintenance. Service buildings, easily accessible to all travel trailer lots, shall be made of permanent construction in accordance with Rock County and State of Wisconsin codes. The service building shall maintain a minimum temperature of 60° F whenever the camp is open for business.

2. Plumbing and Electrical Facilities. Plumbing and electrical facilities in service buildings shall be as set forth in the Wisconsin Administrative Code.

(Amended by Ordinance No. 09-1)

- (R) Community Centers. Each mobile home park shall have a community center which shall be easily accessible to all park residents for their exclusive use. Such centers shall include the following: kitchen facilities; rest rooms facilities for men and women; meeting room space of at least 1000 square feet; and a basement which shall be built to a size which will provide adequate protection to all park residents in the event of severe weather.

- (S) The Town Board may require that a bond be executed by the mobile home park developer to ensure that all required improvements will be made.

(6) Prohibited Uses

No structure or improvement may be built or land used in this district unless it is a Permitted or approved Conditional Use in this district.

## **SPECIAL PURPOSE DISTRICT (SP)**

### **(1) Purpose and Intent of Special Purpose Districts (SP)**

The purpose of this district is to provide a means of obtaining the goals and objectives of the Development Guide. The SP District is intended to provide for those uses which create or could present special problems, hazards, or other circumstances with regard to the use of land. This District is to include those uses of land which require large expanses of land; those which are hazardous to health, safety, or other aspects of the general welfare; and those for which it is desirable to have a limited number of a given land use within the community.

(Amended by Ordinance No. 09-1)

### **(2) Permitted Uses**

None.

### **(3) Conditional Uses**

A conditional use in this district is to permit the following uses only after public hearing and approval of the Town Board. The Board will review the applicable facts pertaining to the proposed conditional use according to the standards established in Section 5 of this Chapter. The Board may require special facilities as a condition of approval such as, but not limited to fences, trees, shrubberies, barriers, and other applicable material to protect the general public, the aesthetics of the area, or the immediate environment.

(Amended by Ordinance No. 09-1)

- (A) Refuse disposal sites, dumping grounds, sanitary landfill operations, or similar uses, with the specific provision that setbacks, screening, protective fencing, or some combination of these be provided in a manner adequate to protect the general public from any and all nuisances, hazards, or other harmful conditions.
- (B) Facilities for the production, mining, processing, or storage of concrete, blacktop, asphalt, or other pavings or road surfacing or building materials.
- (C) Airports open to the public, hangars, or accessory structures.
- (D) Cemeteries when they comply with the provisions of Chapter 157 of the Wisconsin Statutes.
- (E) Race tracks.
- (F) Sewage treatment facilities.

(Amended by Ordinance No. 09-1)

- (G) Accessory structures required by the principal use as part of the original application.
- (H) Junkyard and automobile salvage yards.
- (I) Sand and gravel operations, provided that the Town Board has approved the restoration plan submitted by the applicant. Such restoration plans shall be developed with the aid of the County Agricultural Agent, the Rock County Soil Conservation District, and the County Parks and Planning Departments. Such restoration plans shall include grading and slope requirements, topsoil preservation, ground cover planting, erosion control, fencing, removal of structures, equipment, stockpiles, and any other measures which are deemed necessary to protect the public health, safety, comfort, convenience, or general welfare.

If on-site mining or processing operations are not carried out continuously for one year at any location, the same shall be considered to have been abandoned, and, prior to any further excavation or processing, a new conditional use permit shall be required.

(4) Requirements for Conditional Uses

Within the SP District the following standards shall apply:

- (A) Minimum Lot Area ..... 5 acres
- (B) Minimum Front Yard Setback.....50 ft.
- (C) Minimum Side Yard Setback.....50 ft.
- (D) Minimum Rear Yard Setback .....50 ft.
- (E) Off Street Parking..... 1 space per 5 seats,  
or 1 space per 5 anticipated uses  
at maximum usage of the facility
- (F) All front yard setbacks are also subject to Section 9.1 of this Chapter for setbacks on Arterial, Collector, and Local roads.
- (G) Sand and Gravel Operations
  - 1. Minimum Lot Area ..... 5 acres

2. Setback from Existing Street or Highway .....100 ft.  
(Amended by Ordinance No. 09-1)
3. Setback from Public Utility Right-of-Way .....50 ft.
4. Setback from Boundary of Zoning District .....100 ft.
5. Minimum Accessory Side Yard Setback .....50 ft.
6. Fencing and Screening  
  
All access to any mining operation within a half-mile radius of any residential district shall be barred by chain line or similar fencing no less than 6 feet high.
7. No dumping of waste products or by-products shall be allowed anywhere on the site.
8. A Restoration Plan is to be developed with the aid of the County Agricultural Agent, the Soil Conservation Service, the County Parks Department, and the County Planning Department, and is to be approved by the Town Board.

(5) Prohibited Uses

No structure or improvement may be built or land used in this district unless it is an approved Conditional Use in this district.

(Amended by Ordinance No. 09-1)

## **LIGHT INDUSTRIAL DISTRICT (M-1)**

### **(1) Purpose and Intent of Light Industrial District (M-1)**

The purpose of the M-1 District is to provide a means of accomplishing the economic goals and industrial objectives in the community's Development Guide. The intent of this district is to provide for industrial areas where adequate transportation facilities, topographic conditions, and utilities are available for light industry. The uses allowed in this district, either permitted or conditional, shall only provide for discharge of domestic waste unless connected to public sewer. Any uses producing other than domestic waste shall be permitted only when on public sewer is available. Some conditional uses may require further investigation as to the disposal of other wastes.

### **(2) Permitted Uses**

The following uses are permitted in this district:

- (A) Repair and maintenance of agricultural equipment and the sale of equipment.
- (B) Public or private offices with sewage discharge limited to domestic effluent.
- (C) Sales of building materials.
- (D) Storage or wholesaling of manufactured goods.
- (E) Warehousing, including mini-warehouses, but they shall not have floor drains in order to prevent groundwater contamination.
- (F) Public utility facilities.
- (G) Police and fire stations and post offices.
- (H) Repair and maintenance of automotive upholstery.
- (I) Commercial bakeries.
- (J) Greenhouses.
- (K) Dry printing and publishing.
- (L) Distributors of food products.
- (M) Contractors' offices, including plumbing, heating, air conditioning, and electrical.

(N) Parking lots.

(3) Conditional Uses

A conditional use in this district is to permit the following uses only after public hearing and approval of the Town Board. The Board will review the applicable facts pertaining to the proposed conditional use according to the standards established in Section 5 of this Chapter.

(Amended by Ordinance No. 09-1)

(A) Assembly of goods.

(B) Truck and bus terminals, pipeline terminals, bulk tank facilities, and storage of petroleum, gas, and chemical products for wholesale or retail sales.

(C) Welding, sheet metal, and blacksmith shops and similar metal fabrication activities.

(D) Garages for repair and servicing of motor vehicles, including body repair, painting, or motor rebuilding.

(E) Laboratories and facilities for research, development, and testing.

(F) Contractors' storage yards and sale of machinery and equipment.

(G) Packing and packaging of confections, cosmetics, electrical appliances, electronic devices, instruments, jewelry, tobacco, toiletries, and food.

(H) Storage facilities for flammable gases.

(I) Animal hospitals, animal clinics, or veterinary services.

(4) Parking and Loading Requirements

(A) All light industrial establishments shall provide one 200 square foot parking space for every two employees.

(B) Every structure or building containing at least 5000 square feet of gross floor area shall provide off-street loading space measuring not less than 10 feet by 40 feet and having a height of 14 feet, clear of all obstructions, according to the following schedule:

<u>GROSS FLOOR AREA</u>	<u>NUMBER OF LOADING SPACES</u>
5,000 sq. ft. to 24,000 sq. ft.	1
24,000 sq. ft. to 60,000 sq. ft.	2
60,000 sq. ft. to 96,000 sq. ft.	3
96,000 sq. ft. to 144,000 sq. ft.	4
144,000 sq. ft. to 192,000 sq. ft.	5
192,000 sq. ft. to 240,000 sq. ft.	6
240,000 sq. ft. to 294,000 sq. ft.	7
294,000 sq. ft. to 348,000 sq. ft.	8

For each additional 54,000 sq. ft., one additional space is required.

The Planning & Zoning Committee may permit the required loading spaces to remain undeveloped until the committee decides that they are needed.

(5) Screening

All storage except of motor vehicles in operable condition shall be within completely enclosed buildings or effectively screened from non-industrial uses or districts either:

- (A) By a solid wall or fence not less than 6 feet nor more than 8 feet in height; or
- (B) By a densely planted hedge or shrubbery at least 6 feet in height which effectively causes a visual barrier; or
- (C) By a permanent evergreen planting, the individual trees to be of such a number and kind so arranged that they will effectively cause a visual barrier at least 6 feet in height.

All front yard setbacks are also subject to Section 9.1 of this Chapter for setbacks on arterial, collector and local roads.



(6) Requirements

- (A) Maximum Building Height .....35 ft.
- (B) Minimum Front Yard Setback.....50 ft.;  
75 ft. if parking is  
permitted in front yard.
- (C) Minimum Rear Yard Setback .....50 ft.
- (D) Minimum Side Yard Setback.....20 ft.;  
50 ft. when abutting  
residential area.
- (E) Corner Side Yard Setback .....50 ft.
- (F) Minimum Lot Size ..... 2.5 acres
- (G) Minimum Lot Width .....100 ft.
- (H) Minimum Parking Provided ..... See (4)(A) above
- (I) Minimum Accessory Side Yard Setback.....10 ft.
- (J) All front yard setbacks are also subject to Section 9.1 of this Chapter for setbacks on  
Arterial, Collector, and Local roads.  

(Amended by Ordinance No. 09-1)
- (K) No permitted or conditional use shall produce any effluent or waste products other  
than domestic effluent, and only domestic effluent shall be disposed of in the  
parcel's on-site sewage disposal system.

(7) Prohibited Uses

No structure or improvement may be built or land used in this district unless it is a Permitted or approved Conditional Use in this district.

## **SECTION 5.0 – CONDITIONAL USE PERMITS**

### **5.1     General Provisions**

Any use listed as a conditional use in this Chapter shall be permitted only upon application in duplicate to the Town Clerk and issuance of a Conditional Use Permit by the Town Board. A Conditional Use Permit shall be issued only upon satisfaction of the requirements listed herein, in addition to all other requirements of this Chapter. All such uses are hereby declared to possess such unique and special characteristics that each specific use shall be considered as an individual case.

(Amended by Ordinance No. 09-1)

### **5.2     Required Information**

In order to secure evidence upon which to base its determination, the Town Board may require, in addition to the information required for a Conditional Use Permit, the submission of plans of buildings, arrangement of operations, plat of grounds showing location of buildings, stockpiles, equipment storage, fences or screens, specification of operations, parking areas, traffic access, open spaces, landscaping, and any other pertinent information that may be necessary to determine if the proposed use meets the requirements of this Chapter.

(Amended by Ordinance No. 09-1)

### **5.3     Procedure**

(1)     The procedure for obtaining a Conditional Use Permit is as follows:

- (A)     A Conditional Use Permit Application is submitted to the Town Clerk or the Zoning Officer.
- (B)     The Town Clerk shall notify all property owners within 1000 feet of the parcel in question and publish a Class 1 Legal Notice listing the time and place of the public hearing, the conditional use being proposed, and the location of the proposed Conditional Use.
- (C)     A public hearing is held by the Town Board (hereafter, “the Board”).
- (D)     The application and information obtained at the public hearing is reviewed by the Board at a public meeting as to potential problems that may affect the community, adjoining parcels, occupants of adjoining parcels, and/or the physical environment.

(Amended by Ordinance No. 09-1)

- (E) Upon consideration of these factors and the “Standards” in Sections 5.4 and 5.5, the Board may approve, approve with conditions, or deny the conditional use application.

(Amended by Ordinance No. 09-1)

- (F) Upon approval, the Town Clerk shall forward a copy of the approved conditional use application and any conditions of approval to the County Planning and Development Agency. The County will enumerate the conditional use on the Official Zoning Map and enter it into the Town’s Conditional Use Database.

(Amended by Ordinance No. 09-1)

- (G) If a permit is denied, the Board shall provide its decision in written form, listing the reasons for denial and explaining the applicant’s appeal rights.

(Amended by Ordinance No. 09-1)

- (2) Conditional Use Permits are assigned to a parcel of land or a particular location on the parcel, not the person who owns the land. Conditional Use Permits are revocable by majority vote of the Board if the conditional use is not actively utilized for a period of one (1) year, conditions of approval are not being met, or the conditional use is expanded without Board approval. Prior to revocation of a Conditional Use Permit, the owner of the property to which such Conditional Use Permit applies shall be given notice by first class mail that the subject of revocation will be taken up by the Board at a time and place identified in the notice. Such notice shall be mailed at least 10 days before the date of the meeting.

(Amended by Ordinance No. 04-02)

(Amended by Ordinance No. 09-1)

- (3) The owner of a parcel of land upon which a Conditional Use Permit has been issued may voluntarily surrender said permit, whereupon the permit shall terminate and no longer run with the parcel.

#### 5.4 Standards Applicable to All Conditional Uses

- (1) In considering a Conditional Use Permit application, the Board shall consider the following factors:

(Amended by Ordinance No. 09-1)

- (A) That the amount of land is limited to that which is reasonably necessary to accommodate the proposed use.

- (B) Wherever possible a proposed use shall be placed on that portion of a parcel

which contains the poorest quality agricultural soils or that portion of the parcel which would be the least productive for agricultural purposes, and the use shall be placed as close as possible to other non-agricultural uses.

- (C) The location of the site with respect to existing or future roads giving access to it.
- (D) Its compatibility with existing uses on land adjacent thereto.
- (E) Its harmony with the future development of the district.
- (F) Existing topography, drainage, soils types, and vegetative cover.
- (G) Its relationship to the public interest, the proposed and intent of this Chapter, and substantial justice to all parties concerned.
- (H) The potential release of offensive, obnoxious, or unhealthful odors and pollutants. When considering what constitutes an offensive, obnoxious, or unhealthful odor and/or pollutant, the Planning and Zoning Committee or the Town Board may consider the duration and intensity of the odor or pollutant and the proximity of residential and/or business dwellings, and may require provisions for monitoring and/or measurement of odors or pollutants by olfactometer or other means. The Committee or the Board may make reference to Section NR 429.03 of the Wisconsin Administrative Code or any other standards it may deem to be reasonable.

(Created by Ordinance No. 11-1)

- (2) No Conditional Use Permit shall be issued for any use which might result in damage to town roads, including, but not limited to, the operation of an agri-business or the use of sewage sludge for fertilizer purposes, unless the Committee is assured that adequate provision for repair of potential damages has been made. Such adequate provision may include a performance bond assuring that any damage to the road caused by the applicant will be repaired or reconstructed at the applicant's full expense, or a letter of credit that will protect the town against any expense due to the inability or refusal of the applicant to repair any damage to the road.

#### 5.5 Standards Applicable to Conditional Uses within the A-1 District

- (1) In considering a Conditional Use Permit application in the A-1 District, the Board shall also consider the following factors:

(Amended by Ordinance No. 09-1)

- (A) The potential for conflict with agricultural use.
  - (B) The need of the proposed use for a location in an agricultural area.
  - (C) The availability of alternative locations.
  - (D) Compatibility with existing or permitted uses on adjacent lands.
  - (E) Wherever possible a proposed use shall be placed on that portion of a parcel which contains the poorest quality agricultural soils or that portion of the parcel which would be the least productive for agricultural purposes, and the use shall be placed as close as possible to other non-agricultural uses.
  - (F) The location of the proposed use so as to reduce to a minimum the amount of productive agricultural land converted.
  - (G) The need for public services created by the proposed use.
  - (H) The availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable burden.
  - (I) The effect of the proposed use on water or air quality, soil erosion, and rare or irreplaceable natural resources.
  - (J) The potential release of offensive, obnoxious, or unhealthful odors.
- (Created by Ordinance No. 11-1)

#### 5.55 Approval or Denial of Conditional Use Permits

If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in this Chapter and any additional conditions imposed by the Board, the Board shall grant the conditional use permit. Prior to approval, the applicant must demonstrate that the application and all requirements and conditions established by the Board relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The Board's decision to approve or deny the conditional use permit must be supported by substantial evidence. However applicants are not entitled to a conditional use permit as a matter of right.

(Created by Ordinance No. \_\_\_\_)

#### 5.6 Conditions Attached to Conditional Use Permit

Upon consideration of the factors listed above, the Board may attach such conditions, in addition to those otherwise specifically listed, that it deems necessary in furthering the

purposes of this Chapter. Any condition imposed must be reasonable, and to the extent practicable, measurable, related to the purpose of the ordinance, and be based on substantial evidence. Conditions may relate to the permit's duration, transfer, or renewal.

(Amended by Ordinance No. 09-01)

(Amended by Ordinance No. \_\_\_\_)

#### 5.7 Notice and Public Hearing

Before issuing a Conditional Use Permit, the Board shall hold a public hearing. Notice of such public hearing specifying the time, place, and matters to come before the Board shall be posted as a Class 1 notice as referred to in Chapter 985 of the Wisconsin Statutes. The Town Clerk shall also notify all property owners within 1000 feet of the land parcel in question by first class mail with the above information.

(Amended by Ordinance No. 04-02)

(Amended by Ordinance No. 09-1)

#### 5.8 Conditional Use Permit Fee

The applicant, upon filing of his application, shall pay a fee to the Town of Johnstown in accordance with the following schedule:

- Conditional Use Permit Fee.....To be determined by  
Town Board Resolution

#### 5.9 Conditional Use Permit Procedure for Livestock Facilities

##### (1) Approval Required

These procedures apply to livestock facilities that may require a conditional use permit under this subsection.

##### (2) Permits for Existing Livestock Facilities

- (A) A permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:

1. The applicable size threshold for a conditional use permit established in the zoning district where the facility is located.
2. The maximum number previously approved or, if no maximum number was previously approved, a number that is 20% higher than the number kept on May 1, 2006, or on the effective date of the permit requirement, whichever date is later.

- (B) Except as provided in subparagraph (A), a permit is not required for a livestock facility that existed before May 1, 2006, or before the effective date of the permit requirement in this subsection.
- (C) Except as provided in subparagraph (A), a permit is not required for a livestock facility that was previously issued a conditional use permit or other local approval. A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.

(3) Application Procedure

A livestock operator must complete the application and worksheets prescribed by Chapter ATCP 51 of the Wisconsin Administrative Code, including any authorized local modifications. The application requirements specified in ATCP 51 are incorporated by reference, without reproducing them in full. The application form and worksheets establish compliance with the standards in ATCP 51 and this subsection.

This operator must file four (4) duplicate copies of the application form, including worksheets, maps, and documents (other than engineering design specifications) included in the application.

(4) Application Fee

A non-refundable application fee of \$1000 shall accompany an application.

(5) Application Review Procedure

- (A) Within 45 days after the Planning & Zoning Committee receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the Planning & Zoning Committee shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
- (B) Within 14 days after the Planning & Zoning Committee notifies an applicant that the application is complete, the Committee shall notify adjacent

landowners of the application. The Committee shall use the approved notice form in ATCP 51 and mail a written notice to each adjacent landowner.

- (C) The Board shall grant or deny an application within 90 days after the notice of a complete application is provided as required by subparagraph (A) above. The Committee may extend this time limit for good cause, including any of the following:

1. The Committee needs additional information to act on the application.
2. The applicant materially modifies the application or agrees to an extension.

The Committee shall give written notice of any extension. The notice shall specify the reason for the extension and the extended deadline date by which the Committee will act on the application

(6) Public Hearing

The Board shall schedule a public hearing on the application within 90 days after issuing notice of a complete application.

(7) Standards

The standards for issuing a permit are as follows:

- (A) The state livestock facility siting standards adopted under Chapter ATCP 51 of the Wisconsin Administrative Code. These standards are incorporated by reference, without reproducing them in full.
- (B) Setbacks authorized by this Chapter.

(8) Criteria for Issuance of a Permit

- (A) A permit shall be issued if the application for the proposed livestock facility contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in this subsection.
- (B) A permit may be denied if any of the following apply:
1. The application, on its face, fails to meet the standards for approval.
  2. The Board finds that, based on other clear and convincing information in the record, the proposed livestock facility does not



comply with applicable standards in this subsection.

3. Other grounds authorized by Section 93.90 of the Wisconsin Statutes that warrant disapproving the proposed livestock facility.

- (C) No conditions may be imposed on a permit other than the standards provided in this subsection.

(9) Record of Decision

- (A) The Board shall issue its decision in writing. Its decision shall be based on written findings of fact supported by evidence in the record.
- (B) In the event that a permit is approved, the applicant shall receive a duplicate copy of the approved application, marked "Approved." The duplicate copy must include worksheets, maps and other documents (other than engineering specifications) included in the application.

(10) Notice to the Department of Agriculture, Trade and Consumer Protection

As required by Section ATCP 51.36 of the Wisconsin Administrative Code, the Town Clerk shall, within 30 days of the Board's decision on the application, do all of the following:

- (A) Give the Department of Agriculture, Trade and Consumer Protection written notice of the decision.
- (B) File with the Department a copy of the final application granted or denied, if the Committee has granted or denied an application under this subsection. (The copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.)
- (C) If the Board has withdrawn a local approval under this subsection, file with the Department a copy of the final notice or order withdrawing the local approval.

(11) Expiration of Permit

A permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under the permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the Board may treat a permit as lapsed and withdraw the permit if the permit holder fails to do all of the following within 2 years after issuance of the permit:

- (A) Begin populating the new or expanded livestock facility.
- (B) Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the permit application.

(12) Permit Modifications

The operator may make reasonable changes that maintain compliance with the standards in this subsection, and the Board shall not withhold authorization for those changes.

(13) Compliance Monitoring

The Committee shall monitor compliance with this subsection as follows:

- (A) Upon notice to the livestock facility owner, request the right of the Zoning Officer to personally view the permitted facility at a reasonable time and date to ensure that all commitments of the application as approved are being complied with.
- (B) If the livestock facility owner refuses the Zoning Officer the right to view the permitted facility, the Zoning Officer may request the assistance of the Sheriff or a deputy Sheriff to obtain an inspection warrant from the circuit court, in order to inspect the permitted facility for the purpose of protection of the public health and safety under Section 66.0119 of the Wisconsin Statutes.
- (C) If a permitted facility is found not to be in compliance with the commitments made in the approved application, the Zoning Officer shall issue a written notice to the livestock facility owner stating the conditions of non-compliance and directing that compliance with the commitments of the approved application be complied with within a reasonable amount of time.
- (D) If non-compliance with the permit conditions as described in the written notice given by the Zoning Officer continues past the stated reasonable time to comply, the Zoning Officer may take further action as provided in this Chapter, including but not limited to issuance of a citation or seeking of injunctive relief.
- (E) If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within five days of receipt of the notice of non-compliance. The Board shall schedule a hearing within five days to determine if the conditions of the permit have been complied with, or whether non-compliance with the commitments of the approved application and local

approval exists.

(14) Terms of the Permit

A permit and the privileges granted by a permit issued under this subsection are conditioned on the livestock operator's compliance with the standards in this subsection, and with commitments made in the application for a permit. The Board is authorized to suspend a permit or seek other redress provided for in this Chapter for non-compliance.

(15) Transferability

A permit and the privileges granted by the permit run with the land and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval. An applicant may, at the applicant's expense, record with the register of deeds the duplicate copy of the approved application.

Upon change of ownership of the livestock facility, the new owner of the facility shall file information with the town clerk providing pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.

(Section 5.9 Created by Ordinance No. 07-\_\_)

(Amended by Ordinance No. 09-1)

## **SECTION 6.0 – ZONING PERMITS**

### **6.1     Issuance**

A Zoning Permit is required to be obtained from the Zoning Officer as part of the requirements of this Chapter. Where the use involves the construction or structural improvement of one- or two- family residential structures, a permit under Chapter 5 of this Municipal Code shall also be obtained from the Town Building Inspector. The Zoning Permit issued by the Zoning Officer under this Section shall expire 24 months after issuance if the building exterior has not been completed.

(Amended by Ordinance No. 99-1)

(Amended by Ordinance No. 09-1)

### **6.2     Requirements**

#### **(1)     Cases where a Zoning Permit is required:**

- (A)**     Where any building or other structure is erected, moved, or structurally altered so as to change its use or increase its floor area.
- (B)**     Where any land use is substantially altered.
- (C)**     Where 50% or more of the fair market value of a structure is destroyed and it is being repaired or altered.

#### **(2)     Cases where a Zoning Permit is not required:**

- (A)**     For any accessory building which is less than 81 square feet, provided that such building conforms to all the setback, yard, and open space requirements of this Chapter.
  - (B)**     For any improvements or alterations to an existing building where the materials and the labor will be \$1000 or less, where there is not a structural change, a land use change, or encroachment upon any yard requirement or open space.
  - (C)**     For any maintenance repairs that do not involve a change to the structure.
- (3)**     The Zoning Permit Card issued as part of the approval shall be displayed at a prominent location which can be on the building site, the public road, or driveway.

### 6.3 Application for Zoning Permit

An application for a Zoning Permit shall be made to the Zoning Officer upon forms provided by the Zoning Officer and shall include, for the purpose of proper enforcement of these regulations, the following data:

- (1) An accurate map of the property, in duplicate, and properly dimensioned showing
  - (A) The boundaries of the property involved.
  - (B) The location of the centerlines or road right-of-way lines of any abutting roads, streets, or highways.
  - (C) The location on the lot of any existing buildings, proposed additions, or proposed new buildings, including the measured distances between such buildings, and from the lot lines, and from the centerlines or road right of way lines of any abutting roads, streets, or highways to the nearest portion of such building.
  - (D) The floodway, flood-fringe, or, if not available, the high-water line of any stream or lake on which the property adjoins or includes.
  - (E) The building plans and estimated costs.
- (2) Where the use involves an on-site sewer system, the Map shall include the location of the water system and sewage system, which shall conform to the requirements set forth in Chapter Comm 83 of the Wisconsin Administrative Code, which are hereby incorporated by reference. The plan shall also show the locations of the proposed water and sewage systems and their distances to the water and sewage systems of the adjoining lots.

(Amended by Ordinance No. 09-1)

### 6.4 Zoning Permit Fee

The applicant, upon filing an application for a Zoning Permit with the Zoning Officer, shall pay a fee to the Zoning Officer in accordance with the following schedule:

(Amended by Ordinance No. 09-1)

- (1) Zoning Permit.....To be determined by  
Town Board Resolution
- (2) Accessory Zoning Permit.....To be determined by

Town Board Resolution

The applicant shall also pay any state inspection fees which are necessary in order to obtain approval of the Zoning Permit.

(Entire Section Amended by Ordinance No. 04-02)

SECTION 7 HAS BEEN DELETED

## **SECTION 8.0 – BOARD OF ADJUSTMENT**

### **8.1     Establishment**

There is hereby established a Board of Adjustment for the Town for the purposes set forth in this Section.

### **8.2     Membership and Organization**

The Board of Adjustment shall be formed and organized as follows:

- (1)     The Board shall consist of three members appointed by the Town Chairperson and confirmed by the Town Board.
- (2)     The terms of members shall be for staggered three-year periods.
- (3)     The Chairperson of the Board shall be elected annually by the Board from among its members.
- (4)     An alternate member may be appointed by the Town Chairperson for a term of three years and shall act only when a regular member is absent or does not participate due to a conflict of interest.

(Amended by Ordinance No. 09-1)

- (5)     No member of the Board of Adjustment may simultaneously be a member of the Town Board or the Planning & Zoning Committee, and the Zoning Officer shall not be a member of the Board, although he or she shall attend all meetings of the Board for the purpose of providing technical assistance when requested by the Board.
- (6)     The Town Clerk shall serve as Secretary of the Board and shall attend all meetings, but shall not be a voting member of the Board. In the absence of the Town Clerk, the Chairperson of the Board may appoint a Secretary pro tempore who need not be a member of the Board.
- (7)     Vacancies in the Board shall be filled for an unexpired term in the same manner as appointments for a full term.
- (8)     Each member of the Board shall take an official oath in accordance with Section 19.01 of the Wisconsin Statutes within 10 days of receiving notice of appointment.
- (9)     Compensation for Board Members shall be determined by the Town Board.
- (10)    Any member of the Board who has any interest in a matter before the Board shall



not vote thereon and shall remove himself or herself from any meeting or hearing at which said matter is under consideration.

### 8.3 Administration

The Board of Adjustment shall administer itself in accordance with the following:

- (1) All meetings shall be held at the call of the Chairperson and shall be open to the public.
- (2) 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, and recording the absence or abstention of any member, and further recording the reasons for any determination by the Board and findings of fact related to such determination. The Secretary shall keep all records of the Board, which shall be immediately filed with the Town Clerk upon creation of such records.
- (3) The Board may request assistance from other town and county officials, departments, agencies, and boards in rendering any decision under this Section.

### 8.4 Powers

The Board of Adjustment shall have the following powers:

- (1) To hear and decide appeals relating to any alleged error in any order, requirement, decision, or determination made by the Planning & Zoning Committee or its delegates or the Zoning Officer in the enforcement of codes, regulations, or ordinances under their jurisdiction, including, but not limited to, decisions granting or denying the issuance of a permit. The Board may reverse, affirm in whole or in part, or modify the conditions established by the Planning & Zoning Committee for issuance of a permit, and may direct the issuance of a permit.
- (2) To hear requests for variances and to grant variances subject to the requirements of this Section.
- (3) To hear and decide applications for interpretation of this Chapter, provided that no decision on an interpretation shall be made until after the matter has been reviewed by the Planning & Zoning Committee and the Board has received the recommendations of the Planning & Zoning Committee.

### 8.5 Appeals

Appeals from the decision of the Planning & Zoning Committee or its delegates, the Zoning

Officer, or any other officer of the Town concerning the enforcement of this Chapter or the issuance of or denial of a Zoning Permit may be made by any person aggrieved by such decision or by an officer, department, committee, board, or bureau of the Town. Any such appeal shall be filed with the Town Clerk within 30 days after the date of written notice of the decision or order appealed from. Such appeal shall include the following:

- (1) Name and address of the appellant and, if such appeal relates to a specific parcel of land, all owners of land located within 1000 feet of the subject parcel.
- (2) Such additional information as may be required by the Board or the Zoning Officer, which may include a plat of survey.
- (3) Fee receipt from the Town Clerk. The fee for appeals shall be set by the Town Board by resolution.

#### 8.6 Applications for Interpretation

Applications for interpretation of any portion of this Chapter may be made by the owner or lessee of any structure, land, or water affected by this Chapter. Such application shall be filed with the Town Clerk and shall include the following:

- (1) Name and address of the applicant and, if such application relates to a specific parcel, all owners of property located within 1000 feet of the subject property.
- (2) Such additional information as may be required by the Board or the Zoning Officer, which may include a plat of survey.
- (3) Fee receipt from the Town Clerk. The fee for applications hereunder shall be set by the Town Board by resolution.

#### 8.7 Variances

- (1) An application for a variance from the provisions from this Chapter may be made by the owner or lessee of any structure, land or water affected by this Chapter. Such application shall be filed with the Town Clerk and shall include the following:
  - (A) Name and address of the applicant and, if such application relates to a specific parcel, all owners of property located within 1000 feet of the subject property.
  - (B) Such additional information as may be required by the Board or the Zoning Officer, which may include a plat of survey.
  - (C) Fee receipt from the Town Clerk. The fee for applications hereunder shall be

set by the Town Board by resolution.

- (2) Variances may only be granted subject to the following restrictions:
- (A) Variances shall not be granted routinely, and shall be granted only when the applicant clearly shows the existence of an unnecessary hardship and the presence of a unique property limitation rather than considerations personal to the applicant, that the unnecessary hardship was not created by the applicant, and further shows that the granting of the variance will not be contrary to the public interest. The applicant bears the burden of proving the unnecessary hardship.
  - (B) Use variances shall only be granted when an applicant demonstrates that strict compliance with a zoning ordinance would leave the applicant with no reasonable use of the property in the absence of a variance.
  - (C) Area variances shall only be granted when an applicant proves an unnecessary hardship by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the applicant from using the applicant's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.
  - (D) No variance shall be granted if the physical character of the property allows the applicant to build or develop in a manner which complies with this Chapter.
  - (E) Any unnecessary hardship must be peculiar to the zoning parcel in question and different from that of other parcels, and not one that affects all parcels similarly. Such hardships must arise because of some unique property limitation, or because the property was created before the passage of this Zoning Ordinance.
  - (F) Loss of profit or pecuniary hardship is not in and of itself grounds for a variance.
  - (G) Self-imposed hardship is not grounds for a variance. Reductions resulting from the sale of portions of a property that reduce the remainder below buildable size or cut off existing access to a public highway, deed restrictions imposed by previous owners, and improvements made in violation of this Chapter are generally considered to be self-imposed hardships.
  - (H) An unnecessary hardship cannot be one which would have existed in the absence of a zoning ordinance, although a legitimate unnecessary hardship

may result from the interaction of the provisions of this Chapter with other actions or regulations adopted by public authorities.

- (I) A unique property limitation for purposes of this Chapter shall involve a situation in which unique physical characteristics of the property, and not the desires of or conditions personal to the applicant, prevent the applicant from developing in accordance with this Chapter. Unique property limitations may include wetlands, soil types, parcel shapes, or steep slopes.
- (J) In order to protect the public interest, the Board shall not grant a variance which would undermine the purpose of this Chapter. The Board shall consult the “purpose” and “intent” sections of this Chapter in determining whether a variance is appropriate, and shall consider the interests of the public at large, not only the interests of the nearby property owners.  
(Amended by Ordinance No. \_\_\_\_)
- (K) Lack of opposition does not in itself mean that a proposed variance will not harm the public interest.
- (L) In granting a variance the Board may impose special conditions to ensure that the public welfare is not damaged, provided that such conditions must relate reasonably to the purpose and intent established in this Chapter.
- (M) A variance should include only the minimum relief necessary to allow reasonable use of the subject property.
- (N) Violations by or variances granted to a neighboring owner do not justify the granting of a variance.
- (O) Any variance granted shall attach to the property as a permanent right, and any subsequent owner of the subject property may make use of that variance, provided that all conditions attached to the variance are met.
- (P) In order to grant a variance, the Board must determine that there are exceptional, extraordinary, or unusual circumstances or conditions applying to the subject lot, parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, and that the granting of the variance would not be so general or recurrent in nature as to suggest that this Chapter should be modified.  
(Amended by Ordinance No. 09-1)
- (Q) No variance shall be granted unless the Board determines that the granting will not create a substantial detriment to adjacent property.

## 8.8 Hearing

The Board of Adjustment shall hold a public hearing within 45 days of receiving an appeal or an application, shall give public notice thereof at least 10 days prior to the hearing by publication of a Class 2 Notice under Chapter 985 of the Wisconsin Statutes, and shall give due notice to all parties in interest, the Zoning Officer, and the Planning & Zoning Committee. If the appeal or application relates to a specific parcel, "parties in interest" shall include all owners of property located within 1000 feet of the subject property. At the hearing the appellant or applicant shall appear in person, by agent, or by attorney. Following or preceding the public hearing the Board may, in its discretion, hold additional hearings, allowing the participation only of the applicant and such other parties as may hold a direct interest in the subject matter of the appeal or application. The Chairperson shall administer oaths to all persons providing factual testimony to the Board and may compel the attendance of witnesses.

(Amended by Ordinance No. 99-1)

(Amended by Ordinance No. 09-1)

## 8.9 Decision

The Board of Adjustment shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of its decision to the appellant or applicant, the Zoning Officer, and the Planning & Zoning Committee. Such decision shall be accompanied by findings of fact and conclusions of law and may include any conditions placed upon the issuance of any permit. Any variance or zoning permit granted by the Board shall expire 6 months following the issuance of the decision unless substantial work has commenced consistent with such variance or zoning permit prior to such expiration.

## 8.10 No Jurisdiction Over Conditional Use Permits

The Board of Adjustment shall not have jurisdiction to review grants or denials of conditional use permits by the Town Board.

(Amended by Ordinance No. 09-1)

## **SECTION 9.0 – HIGHWAY SETBACK LINES & ROADSIDE REGULATIONS**

### **9.1     Classification and Setbacks**

For the purpose of determining the distance buildings and other structures are set back, the roads and highways of the township are hereby divided into the following classifications according to the Wisconsin Department of Transportation Functional Classification System or a locally adopted Transportation Plan.

#### **(1)     Arterial Highways**

- (A)     The setback line for arterial highways shall be 150 feet from the centerline of the highway or 100 feet from the right-of-way line, whichever is greater.
- (B)     Frontage roads to arterial highways shall be considered as local roads for the purpose of determining the setback along said service roads.
- (C)     Minimum road right-of-way width shall be 100 feet.

(Amended by Ordinance No. 99-1)

[As of the time of adoption of this Zoning Ordinance there are no arterial highways in the Town of Johnstown.]

#### **(2)     Collector Roads**

The setback for collector roads shall be 90 feet from the centerline or 50 feet from the right-of-way line, whichever is greater. Minimum road right-of-way width shall be 80 feet.

(Amended by Ordinance No. 99-1)

[County Highways A and M are the only collector roads in the Town of Johnstown as of the time of adoption of this Zoning Ordinance.]

#### **(3)     Local Roads**

All local roads shall have a minimum setback of 85 feet from the centerline or 50 feet from the right-of-way line, whichever is greater. Minimum road right-of-way width shall be 70 feet.

(Amended by Ordinance No. 99-1)

[All roads in the Town of Johnstown other than County Highways A and M are local roads as of the time of adoption of this Zoning Ordinance.]

(4) Lesser Setbacks

Lesser setbacks may be permitted by the Planning & Zoning Committee in cases of unusual topography, existing patterns of lesser setbacks of buildings on nearby properties, or varying alignment of highway right-of-way lines.

(5) Special Width Road Rights-of-Way

Road rights-of-way which are indicated as Special Width Roads in adopted transportation plans shall be used to establish minimum setback requirements.

9.2 Vision Clearance at Intersections

In each quadrant of every public street, road, or railroad intersection, there shall be designated a clear vision triangle, bounded by the street or road centerline and a line connecting points on said centerline at a specified distance from their point of intersection, in the manner illustrated on the following page and titled "Basic Illustration of Clear Vision Triangles."

The use of the term "triangle" in this section shall not be construed to preclude reasonable modifications of a triangular shaped area, including modifications occasioned by the existence of curving streets or roads.

The term "centerline" in this section shall be interpreted as follows:

- (1) Where there is an undivided pavement within a right-of-way, the centerline shall be the centerline of that pavement, irrespective of whether that coincides with the centerline of the right-of-way.  
(Amended by Ordinance No. 09-1)
- (2) Where there is a divided pavement within a right-of-way, the centerline shall be the centerline of the median strip between the pavements, except as specified in subsection (3) below.
- (3) Where there is a divided pavement within a right-of-way, and the distance between the centerline of the pavements, measured along the centerline of the intersecting street or road, is 60 feet or greater, the centerline of the pavements shall be used separately, in the manner illustrated on the following page, and entitled "Illustration of Designation of Centerline for Clear Vision Triangles," to designate the clear vision triangles.

The distance specified from the point of intersection of the centerline to the aforesaid points on the centerline shall be as specified in the table as follows:

<u>Classification</u>	<u>Triangle Side Distance</u>
Arterial	300 ft.
Collector	200 ft.
Local	150 ft.
Railroad Crossing	330 ft.

Within the clear vision triangle, no object shall be allowed above a height of 2 ½ feet above the average elevation of the streets at the aforesaid points on the respective centerline if such object substantially obstructs the view across the triangle.

In situations where trees of large diameter, large numbers of trees, or some combination of these are present, this provision shall be construed to mean that a sufficient number of trees shall be removed so as to render an object such as a motor vehicle clearly visible across the clear vision triangle from one street or road to another, the intent being to provide for the public safety. However, it shall not necessarily be construed to mean that every tree in the clear vision triangle must be removed. Likewise, this restriction shall not apply to posts and wire fences, provided that they do not obstruct visibility across the clear vision triangle.

### 9.3 Objects Permitted Within Setback Lines and Vision Triangles

- (1) Open fences.
- (2) Telephone, telegraph, and power transmission poles, lines, and portable equipment that is readily removable in its entirety.
- (3) The planting and harvesting of field crops, shrubberies, and trees, except that no trees or shrubberies shall be planted within a vision clearance triangle so as to obstruct the view in the vision triangle.

### 9.4 Access Control – Town Roads

Driveway access is limited to one driveway access per lot. Duplex lots may, at the discretion of the Committee, have two separate driveways if the physical structural design of the building or the physical characteristics of the lot warrant a second driveway. Common driveways may be required to provide access to any new lots or lots that do not currently have an existing driveway. Common driveways shall be built on the common property line and to the standards of a single driveway. All new driveways shall have a minimum site distance of 150 feet in each direction and be located a minimum of 6 feet from a common property line.



# BASIC ILLUSTRATION OF CLEAR VISION TRIANGLES

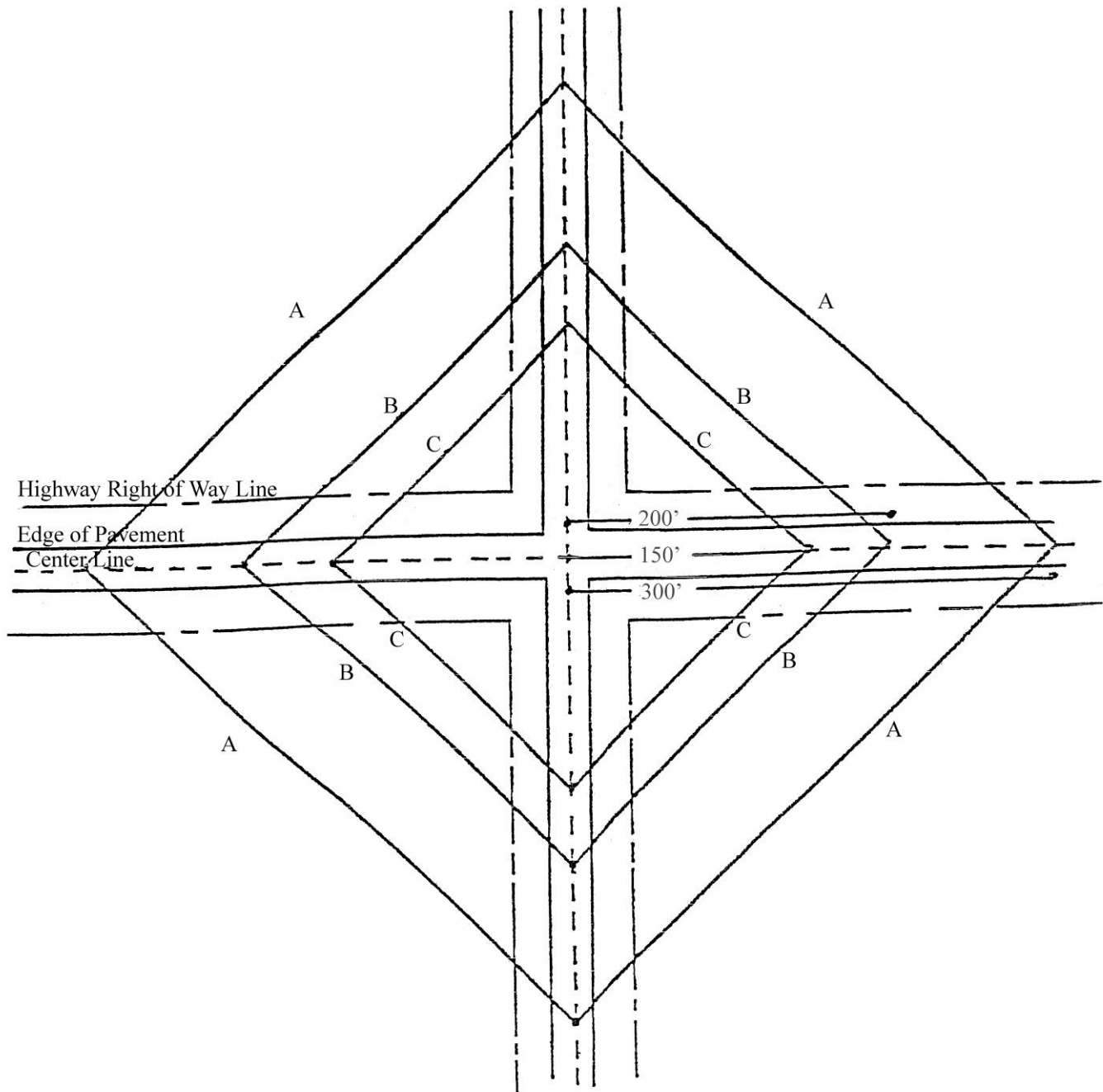
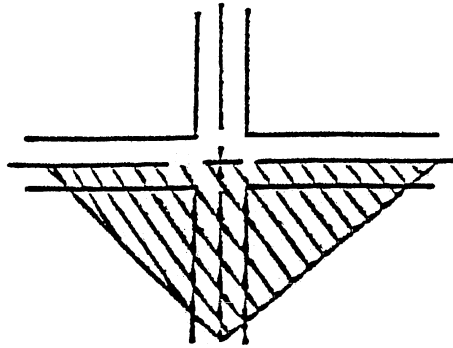
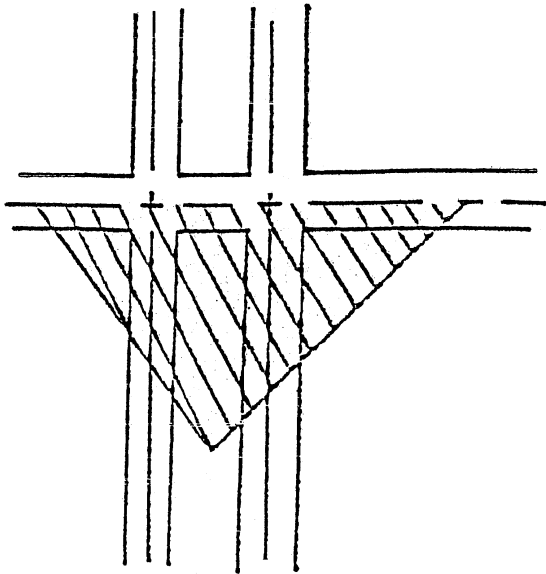


ILLUSTRATION OF DESIGNATION OF  
CENTERLINE FOR CLEAR VISION TRIANGLES

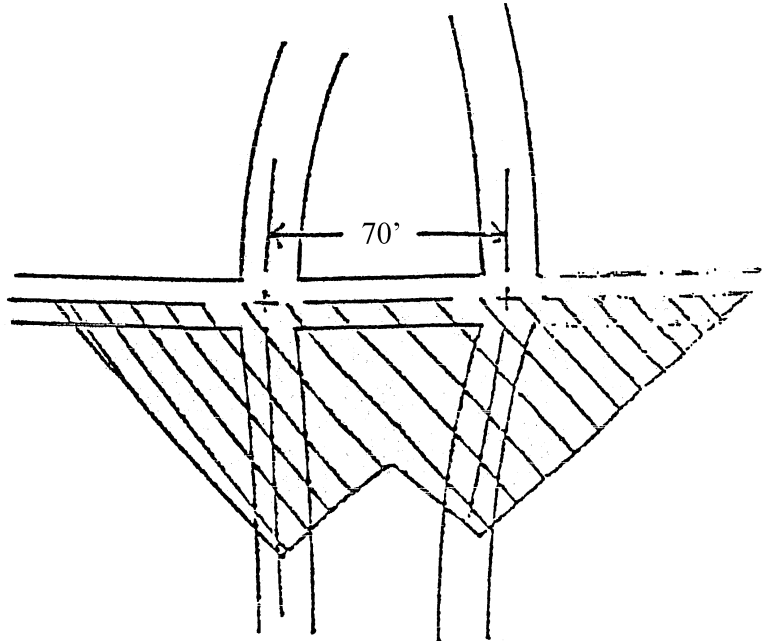
(1) Undivided Pavement



(2) Divided Pavement  
Not Widely Separated



(3) Divided Pavement  
Widely Separated



## **SECTION 10.0 – NONCONFORMING USES, STRUCTURES, AND LOTS**

### **10.1 Existing Nonconforming Uses**

The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter; however:

- (1) Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Chapter.
- (2) Restoration. Except as otherwise required under Wis. Stat. subsections 60.61 (5) and (5m) or any successor provision of the Wisconsin Statutes, no repairs to a nonconforming structure may result in a structural alteration or an enlargement of the structure unless the structure is simultaneously and permanently changed to conform to the provisions of this Chapter.
- (3) Substitution of New Equipment may be permitted by the Board of Adjustment if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.
- (4) Licenses. This Chapter is not intended to negate licenses (or their respective uses) which are issued by governmental agencies and are current as to the effective date of this Chapter.

(Amended by Ordinance No. 15-1)

### **10.2 Abolishment or Replacement**

If a nonconforming use is discontinued or terminated for a period of 12 months, any future use of the building, premises, structure, or fixture shall conform to the provisions of this Chapter. The total structural repairs or alterations in such nonconforming building, premises, structure, or fixture shall not during its life exceed 50 percent of the assessed value of the building, premises, structure, or fixture unless permanently changed to a conforming use.

(Amended by Ordinance No. 09-01)

(Amended by Ordinance No. \_\_\_\_)

### **10.3 Existing Nonconforming Structures**

Any lawful nonconforming structure existing at the time of the adoption or amendment of this Zoning Ordinance may be continued although its size or location does not conform to

the lot width, lot area, yard, height, parking and loading, and access provisions of this Chapter. However, it shall not be extended, enlarged, or moved except as required by law or order, or to comply with the provisions of this Chapter.

(Amended by Ordinance No. \_\_\_\_)

#### 10.4 Changes and Substitutions

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

#### 10.5 Substandard Lots

In any residential or agricultural district other than the A-1 District, a one-family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record in the Rock County Register of Deeds Office before the effective date of this Zoning Ordinance.

(Amended by Ordinance No. 15-1)

- (1) All the district requirements shall be complied with insofar as practical but shall not be less than the following.

Lot	Width	50 ft.
	Area	Minimum 20,000 sq. ft.
Yards	Street	Minimum 35 ft.; the second street yard on corner lots shall be not less than 35 ft.
	Rear	Minimum 20 ft.
	Side	Minimum 10% of the frontage, but not less than 5 ft.

- (2) If two (2) or more substandard lots exist side by side, under the same ownership, each of which individual lots is less than 25,000 square feet, they shall be combined and considered as one (1) building site.
- (3) Compliance with the standards of the Rock County Sanitary Code shall be a condition for the granting of a Zoning Permit.

## **SECTION 11.0 – CHANGES AND AMENDMENTS**

### **11.1 Authority**

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Town Board may, by ordinance, change the district boundaries or amend, change, or supplement the regulations established by the text of this Chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Planning & Zoning Committee prior to the approval of the Town Board.

### **11.2 Initiation**

A change or amendment may be initiated by the Town Board, the Planning & Zoning Committee, or by a petition of one or more of the owners or agents of property within the area proposed to be changed.

### **11.3 Petitions**

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Town Clerk, 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:

- (1) Plot Plan drawn to a scale of 1 inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 1000 feet of the area proposed to be rezoned.
- (2) Owners' Names and Addresses of all properties lying within 1000 feet of the area proposed to be rezoned.
- (3) Additional Information required by the Planning & Zoning Committee or the Town Board.
- (4) Fee Receipt from the Town Treasurer in the minimum amount to be determined by the Town Board.

### **11.4 Recommendations**

The Planning & Zoning Committee shall review all proposed changes and amendments within the Town and shall recommend that the petition be granted as requested, modified, or denied. The recommendation shall be made no later than the next meeting subsequent to

the meeting at which the petition is first submitted and shall be made at the next Town Board meeting.

#### 11.5 Guidelines for Zoning Changes

The Planning & Zoning Committee and the Town Board shall carefully analyze proposed zoning changes to determine whether they are appropriate and consistent with the purpose and intent of this Chapter. While zoning changes are made in the discretion of the Planning & Zoning Committee and the Town Board, consistent with the standards of this section, the Planning & Zoning Committee and the Town Board should consider the following before approving any zoning change:

- (1) Whether the proposed zoning change is in accordance with the development plan and its goals and objectives.
- (2) Whether the proposed zoning change is consistent with the purpose and intent sections of this Chapter, Sections 1.2 and 1.3.
- (3) Whether adequate public facilities to accommodate development from the proposed zoning change either exist or will be provided within a reasonable amount of time.
- (4) Whether provision of public facilities to accommodate development consistent with the zoning change will place an unreasonable burden on the affected governmental units and school districts.
- (5) Whether the land proposed for rezoning is suitable for development and whether development will result in undue water and air pollution, cause unreasonable soil erosion, or have an unreasonably adverse effect on rare or irreplaceable natural resources.
- (6) Whether the proposed development may adversely affect property values and the property tax base.
- (7) Traffic to be generated by proposed development.
- (8) Access to commercial retail/service areas.
- (9) Relation to scenic or recreational values.

#### 11.6 Rezoning From Farmland Preservation Zoning District

No parcel located in a farmland preservation zoning district may be re-zoned to a non-farmland preservation district unless the Town Board first finds all of the following,

after public hearing under this Section:

- (a) The land is better suited for a use not allowed in the farmland preservation zoning district.
- (b) The rezoning is consistent with any applicable comprehensive plan.
- (c) The rezoning is substantially consistent with the county certified farmland preservation plan.
- (d) The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

(Created by Ordinance No. 15-1)

#### 11.7 Notice

The Town Clerk shall notify all adjoining property owners of property within 1000 feet of the land in question. After publishing a Class 2 notice under Chapter 985 of the Wisconsin Statutes, listing the time, place, and the changes or amendments proposed, the Town Board shall hold a public hearing upon any petition filed under this Section. Such hearing may, in the discretion of the Town Board, be held before or after the Planning & Zoning Committee has made its recommendation. The Town Clerk shall also give at least 10 days prior written notice to the Clerk of any municipality within 1000 feet of any land to be affected by the proposed change or amendment.

#### 11.8 Town Board's Action

Following such hearing and after careful consideration of the recommendations of the Planning & Zoning Committee, the Town Board shall vote on the passage of the proposed change or amendment.

#### 11.9 Protest to Proposed Change

In the event of protest against a proposed district change or amendment to this Chapter, duly signed and acknowledged by the owners of 20% or more of the land included in such proposed amendment, or by the owners of 20% or more of the land parcel within 500 feet of the proposed zoning amendment, such amendment shall not be passed unless recommended by a majority vote of the Planning & Zoning Committee and passed by a unanimous vote of all members of the Town Board present and voting on the proposed amendment.

## **SECTION 12.0 – PERFORMANCE STANDARDS**

### **12.1 Compliance**

This Chapter permits specific uses in specific districts; these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. No structure, land, or water shall hereafter be used except in compliance with its district regulations and with the following performance standards.

### **12.2 Air Pollution**

No activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation, or other forms of property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas, nor any color visible smoke equal to or darker than No. 2 on the Ringelmann Chart described in United States Bureau of Mines Information Circular 8333.

(Amended by Ordinance No. 09-1)

### **12.3 Fire and Explosive Hazards**

All industrial activities involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall have adequate safety devices to guard against the hazard of fire and explosion, and shall also have adequate fire-fighting and fire-suppression equipment and devices so that they are in full compliance with all applicable State and Federal regulations.

(Amended by Ordinance No. 09-1)

### **12.4 Glare and Heat**

No activity shall emit glare or heat that is visible or measurable outside its premises. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

### **12.5 Liquid or Solid Wastes**

No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity, or temperature that can contaminate, pollute, or harm the quantity or quality of any water supply, cause the emission of dangerous or offensive elements, overload municipal utilities, or injure or damage persons or property.



## 12.6 Noise

No activity shall produce a sound level outside the M-1 District boundary that exceeds the following sound levels measured by a sound level meter and associated octave band filter:

Octave Band Frequency (Cycles per Second)			Sound Level (Decibels)
0	to	75	72
75	to	150	67
150	to	300	59
300	to	600	52
600	to	1200	46
1200	to	2400	40
2400	to	4800	34
4800	and	above	32

All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character, or shrillness.  
(Amended by Ordinance No. 09-1)

## 12.7 Odors

No activity shall emit any odorous matter or pollutant of such nature or quantity as to be offensive, obnoxious, or unhealthful outside its premises. When providing for odor measurement and control, the Town may use as a guide Section NR 429.03 of the Wisconsin Administrative Code. The Town may also provide for use of scent monitoring and measurement devices that from time to time may be developed and/or recommended under or by government regulation or scientific studies. Agriculture odors associated with normal agricultural activities are exempted from this section, except those odors created by the use of Center Pivot Manure Distribution Systems, the use of which is prohibited in all zoning districts except for Agricultural District One (A-1), in which said systems require the issuance of a Conditional Use Permit.

(Amended by Ordinance No. 11-1)

## 12.8 Radioactivity and Electrical Disturbances

No activity shall emit radioactivity or electrical disturbances outside its premises that are

dangerous or adversely affect the use of neighboring premises.

#### 12.9 Vibration

No activity in any district shall emit vibrations which are discernible without instruments outside its premises. No activity in the M-1 District shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

Frequency (Cycles Per Second)	Outside the Premises	Outside the District
0 to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and above	.0002	.0001

#### 12.10 Water Quality Protection

(Amended by Ordinance No. 09-1)

- (1) No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated solid, liquid, or gaseous materials of such nature, quantity, obnoxiousness, toxicity, or temperature that would be likely to run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.
- (2) In addition, no activity shall discharge any solid, liquid, or gaseous materials so as to exceed or contribute toward the exceeding of the minimum standards and those other standards and the application of those standards set forth in Chapter NR 102 of the Wisconsin Administrative Code for all navigable waters.

(Amended by Ordinance No. 09-1)

### SECTION 13.0 – SIGNS

#### 13.1 Permit Required

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged,

converted, or structurally altered without a sign permit, except those signs permitted under Section 13.2, and without being in conformance with the provisions of this Chapter, Section 84.30 of the Wisconsin Statutes, and Chapter Trans 201 of the Wisconsin Administrative Code. Such a sign shall also meet all the structural requirements of local and state building codes.

(Amended by Ordinance No. 09-1)

### 13.2 Signs Permitted in All Districts Without a Sign Permit

(Amended by Ordinance No. 09-1)

The following signs are permitted in all zoning districts without a permit subject to the following regulations.

- (1) Signs Over Show Windows or Doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor, not to exceed 2 feet in height and 10 feet in length.
- (2) Agricultural Signs pertaining to the sale of agricultural products on a farm or to membership in agricultural or agricultural-related organizations, up to two signs with each sign face totaling not more than 4'x 8' advertising such sale.
- (3) Real Estate Signs not to exceed 4'x 8' in display area which advertise the sale, rental, or lease of the premises upon which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located.
- (4) Name, Occupation, and Warning Signs not to exceed 2 square feet in display area located on the premises, and not closer than 50 feet between signs.
- (5) Bulletin Boards of public, charitable, or religious institutions not to exceed 16 square feet in display area located on the premises.
- (6) Memorial Signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
- (7) Official signs, such as traffic control, parking restrictions, information, and notices.
- (8) Political Signs for political candidates which shall not be larger than 4'x 8'.
- (9) Temporary Signs or banners when authorized by the Planning & Zoning Committee.
- (10) Signs advertising a park, golf course, or other recreational area and located at the entry of such area, not to exceed 4'x 8' in display area.

### 13.3 Signs Permitted in All Commercial and Industrial Districts

The following signs are permitted in the Commercial and Industrial Districts with a permit and are subject to the following regulations:

- (1) Wall Signs placed against the exterior wall of a building shall not extend more than 12 inches from the wall, and shall not extend above the roof line. The maximum area of all wall signs shall not exceed an area equal to 3 square feet for each lineal front foot of building.
- (2) Projecting Signs fastened to, suspended from, or supported by building structures shall not exceed 100 square feet in display area on all sides for any one premises, extend more than 6 feet in any required yard, be less than 10 feet from all lot lines, exceed a height of 6 feet above the roof line, or be less than 10 feet above a sidewalk or other pedestrian way, nor less than 15 feet above a driveway or an alley.
- (3) On-Premise Ground Signs in the B-1 District shall be limited to one sign for each individual business premises. Such sign shall advertise the business name, services offered, or products sold on the premises, shall not exceed 300 square feet in display area on any one side nor 600 square feet in display area on all sides for any one premises, and shall have a maximum height of 30 feet.  
(Amended by Ordinance No. 09-1)
- (4) On-Premise Ground Signs in Other Business and Industrial Districts shall be limited to one sign for each individual business premises. Such sign shall advertise the business name, services offered, or products sold, shall not exceed 60 square feet in display area on any one side nor 120 square feet in display area on all sides for any one premises, shall have a maximum height of 30 feet, and shall be at least 50 feet from the boundary of any residential district.
- (5) Two wall signs, projecting signs and/or on-premise ground signs shall be permitted for each business or industrial use, subject to the limitations in (3) and (4). The total sign area for both signs shall not exceed the greatest maximum area allowed.  
(Amended by Ordinance No. 09-1)
- (6) Window Signs shall be placed only on the inside of commercial buildings and shall not exceed 25% of the glass area of the pane upon which the sign is displayed.
- (7) Off-Premise Ground Signs shall require a conditional use permit from the Planning & Zoning Committee and are subject to the following requirements:  
(Amended by Ordinance No. 09-1)
  - (A) Such signs shall not be located within 50 feet of the existing or proposed

right-of-way of any state or county trunk highway or any town road measured horizontally along a line perpendicular to the center of the highway.

- (B) No sign shall be located within 1000 feet of any other off-premise ground sign located on the same side of the road.  
(Amended by Ordinance No. 09-1)
- (C) No sign shall exceed 30 feet in height.  
(Amended by Ordinance No. 09-1)
- (D) No sign shall exceed 300 square feet in display area on any one side nor 600 square feet in display area on all sides.  
(Amended by Ordinance No. 09-1)
- (E) Such signs shall conform to all yard and setback requirements of the district in which they are located.  
(Amended by Ordinance No. 09-1)
- (F) No sign shall be located within 500 feet of a residential district.  
(Amended by Ordinance No. 09-1)

#### 13.4 Traffic

Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape. No sign shall be attached to a standpipe or interfere with traffic visibility, nor be lighted in such a way as to cause glare or impair driver visibility upon public ways.

#### 13.5 Existing Signs

Signs lawfully existing at the time of the adoption or amendment of this Zoning Ordinance may be continued even though the use, size, or location does not conform to the provisions of this Chapter. However, such signs shall be deemed nonconforming uses or structures, and the provisions of Section 10 shall apply.

#### 13.6 Bonds

Every applicant for a sign permit shall, before the permit is granted, execute a surety bond in a sum to be fixed by the Zoning Officer, but not to exceed \$25,000. The surety bond shall be of a form and type approved by the Town Attorney, indemnifying the municipality

against all losses, costs, damages, or expenses incurred or sustained by or recovered against the municipality by reason of the erection, construction, or maintenance of such sign. A liability insurance policy issued by an insurance company authorized to do business in the State of Wisconsin, and conforming to the requirements of this section, may be permitted by the Town Attorney in lieu of a bond.

(Amended by Ordinance No. 09-1)

13.7 Moveable or Temporary Signs

(Deleted per Ordinance No. 04-02)

13.8 Lighting of Signs

Illuminated signs are permitted when the lighting is one sustained impulse. No blinking lights or group of lights shall be allowed as part of a sign after the effective date of this Zoning Ordinance.

13.9 Roof-mounted Signs

Signs erected on the roof of a building are prohibited by this Chapter.

13.10 Areas of Special Control

Areas of special control may be designated by the Town Board. In such areas, the Town Board may establish special regulations for signs which may be more or less restrictive than this section. The areas of special control shall be as follows:

- (1) Architectural, historic, or scenic areas whose special and unique characteristics or whose natural beauty requires special sign regulations to ensure that all signs used within the area are compatible with each other and with the area.
- (2) Integrated centers of intensive business areas over 5 acres whose character indicates that signs should be permitted under regulations which are different from those which would otherwise be applicable under this Chapter.

13.11 Permit Fees

- (1) Signs less than 200 square feet in area .....To be determined by  
Town Board Resolution
- (2) Signs 200 square feet or larger in area.....To be determined by  
Town Board Resolution

## **SECTION 14.0 – MOBILE TOWER SITING**

### **14.1 Purpose**

The purpose of this Section is to regulate by Conditional Use Permit and Zoning Permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities. In addition, the purpose of this Section is to assure the continued maintenance of such structures and facilities and to protect the public from dangers resulting from such structures and facilities that may fall into disuse.

### **14.2 Definitions**

As used in this Section, the following definitions apply, except to the extent they may be inconsistent with the definitions set forth in Wis. Stat. § 66.0404(1), as amended from time-to-time and, in all other respects, the definitions set forth in Wis. Stat. § 66.0404(1) and any amendment to that subsection shall apply:

"Antenna" means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

"Application" means an application for: a) a Conditional Use Permit under this Section to engage in the siting or construction of a new mobile service support structure or a class 1 collocation; or b) a Zoning Permit under this Section to engage in a class 2 collocation.

"Class 1 collocation" means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.

"Class 2 collocation" means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.

"Collocation" means class 1 or class 2 collocation or both.

"Board" means the Town Board of the Town of Johnstown.

"Distributed antenna system" means a network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.

"Equipment compound" means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

"Existing structure" means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with the Town Clerk.

"FAA" means the Federal Aviation Administration.

"FCC" means the Federal Communications Commission.

"Mobile Service" means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, as defined in federal law.

"Mobile service facility" means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.

"Mobile service provider" means a person who provides mobile service.

"Mobile service support structure" means a freestanding structure that is designed to support a mobile service facility.

"Political subdivision" means a city, village, town, or county.

"Public utility" has the meaning provided under Wis. Stat. § 196.01 or any amendment thereto.

"Search ring" means a shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.

"Substantial modification" means the modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:

1. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
2. For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.
3. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.



4. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

"Support structure" means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

"Utility pole" means a structure owned or operated by an alternative telecommunications utility, as defined in Chapter 196 of the Wisconsin Statutes and any amendment thereto; public utility, as defined in Chapter 196 of the Wisconsin Statutes and any amendment thereto; telecommunications utility, as defined in Chapter 196 of the Wisconsin Statutes and any amendment thereto; political subdivision; or cooperative association organized under Chapter 185 of the Wisconsin Statutes and any amendment thereto; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in Chapter 182 of the Wisconsin Statutes and any amendment thereto; for video service, as defined in Chapter 66 of the Wisconsin Statutes and any amendment thereto; for electricity; or to provide light.

14.3 Application Process for Siting and Construction of New Mobile Service Support Structure and Facilities.

- A. A Conditional Use Permit is required for the siting and construction of any new mobile service support structure and facilities in the Town.
- B. A written permit application must be completed by any applicant and submitted to the Town Clerk. The application must contain all information required for a Conditional Use Permit under this Chapter (Section 5.2), plus the following information:
  1. The name and business address of, and the contact individual for, the applicant.
  2. The location of the proposed or affected support structure.
  3. The location of the proposed mobile service facility.
  4. A construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

5. An explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
  6. A scaled site plan clearly indicating the location, type and height of the proposed structure and equipment compound, adjacent land uses and structures, adjacent roadways, on-site parking and driveways, structure and equipment compound setbacks from property lines, and other information deemed necessary by the Board to assess compliance with this Section.
  7. The distance between the structure and the nearest residential unit and residentially zoned properties.
  8. The distance from the nearest other mobile service support structure.
  9. A landscape plan showing specific plant materials.
  10. The method of fencing, including location, materials and finished color and, if applicable, vegetative screening.
- C. A permit application will be provided by the Town Clerk upon request to any applicant.
- D. If an applicant submits to the Town Clerk an application for a permit for the siting and construction of any new mobile service support structure and facilities, which application contains all of the information required under this Section, the Clerk shall consider the application complete. If the Clerk does not believe that the application is complete, the Clerk shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- E. Within 90 days of the Town Clerk's receipt of a complete application, the Board shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town Board may agree in writing to an extension of the 90 day period:
1. The Board shall review the application to determine whether it complies with all applicable aspects of this Chapter, subject to the limitations in this section.

2. The Board shall make a final decision whether to approve or disapprove the application.
  3. The Clerk shall notify the applicant, in writing, of the Board's final decision.
  4. If the decision of the Board is to disapprove the application, it shall include with the written notification substantial evidence which supports the decision.
- F. The Board may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under subparagraph B.5 above.
- G. A mobile service support structure shall be located not closer than a distance equal to 100% of the height of the structure from any adjoining lot line, provided that, if an applicant provides the Board with an engineering certification showing that the structure is designed to collapse within a smaller area than a distance equal to 100% of the height of the structure from any adjoining lot line, then the setback shall be reduced to the smaller area unless the Board provides the applicant with substantial evidence that the engineering certification is flawed.
- H. The fee for the permit is \$3000.
- 14.4 Application Process for Substantial Modification of an Existing Support Structure and Mobile Service Facilities as Part of Class 1 Collocation.
- A. A Conditional Use Permit is required for substantial modification of an existing support structure and mobile service facilities as part of a Class 1 collocation in the Town.
- B. A written permit application must be completed by any applicant and submitted to the Town Clerk. The application must contain all information required for a Conditional Use Permit under this Chapter (Section 5.2), plus the following information:
1. The name and business address of, and the contact individual for, the applicant.
  2. The location of the affected support structure.
  3. The location of the affected mobile service facility.
  4. A construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

5. A scaled site plan clearly indicating the location, type and height of the existing structure and equipment compound, adjacent land uses and structures, adjacent roadways, on-site parking and driveways, structure and equipment compound setbacks from property lines, and other information deemed necessary by the Board to assess compliance with this Section.
  6. The distance between the existing structure and the nearest residential unit and residentially zoned properties.
- C. A permit application will be provided by the Town Clerk upon request to any applicant.
- D. If an applicant submits to the Town Clerk an application for a permit for a Class 1 collocation, which application contains all of the information required under this Section, the Clerk shall consider the application complete. If the Clerk does not believe that the application is complete, the Clerk shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- E. Within 90 days of the Town Clerk's receipt of a complete application, the Board shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town Board may agree in writing to an extension of the 90 day period:
1. The Board shall review the application to determine whether it complies with all applicable aspects of this Chapter, subject to the limitations in this section.
  2. The Board shall make a final decision whether to approve or disapprove the application.
  3. The Clerk shall notify the applicant, in writing, of the Board's final decision.
  4. If the decision of the Board is to disapprove the application, it shall include with the written notification substantial evidence which supports the decision.
- F. A mobile service support structure to be modified hereunder shall be located not closer than a distance equal to 100% of the height of the structure from any adjoining lot line, provided that, if an applicant provides the Board with an engineering certification showing that the structure is designed to collapse within a

smaller area than a distance equal to 100% of the height of the structure from any adjoining lot line, then the setback shall be reduced to the smaller area unless the Board provides the applicant with substantial evidence that the engineering certification is flawed.

- G. The fee for the permit is \$3000.

#### 14.5 Application Process for Class 2 Collocation.

- A. A Zoning Permit is required for a Class 2 collocation in the Town.
- B. A written permit application must be completed by any applicant and submitted to the Zoning Officer. The application must contain all information required for a Zoning Permit under this Chapter (Section 6.3), plus the following information:
  - 1. The name and business address of, and the contact individual for, the applicant.
  - 2. The location of the affected support structure.
  - 3. The location of the proposed or affected mobile service facility.
  - 4. A scaled site plan clearly indicating the location, type and height of the proposed structure and equipment compound, adjacent land uses and structures, adjacent roadways, on-site parking and driveways, structure and equipment compound setbacks from property lines, and other information deemed necessary by the Board to assess compliance with this Section.
  - 5. The distance between the structure and the nearest residential unit and residentially zoned properties.
- C. A permit application will be provided by the Zoning Officer upon request to any applicant.
- D. A class 2 collocation is subject to the same requirements for the issuance of a Zoning Permit to which any other type of commercial development or land use development is subject under this Chapter.
- E. If an applicant submits to the Zoning Officer an application for a Zoning Permit for a class 2 collocation, which contains all of the information required under this Section, the Zoning Officer shall consider the application complete. If the Zoning Officer, in consultation with the Town Clerk, does not believe that the application is complete, the Zoning Officer shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written

notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

- F. Within 45 days of receipt of a complete application, the Zoning Officer shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Zoning Officer may agree in writing to an extension of the 45 day period:
1. Review the application to determine whether it complies with all applicable aspects of this Chapter, subject to the limitations in this section.
  2. Make a final decision whether to approve or disapprove the application.
  3. Notify the applicant, in writing, of the Zoning Officer's final decision.
  4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- G. The fee for the Zoning Permit is the lesser of \$500 or the fee established by the Town Board for a zoning permit for commercial development.

#### 14.6 Standards

Except as prohibited under the limitations of Wis. Stat. § 66.0404 (4), as amended from time to time, any Conditional Use Permit for the siting and construction of any new mobile service support structure and facilities or for a Class 1 collocation in the Town, and any Zoning Permit for a Class 2 collocation, shall be subject to all general standards and regulations applicable to such permits under this Chapter and to the following standards:

1. No permit shall be issued for any structure or facility unless the applicant reasonably assures that the structure or facility shall be constructed and maintained in compliance with all applicable state or local building codes, with applicable standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers and antennas.
2. Proposed mobile service support structures shall be constructed so as to reasonably blend in with the surrounding environment, provided that no application shall be disapproved solely for aesthetic concerns.
3. The applicant for a Conditional Use Permit for a proposed or modified structure and facilities may be required by the Board to provide a surety bond or a cash deposit as reasonably necessary to protect the interests of the Town and its residents and property owners.

4. Proposed mobile service support structures shall blend in with the surrounding environment except as may be required by rules of the FAA or FCC. The equipment compound shall also blend in with the character of the district in which it is located.
5. No mobile service support structure may be located within 2500 feet of an existing mobile service support structure, measured by a straight line between the base of an existing mobile service support structure and the base of a proposed mobile service support structure.
6. The height of a mobile service support structure may be limited by the Town Board as reasonably necessary to protect the interests of the Town and its residents and property owners, but not to a height of under 200 feet, and no application may be disapproved solely because of the height.
7. No advertising material or signage other than warning or equipment information shall be allowed on any new mobile service support structure. This prohibition shall include the attachment to a mobile service support structure of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices.
8. A new mobile service support structure shall not be artificially illuminated unless required by government authority. Lighting shall be designed to minimize disturbance to the surrounding area. No application for a mobile service support structure may be disapproved solely because the structure requires lighting.
9. Traffic that is associated with the mobile service support structure or facility shall not adversely affect abutting streets or neighboring properties.
10. Ladder rungs on towers shall not be placed within 20 feet of the ground.
11. A new mobile service support structure shall be enclosed by security fencing not less than 8 feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area as determined by the Town Board.
12. A buffer of plant materials to effectively screen the equipment compound related to a new mobile service support structure from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscaped strip at least 5 feet in width outside the perimeter of the tower compound. In locations where the visual impact of the compound would be minimal, the landscaping requirement may be reduced or waived. Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. All landscaping requirements detailed here shall be properly maintained in perpetuity.

13. The mobile service support structure shall be shielded, filtered and grounded in a manner consistent with FCC guidelines so as to minimize the possibility of interference with locally received transmissions. In the event any complaint of interference is received by the Town, and the interference is verified by a qualified engineer to be caused by the structure, the Town shall notify the owner and operator in writing and the owner and operator shall have period of 30 days to investigate the complaint and respond to the Town. In the event it is determined that the structure is the source of the interference, the owner and operator shall take steps to correct the interference.
14. All buildings and equipment enclosures shall be kept locked at all times. Each building and enclosure shall have a label attached to it. The label shall give the name, address, and telephone number of the person who should be contacted in the event of an emergency."

#### 14.7 Demolition and Repair.

In the event that a mobile service support structure is not utilized for the delivery of mobile service for a period of one (1) year or more, the Board may, in its discretion, revoke any permit issued under this Section. Upon revocation of any such permit issued under this section, or at any time if the structure pre-exists the adoption of this section, if the Board determines that the structure constitutes a public nuisance within the meaning of Wis. Stat. § 66.0413 (2) (2013-14) or any equivalent statute, the Board may seek the razing of the structure under that statute. The Board may at any time conduct or direct the building inspector to conduct an examination of any mobile service structure to determine whether the structure is dangerous or unsafe due to age or lack of repair and, if so, the Board may proceed under Wis. Stat. § 66.0413 (2013-14), or any equivalent statute, to seek the razing of the structure. The Clerk shall give prior notice to the owner of the structure, if known, and to the owner of the parcel upon which the structure is located, of any anticipated action of the Board to revoke a permit hereunder. Notice shall be given at least 21 days before such action by certified mail, return receipt requested.

(Created by Ordinance No. 14-\_\_\_)

### **SECTION 15.0 – DEFINITIONS**

#### 15.1 Usage

- (1) For purposes of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section.
- (2) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these



regulations.”

(Amended by Ordinance No. 09-1)

- (3) “Shall” is always mandatory.

(Amended by Ordinance No. 09-1)

- (4) A “building” includes a “structure”; a “building” or “structure” includes any part thereof; “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.”

- (5) Any words not defined herein shall be presumed to have their customary dictionary definitions as provided by the most recent edition of Webster’s Collegiate Dictionary.

## 15.2 Words and Terms Defined

Accessory Building. Any building except the principal building on a lot. In the case of a house and detached garage on a lot, the accessory building is the garage.

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

(Created by Ordinance No. 07-\_\_)

Agricultural Use. Any use identified as such under the definitions set forth in Chapter 91 of the Wisconsin Statutes and any administrative regulations created thereunder.

(Created by Ordinance No. 15-1)

Agriculture-Related Use. An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes; also, a facility integral to an agricultural use, regardless of whether the facility is located on a farm, that relies on agricultural uses conducted primarily off-site.

(Created by Ordinance No. 15-1)

Airport Not Open to the Public. Any airport on privately owned land used solely by the property owner.

Airport Open to the Public. Any airport, whether publicly or privately owned, which is open for use by the general public without the necessity of obtaining prior use approval.

Alley. A street or thoroughfare less than 21 feet wide and affording only secondary access to abutting properties.

Animal Unit. A unit of measure used to determine the total number of single animal types or combination of animal types at an animal feeding operation as defined in Chapter NR 243 of the Wisconsin Administrative Code.

(Amended by Ordinance No. 15-1)

Applicant. The owner of the land or his or her representative. Consent shall be required in writing from the legal owner of the premises.

Arterial Roads & Highways. Streets serving inter-community travel within and outside the area, providing a high level of urban mobility with little variation in operating conditions, and forming a continuous system with other arterials as indicated on the Rock County Functional Highway Classification Map.

Automotive Vehicle. A vehicle that is self propelled, except a snowmobile, unless specifically referred to as a motor vehicle herein.

Basement. A story partly underground.

Boarding House. A residential structure other than a hotel where lodging or meals are provided for compensation, whether in money or in exchange for goods or services, for one or more persons not members of the owner's family.

(Amended by Ordinance No. 99-1)

Bond. Any form of security including cash deposit, surety bond, collateral, property, or instrument of credit in the amount and form satisfactory to the governing body. All bonds shall be approved by the Planning & Zoning Committee wherever a bond is required by these regulations.

Building. Any structure used, designed, or intended for the protection, shelter, enclosure, or support of persons, animals, or property.

Building Area. Total ground coverage in square feet of all buildings and structures including garages, carports, and other attached or accessory structures.

Building Height. The vertical distance from the top of the building roof to the top of the basement or to the foundation, whichever is less.

Center Pivot Waste Distribution System. A system for spreading lagoon wastewater or other liquid by-products of animal waste which involves spraying the wastewater or by-products in liquid form through nozzles attached to a pivoting arm located in a farm field.

(Definition created by Ordinance No. 11-1)

(Amended by Ordinance No. 15-1)

Certified Survey Map. A division of a lot, parcel, or tract of land by the owner thereof or his or her agent for the purpose of sale or building development where the act of division creates not more than four (4) parcels of land.

Child or Children. A first degree descendant, not a grandchild or one farther removed in degree of descendance.

Collector Roads & Highways. Streets serving intermediate to long trips within an area, collecting and distributing traffic to and from local roads and adjacent land within the area, providing fair mobility, and forming a generally continuous pattern when combined with the arterial system as indicated on the Rock County Functional Highway Map.

Committee. The Planning & Zoning Committee for the Town of Johnstown.

Common Area. An area or space designed for joint use of tenants or owners residing in a Planned Unit Development or Condominium Development.

Common Sewerage. A legal sewage system that serves two or more dwelling units.

Community. A legal entity organized under appropriate statutory authority as a body corporate which represents a town, village, city, or county such as the case may be.

Community Living Arrangement. Any of the following facilities licensed, operated, or permitted under the authority of the Wisconsin Department of Health and Family Services: child welfare agencies under Section 48.60 of the Wisconsin Statutes, group foster homes for children under Section 48.02(7) of the Wisconsin Statutes, and community-based residential facilities under Section 50.01 of Wisconsin Statutes, but not including day care centers, nursing homes, general hospitals, special hospitals, prisons, or jails.

Complete Application for Local Approval. An application that contains everything required under Sections ATCP 51.30(1)-(4) of the Wisconsin Administrative Code.

(Created by Ordinance No. 07-\_\_)

Conditional Use. A use allowed under this Chapter, provided that certain conditions are met and a Conditional Use Permit is granted by the Town Board.

(Amended by Ordinance No. 09-1)

Density. The number of living units per acre allowable under a schedule of district regulations.

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

(Created by Ordinance No. 07-\_\_)

Developer. The owner of land proposed for subdivision or his or her representative. Consent shall be required from the legal owner of the premises.

Development Guide. The Town's Development Plan (segment of the County Development Plan) (Section 59.97) or the incorporated municipality's Master Plan (Section 62.23).

Drive-in Establishment. A place of business in which patrons can be served while remaining in their automobiles.

Driveway. A minor private way used by vehicles and pedestrians for common access to a lot, small group of lots, or facility.

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

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

Dwelling, Multiple-Family. A building or portion thereof designed for or occupied by three or more families or households.

Earthwork. The moving of more than 2 cubic yards of any type of soils.

Easement. Authorization by a property owner for the use of any designated part of his property by another and for a specified purpose.

Emergency Shelter. Public or private enclosures designed to protect people from flood, windstorm, fire, riots, or invasions, and from aerial, radiological, biological, or chemical warfare.

Essential Services. Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electricity, steam, water, sanitary sewer, storm water, drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but does not include buildings.

Expanded Livestock Facility. The entire livestock facility that is created by the expansion, after May 1, 2006. "Expanded livestock facility" includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing, or altered.

(Created by Ordinance No. 07-\_\_)

Expansion. An increase in the largest number of animal units kept at a livestock facility on at least 90 days in any 12-month period. The acquisition of an existing livestock facility, by the operator of an adjacent livestock facility, does not constitute an “expansion” unless that operator increases the largest number of animal units kept at the combined livestock facilities on at least 90 days in any 12-month period.

(Created by Ordinance No. 07-\_\_)

Expressway. A divided arterial street or highway, either with full or partial control of access, and with or without grade-separated intersections.

Family. A group of persons related by blood or marriage and living together as a single housekeeping entity.

Farm. All land under common ownership that is primarily devoted to agricultural use.

(Amended by Ordinance No. 15-1)

Farm Consolidation. The sale or acquisition of farm acreage to or from another farm owner. A farm owner is a person who earns at least \$6,000/year in farm income.

Farm Family Business. A business within the definition of a farm family business under regulations adopted by the Wisconsin Department of Agriculture, Trade and Consumer Protection under the authority of Chapter 91 of the Wisconsin Statutes. At the time of adoption of this definition, such regulations are currently part of Chapter ATCP 49 of the Wisconsin Administrative Code.

(Amended by Ordinance No. 15-1)

Farm Residence. Any of the following structures located on a farm:

- (1) A single family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
  - a. An owner or operator of the farm.
  - b. A parent or child of an owner or operator of the farm.
  - c. An individual who earned more than fifty-percent (50%) of his or her gross income from the farm.
- (2) A migrant labor camp that is certified as such under state law.

(Amended by Ordinance No. 15-1)

Flood Plain. The land adjacent to a body of water which is subject to periodic overflow therefrom.

Floodway. The channel of a stream and such adjacent portions of the floodplain as are required to accommodate flood flows.

Floor Area. The area within the exterior walls of a building which is usable as living

quarters.

Freeway. An expressway with full control of access and with fully grade-separated intersections.

Frontage. The side of a lot abutting a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

Garage, Private. Any building or premises, other than a public or storage garage, where motor vehicles are equipped, repaired, serviced, hired, sold, or stored.

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

Garage, Storage. Any building or premises used for storage only of motor vehicles.

High Density. Those residential zoning districts in which the density is greater than one dwelling unit per 8500 square feet.

Home Occupation. A gainful occupation conducted by members of a family only within their place of residence or in outbuildings not constructed for commercial purposes, provided that such occupation does not result in significant traffic and that the character of any outbuildings used shall not be altered in such a manner as to make such outbuilding into a commercial structure, and further provided that the only signage on the premises advertising any such home occupation shall not exceed one (1) sign, and that such sign shall not exceed 8 square feet in area.

(Amended by Ordinance No. 99-1)

Hotel. A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than 5 sleeping rooms with no cooking facilities in any individual room or apartment.

Household Pet. Tame animals which have been traditionally kept in the home, to include dogs, cats, rabbits, birds, hamsters, and other animals which in their adult life do not exceed 250 pounds, or 4 feet in height at normal posture.

Household Unit. The body of persons who live together in one dwelling unit as a single housekeeping unit.

Incidental. Minor land uses that or secondary uses directly supported by the principal or permitted use (for example, a detached garage is an incidental use to a residential structure).

Intensive Soils Survey. The testing of soil at a particular geographic location as to its individual assets and limitations.

Interchange. A grade-separated highway intersection with one or more turning lanes for travel between intersecting roads or highways.

Kennel. Any establishment wherein or whereon dogs are kept for the purpose of breeding, sale, or sporting purposes. Any residence, farm, or business at which more than three dogs over 6 months of age are kept shall also be deemed a kennel.

(Amended by Ordinance No. 01-2)

Land Division. The division of a tract or interest in real property by the owner thereof for the purpose of sale or building development which creates one or more lots, parcels, ownership units, or the need for a public land dedication.

Large Farm Animal. Any horse, head of cattle, pony, sheep, goat, or hog.

License. A written license issued by the municipality allowing a person to operate and maintain a mobile home park under the provisions of this Chapter and regulations issued hereunder.

Livestock. Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish and such other beings as defined in Wis. Stat. sec. 91.01(20m) and any successor statute.

(Created by Ordinance No. 07-\_\_)

(Amended by Ordinance No. 15-1)

Livestock Facility. A feedlot, dairy farm, or other operation where livestock other than equine animals, bison, farm-raised deer, fish captive game birds, ratites, camelids or mink are or will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12-month period. A "livestock facility" includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single "livestock facility" for purposes of ATCP 51, except that an operator may elect to treat a separate species facility as a separate 'livestock facility.'

(Created by Ordinance No. 07-\_\_)

(Amended by Ordinance No. 15-1)

Livestock Structure. A building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. "Livestock structure" includes a barn, milking parlor, feed storage facility, feeding facility, animal lot, or waste storage facility. "Livestock structure" does not include a pasture or winter grazing area, a

fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

(Created by Ordinance No. 07-\_\_)

Loading Area. A completely off-street space or berth on a lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

Local Roads & Highways. Streets serving primarily to provide direct access to adjacent land, providing for short distance travel within the area, and providing access to the Collector and Arterial systems. Through traffic movement on locals is generally discouraged.

Lodging House. A building other than a hotel where lodging only is provided for compensation for not more than 12 persons not members of the owner's family.

Lot. A parcel of land described in a recorded plat or deed.

Lot Area. The total area reserved for exclusive use of the owners of a particular piece of real property.

Lot, Corner. A lot abutting on two or more streets at their intersection.

Lot Lines and Area. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

Lot Depth. The mean horizontal distance between the front and rear lot lines.

Lot Width. The width of a parcel of land measured at the front of the specified road side of the parcel.

Low Density. Those residential zoning districts in which the density is more than 40,000 square feet per dwelling unit.

Master Plan. A comprehensive plan for development by the local government, prepared and adopted by the local government pursuant to state law, and including any part of such plan separately adopted and any amendment to such plan or parts thereof.

Medium Density. Those residential zoning districts in which the density is between 8500 and 40,000 square feet per dwelling unit.

Minor Structures. Any small, movable accessory structure or construction such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences less than



4 feet in height.

Mobile Home. 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 over all 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.

Motel. A series of attached, semi-attached, or detached sleeping units for the accommodation of transient guests.

Navigable Waters. The meaning given in Section 30.01(4m) of the Wisconsin Statutes.  
(Created by Ordinance No. 07-\_\_)

New Livestock Facility. A livestock facility that will be used as a livestock facility for the first time, or for the first time in at least 5 years. "New livestock facility" does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding 5 years.

(Created by Ordinance No. 07-\_\_)

Non-conforming Structure. A building or premises lawfully used, occupied, or erected at the time of the passage of this Zoning Ordinance or any amendments thereto, which does not conform to the regulations of this Chapter with respect to frontage, width, height, area, yard, parking, loading, or distance requirements.

Non-conforming Use. The use or occupancy of a building or premises which is lawful at the time of the enactment of this Zoning Ordinance or amendments thereto, but which use or occupancy does not conform to the provisions of this Chapter or any amendments thereto.

Operator. A person who applies for or holds a local approval for a livestock facility.  
(Created by Ordinance No. 07-\_\_)

Ordinance. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

Owner. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land.

Outdoor Furnace. A furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

(Amended by Ordinance No. 09-1)

Park Management. The person who owns or has charge, care, or control of a mobile home park or travel trailer park.

Permit. A written zoning permit or certification issued by the Zoning Officer permitting the construction, alteration and/or extension of a building under the provisions of this Chapter.

Permitted Use. Uses listed under this heading are permitted as of right. This means that an applicant for a zoning permit must be given a permit if he meets the other requirements of the Chapter, e.g., yards, setbacks, and so forth.

Person. An individual, corporation, partnership, cooperative, limited liability company, trust, or other legal entity.

(Amended by Ordinance No. 07-\_\_)

Populate. To add animal units for which a permit or other local approval is required.

(Created by Ordinance No. 07-\_\_)

Principal Structure. The building of primary importance or permitted use on a parcel of land, in contrast to those which are accessory or of secondary importance. In an agricultural district a barn for agricultural use or swine confinement facilities can be considered a principal structure.

Property Line. A line that separates parcels of land owned by different persons.

(Created by Ordinance No. 07-\_\_)

Recreational Vehicle. A touring or recreational unit other than a primary housing unit designed to be either self-propelled or towed which does not exceed the minimum statutory size of a mobile home under Section 348.07(2) of the Wisconsin Statutes. Commonly referred to as a motor home, pop-up-camper, fifth wheel mobile home, or similar type of vehicle equipped and used or intended to be used for temporary human habitation. A unit may or may not include plumbing, heating, and electrical systems or appliances.

Related Livestock Facilities. Livestock facilities that are owned or managed by the same person, and related to each other in at least one of the following ways:

- (A) They are located on the same tax parcel or adjacent tax parcels of land.
- (B) They use one or more of the same livestock structures to collect or store manure.
- (C) At least a portion of their manure is applied to the same landspreading acreage.

(Created by Ordinance No. 07-\_\_)

Rooming House. A residential structure other than a hotel where lodging only is provided for compensation, whether in money or in exchange for goods or services, for one or more persons not members of the owner's family.

(Amended by Ordinance No. 99-1)

Separate Species Facility. A livestock facility that meets all of the following criteria:

- (A) It has only one of the following types of livestock, and that type of livestock is not kept on any other livestock facility to which the separate species facility is related (see definition of "Related Livestock Facilities"):
  - 1. Cattle;
  - 2. Swine;
  - 3. Poultry;
  - 4. Sheep;
  - 5. Goats.
- (B) It has no more than 500 animal units.
- (C) Its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by livestock facilities to which it is related.
- (D) It meets one of the following criteria:
  - 1. Its livestock housing and manure storage structures, if any, are located at least 750 feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.
  - 2. It and the other livestock facilities to which it is related have a combined total of fewer than 1000 animal units.

(Created by Ordinance No. 07-\_\_)

Service Building. A structure housing toilet, washing, and bathing facilities, and such other facilities as may be required by this Chapter.

Setback. The minimum horizontal distance between the lot line and the nearest point of a building or any projection thereof, excluding uncovered steps. The setback requirements of this Chapter shall not be deemed applicable to a telecommunications or utilities cabinet which does not exceed 4 feet in height, 4 feet in width, and 6 feet in length, except with regard to the setback requirements contained in Section 9.2 of this Chapter, dealing with vision clearance at intersections. Setback requirements for such telecommunications and

utilities cabinets which exceed the size set forth in this definition may be reduced by the Planning & Zoning Committee by issuance of a conditional use permit.

(Amended by Ordinance No. 01-4)

Sign. A structure or devise on which advertising is displayed, or by which attention is directed to advertising on the same or any other structure, by any means visible to the eye.

Standards. The setbacks, vision corners, sideline requirements, height limitations, square footage requirements, and other specifications as required by this Chapter.

Standard Soils Survey. A soils survey of Rock County by the Soil Conservation Service, U.S. Department of Agriculture.

Story. That portion of a building included between the surface of the floor and the surface of the floor next above it, or the space between the floor and the ceiling next above it if there is no floor above it. A basement or cellar having one-half or more of its height above grade is a story for purposes of height regulation.

Story, Half. The space under any roof except a flat roof, the wall plates of which on at least two opposite exterior walls are not more than 4 feet above the floor of such story.

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

Street Right-of-Way Line. The dividing line between a lot, tract, or parcel of land and an abutting street.

Structure. Anything constructed or erected having location on the ground.

Structural Alteration. Any change in the supporting elements of a structure, such as foundations, bearing walls, columns, beams, or girders, or any substantial change in the roof structure or in the exterior or interior walls.

Structure, Single Family. A building designed for or occupied by one family or household.

Structure, Two-Family. A detached or semi-detached building designed as two separate dwelling units and occupied by two families or households.

Structure, Multiple-Family. A building or portion thereof designed for or occupied by three or more families or households.

(Amended by Ordinance No. 09-1)

Subdivision Plat. Any divisions of a lot, parcel, or tract of land by the owner thereof or his

or her agent for the purpose of sale or building development where:

- (A) The act of division creates five (5) or more parcels or building sites,
- (B) Five or more parcels or building sites are created by successive divisions within a period of 5 years, or
- (C) There is a dedication or reservation for public improvements.

Taper. Point at which the access road to or from a highway interchange meets another intersecting road.

Temporary Structure. A removable structure not designed for human occupancy, not for the protection of goods or chattels, and not forming an enclosure.

Tenant Storage Area. An enclosed space designed to provide auxiliary general storage space for the occupants of an individual mobile home.

Trailer Space. A parcel of land in a travel trailer parking area for the placement of a single trailer and the exclusive use of its occupants.

Travel Trailer. A vehicular, portable unit designed as a temporary living unit for travel, recreation, and vacation, which may take one of the following forms, or a similar form:

- (A) A unit built on a chassis, having a body width not exceeding 8 feet and body length not exceeding 32 feet;
- (B) A unit designed to be mounted on a truck chassis;
- (C) A unit constructed as an integral part of a self-propelled vehicle; or
- (D) A canvas, folding unit mounted on wheels.

Travel Trailer Camp. A parcel of land in which two or more spaces are occupied or intended for occupancy (not more than 7 days) by travel trailers for transient dwelling purposes.

Turning Lane. An existing or proposed connecting roadway between an arterial street and any other street. Turning lanes include grade-separated interchange ramps.

Unit. A part of a condominium intended for any type of independent use, including one or more cubicles of air at one or more levels of space or one or more rooms or enclosed spaces located on one or more floors (or parts thereof) in a building. A unit may include two (2) or

more noncontiguous areas.

Use. (Land Use) That which is customarily or habitually done, may include seasonal uses, and need not have extended to the entire tract of land at the time of the adoption of this Zoning Ordinance.

Variance. Authority granted to the owner to use his property in a manner which is prohibited by this Chapter. A departure from the terms of this Chapter where it is shown that, due to unique physical characteristics of a land parcel, application of a given provision of this Chapter to that land parcel causes a hardship to the owner, and that the condition permitted by the departure will still be in fundamental harmony with surrounding uses.

(Amended by Ordinance No. 09-1)

- (A) Area Variance: A variance which does not involve a use prohibited by this Chapter. Area variances involve matters such as setback lines, frontage requirements, height limitations, lot size restrictions, density regulations, and yard requirements.
- (B) Use Variance: A variance which permits a use of land other than that which is prescribed by this Chapter. It is primarily a grant to erect, alter, or use a structure for a permitted use in a manner other than that prescribed by this Chapter. A Use Variance shall not be granted under this Chapter.

Vision Clearance Triangle. An unoccupied triangular space at the corner lot which is bounded by the street lines and a setback line connecting points determined by measurement from the corner of each street line.

Waste. Manure, milking center waste, and other organic waste generated by a livestock facility.

(Created by Ordinance No. 07-\_\_)

Waste Storage Facility. One or more waste storage structures, including stationary equipment and piping used to load or unload a waste storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. "Waste storage facility" does not include equipment used to apply waste to land.

(Created by Ordinance No. 07-\_\_)

Waste Storage Structure. A waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. "Waste storage structure" does not include equipment used to apply waste to land. For purposes of Sections ATCP 51.12(2) and 51.14 of the Wisconsin Administrative Code, "waste storage structure" does not include any of the following:

- (A) A structure used to collect and store waste under a livestock housing facility.
- (B) A manure digester consisting of a sealed structure in which manure is subjected to managed biological decomposition.

(Created by Ordinance No. 07-\_\_)

Water Line. The shortest straight line at the waterfront end of a stream lot that lies wholly within the lot, provided that not less than 75% of the length of such water line shall be on or on the landward side of the normal high-water mark of such stream.

Winter Grazing Area. Cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period from October 1 to April 30. "Winter grazing area" does not include any of the following:

- (A) An area, other than a pasture, where livestock are kept during the period from May 1 to September 30.
- (B) An area which at any time has an average of more than four (4) livestock animal units per acre.
- (C) An area from which livestock have unrestricted access to navigable waters of the state, such that the livestock access prevents adequate vegetative cover on banks adjoining the water.
- (D) An area in which manure deposited by livestock causes nutrient levels to exceed standards in Section ATCP 51.16 of the Wisconsin Administrative Code.

(Created by Ordinance No. 07-\_\_)

Yard. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

Yard, Front. A yard extending the full width of the lot between the front lot line and the nearest part of the principal building, excluding uncovered steps.

Yard, Rear. A yard extending the full width of the lot between the rear lot line and the nearest part of the principal building, excluding only such projections as are permitted herein.

Yard, Side. A yard extending from the front yard, or from the lot line where no front yard is required, to the rear yard between the side lot line and the nearest part of the principal building.

(Amended by Ordinance No. 09-1)





**TOWN OF JOHNSTOWN**  
**CHAPTER 2 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**REGULATION OF DOGS**

**SECTION 1: DEFINITIONS**

In this section, unless the context or subject matter requires otherwise,

- (A) “Owner” means that any person owning, harboring, or keeping a dog, and the occupant of any premises on which a dog remains or to which it customarily returns daily for a period of 10 days, is presumed to be harboring or keeping the dog within the meaning of this section.
- (B) “At large” means to be off the premises of the owner and not under the control of some person either by leash or other physical means of restraining a dog, but a dog within an automobile of its owner or in an automobile of any other person with the consent of the dog’s owner shall be deemed to be upon the owner’s premises.

**SECTION 2: RESTRICTIONS ON KEEPING OF DOGS**

- (A) It shall be unlawful for any person in the Town of Johnstown to own, harbor, or keep any dog more than six months of age without complying with the provisions of [Section 174.05](#) through [Section 174.09](#) of the Wisconsin Statutes relating to the listing, licensing, and tagging of dogs.
- (B) It shall be unlawful for any person within the Town of Johnstown to own, harbor, or keep any dog which:
  - 1. Habitually pursues any vehicle upon any public street or highway in the town.
  - 2. Assaults or attacks any person.
  - 3. Is loose upon any property other than property owned or occupied by the person owning, harboring, or keeping the dog.
  - 4. Causes damage to personal or real property of any person other than the person owning, harboring, or keeping the dog, including, but not

limited to, damage to lawns and gardens.

5. Habitually barks or howls to the reasonable annoyance of any person.
6. Kills, wounds, or chases any domestic animal.
7. Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.

(Amended by Ordinance No. 01-5)

### SECTION 3: DUTY OF OWNER IN CASE OF DOG BITE

Every owner or person harboring or keeping a dog who knows that such dog has bitten any person shall immediately report such fact to the health officer and shall keep such dog confined for not less than 14 days or for such period of time as the health officer shall direct. The owner or keeper of any such dog shall surrender the dog to the health officer or any Town policy officer upon demand for examination.

### SECTION 4: IMPOUNDING OR DESTRUCTION OF DOGS

In addition to any penalty hereinafter provided for a violation of this Chapter, any police officer of the Town or County may impound or destroy any dog which habitually pursues any vehicle upon any public street or highway of the Town, or assaults or attacks any person, or kills or wounds any domestic animal, or is infected with rabies, or is at large within the Town of Johnstown. Possession of dogs impounded under this Section may be obtained by paying \$5.00 to the Town Treasurer, plus the cost of keeping said dog. Dogs impounded for a period of 7 days may be destroyed by or under the direction of the health or police officer in accordance with [Section 174.10\(2\)](#) of the Wisconsin Statutes.

### SECTION 5: PENALTY

Any person, firm, or corporation who shall violate any provision of this Chapter shall, upon conviction thereof, forfeit not less than \$10 nor more than \$200, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such costs and forfeitures are paid, but not exceeding 30 days. Each violation and each day a violation continues or occurs shall constitute a separate offense.

**TOWN OF JOHNSTOWN**

**CHAPTER 3 OF THE MUNICIPAL CODE  
OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**OPERATION OF MOTOR VEHICLES OFF PUBLIC ROADS**

**SECTION 1: UNLAWFUL OPERATION**

It shall be unlawful for any person to ride a motorcycle, motorbike, minibike, or any motor driven vehicle upon public or private property not specifically designated for vehicular traffic without written permission of the owner of said public or private property.

**SECTION 2: PENALTY**

Any person, firm, or corporation who shall violate any provision of this Chapter shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$200.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such costs and forfeitures are paid, but not exceeding 30 days.

**TOWN OF JOHNSTOWN**  
**CHAPTER 4 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**PUBLIC ROADS**

**SECTION 1: PURPOSE**

The Town Board of Supervisors of the Town of Johnstown, Rock County, Wisconsin, do hereby find, determine and ordain that in order to promote the public safety, general welfare, and convenience, it is necessary that certain requirements be established and followed in the creation of new highways in the Town of Johnstown, so that in the opinion of the Supervisors the public will not be materially affected by the action of the Town Board of Supervisors accepting said road.

It is not intended by this Chapter to repeal, abrogate, annul, or interfere with any existing highway rules or regulations issued pursuant to laws in regard to any public highway.

**SECTION 2: DEFINITIONS**

In order to clarify this Chapter the following words have the following meanings:

Road Bed:                   the whole material laid in place and ready for travel.

Roadway:                   a road; the traveled part of it.

Highway:                   a road or way over which the public generally has a right to pass.

Base Course:              the supporting part of road or bottom.

Surface Course:           the top of road way or traffic course.

Drainage:                  to make gradually dry by trenches, channels, etc.

Grade:                     the rate of ascent or descent of a road.

Approach:                  that portion of road extending 100 feet on each side of culvert or bridge.

### SECTION 3: APPLICATIONS

Individual home owners or owners of land abutting on that part of a highway sought to be created or altered shall make application in writing to the Board of Supervisors giving location and description of proposed highway. Said application may be delivered to any supervisor or to the Town Clerk. Upon receipt of application, Supervisors will proceed to examine the proposed route of the highway. If approval is received, then the individual or group of individual home owners may proceed to build the highway under supervision of the Town Board.

### SECTION 4: STANDARDS

The following are the standards set up by the Board of Supervisors for the construction of the proposed highway, in compliance with good practice, general construction and safety:

- |                 |   |
|-----------------|---|
| Highway:        | The minimum width for any highway shall be not less than 66 feet, with a roadway of 28 feet. A cul-de-sac shall also meet highway specifications, and a turn-around shall have a turning radius of 75 feet or a diameter of 150 feet.   |
| Grade:          | The establishment of a 5% grade will be required by the Board of Supervisors.   |
| Ditching:       | Ditching of roadway must be complete and have proper elevation to provide for the removal of water. Where it becomes necessary to make a lateral trench leading from the main ditch, then the additional land necessary for the removal of accumulated water must be provided and deeded over to the Town, along with the necessary land for the highway. The additional land conveyed to the Town for drainage will be under the supervision of the Town Board at all times. |
| Base Course:    | Base course must be of a quality and composition suitable for the location. In low or swampy areas the base course must have a sandy composition to provide necessary drainage or road bed. Any muck holes encountered before and during construction of road bed must be removed and filled with a sandy lift to provide solid base.   |
| Surface Course: | Surface course must consist of hot-mixed blacktop of a quality and composition suitable for traffic loads. The depth  |

of blacktop necessary for acceptance must be at least 4 inches, and travel surface must be at least 20 feet wide.

Culverts: Any culverts necessary for proper drainage shall be provided and installed after elevation and location are obtained from the Town Board. The minimum length of any culvert installed in the road bed shall be 36 feet; however, the diameter and length of said culvert will be subject to the approval of the Board, after amount of flowage is determined. Any secondary culverts installed in any lateral trenches will be of a size and length determined by the Town Board.

Traffic Signs: the installation of proper traffic signs.

#### SECTION 5: FINAL ACCEPTANCE

Upon completion of the proposed highway, the Board of Supervisors will proceed to make final inspection, accepting or rejecting the road as the case may be. If the road is rejected, then corrections must be made as recommended by Board of Supervisors before final inspection can be made again. If final acceptance is then made, the owner or owners will deed over to the Town all land necessary for the road, as previously mentioned.

#### SECTION 6: AMENDMENT

Where any section or part thereof of this Chapter is amended, voided, or superseded, the remaining sections not amended, voided, or superseded shall remain in effect.

**TOWN OF JOHNSTOWN**  
**CHAPTER 5 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**  
**BUILDING CODE**

**SECTION 1: AUTHORITY**

The regulations provided in this Chapter are adopted under the authority granted by Sections 101.65, 60.22 (3), and 61.34 of the Wisconsin Statutes.

**SECTION 2: PURPOSE**

The purpose of this Chapter is to promote the general health, safety and welfare of the public, and to maintain local uniformity with the administrative and technical requirements of the Wisconsin Uniform Dwelling Code.

**SECTION 3: SCOPE**

The scope of this Chapter includes:

- (A) The construction and inspection of one- and two-family dwellings built since June 1, 1980 and, notwithstanding Section SPS 320.05, to alterations and additions to one- and two- family dwellings built before June 1, 1980;
- (B) The construction and inspection of decks that serve building exits and any covered structures that serve building exits, whether or not the deck or structure is physically attached to an existing building;
- (C) Farm buildings and accessory buildings exceeding 150 square feet in size. \;
- (D) The construction and inspection of new commercial buildings.

**SECTION 4: ADOPTION OF WISCONSIN BUILDING CODES**

The [Wisconsin Uniform Dwelling Code](#), Chs. SPS 320-325 of the Wisconsin Administrative Code, and all amendments thereto, is adopted and incorporated by reference and shall apply to all buildings within the scope of this Chapter.

The [Wisconsin Building Code](#), Chs. SPS 361-366 of the Wisconsin Administrative Code, and all amendments thereto, is adopted and incorporated by reference and shall apply to all buildings within the scope of this Chapter.

## SECTION 5: FARM BUILDINGS

All farm buildings and accessory buildings exceeding 150 square feet in size shall be constructed in accordance with all requirements imposed by Wisconsin law for such buildings and in a safe and durable manner according to the reasonable discretion of the Town Building Inspector.

## SECTION 6: BUILDING INSPECTOR

The position of Town Building Inspector is hereby created. The Building Inspector shall administer and enforce this Chapter and shall be certified as a Uniform Dwelling Code Construction Inspector, including certification in heating, ventilating and air conditioning, electrical and plumbing, by the Wisconsin Department of Safety and Professional Services as required by Section 101.66 (2) of the Wisconsin Statutes. The Town Building Inspection shall also be certified by the Wisconsin Department of Safety and Professional Services for purpose of inspecting and enforcing the Wisconsin Commercial Building Code, with the exception that the Building Inspector need not be certified for inspection or enforcement of Wisconsin commercial electrical codes. The Town Board Chairperson shall appoint the Building Inspector, subject to confirmation by the Town Board.

## SECTION 5: BUILDING PERMIT REQUIRED

- (a) No person shall build or cause to be built any building or addition within the scope of this Chapter without first obtaining a building permit for the same from the Town Building Inspector.
- (b) No person shall, without first obtaining a building permit, alter such a building (including structural changes and major changes to mechanical systems, whether or not the alteration results in an addition) to an extent which exceeds a cost of \$15,000 in any 12-month period.
- (c) Restoration or repair of an installation to its previous code-compliant condition shall not constitute alteration under this Chapter.
- (d) Re-siding, re-roofing, finishing of interior surfaces and installation of cabinetry shall not constitute alteration under this Chapter.

## SECTION 6: BUILDING PERMIT FEE

The building permit fee shall be determined by resolution of the Town Board, and shall include \$25 to be forwarded to the Wisconsin Department of Safety and Professional Services for a Uniform Dwelling Code permit seal for any new dwelling.



SECTION 7: PENALTIES

The Town Board shall provide for the enforcement of this Chapter and all other laws, chapters, and ordinances relating to buildings by means of withholding building permits, imposing forfeitures, and/or seeking injunctive action. Forfeitures shall be not less than \$100.00 nor more than \$1,000.00 for each day of noncompliance.

SECTION 8: SEVERABILITY

Should any provision in this Chapter or in Chapters SPS 320-325 of the Wisconsin Administrative Code be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

SECTION 9: ZONING PERMITS

Obtaining a building permit under this Chapter is not a substitute for obtaining a zoning permit under Chapter 1 of this Municipal Code. Any construction requiring a building permit under this Chapter shall also require the issuance of a zoning permit under of Chapter 1.

(Chapter Amended by Ordinance No. \_\_\_\_)

## **TOWN OF JOHNSTOWN**

### **CHAPTER 6 OF THE MUNICIPAL CODE OF THE TOWN OF JOHNSTOWN, WISCONSIN**

#### **SALVAGE DEALERS**

##### **SECTION 1: LICENSE REQUIREMENT**

No person, persons, firm, partnership, association, or corporation shall hereafter in the Town of Johnstown, Rock County, Wisconsin, keep, conduct, or maintain any building, structure, yard, or place for keeping, storing, or piling in commercial quantities, whether temporarily, irregularly, or continually, or for the buying or selling at retail or wholesale or dealing in any old, used, or second-hand materials of any kind, including cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper, or other metal, furniture, used motor vehicles or the parts thereof, or other articles which from its worn condition renders it practically useless for the purpose for which it was made and which is commonly classified as salvage materials, whether with a fixed place of business or as an itinerant peddler, without first having obtained and paid for a license as hereinafter provided. One carrying on the aforesaid business shall be referred herein to as "salvage dealer."

(Amended by Ordinance No. 09-1)

##### **SECTION 2: APPLICATION**

Every applicant for a license to engage in the business of salvage dealing shall file with the Town Clerk a written application upon a form prepared and provided by the Town, signed by the applicant or applicants. Said application shall state:

(Amended by Ordinance No. 09-1)

- (A) The names and residences of the applicants, if an individual, partnership, or firm, or the names of the principal officers and their residences if the applicant is an association or corporation.
- (B) The length of time such applicant or applicants, if an individual, firm, or partnership, or the manager or person in charge, if the applicant is a firm or corporation, has or have resided in the Town of Johnstown, his, her, or their places of previous employment, whether married or single, whether he, she, they, or any of them, have been convicted of a felony, and, if so, what offense, when, and in what court.

(C) Whether the applicant or applicants or officers or manager of applicant have been employed by a salvage dealer or have been a salvage dealer.

(D) In detail, the nature of the business to be conducted and the kind of materials to be collected, bought, sold, or otherwise handled.

(Amended by Ordinance No. 09-1)

(A) The premises where such business is to be located or carried on.

Each application shall contain an agreement that the applicant accepts the license, if granted, upon the condition that it may be suspended for cause at any time by the Town Board.

### SECTION 3: NOTARIZATION REQUIRED

(Amended by Ordinance No. 09-1)

Every application for a license to engage in the business of salvage dealing shall be signed and acknowledged before a notary public or other officer authorized to administer oaths.

(Amended by Ordinance No. 09-1)

### SECTION 4: INSPECTION

The Town Clerk shall report such application to the Town Board, which shall inspect or cause to be inspected such premises to determine whether it complies with all laws, chapters, rules, and regulations. Said premises and all structures thereon shall be so situated and constructed that the business of salvage dealing may be carried on in a sanitary manner, shall contain no fire hazards, and shall be arranged so that thorough inspection may be made at any time by the proper health, fire, building, and police authorities.

(Amended by Ordinance No. 09-1)

Each of the premises upon which the business of a salvage dealer is carried on shall be enclosed by a proper fence or other structure not less than 7 feet in height, constructed so that it completely obscures the materials kept within the fence. Said enclosure shall be maintained in good condition at all times. No article shall be piled so as to protrude above said enclosure.

### SECTION 5: ISSUANCE OF LICENSE

Upon the filing of the application and the bond, as provided in the preceding section, and upon its approval of such application, after investigation, payment of such bond as is sufficient surety or sureties or collateral security, and payment to the

Town of the license fee hereinafter provided, the Town Board shall issue to the applicant a license to engage in business as provided in Section 1. No license shall be refused except for a specified reason. All licenses shall be numbered in the order in which they are issued and shall state clearly the location of the salvage materials business, the dates of issuance and expiration of the license, and the name and address of the licensee.

(Amended by Ordinance No. 09-1)

#### SECTION 6: FEES

Every salvage dealer shall pay an annual license fee of \$125.00 or such other fee as the Town Board may adopt by resolution. All licenses shall be issued as of October 1 and shall continue in full force until the next October 1 following the date of issuance unless sooner revoked.

(Amended by Ordinance No. 09-1)

Each holder of a salvage dealer's license shall be entitled to have, keep, and operate one vehicle in connection with said business for the purpose of collecting salvage materials within the Town of Johnstown. For each additional vehicle used in and about said business for the purpose of collecting salvage materials within the municipal limits, an additional fee of \$5.00 shall be paid.

Whenever a license is lost or destroyed without fault on the part of the holder or his or her agent or employee, a duplicate license in lieu thereof under the original application and bond shall be issued by the town clerk upon the filing of an affidavit setting forth circumstances of the loss or destruction and upon the payment of the sum of \$1.00.

#### SECTION 7: POSTING

Every holder of a salvage dealer's license shall, at all times while in force, keep said license posted in a conspicuous place on the premises, which place is described in the application for such license. It shall be unlawful for any person to post such license or to be permitted to post it upon the premises in a place other than as mentioned in the application, or to knowingly to deface or destroy any such license.

Every licensed salvage dealer shall have and keep a sign on the outside and in front of each of his, her, or its places of business, on which shall be clearly set forth in conspicuous letters his, her, or its name, the words "Salvage Dealer," and the number corresponding to the number of his, her, or its license.

#### SECTION 8: PLACE OF BUSINESS

Every salvage dealer's license shall designate the place of business in or from which the salvage dealer receiving such license shall be authorized to carry on such business. No licensee shall remove his, her, or its place of business from the place designated in the license until a written permit has been secured from the Town Board, and the same shall have been endorsed upon the license. All signs required by Section 7 of this Chapter shall be altered to state the new address.

#### SECTION 9: REGULATIONS

- (A) No salvage dealer shall carry on the business at or from any place other than the one designated in the license, nor shall said business be carried on after such license has expired or been revoked.
- (B) No salvage dealer shall transact or be open for any business on Sundays between the hours of 12 a.m. and 7 a.m.
- (C) No salvage dealer shall purchase or acquire from any person under the age of 18 any salvage materials, other than old rags or paper, without the written consent of such person's parent or guardian. No items shall be acquired from any intoxicated person.
- (D) The contents of the premises of every salvage dealer shall be arranged in an orderly manner with all similar things located together so as to facilitate inspection by the proper authorities. The premises of every salvage dealer shall be subject to inspection by the proper municipal authorities at any time. In the case of salvage motor vehicle dealers, such premises shall be arranged so that all salvage motor vehicles are parked single file in a straight line, parking lot style, with hoods down and doors shut.
- (E) All articles received, except old rags or paper, shall be retained for 2 days before disposal.

#### SECTION 10: ADDITIONAL REGULATIONS

The Town Board shall formulate reasonable rules and regulations relating to the conduct of the business of salvage dealing which shall protect the health of the community. No salvage dealer shall violate any such rule or regulation.

#### SECTION 11: IDENTIFICATION MARKS

No person shall knowingly buy, sell, receive, dispose of, conceal, or have in his

possession any motor vehicle, part, or accessory from which the manufacturer's serial number or any other number or identification mark has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of such vehicle, part, or accessory. Every person to whom is offered for sale, storage, or wreckage any motor vehicle, part, or accessory from which the manufacturer's serial number or any other number or identification mark has been removed, defaced, covered, altered, or destroyed shall immediately notify the Town Constable of such offer.

#### SECTION 12: LOST OR STOLEN GOODS

If any goods, articles, or things whatsoever shall be advertised in any newspaper printed in the Town as having been lost or stolen, and the same, or anything answering the description advertised or any part or portion thereof, shall be or come into the possession of any salvage materials merchant or peddler, he, she, or it shall give information about the same in writing to the Town Constable and state from whom the same was received. Any salvage materials merchant or peddler who shall have or receive any goods, articles, or things lost or stolen, or alleged or supposed to have been lost or stolen, shall exhibit the same on demand to the Town Constable, Town Board, any magistrate, or any person duly authorized in writing by the Town Constable or any magistrate, who shall exhibit such authorization to such dealer or peddler.

#### SECTION 13: COMPLAINTS

Upon complaint being made in writing by any Town official or resident of the Town to the Town Clerk that any licensee has violated any of the provisions of this Chapter, the Town Board shall summon such licensee to appear before it at the time specified in the summons, which shall be not less than 3 days after the date of the service thereof, to show cause why his, her, or its license shall not be revoked. The Town Board shall proceed to hear the matter, and if it finds that the allegations of said complaint are correct, it shall revoke said salvage dealer's license.

Whenever any license shall be so revoked, no refund of any portion of the license fee shall be made and no license shall be granted to any person, firm, partnership, association, or corporation whose license has been so revoked within a period of 5 years from the date of such revocation. Notice in writing of such revocation and the reason or reasons therefor shall be served by the Town Clerk upon the person, firm, partnership, association, or corporation named in the application by mailing the same to the address given in the application, and upon filing a copy of the same with the Town Clerk.

(Amended by Ordinance No. 09-1)

#### SECTION 14: PENALTIES

Any person, persons, firm, partnership, association, or corporation who by himself, herself, or itself, or by his, her, or its clerk, agent, or employee, shall conduct the business of a salvage dealer as herein defined without the license required by this Chapter, or shall otherwise violate any of the provisions of this Chapter, or who, having had his, her, its, or their license revoked, shall continue as a salvage dealer, may, upon conviction thereof, be subject to a fine or penalty of not more than \$200.00 for each day during which said violation shall continue, together with the costs of prosecution, and in default of payment of such fine and costs of such prosecution shall be imprisoned in the county jail for a period not exceeding 30 days. In addition to the penalties imposed, the license of the person, persons, firm, partnership, association, or corporation violating the same shall be canceled or revoked and the bond upon such license shall be forfeited.

(Amended by Ordinance No. 09-1)

#### SECTION 15: SEVERABILITY

Should any provision in this Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

(Chapter Amended by Ordinance No. 99-3)

**TOWN OF JOHNSTOWN**  
**CHAPTER 7 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**SPEED LIMITS**

**SECTION 1: EMERALD GROVE ROAD**

The speed limit on Emerald Grove Road shall be 45 miles per hour from a point 0.7 miles north of C.T.H. "A" northerly to C.T.H. "M", for a total distance of approximately 1.2 miles.

**SECTION 2: AUTHORIZATION FOR SIGNS**

The Rock County Highway Department is authorized to install speed limit signs indicating the speed limits provided in this chapter.

(Amended by Ordinance No. 09-1)

**SECTION 3: PENALTIES**

Any person who violates the provisions of this Chapter regarding speed limits shall, upon conviction thereof, forfeit not less than \$30.00 nor more than \$300.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail until such costs and forfeitures are paid, but not exceeding 30 days.



**TOWN OF JOHNSTOWN**  
**CHAPTER 8 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**FIRES**

**SECTION 1: LIABILITY FOR FIRE PROTECTION COSTS**

- (A) False Alarms: Any person calling for assistance from a fire department when there is no fire, resulting in a false alarm, and any owner of a security system which results in a false alarm, shall be liable for expenses incurred by the Town of Johnstown as a result of such call.

(Amended by Ordinance No. 09-1)

- (B) Intentionally Set Fires: Any person who intentionally sets a fire or assists in the setting of a fire on land within the Town of Johnstown, regardless of whether a burning permit was obtained under this Chapter for the purpose of setting such fire, shall be liable for the expenses incurred by the Town of Johnstown if such fire is ultimately suppressed by a fire department, regardless of whether the person setting the fire or assisting in the setting of the fire acted negligently.

(Amended by Ordinance No. 09-1)

- (C) Non-Contracted Calls: Any property owner requesting fire protection directly from any fire department for property located in an area not consistent with the Town's contracts as described in Section 2 below shall be responsible for the full costs billed to the Town for the fire call from the unauthorized fire department. This subsection shall not apply to the costs of any department responding at the request of an authorized department under mutual aid.

(Amended by Ordinance No. 09-1)

- (D) Other Calls: In all other cases, when a fire department is called for assistance, the owner of the property to which the fire department is called, as well as the occupant of such property, jointly and severally, shall be liable for the expenses incurred by the Town of Johnstown up to the sum of \$500 for each call.

(Repealed and Recreated by Ordinance No. 04-01)

**SECTION 2: CONTRACTED FIRE DEPARTMENTS**

(Entire Section Voiced by Fire Protection and Emergency Medical Services Agreement)

SECTION 3: BILLING AND PAYMENT PROCEDURE

The costs of fire calls imposed against individuals under Sections 1 and 2 above shall be billed by the Town Clerk to the person responsible and to the property owner and shall be paid to the Town Treasurer within 60 days of the date the bill is mailed to the property owner. Failure to pay the bill within 60 days shall result in a delinquency penalty calculated at the rate of 1.5% per month from the date the bill was mailed. Any bill hereunder not paid within 60 days shall become a delinquent special charge under Section 66.0627 of the Wisconsin Statutes on the property to which the fire call was made, and shall be included in the current or next tax roll for collection and settlement under Chapter 74 of the Wisconsin Statutes.

SECTION 4: BURNING PERMITS

Open burning is prohibited within the Town of Johnstown, except for small outdoor fires for cooking, ceremonies, or recreation, unless the person conducting such open burning first obtains from any member of the Town Board a burning permit. Burning permits may be issued only for the following purposes:

- (A) Burning of brush or weeds on agricultural lands.
- (B) Fires set for practice and instruction of firefighters or testing of firefighting equipment.
- (C) Backfires to control forest fires or fires set for forest or wildlife habitat management with approval of the Wisconsin Department of Natural Resources.
- (D) Burning of small amounts of dry combustible rubbish (which does not include wet combustible rubbish, garbage, oily substances, asphalt, plastic, or rubber products).
- (E) Burning of trees, wood, brush, or demolition materials, excluding asphalt or rubber material, using methods approved by the Wisconsin Department of Natural Resources.

(Amended by Ordinance No. 09-1)

- (F) Burning of small amounts of dry leaves and dry plant clippings.

All open burning shall be conducted in a safe, pollution-free manner when wind and weather conditions are such as to minimize adverse effects, and in accordance

with state fire protection regulations.

SECTION 5: CONTROL OF BURNING

No person, firm, or corporation who sets a fire or assists in the setting of a fire, including a backfire, on any land within the Town of Johnstown, shall willfully or negligently allow such fire to become out of control so as to require suppression of such fire by a fire department. This section shall apply regardless of whether a burning permit has been obtained, and violation of this section shall be deemed a separate violation from that of failing to obtain a burning permit.

SECTION 6: FALSE ALARMS

No person shall initiate a false alarm by calling a fire department to provide firefighting services within the Town of Johnstown when there is no fire. Any person owning a security system which malfunctions and results in a false alarm shall be deemed to be in violation of this section.

SECTION 7: HAZARDOUS SUBSTANCES

The owner, occupant, or renter of property within the Town where hazardous substances, as that term is defined in Section 100.37(1)(c) of the Wisconsin Statutes, are kept shall notify the fire department which is responsible for fire protection in the area where such property is located of the type, amount, and location of such hazardous substances.

SECTION 8: PENALTIES

Any person who violates a provision of this Chapter may be required to forfeit not less than \$50.00, nor more than \$200.00, for each violation, plus the actual costs incurred by the Town of Johnstown for any firefighting services resulting from such violation, plus all costs of prosecution. The penalty surcharge shall be 26% of the forfeiture, the jail surcharge shall be 1% of the forfeiture or \$10.00, whichever is greater, and the crime labs and drug enforcement surcharge shall be \$8.00.

(Amended by Ordinance No. 99-4)

SECTION 9: SEVERABILITY

Should any provision in this Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

(Amended by Ordinance No. 09-1)

**TOWN OF JOHNSTOWN**  
**CHAPTER 9 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**PUBLIC NUISANCES**

**SECTION 1: DEFINITIONS**

In this Chapter, the following words and phrases shall be construed to have the following meanings:

- (A) "Vehicle" means any device, other than farm machinery, designed to be self-propelled, including, but not limited to, automobiles, trucks, buses, motorcycles, snowmobiles, and all-terrain vehicles.  
(Amended by Ordinance No. 09-1)
- (B) "Equipment" means tractors, other farm machinery, trailers, semi-trailers, mobile homes, boats, motors, lawn mowers, and garden tractors.
- (C) "Abandoned Vehicles or Equipment" means any vehicles or equipment which remain in one location on public property for more than 48 hours. Also included are any vehicles or equipment which remain in one location on private property without permission of the occupant of the private property for more than 1 hour. Any substantial part or parts of any vehicles and equipment are included in the above definition.
- (D) "Non-operable Vehicles or Equipment" means any vehicles or equipment or any substantial part or parts thereof which are incapable of being operated.
- (E) "Unlicensed Vehicle or Equipment" means any vehicle or equipment subject to a license law which does not have affixed thereto a current license under such license law.
- (F) "Refuse" means combustible and non-combustible discarded material, including, but not limited to, trash, rubbish, paper, wood, metal, glass, plastic, rubber, cloth, ashes, litter and street rubbish, industrial waste, mine tailings, gravel pit and quarry spoils, toxic and hazardous wastes, and material and debris resulting from construction or demolition.
- (G) "Public nuisance" means any object, act, occupation, condition, or use of property which shall continue for such length of time as to: (1) substantially

annoy, injure, or endanger the comfort, health, repose, or safety of the public; (2) in any way render the public insecure in life or in the use of property; (3) greatly offend the public morals or decency; or (4) unlawfully and substantially interfere with, obstruct, tend to obstruct, or render dangerous for passage any street, alley, highway, navigable body of water or other public way, or the use of public property.

(Subsection Added by Ordinance No. 09-1)

- (H) “Center Pivot Manure Distribution Systems” shall mean a system for spreading manure which involves spraying the manure in liquid form through nozzles attached to a pivoting arm located in a farm field.”

(Amended by Ordinance No. 11-2)

The following acts, omissions, places, conditions, and objects are hereby specifically declared to be public nuisances if they exist outside of completely enclosed structures which prevent them from being visible, audible, or otherwise detected from outside the parcel of land on which the enclosure is placed. The following shall not be construed to exclude other nuisances falling within the definition above:

(Amended by Ordinance No. 09-1)

1. Appliances intended to be used indoors, including, but not limited to, refrigerators, freezers, washing machines, and dryers.
2. Debris from demolition or disassembly of buildings and other fixtures.
3. Piles of manure in any zoning district other than an agricultural district.
4. Tires which are not usable on a motor vehicle unless used for a legitimate functional or decorative purpose such as a sandbox or a flower bed.
5. Motor vehicle parts, including, but not limited to, batteries.
6. Empty chemical containers.
7. Stockpiles of recyclable materials, as defined in Chapter 11 of this Municipal Code.

8. Carcasses of animals, birds, or fowl not intended for human consumption or food which are not buried or otherwise disposed of in an appropriate and sanitary manner.
9. Buildings or structures so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use or occupancy.
10. Refuse which is not disposed of in an appropriate and sanitary manner.
11. Abandoned vehicles or equipment, inoperable vehicles or equipment, and unlicensed vehicles or equipment.
12. Stacks of used lumber and wooden pallets.
13. Piles of firewood which are not neatly stacked so that the pieces of wood run parallel to each other.

The use of center pivot manure distribution systems is hereby declared to be a public nuisance and the use of center pivot manure distribution systems is strictly prohibited within the Town of Johnstown.

(Paragraph Added by Ordinance No. 11-2)

## SECTION 2: PROHIBITION OF PUBLIC NUISANCES

- (A) No owner or occupant of land located in the Town of Johnstown shall permit any public nuisance to exist on land owned or occupied by such owner or occupant longer than 10 days after written notification by the Town Board that such public nuisance shall be removed. The Town Board may appoint a person with the power to give notice hereunder. Notification under this section may be accomplished by placing a notice in a conspicuous place on the property where the public nuisance exists, setting forth briefly the applicable provisions of this Chapter and the date of the notice, or by sending a letter by certified mail, return receipt requested, to the owner or occupant.
- (B) No person who owns or possesses or has custody of any vehicles or equipment shall allow the same or any substantial part thereof to become an abandoned vehicle or equipment.

### SECTION 3: EXCLUSION FOR AGRICULTURAL VEHICLES AND EQUIPMENT

This Chapter shall not apply to vehicles or equipment designed for use in the business of agriculture if located in an agricultural zoning district.

### SECTION 4: REMOVAL BY TOWN

If a public nuisance is not abated within the time period provided in this Chapter, or if the owner, occupant, or person causing the nuisance cannot be found, any member of the Town Board or any person duly appointed by the Town Board is authorized to cause the removal or cessation of such public nuisance.

### SECTION 5: ASSESSMENT TO PROPERTY OWNER

In all cases in which the Town Board or its representatives take action to remove or stop a public nuisance under this chapter, the sums expended in accomplishing such removal shall be a lien on the real estate from which such nuisance is removed, in the same manner as any tax upon real estate. The Town Clerk shall certify the description of such property, and the cost of such removal, and the Clerk shall include the same in the annual schedule of land subject to special taxation. Payment of costs include a lien hereunder shall be enforced in like manners on the special tax upon real estate levied and collected in the Town of Johnstown.

(Amended by Ordinance No. 11-2)

### SECTION 6: ENFORCEMENT PROVISIONS

- (A) First Offense/Penalty: Any person who violates this Chapter shall, upon conviction thereof, forfeit not less than \$50 nor more than \$200, together with the costs of prosecution and the costs of removal of the nuisance incurred under Section 4 above, and in default of payment shall be imprisoned in the county jail until such forfeiture is paid, but not to exceed 90 days.
- (B) Second Offense/Penalty: Any person who violates this Chapter and has previously been convicted of violating the same provision of this Chapter shall, upon conviction thereof, forfeit not less than \$200 nor more than \$300 for each such offense, together with the costs of prosecution and the costs of removal, and in default of payment shall be imprisoned in the county jail until such forfeiture is paid, but not to exceed 6 months.
- (C) Each day a violation continues shall be deemed a separate offense or violation of this Chapter.

- (D) The Town Board may, in its discretion, enforce this Chapter under [Chapter 823](#) of the Wisconsin Statutes and may obtain an injunction to prevent existing and future violations of this Chapter.

#### SECTION 7: LIEN

It shall be lawful for the Town Board in all cases where they shall deem it necessary under this Chapter to cause any vehicles or equipment to be removed, impounded, and disposed of, at Town expense, in accordance with the terms of this Chapter. In such cases, the sum or sums so expended in the abatement, removal, or disposal of said vehicle or equipment shall be a lien, in the same manner as any tax upon real estate, upon the lots or premises from which such vehicles or equipment shall be removed. The Town Clerk shall certify to the Town Treasurer the description of such property and the cost of abating, removing, and disposing of such vehicle or equipment therefrom, and the Treasurer shall include the same in the annual schedule of land subject to special taxation; payment thereof shall be enforced in like manner as other special taxes upon real estate levied and collected in the Town.

(Amended by Ordinance No. 09-1)

#### SECTION 8: SEVERABILITY

Should any provision in this Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

(Amended by Ordinance No. 09-1)



**TOWN OF JOHNSTOWN**  
**CHAPTER 10 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**CITATIONS**

**SECTION 1: ADOPTION OF CITATION**

Pursuant to [Section 66.0113](#) of the Wisconsin Statutes, the Town of Johnstown does hereby adopt and authorize the use of a citation to be used for violations of the Municipal Code of the Town of Johnstown.

(Amended by Ordinance No. 09-1)

**SECTION 2: FORM OF CITATION**

The citation issued hereunder shall include the following:

- (A) The name and address of the alleged violator.
- (B) The factual allegations described in the alleged violation.
- (C) The time and place of the offense.
- (D) The number of the chapter and section violated.
- (E) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.
- (F) The time at which the alleged violator may appear in court.
- (G) A statement which in essence informs the alleged violator:
  - 1. That the alleged violator may make a cash deposit as set forth in Section 3 of this Chapter, to be mailed to the Clerk of Courts of Rock County within 10 days after the issuance of the citation.
  - 2. That if the alleged violator makes such a deposit, he or she need not appear in court unless subsequently summoned.
  - 3. That if the alleged violator makes a cash deposit and does not appear in court, he or she will be deemed to have tendered a plea of no

contest and submitted to a forfeiture, a penalty surcharge imposed by [Section 757.05\(1\)](#) of the Wisconsin Statutes, a jail surcharge imposed by [Section 302.46\(1\)](#) of the Wisconsin Statutes, and a crime laboratories and drug law enforcement surcharge imposed by [Section 165.755](#) of the Wisconsin Statutes, as well as any applicable consumer protection surcharge imposed by [Section 100.261](#) of the Wisconsin Statutes and any applicable domestic abuse surcharge imposed by [Section 973.055\(1\)](#) of the Wisconsin Statutes, the total not to exceed the amount of the deposit, or will be summoned into court to answer the complaint if the court does not accept the plea of no contest.

(Amended by Ordinance No. 09-1)

4. That if the alleged violator does not make a cash deposit and does not appear in court at the time specified, an action may be commenced against the alleged violator to collect the forfeiture, the penalty surcharge imposed by [Section 757.05\(1\)](#) of the Wisconsin Statutes, the jail surcharge imposed by [Section 302.46\(1\)](#) of the Wisconsin Statutes, and the crime laboratories and drug law enforcement surcharge imposed by [Section 165.755](#) of the Wisconsin Statutes, as well as any applicable consumer protection surcharge imposed by [Section 100.261](#) of the Wisconsin Statutes and any applicable domestic abuse surcharge imposed by [Section 973.055\(1\)](#) of the Wisconsin Statutes.

(Amended by Ordinance No. 09-1)

5. That if the court finds that the violation involves an chapter or provision thereof that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under [Sec. 800.093](#) of the Wisconsin Statutes.

- (H) A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he or she read the statement required under subsection (G) above and shall send the signed statement with the cash deposit.

### SECTION 3: SCHEDULE OF CASH DEPOSITS

The following cash deposits are required for violations of the Municipal Code of the Town of Johnstown:

Chapter	Violation Forfeiture	Penalty Surcharge	Jail Surcharge	Crime Labs and Drug Law Enforcement Surcharge	Total Deposit
Chapter 2 – Regulation of Dogs	\$100.00	\$26.00	\$10.00	\$8.00	\$144.00
Chapter 3 – Operator of Motor Vehicles Off Public Roads	\$75.00	\$19.50	\$10.00	\$8.00	\$112.50
Chapter 6 – Salvage Dealers	\$125.00	\$32.50	\$10.00	\$8.00	\$175.50
Chapter 7 – Speed Limits	\$75.00	\$19.50	\$10.00	\$8.00	\$112.50
Chapter 8 – Fires	\$125.00	\$32.50	\$10.00	\$8.00	\$175.50
Chapter 9 – Public Nuisances (1 <sup>st</sup> offense)	\$125.00	\$32.50	\$10.00	\$8.00	\$175.50
Chapter 9 – Public Nuisances (2 <sup>nd</sup> offense)	\$250.00	\$65.00	\$10.00	\$8.00	\$333.00
Chapter 14 – Landspreading of Petroleum-Contaminated Soil	\$500.00	\$130.00	\$10.00	\$8.00	\$648.00

(Amended by Ordinance No. 09-1)

### SECTION 4: PAYMENT OF CASH DEPOSIT

Cash deposits hereunder are to be made to the Town Attorney for the Town of Johnstown, who shall issue a receipt for any such cash deposits.

### SECTION 5: AUTHORITY FOR ISSUANCE OF CITATION

Citations authorized under this Chapter may be issued by law enforcement officers of Rock County. In addition, the Town Chair shall have authority to issue citations under this Chapter, and the Town Board may by resolution designate one or more

additional officials of the Town to have authority to issue citations under this Chapter.

SECTION 6: SEVERABILITY

Should any provision in this Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

(Entire Chapter Amended by Ordinance No. 01-1)

**TOWN OF JOHNSTOWN**  
**CHAPTER 11 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**RECYCLING**

**SECTION 1: AUTHORITY**

This chapter is created to promote recycling, composting, and resource recovery through the administration of an effective recycling program as provided in [Section 159.11](#) of the Wisconsin Statutes and [Chapter NR 544](#) of the Wisconsin Administrative Code.

**SECTION 2: FINDINGS**

The Town Board of the Town of Johnstown determines that there is an increasing need to conserve natural resources and reduce the need for landfill space for the citizens of the Town of Johnstown. Newspapers, clear, amber, and green glass, used oil, aluminum cans, steel and bi-metal cans, scrap metal products, plastic, foam polystyrene packaging, mixed paper, corrugated fiberboard, tires, lead-acid batteries, and yard waste comprise a substantial portion of residential and business solid waste material. These items can be separated from other solid waste materials and recycled, benefiting residents, businesses, and other taxpayers of the Town by reducing the volume of solid waste materials collected by the Town and transported to and deposited in authorized landfill sites.

(Amended by Ordinance No. 09-1)

**SECTION 3: DEFINITIONS**

As used in this Chapter, the following terms shall be defined as follows:

- (A) “Bi-metal container” means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
- (B) “Collector” means the persons specifically authorized by the Town Board to collect garbage, rubbish, and recyclable materials and dispose of the same.
- (C) “Corrugated fiberboard” means two-ply cardboard used in shipping and packaging containers.

(Amended by Ordinance No. 09-1)

- (D) "Foam polystyrene packaging" means packaging made primarily from foam polystyrene that satisfies one of the following criteria:
- a. Is designed for serving food or beverages.
  - b. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
  - c. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
- (E) "Garbage" means and includes all organic kitchen waste that attends the storage, preparation, use, cooking, or serving of food.
- (F) "Glass container" means a glass bottle, jar or other packaging container used to contain a product that is the subject of a retail sale and does not include ceramic cups, dishes, oven ware, plate glass, safety and window glass, heat-resistant glass such as pyrex lead based glass such as crystal, or TV tubes.
- (G) "HDPE" means low density polyethylene, labeled by the resin code #2.
- (H) "Infectious waste" means biological and medical waste which is a medium for communicating disease or illness, human and animal body waste, dead animals, and contaminated substances or materials, including but not limited to contaminated food, water, or clothing.
- (I) "LDPE" means low density polyethylene, labeled by the residue code #4.
- (J) "Magazines" means magazine and other materials printed on similar paper.
- (K) "Major appliance" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, refrigerator, furnace, boiler, dehumidifier, water heater or stove.
- (L) "Newspaper" means a newspaper and other materials printed on newsprint.
- (M) "Scrap metal products" means heavy objects made of metal, including but not limited to iron and steel objects and large metal appliances.
- (N) "Mixed paper" means all other paper, including books, magazines, catalogs, phone books, office paper, junk mail, cereal boxes, and similar material.
- (O) "Office paper" means a variety of high-grade printed and writing papers. This term does not include industrial process waste, newspaper or packaging.

- (P) "PETE" or "PET" means polyethylene terephthalate, labeled by the resin code #1.
- (Q) "PP" means polypropylene, labeled by the resin code #5.
- (R) "PS" means polystyrene, labeled by the resin code #6.
- (S) "PVC" means polyvinyl chloride, labeled by the resin code #3.
- (T) "Recyclable material" means newspaper, clear, amber, and green container glass, used oil, aluminum, steel and bi-metal cans, plastic containers #1 thru #7, aseptic containers (i.e. juice boxes), foam polystyrene, corrugated fiberboard, scrap metal products, leaves, trees, tree limbs, and brush, tires and lead-acid batteries, and other solid waste materials designated from time to time as recyclable. Items may be added to or deleted from this list by the Town Board.

(Amended by Ordinance No. 09-1)

- (U) "Multi-family dwelling" means a property containing five or more residential units.
- (V) "Non-recyclable materials" means all materials not defined as recyclable materials under paragraph (G).
- (W) "Non-residential facilities and properties" means commercial, retail, industrial, institutional, and governmental facilities and properties. This term does not include multi-family or residential family dwellings.
- (X) "Recycling container" means any labeled or marked container for collection of recyclable materials from residential properties and businesses or clear plastic bags for holding recyclable paper products.
- (Y) "Residential family dwelling" means a property containing four or fewer residential units.
- (Z) "Rubbish" means and includes all useless waste except leaves, trees, tree limbs, brush, earth, or stone.
- (AA) "Solid waste" means all garbage and rubbish as herein defined.
- (BB) "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage, or defect.

- (CC) "Yard waste" means leaves, grass clippings, yard and garden debris, and brush, including clean woody vegetative material no greater than six (6) inches in diameter. This does not include stumps, roots, or shrubs with intact root balls.

(Amended by Ordinance No. 09-1 and Ordinance No. \_\_\_\_\_)

SECTION 4: REQUIRED SEPARATION OF RECYCLABLES FROM SOLID WASTE

(A) Separation of Recyclable Materials. Occupants of single family and 2- to 4-unit residences, multiple-family dwellings, and non-residential facilities and properties shall separate the following materials from postconsumer waste:

- (i) Lead acid batteries
- (ii) Major appliances
- (iii) Waste oil
- (iv) Yard waste
- (v) Aluminum containers
- (vi) Bi-metal containers
- (vii) Corrugated paper or other container board
- (viii) Foam polystyrene packaging
- (ix) Glass containers
- (x) Magazines
- (xi) Newspaper
- (xii) Office paper
- (xiii) Rigid plastic containers made of PETE, HDPE, PVS, LDPE, PP, PS, and other resins or multiple resins
- (xiv) Steel containers
- (xv) Waste tires

(B) Separation Requirements Exempted. The separation requirements of this Section 4 do not apply to the following:

- (i) Occupants of single family and 2- to 4- unit residents, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified



in this Section 4 from solid waste in as pure a form as is technically feasible.

- (ii) Solid waste which is burned as a supplement fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplement fuel.
- (iii) A recyclable material specified in this Section 4(A)(v) through (xv) for which a variance has been granted by the Department of Natural Resources under s. [287.11\(2m\)](#), Wis. Stats., or s. [NR. 544.14](#), Wis. Adm. Code.

#### SECTION 5: RESIDENTIAL COLLECTION SCHEDULE

- (A) The Town Board and Town's collector shall establish the time of collection of recyclable materials and other solid waste, and the Town shall publish the collection schedule at least once in the spring and fall of each year and, in addition, at any time the collection schedule is changed.
- (B) Solid waste containers and recycling containers shall be placed as herein required at the required collection point no earlier than 4 p.m. the day before the regularly scheduled collection and no later than 6 a.m. on the collection day, and no person shall permit solid waste or solid waste containers to accumulate or remain at the curb line after 7 p.m. on the regularly scheduled collection day.

(Amended by Ordinance No. 09-1)

#### SECTION 6: PLACING SOLID WASTE FOR RESIDENTIAL COLLECTION

- (A) Except as otherwise specifically directed or authorized by the Town under (B), solid waste and recycling containers from all residences shall be placed 5 feet from the edge of the road. In addition, solid waste containers and recycling containers shall be placed 5 feet apart.

(Amended by Ordinance No. 09-1)

- (B) The Town may direct or authorize the placing of solid waste and recycling containers in a manner different from that provided herein in order to facilitate a more reasonable mode of collection from particular premises.

#### SECTION 7: PREPARATION OF SOLID WASTE FOR RESIDENTIAL COLLECTION

- (A) All garbage or rubbish placed for collection shall be well drained, wrapped, and deposited in water-tight containers or water-tight bags. No container or

bag placed for collection shall exceed 30 gallons in capacity or 40 pounds in weight.

- (B) Any garbage or rubbish not placed for collection in accordance with the provisions of this section may be refused by the collector.

SECTION 8: GARBAGE OR RUBBISH NOT TO BE DEPOSITED IN ANY OTHER PLACE OR MANNER THAN HEREIN PROVIDED

- (A) No person shall place any garbage on any street, alley, sidewalk, or other public or private property unless the same is placed in containers or bags for Town collection at the times and in the manner as herein provided.
- (B) No person shall place for collection any solid waste at the curb line or alley adjacent to any premises not owned or occupied by such person or dispose of waste at any unauthorized site.

SECTION 9: ITEMS NOT TO BE PLACED FOR RESIDENTIAL PICKUP BY COLLECTOR

No person shall dump, deposit, or place at the curb line adjacent to any street or public alley for collection or for any other purpose any of the following:

- (A) Construction and/or demolition materials, such as large amounts of stone, concrete, lumber, roofing materials, earth, or sod;
- (B) Containers over 30 gallons or 40 pounds;
- (C) Tree stumps, roots, and shrubs with intact root balls over 8 inches in diameter and/or greater than 40 pounds;
- (D) Hazardous, toxic, or infectious waste;
- (E) Yard waste.

SECTION 10: PUBLIC INFORMATION AND EDUCATION PROGRAM

The Town, with the assistance of the Recycling Committee, shall conduct an ongoing public information and consumer and youth education program concerning local and state recycling and waste reduction efforts.

#### SECTION 11: PROHIBITED DISPOSAL OF RECYCLABLES

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in Section 4(A)(v) through (xv) that have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

#### SECTION 12: FEES FOR RESIDENTIAL FAMILY DWELLING

A fee established by the Town Board by resolution shall be assessed to each residential family dwelling in the Town. Said fee shall become a special assessment pursuant to [Section 66.0703](#) of the Wisconsin Statutes and may be collected in accordance with the terms of that section.

(Amended by Ordinance No. 09-1)

#### SECTION 13: RESPONSIBILITIES OF OWNERS OR DESIGNATED AGENTS OF MULTIPLE-FAMILY DWELINGS AND NON-RESIDENTIAL FACILITIES AND PROPERTIES

- (A) Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in Section 4(A)(v) through (xv):
  - (i) Provide adequate, separate containers for the recycling program established in compliance with the ordinance. The number of recycling containers shall equal or be greater than the number of trash containers and at least one of the following shall be met:
    - (1) The minimum total volume of recycling container space is equal to 20 gallons per week per dwelling unit.
    - (2) The ratio of trash container volume to recycling container volume is at most 2:1.
    - (3) An alternative method that does not result in the overflow of a recycling container during the time period between collection of material and delivery to a recycling facility.
  - (ii) Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.
  - (iii) Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the material to a recycling facility.

- (iv) Notify tenants which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, and locations of drop-off collection sites to recycle materials not collected on-site.
- (B) Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in Section 4(A)(v) through (xv):
  - (i) Provide adequate, separate containers for the recycling program established under this section. The total volume of recycling containers shall be sufficient to avoid overflow during the time period between collection of materials and delivery to a recycling facility.
  - (ii) Notify in writing, at least semi-annually, all users, tenants, and occupants of the properties about the established recycling program.
  - (iii) Provide for the collection of the materials separated from the solid waste by the users, tenants, and occupants and the delivery of the materials to a recycling facility.
  - (iv) Notify users, tenants, and occupants which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, and locations of drop-off collection sites to recycle materials not collected on-site.
- (C) The requirements specified in (B)(i) through (iv) above do not apply to the owners or designated agents of non-residential facilities and properties if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Section 4(A)(v) through (xv) from solid waste in as pure a form as is technically feasible.

#### SECTION 14: ENFORCEMENT

- (A) For the purpose of ascertaining compliance with the provisions of this Chapter, any authorized officer, employee, or representative of the Town of Johnstown may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multi-family dwellings and non-residential facilities and properties, and any records related to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee, or representative of the Town of Johnstown who requests

access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

- (B) Any person who violates any provision of this Chapter may be issued a citation by the Building Inspector or any member of the Town Board of the Town of Johnstown authorized to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other chapter or law relating to the same or any other matter, nor shall proceeding under any other chapter or law relating to the same or any other matter preclude the issuance of a citation under this section.
- (C) Penalties for violating this Chapter may be assessed as follows:
  - (i) Any person who violates Section 11 may be required to forfeit \$50 for a first violation, \$200 for a second violation, and not more than \$2,000 for a third or subsequent violation.
  - (ii) Any person who violates a provision of this Chapter, except Section 11, may be required to forfeit not less than \$10 or more than \$1,000 for each violation.

#### SECTION 15: INTERIM PROVISIONS

With respect to all assessments made against multi-family dwellings and non-residential facilities and properties for recycling purposes prior to the enactment of this Chapter, fees collected from each such assessments shall be turned over to the collector, whereupon the collector shall grant a credit to the owner of the corresponding multi-family dwelling or non-residential facility or property on fees which would otherwise be collectable by the collector under Section 13 of this chapter.

(Amended by Ordinance No. 99-7)

#### SECTION 16: SEVERABILITY

Should any provision in this Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

(Amended by Ordinance No. 09-1)

**TOWN OF JOHNSTOWN**  
**CHAPTER 12 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**AUTHORITY TO PAY TAXES**

**SECTION 1: PURPOSE AND INTENT**

It is the declared intent of this Chapter to give direction to the Town Treasurer of the Town of Johnstown to receive and disburse Town money pursuant to [Section 60.34](#) of the Wisconsin Statutes. It is further the declared intent of this Chapter that it shall constitute an ordinance adopted pursuant to [Section 70.67\(2\)](#) of the Wisconsin Statutes, obligating the Town of Johnstown to pay, in case the Treasurer hereof shall fail to do so, all taxes of any kind required by law to be paid by such Treasurer to the County Treasurer.

**SECTION 2: OBLIGATION TO PAY**

The Town of Johnstown hereby declares its obligation to pay, in case the Treasurer thereof shall fail to do so, all taxes of any kind required by law to be paid by such Treasurer to the Rock County Treasurer. The obligation hereby undertaken excuses the Treasurer of the Town of Johnstown from giving a bond for tax collection under [Section 70.67\(1\)](#) of the Wisconsin Statutes.

**TOWN OF JOHNSTOWN**  
**CHAPTER 13 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**REGULATION OF DRIVEWAYS**

**SECTION 1. PURPOSE**

The purpose of this Chapter is to control the location and construction of all driveways connecting to town roads in the interest of protecting the health, safety and welfare of the motoring public, as well as pedestrians.

**SECTION 2. DEFINITIONS**

The following words and phrases, as used in this Chapter, shall have the meaning provided:

- A. Driveway: A point of access from property abutting a road onto that road. For purposes of this Chapter all of the following are considered driveways:
1. Commercial Driveway: An access that will be used primarily for a commercial, business or industrial site.
  2. Field Entrance: An access that will be used on a seasonal basis for entrance to an undeveloped piece of land. The access will not be used as an access for a private residence or a commercial, business or industrial site.
  3. Intersecting Public Road: An access that will be constructed and dedicated to the Town as part of the local road network and to be maintained by the Town.
  4. Park Entrance or Entrance to Public Lands: An access to a park or to public lands owned or controlled by a local, state or federal government.
  5. Private Driveway: An access that will be used as the primary access for a private residence.
  6. Shared Driveway: An access for a private residence or a commercial, business or industrial site that is shared with the adjoining property

owner for the purpose of sight distance or reducing accesses along the public road.

- B. Point of Access: The physical location where entrance to and exit from abutting land is possible from and to a road.
- C. Road: Any surface maintained by the Town for use by vehicle traffic.
  - a. Connecting Road: The road which a driveway touches and joins to allow for entrance to and exit from property abutting the same road.
  - b. Cross Road: Any road which touches, joins or intersects a connecting road.

### SECTION 3. PERMIT REQUIRED

No person shall construct, reconstruct or enlarge any driveway accessing any public road under the control and jurisdiction of the Town without first obtaining a permit as provided by this Chapter. Approved permits run with the property unless revoked by the Town Board pursuant to the provisions of this chapter. Building permits shall not be issued by the Town until a driveway permit has first been issued. Permits for access on county trunk highways in Rock County and state highways within the Town are available from the Rock County Highway Department.

### SECTION 4. PERMIT APPLICATIONS

- A. Applications for all permits shall be made to the Zoning Officer.
- B. Applications shall be in writing and in a form directed by the Zoning Officer. A drawing accurately depicting the construction, reconstruction or enlargement of the driveway and its dimensions shall be attached to the application. The application shall include:
  - 1. A statement that the applicant represents all parties in interest, and that the proposed driveway is for the singular purpose of securing access to the applicant's property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the road, or for any other purpose.
  - 2. An acknowledgment by the applicant that, notwithstanding the issuance of a permit and or the construction of the driveway, the Town reserves the right to make any changes, additions, repairs or



relocations within the road at any time, including relocation, reconstruction, widening and maintaining the road without compensating the owner of the driveway for the damage or destruction of the driveway.

- C. Upon receipt of the application, the Zoning Officer shall examine and approve such application if the proposed driveway complies with this and any other applicable ordinance.
- D. Any application failing to meet the requirements of this or any other applicable ordinance shall be rejected by the Zoning Officer. In such event, the applicant may file a request for a special exception from the terms of this chapter under Section 8 below.
- E. A driveway permit shall expire one (1) year from the date of issuance if the driveway is not installed or not used for access to a road within that time. Permit holders shall be notified of the discontinuance of the permit and the need to reapply for another permit prior to any future work on a driveway.
- F. Following issuance of a permit, the point of access shall be inspected during and after construction for compliance with the terms of this chapter.
- G. When violations occur, the Town Board shall revoke the driveway permit and will have the authority to demand that work done in violation of this Chapter be removed at the expense of the owner.
- H. The Zoning Officer may reject any application that is substantially identical to a previously denied application or application for special exception that was denied by the Town Board.

#### SECTION 4. TEMPORARY PERMITS

Temporary permits may be issued for temporary points of access that do not meet the requirements of this Chapter for extenuating circumstances at the discretion of the Town Board. The duration of a temporary permit shall be fixed when it is issued and shall in no case exceed two months' time.

#### SECTION 5. EXISTING DRIVEWAYS

Any driveway existing on the date of adoption of this chapter shall not require a permit under this chapter except as set forth in this section. If the use of any such driveway is discontinued for a period of one (1) year, the Town Board may require issuance of a permit and compliance with this chapter as a condition for any further

use of the driveway. Any reconstruction, enlargement or modification to a driveway existing prior to the adoption of this chapter shall require a permit under and be subject to the terms of this chapter.

#### SECTION 6. DRIVEWAY DIMENSIONS

- A. A driveway shall have a minimum width of twelve feet (12') where it connects to a road.
- B. The maximum width of a driveway where it connects to a road shall be thirty-six feet (36').
- C. If a culvert is deemed necessary by the Zoning Officer to promote drainage in the ditch line, the size (diameter and length) of the culvert pipe may be specified by the Zoning Officer. The minimum culvert size shall be fifteen inches (15").
- D. Shared driveways shall have a minimum width of twelve feet (12') and shall be constructed so that at least 40% of the driveway is constructed on each of the adjoining landowners' property and shall remain shared for no less than twenty feet (20') before any separation to serve the separate landowners.
- E. The number of driveways to serve an individual parcel or adjoining parcels under the same ownership abutting a road shall be the minimum deemed necessary by the Zoning Officer for reasonable and adequate service to the property, considering the safety, convenience, dimensions and utility of the driveway and the road.
- F. A commercial driveway may exceed the maximum width of thirty-six feet (36'), if approved by the Town Board Zoning Officer in writing and the applicant shows good cause for why a wider driveway is necessary for the property. In the application for a driveway permit under Section 4 of this Chapter, the applicant shall include a description of the type(s) of vehicles that will be utilizing the property and an explanation as to why the maximum width under the ordinance would be insufficient for the needs of the property.

(Amended by Ordinance No. 25-1)

#### SECTION 7. DRIVEWAY LOCATION

- A. All driveways shall have a minimum of six hundred fifty feet (650') of clear sight distance in both directions from the point of access.

- B. All driveways shall be constructed no closer to another driveway, a cross road or a curve in the connecting road than as set forth below. The Zoning Officer may require such additional separation as may be deemed necessary for the conditions of traffic, safety or the physical features of the road, either existing or proposed.
1. The centerline of a private driveway, shared driveway, field entrance or park entrance shall be located a minimum of one hundred fifty feet (150') from the centerline of the nearest cross road or from any point at which the connecting road makes a turn or curve of thirty degrees (30°) or more (measured along the centerline of the road).
  2. The centerline of a commercial driveway shall be located a minimum of three hundred feet (300') from the centerline of the nearest cross road or from any point at which the connecting road makes a turn or curve of thirty degrees (30°) or more (measured along the centerline of the road).
  3. The centerline of an intersecting public road shall be located a minimum distance from the centerline of the nearest cross road or from any point at which the connecting road makes a turn or curve of thirty degrees (30°) or more (measured along the centerline of the road) determined by the Town Board on a case-by-case basis, but in no case shall such distance be less than one hundred fifty feet (150').
  4. The centerline of a driveway shall be at least two hundred fifty feet (250') from the intersection of a connecting road and a controlled access highway (as defined by [Wis. Stat. § 83.027\(2\)](#) (2023-24)).
  5. Driveways shall be placed a minimum of four hundred fifty feet (450') apart, measured from where the centerline of each driveway joins the connecting road.
- C. The edge of a driveway and the end of any culvert pipe shall be located at least ten feet (10') from any property line. In the case of a shared driveway, the culvert pipe shall be at least five feet (5') from any property line upon which the driveway is located, and at least ten feet (10') from any other property line.
- D. Any culvert pipe shall have a minimum cover of six inches (6") of gravel or rock.

- E. Any end wall located on a driveway shall be constructed in such a manner as not to be a safety hazard. Standard apron end sections made of concrete or metal are permissible.
- F. The driveway shall be constructed with a gentle slope to the back of the ditch line such that the surface of the driveway at the back of the ditch line is at least six inches (6") lower than the roadway in order to keep drainage off the roadway. All water that drains from a driveway must drain into the ditch before it reaches the roadway.
- G. No concrete surfacing shall be placed in the road right-of-way without the approval of the Town Board.
- H. Maintenance of any driveway shall be the sole responsibility of the property owner. The Town does not assume any responsibility for maintenance of any driveway along any road.
- I. No driveway shall have a point of access on a connecting road if it is reasonably possible under the terms of this chapter to locate the driveway on a different connecting road with a lower daily traffic count.
- J. Field entrances are limited to one entrance per farm field, with additional field entrances allowable where natural obstacles within the field prevent reasonable access across the field or where the distance across the field exceeds one-half (1/2) mile.
- K. No driveway shall be located directly across from a private residence in such a manner that lights from a vehicle exiting the driveway would cause an unnecessary disturbance to the residence.

#### SECTION 8. SPECIAL EXCEPTIONS

- A. In the event that the Zoning Officer rejects an application for a driveway permit, the applicant may apply to the Town Board for a special exception from the provisions of this Chapter.
  - 1. The application for a special exception shall be a written statement that at a minimum addresses the following:
    - (a) Reason the original application for a permit was rejected by the Zoning Officer.

- (b) Reason a special exception is necessary for a driveway that does not satisfy the provisions of this Chapter.
  - (c) Any alternative points of access to the property and the reason those alternative points of access are not suitable or less desirable than the point of access requested.
  - (d) Statement of any unnecessary hardship the owner would face absent approval of a special exception.
2. The application for a special exception shall be submitted to the Town Clerk within 30 days of the date the original application was rejected by the Zoning Officer. The original application made to the Zoning Officer shall be attached to the request for a special exception.

B. The procedure for obtaining a special exception is as follows:

- 1. A completed application for special exception is submitted to the Zoning Officer.
- 2. The Town Clerk shall notify all property owners located on the same road or an intersecting road and within one thousand feet (1000') of the parcel for which a special exception is requested and publish a Class 1 Legal Notice listing the time and place of the public hearing, the special exception requested, and the location of the proposed special exception driveway. Such notice shall be given and published at least ten (10) days before the date of the hearing.
- 3. A public hearing shall be held by the Town Board. The hearing may be held during a regularly scheduled Town Board meeting. The hearing shall be in compliance with requirements of the Wisconsin Statutes for an administrative appeal under [Wis. Stat. section 68.11](#) (2023-24) or any successor statute.
- 4. The application and information obtained at the public hearing shall be reviewed by the Town Board at a public meeting (which may occur immediately following the public hearing).
- 5. Upon consideration of the provisions of this chapter and standards in this section, the Board may approve, approve with conditions or modifications, or deny the application for a special exception.

6. A special exception driveway permit (with or without conditions or modifications) shall run with the land and is assigned to the driveway, not the person who owns the land.
  7. The Town Board may revoke, by majority vote, a special exception permit if it is not actively used for a period of one (1) year, the conditions or modifications required are not met or construction, reconstruction, enlargement or use are expanded beyond what the Board approved.
  8. Prior to revocation, the owner of the driveway shall be given notice by first class mail that the subject of revocation will be taken up by the Board at a time and place identified in the notice. Such notice shall be mailed at least ten (10) days before the date of the meeting.
  9. If a special exception application is approved with conditions or modifications, the Board shall provide its decision in a written form, listing the conditions or modifications that must occur and be maintained for the permit to remain valid. The decision will specify the obligations of the owner and the obligations of the Town regarding each condition or modification.
  10. If a special exception application is denied, the Board shall provide its decision in a written form, listing the reasons for denial.
  11. The Town Board may, without a public hearing or public notice, deny an application for a special exception which is substantially identical to a special exception permit which it has previously denied.
- C. In considering a special exception request, the Town Board shall consider each of the following as they may apply to the request:
1. Alternative access points the owner could use that more closely or fully conform to this Chapter.
  2. Location of the proposed point of access with respect to existing or planned roads.
  3. Potential problems that may affect the community, adjoining parcels of land, traffic conditions on the connecting road, safety, and or the physical features of the road and the surrounding environment.

4. Modifications that would reduce potential problems (for example, changes to the proposed driveway or surrounding property, posting warning signs, changing speed limits, etc...).
5. The degree of unnecessary hardship created for the applicant by enforcement of the strict terms of this chapter.

In addition to the standards above, if six hundred fifty feet (650') of clear sight distance in both directions is not possible at the point of access for the proposed driveway, the Town Board's determination of whether a driveway can provide safe access to and exit from the property shall be guided whenever possible by the minimum standards developed in a 1990 study done for the State of New Jersey based on the American Association of State Highway and Transportation Officials' (AAHTO) stopping sight distances for given posted speeds, as follows:

#### **Stopping Sight Distances**

<b><u>Posted Speed (mph)</u></b>	<b><u>Minimum Stopping Sight Distance (feet)</u></b>
25	150
30	200
35	250
40	325
45	400
50	475
55	550

If a driveway is to be located in an area where a speed zone transitions from a faster speed limit to a lower speed limit, the higher speed limit will be used for purposes of the posted speed up in the above chart up to the spot where the slower speed limit is posted on a sign.

#### **SECTION 9. PERMIT FEES AND VIOLATION**

- A. The applicant shall pay to the Town of Johnstown a fee at the time of application. No application will be processed without payment of the applicable fee. The fee structure is as follows, and is structured for the cost of permit administration and field inspections:

<u>Driveway Type</u>	<u>Fee</u>
Commercial Driveway	\$100.00
Field Entrance	\$50.00
Intersecting Public Road	\$200.00
Park Entrance or Entrance to Public Lands	No Fee
Private Driveway	\$75.00
Shared Driveway	\$75.00 per property owner

- B. The fees set forth above may be amended by resolution of the Town Board and the fee in effect at any time shall be as set forth on the schedule on file in the offices of the Town Clerk and Treasurer.
- C. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Chapter shall, upon conviction, pay a forfeiture of not less than \$100, nor more than \$250, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues shall be considered a separate offence under this Chapter. In addition, the Town Board may seek injunctive relief from a court to enjoin further violations.

SECTION 10: VIOLATIONS AND PENALTIES

Chapter	Violation Forfeiture	Penalty Surcharge	Jail Surcharge	Crime Labs and Drug Law Enforcement Surcharge	Total Deposit
Chapter 13 – Regulation of Driveways	\$250.00	\$65.00	\$10.00	\$8.00	\$333.00



**TOWN OF JOHNSTOWN**  
**CHAPTER 14 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**LANDSPREADING**

**SECTION 1: LANDSPREADING PROHIBITED**

No person shall landspread or permit landspreading of petroleum-contaminated soil in the Town of Johnstown except as set forth in Section 2 below.

**SECTION 2: EXCEPTION**

Petroleum-contaminated soil taken from land located within the Town of Johnstown may be landspread, provided that the landspreading is done in accordance with all applicable regulations and requirements of the Wisconsin Department of Natural Resources.

**SECTION 3: DEFINITIONS**

In this Chapter the following terms shall have the following definitions:

- (A) "Landspread" and "landspreading" mean the controlled application of petroleum-contaminated soil to the land surface and incorporation of such soil into the upper soil zone.
- (B) "Person" means an individual, partnership, corporation, limited liability company, municipality, government entity, or any other legal entity.
- (C) "Petroleum-contaminated soil" means soil contaminated with light and middle petroleum distillates or heavier petroleum products.
- (D) "Light and middle petroleum distillates" means gasoline, diesel fuel numbers 1 and 2, jet fuel, kerosene, and aviation gasoline.
- (E) "Heavier petroleum products" means numbers 4 and 5 fuel oil, waste oil, and sludges derived from petroleum products.

**SECTION 4: PENALTIES**

Any person convicted of a violation of this Chapter shall be subject to a fine of not

less than \$100.00 nor more than \$500.00, together with the costs of prosecution. Each day a violation continues or occurs shall constitute a separate offense. In default of payment, the violator shall be imprisoned in the county jail until such fine and costs are paid, such imprisonment not to exceed 90 days. Nothing in this Chapter shall preclude the Town from maintaining any appropriate action to prevent a violation of any provision of this Chapter or the removal of petroleum-contaminated soil.

SECTION 5: SEVERABILITY

Should any provision in this Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

(Amended by Ordinance No. 09-1)

## TOWN OF JOHNSTOWN

### CHAPTER 15 OF THE MUNICIPAL CODE OF THE TOWN OF JOHNSTOWN, WISCONSIN

#### SLUDGE HAULING

##### SECTION 1. PURPOSE

The Town Board of the Town of Johnstown, Rock County, Wisconsin, does hereby find, determine and ordain that in order to promote the health, safety, welfare and convenience of the public, it is necessary to restrict the transportation of garbage, sludge, septage or other refuse which can cause damage to Town Roads.

##### SECTION 2. DEFINITIONS

2.1 Town Roads. All streets, highways and roadways that are maintained by or at the expense of the Town of Johnstown.

2.2 Garbage. Garbage is discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

2.3 Sludge. Sludge is sewage treatment residue in any form whatsoever, whether solid, semi-solid or liquid, which has been process or treated in any way, form or manner.

2.4 Septage. Septage is the wastewater or contents of septic or holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, privies or portable restrooms as those terms are defined in [Chapter NR 113](#) of the Wisconsin Administrative Code or its successors.

2.5 Refuse. Refuse is combustible and noncombustible discarded material including, but not limited to, trash, rubbish, paper, wood, metal, glass, plastic, rubber, cloth, ashes, litter and street rubbish, industrial wasted, dead animals, mine tailings, gravel pit and quarry spoils, toxic and hazardous wastes, material and debris resulting from construction or demolition, and by-products of food production.

2.6 Municipality. Municipality is any city, village, town or sanitary district.

##### SECTION 3. PERMIT REQUIRED

No person, firm, corporation or municipality shall transport any garbage, sludge, septage, or other refuse on Town Roads until such person, firm, corporation or municipality has first secured a permit to do so from the Town Board.

#### **SECTION 4. APPLICATION FOR PERMIT**

Application for a permit to transport garbage, sludge, septage or other refuse on Town Roads, as required in Section 3 above, shall be made to the Town Board. Such application shall contain the following information:

1. A description of the material to be transported.
2. The quantity of material to be transported.
3. The destination for the material.

#### **SECTION 5. REQUIREMENTS FOR ISSUANCE OF PERMIT**

The Town Board may issue a permit under this chapter upon the following conditions:

1. The applicant agrees in writing to indemnify and hold the Town of Johnstown harmless for any and all damage or injury to Town Roads that is caused by the applicant's use of the Town Roads.
2. The applicant has satisfied the Town Board that the fee imposed for the proposed transportation will adequately compensate the Town for any anticipated damage to Town Roads resulting from the hauling of garbage, sludge, septage or other refuse.
3. The applicant demonstrates that any vehicles used for transportation of garbage, sludge, septage or other refuse are so designed as to prevent the dropping of any of said materials on the Town Roads.
4. The applicant has not shown a pattern of failure to abide by the terms of this Chapter.

#### **SECTION 6. TRANSPORTATION OF SLUDGE OR SEPTAGE**

In addition to obtaining a permit under this chapter, any person transporting sludge or septage on Town Roads shall notify the Town Clerk or the Town Chair in writing of the date and time of such transportation at least seven days before the date of such transportation. Such notice shall be personally delivered or, in the alternative, may be delivered by certified mail, return receipt requested, in which case notice shall be effective on receipt.

Any garbage, sludge, septage or other refuse dropped on a Town Road must be removed within four hours of the time that notice is given to the owner or operator of a vehicle from which such material was dropped.

## **SECTION 7. PERMIT FEE**

Any applicant granted a permit under this chapter shall pay a fee to be determined by resolution of the Town Board. Such fee shall be sufficient to compensate the Town for its expenses incurred in administering this chapter and for any reasonably anticipated road damage resulting from the hauling of garbage, sludge, septage and other refuse. The Town Board may impose a lesser fee for applicants hauling less than 100,000 gallons of sludge or septage in a calendar year.

## **SECTION 8. PENALTIES**

Any person, firm, corporation or municipality who shall violate any provision of this Chapter shall be fined not less than \$50.00 nor more than \$5,000.00 for each day that the violation continues, or by imprisonment in the County Jail for not more than six months, or by both such fine and imprisonment. The Town may also seek injunctive relief to prevent the continuation of any such violation.

## **SECTION 9. EXCEPTIONS**

The following activities are exempt from the application of this chapter:

1. The transportation of garbage or refuse from a single family or household provided that such garbage or refuse is handled in a manner consistent with the provisions of Chapter 1 of the Municipal Code of the Town of Johnstown.
2. The hauling of and distribution of animal waste on a farm from which such waste was generated.

## **SECTION 10. ENFORCEMENT**

In the event the Town Board finds that this Chapter has been violated in any way, he or she shall have the authority to suspend any permit granted hereunder pending review by the Town Board at its next regular meeting.

## **SECTION 11. REVOCATION**

Any permit issued hereunder may be revoked after public hearing held upon the publication of a class 1 notice by the Johnstown Town Board. Such revocation may occur if any of the conditions necessary for the issuance of the permit or any terms of this Chapter are violated by the person, firm, corporation or municipality holding the permit.

## **SECTION 12. STATE LAW**

Nothing contained herein shall be deemed to limit or restrict the application of any

state law or administrative regulation of any state agency regulating the subject of this Chapter.

**SECTION 13. SEVERABILITY ON CONFLICT**

If any section, subsection, sentence, clause, phrase or word of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

## **TOWN OF JOHNSTOWN**

### **CHAPTER 16 OF THE MUNICIPAL CODE OF THE TOWN OF JOHNSTOWN, WISCONSIN**

#### **CONFIDENTIALITY OF INCOME AND EXPENSE RECORDS**

##### **SECTION 1. TITLE AND PURPOSE**

This Chapter is entitled the “Confidentiality of Income and Expense Records.” The purpose of this Chapter is to provide for confidentiality of the records and information of taxpayers who furnish said records and information to the Town Assessor under [§70.47\(7\)\(af\)](#), Wis. Stats., and to exempt the records and information from being subject to the right of inspection or copying as a public record under [§19.35\(1\)](#), Wis. Stats.

##### **SECTION 2. AUTHORITY**

The Town Board of the Town of Johnstown, Rock County, Wisconsin, has the specific authority under [§70.47\(7\)\(af\)](#), Wis. Stats. to provide for confidentiality to taxpayers for certain income and expense records and information furnished to the Town Assessor for the valuation and assessment by the income method of real property located within the Town of Johnstown.

##### **SECTION 3. ADOPTION OF CHAPTER**

This Chapter, adopted by a majority of the Town Board on a roll call vote with a quorum present and proper notice having been given, adopts by reference [§70.47\(7\)\(af\)](#), Wis. Stats., providing for the confidentiality of income and expense records and information used for the purposes of property tax valuation and assessment.

##### **SECTION 4. CONFIDENTIALITY REQUIREMENT**

Income and expense records and information provided by a property owner to the Town Assessor to value and assess real property by the income method, shall be confidential and not a public record open to inspection or copying under [§19.35\(1\)](#), Wis. Stats. Unless a Court determines that the information is inaccurate, the information provided to the Town Assessor is not subject to the right of inspection or copying as a public record under [§19.35\(1\)](#), Wis. Stat.

##### **SECTION 5. EXCEPTIONS TO CONFIDENTIALITY**

A Town Officer in the Town of Johnstown may make public disclosure or allow

access to income and expense records and information provided by a property owner to the Town Assessor to be used for property valuation and assessment by the income method in his or her position as provided below:

- A. The Town Assessor shall have access to the provided income and expense information in the performance of his or her duties;
- B. The Board of Review may review the provided income and expense information when needed, in its opinion, to decide upon a contested assessment;
- C. Any person or body who has the right or whose duty in his or her office is to review the provided income and expense information shall have access to the information;
- D. A Town Officer who is complying with a court order may release the provided income and expense information in accordance with the court's order;
- E. If the provided income and expense information has been determined to be inaccurate, the information is open to the public;
- F. If the property owner has provided written approval for public disclosure or limited disclosure to that person and that the Town Board of the Town of Johnstown has approved the disclosure, the provided income and expense information is open to the public to the extent approved.

#### **SECTION 6. PENALTY PROVISIONS**

Any person, partnership, corporation or other legal entity that fails to comply with the provisions of this Chapter shall upon conviction, pay a forfeiture of not less than \$500 no more than \$5,000, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this Chapter. In addition, the Town Board may seek injunctive relief from a court of record to adjoin further violations.

#### **SECTION 7. SEVERABILITY**

If any provision of this Chapter or its application to any person or circumstances held invalid, the invalidity does not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are severable.



## TOWN OF JOHNSTOWN

### CHAPTER 17 OF THE MUNICIPAL CODE OF THE TOWN OF JOHNSTOWN, WISCONSIN

#### LAND DIVISION AND DEVELOPMENT

##### SECTION 1: AUTHORITY

This Chapter is adopted by the Town Board of the Town of Johnstown pursuant to [Sections 236.45](#), [60.22 \(3\)](#), and [61.34](#) of the Wisconsin Statutes.

##### SECTION 2: TITLE AND EFFECTIVE DATE

This Chapter shall hereafter be known, cited, and referred to as the *Town of Johnstown Land Division and Development Ordinance* and shall be effective immediately upon publication of due notice of the adoption of the Ordinance creating this Chapter.

##### SECTION 3: INTENT AND PURPOSE

The intent and purpose of this Chapter is to identify the process and requirements for regulation of certain land division and development activity in the Town of Johnstown so as to maintain and advance the public health, safety, and general welfare of the Town and its residents.

##### SECTION 4: DEFINITIONS

The following terms shall, for the purpose of this Chapter, have the definition stated in this Section:

**Accessory Building** – An Accessory Building as defined in Sec. 15.2 of Chapter 1 of this Code of Ordinances

**Agency** – The Rock County Planning, Economic & Community Development Agency

**Arterial street** – An Arterial Road or Highway as defined in Sec. 15.2 of Chapter 1 of this Code of Ordinances

**Block** – A group of lots within well-defined and fixed boundaries, including but not limited to those boundaries provided by streets, public parks, cemeteries, rail lines, shorelines, or general purpose districts, and having a designation through which it

may be identified

**Building** – A Building as defined in Sec. 15.2 of Chapter 1 of this Code of Ordinances

**Building envelope** – The area of a lot in which building and accessory building sites are allowed

**Certified Survey Map (“CSM”)** – A Certified Survey Map as defined in Sec. 15.2 of Chapter 1 of this Code of Ordinances

**Collector street** – A Collector Road or Highway as defined in Sec. 15.2 of Chapter 1 of this Code of Ordinances

**Committee** - The Town of Johnstown Planning and Zoning Committee created under Chapter 1 of this Code of Ordinances

**Conservation easement** – A document, in accordance with [Sec. 700.40](#), Wisconsin Statutes, prohibiting building and accessory building sites, and earth-disturbing activity detrimental to the intent and purpose of the document, in Environmentally Sensitive Areas (“ESAs”), cultural resources, productive agricultural soils, woodlands, and/or open space

**Cul-de-sac** – A local street with a singular vehicular outlet containing an appropriate terminal for the safe and convenient reversal of traffic movement

**Cultural resources** – Any building or structure, archaeological or cultural site, or historical marker in the State of Wisconsin Historical Society’s Architecture and History Program, Archaeological Sites Inventory Program, or Historical Markers Program, or any building, structure, site, or marker so identified as a cultural resource in any Rock County cultural resources inventory, plan, or program

**Environmentally Sensitive Areas (“ESAs”)** –

- (a) Floodplain – Lands identified as floodplain by the Federal Emergency Management Agency (FEMA), as delineated in accordance with the most current FEMA floodplain maps adopted by the Rock County Board of Supervisors;
- (b) Groundwater protection areas – Lands identified as groundwater protection areas, as delineated by the Agency;

- (c) Hydric soils – Lands with soils identified as hydric, as delineated by the Agency;
- (d) Kettles and depressional topography – Lands identified as kettles and/or depressional topography, as delineated by the Agency;
- (e) Natural areas – Lands with scores of five (5) or higher, in accordance with the *Rock County Natural Areas Survey – 2011*;
- (f) Shallow bedrock – Lands identified with bedrock within twenty (20) inches of the surface, as delineated by the Agency;
- (g) Shorelands – Lands identified within seventy-five (75) feet of the ordinary high water mark of a surface water feature, as delineated in accordance with *Chapter 44 – Zoning, Code of Ordinances, Rock County*;
- (h) Steep slopes – Lands identified with slopes sixteen percent (16%) and greater, as delineated by the Agency;
- (i) Wetland – Lands identified as wetland, as delineated by the Wisconsin Department of Natural Resources or another qualified entity;
- (j) Wetland buffers – Lands identified within fifty (50) feet of wetlands, as delineated by the Agency.

**Local street** – A Local Road or Highway as defined in Sec. 15.2 of Chapter 1 of this Code of Ordinances

**Lot** - A Lot as defined in Sec. 15.2 of Chapter 1 of this Code of Ordinances

**Major land division (Sub-division)** – A land division requiring a Sub-division Plat under County ordinances, creating five (5) or more new, additional lots of any size concurrently or by successive land division within five (5) years of the recordation date of the first lot created.

**Pedestrian way** – A public or private right-of-way whose primary purpose is conveyance of foot traffic

**Plat of Survey (“POS”)** – A map of a minor land division, or identifying lands subject to an adjacent land sale or transfer, prepared by a land surveyor and submitted by an applicant in both a preliminary and final form

**Private onsite wastewater treatment system (“POWTS”)** – A sanitary sewer

treatment and disposal system consisting of a septic tank and soil absorption field, or similar improvements or infrastructure, serving a building(s) and located either on the same or a different lot than said building(s), and not owned by a governmental entity

**Productive agricultural soils** – Soils so identified in the *Rock County Farmland Preservation Plan: 2011 Update* or any similar successive Rock County plan or document

**Public improvement** - any structure created above or below ground, any road or any newly graded land which is proposed to be dedicated to the Town of Johnstown

**Street (Road)** - A Street as defined in Sec. 15.2 of Chapter 1 of this Code of Ordinances

**Sub-division Plat** – A Subdivision Plat as defined in Sec. 15.2 of Chapter 1 of this Code of Ordinances

**Woodlands** – Lands comprising five (5) acres or more of contiguous deciduous and/or coniferous vegetation, as delineated by the Agency

**Zoning Officer** – The Zoning Officer appointed under Chapter 1 of this Code of Ordinances

## **SECTION 5: ADJACENT LAND SALE OR TRANSFER**

- (1) *Applicability.* This Section applies to any act or process of conveyance by a landowner of an existing parcel of land to the owner of an adjacent parcel if the land conveyed or the parcel remaining from which the conveyance is to be made is less than the minimum size for a lot established for the zoning district in which the land conveyed is located under Chapter 1 of this Code of Ordinances. Nothing in this Chapter shall be deemed to alter the minimum and maximum lot size requirements set forth in this Code of Ordinances, and no land division shall be approved hereunder which results in the creation of a lot which does not meet the minimum and maximum lot size requirements of this Code of Ordinances.
- (2) *Application submission requirements.* No conveyance to which this Section applies shall be permitted unless the landowner submits an application for preliminary adjacent land sale or transfer to the Town Clerk (or to the Agency if power hereunder is delegated to the Agency), with a fee established by the Town Board by resolution (or by the Agency if power hereunder is delegated to the Agency), and such application is approved by

the Town Board after receiving a recommendation for approval or disapproval by the Committee (or after being approved by the Agency if power hereunder is delegated to the Agency).

- (3) *Requirements for approval.* Any application submitted under this Section shall be reviewed by the Committee (or by the Agency if power hereunder is delegated to the Agency). No proposed conveyance shall be approved unless the parcel to which adjacent land is to be added is in the same zoning district as the adjacent land. No proposed conveyance shall be approved unless the parcel from which the conveyed land is taken will equal or exceed the minimum size for a lot established for the zoning district in which it is located. In order to assure that additional lots are not created by the proposed conveyance, the Board (or the Agency if power hereunder is delegated to the Agency) shall, in its discretion, require the landowner to do the landowner's choice of one of the following as a condition for approval:
  - (a) Staking of the new lot line by a land surveyor, filing of a POS and recording of a deed restriction running to the Town and permanently prohibiting the grantee and all successors in interest from conveying the conveyed land separately from the adjacent lot owned by the grantee unless the conveyance is to an adjoining landowner; or
  - (b) Recording of a Certified Survey Map pursuant to [Wis. Stat. § 236.34](#) for the new combined parcel.

#### **SECTION 6: LOT COMBINATION**

- (1) *Applicability.* This Section applies to any attempt to create a single lot from two or more existing lots. No such combined lot may be created so as to exceed the maximum lot size (if any) permitted in the zoning district in which the lot is to be located, and no such lot may be created from among parcels located in different zoning districts.
- (2) *Application submission requirements.* No lot combination to which this Section applies shall be permitted unless the landowner submits an application for the same to the Town Clerk (or to the Agency if power hereunder is delegated to the Agency), with a fee established by the Town Board by resolution (or by the Agency if power hereunder is delegated to the Agency), and such application is approved by the Town Board after receiving the recommendation of the Committee (or the application is approved by the Agency if power hereunder is delegated to the Agency).

- (3) *Requirements for approval.* No lot combination shall be permitted except upon determination that the combination will not be contrary to the intent of the Town's comprehensive plan and Chapter 1 of this Code of Ordinances. No lot combination shall be permitted unless the applicant records a Certified Survey Map pursuant to [Wis. Stat. § 236.34](#), establishing a single lot consistent with the application.

## **SECTION 7: PUBLIC IMPROVEMENT DESIGN, CONSTRUCTION, AND MAINTENANCE**

Any public improvement in the Town shall be constructed in compliance with the following standards:

- (1) *Blocks.* Block length shall not exceed one thousand five hundred (1,500) feet nor be less than four hundred (400) feet, except as the Town Board deems necessary to secure the efficient use of land or desired features of street layout. Block width shall be wide enough to allow two tiers of lots of sufficient depth to provide an adequate building envelope on each lot. The Town Board (or the Agency if power hereunder is delegated to the Agency) may approve block widths consisting of a single tier of lots when said lots front a major street or when topography or size prevents two tiers. If a single tier block is approved by the Town Board (or the Agency if power hereunder is delegated to the Agency), an adequate area to screen and buffer differing land uses shall be provided and vehicular access to the lots in the tier shall not be permitted from any street abutting the side of the lot opposite the street upon which the tier faces.

A pedestrian way may be required by the Town Board (or the Agency if power hereunder is delegated to the Agency) near the center of a block, and entirely across those blocks which exceed nine hundred (900) feet in length, to connect dead-end streets or to provide access to parks, schools, shopping areas, or other similar facilities. If a pedestrian way is required, a minimum ten (10) foot right-of-way shall be set aside with an eight (8) foot pavement (or other cover type as approved by the Town Board or the Agency if power hereunder is delegated to the Agency) width, at a grade not steeper than fifteen percent (15%), unless alternative forms of adequate design are approved by the Town Board (or the Agency if power hereunder is delegated to the Agency). A note shall be placed on the Sub-division Plat stating by whom such pedestrian way shall be maintained.

- (2) *Streets.* All streets shall be constructed according to the standards for Rock County roads as established by the Rock County Highway Department, except as expressly set forth in this Section. All streets shall be designed to

appropriately coordinate with and relate to existing land uses, future land uses as delineated in applicable comprehensive plans and official maps, the natural landscape, street systems, dedicated rights-of-way, population densities, special vehicular traffic generators such as commercial, business, and industrial districts, institutional facilities, and other social gathering areas. In areas to be utilized predominately for non-residential uses, streets shall be planned in coordination with building groupings, rail facilities, alleys, and truck loading and maneuvering areas, and pedestrian ways and parking areas shall be adequately provided and located so as to minimize conflict between various types of traffic. Streets shall normally intersect, as nearly as possible, at right angles and shall avoid a combination of steep grades and curves. Streets shall be arranged to provide access to lots and building and accessory building sites at or above street grade. Street design in a major land division (sub-division) shall provide for the continuation of existing streets in adjacent areas at the same or greater width as said existing streets, unless the Town Board deems such continuation undesirable for reasons of topography or design.

All streets shall be public unless the Town Board (or the Agency if power hereunder is delegated to the Agency), prior to approval of the application for preliminary land division, agrees to the use of private streets. Private streets will be considered by the Town Board (or the Agency if power hereunder is delegated to the Agency) only in those instances where an association or other legal entity is established by covenant with capability and responsibility for maintenance of said streets.

- (a) Right-of-way width shall be as delineated in **Figure I**. Street width shall be between 18 and 24 feet, in the discretion of the Town Board (or the Agency if power hereunder is delegated to the Agency):

**Figure I: Street Width**

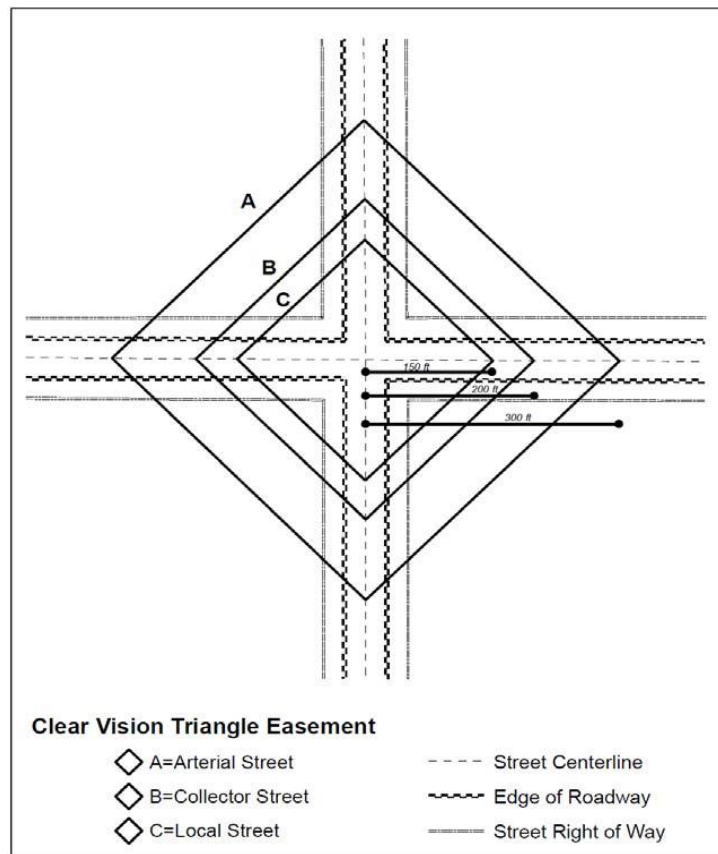
	<b>Arterial Street</b>	<b>Collector Street</b>	<b>Local Street</b>
<b>Full Width</b>	100 feet	80 feet	66 feet
<b>Half Width</b>	50 feet	40 feet	33 feet

- (b) Street gradient shall not exceed nine percent (9%), nor eleven percent (11%), with approval of the Town Board, in areas of extreme topography. Gradient shall not exceed one point four percent (1.4%) for a minimum distance of fifty (50) feet from the intersection of street centerlines. Streets may be constructed diagonally across contours in areas of extreme topography and shall traverse the slope with minimum street grade, driveway grade, and earth movement.

- (c) Cul-de-sac use shall not be encouraged, and if utilized, cul-de-sacs shall not be longer than six hundred (600) feet unless approved by the Town Board (or the Agency if power hereunder is delegated to the Agency) and shall terminate in a circular open space having a diameter at the outside of the right-of-way of at least one hundred forty (140) feet. Temporary cul-de-sacs may be permitted by the Town Board (or the Agency if power hereunder is delegated to the Agency), to be constructed to the lot line and provided with a temporary circular or "T" shaped turn-around.
- (d) Frontage or access streets shall be required in those instances where a major land division (sub-division) abuts or contains an existing or proposed arterial street on which traffic volume and vehicular speeds warrant special safety precautions to ensure no lots front arterial streets.
- (e) A street approximately parallel to a rail line, expressway, freeway, or parkway right-of-way shall be required if the land division adjoins such facility for a significant distance, with consideration given to the distance required for approach grades to future grade separations.
- (f) A clear vision triangle ("triangle"), in each quadrant of every public street or rail line intersection, shall be maintained, bounded by the street centerlines and a line connecting points on said centerlines at a specified distance from their point of intersection, in the manner illustrated in **Figure II** as contained herein, with the exception that the triangle shall be maintained for twenty five (25) feet from the right-of-way for any intersection in a Sub-division Plat. The triangle shall be cleared of all vegetation less than six (6) inches in diameter. Vegetation greater than six (6) inches in diameter may remain in the triangle at the discretion of the Town. Any vegetation remaining in the triangle shall require trimming up to eight (8) feet above the ground.



**Figure II: Clear Vision Triangle**



- (g) Grading, base course, surface course, marking and signing, landscaping, and stormwater management related to the construction of public improvements hereunder shall be in accordance with Rock County ordinances and standards established by Rock County for Town roads. All costs related to such activities related to a land division shall be borne by the applicant for that land division. The applicant for any such land division shall provide a method of financing satisfactory to the Town Board (or the Agency if power hereunder is delegated to the Agency) so as to assure compliance with all public improvement standards. The surface course shall be applied within twelve (12) months after the base course is constructed or at such later time as expressly approved by the Town Board (or the Agency if power hereunder is delegated to the Agency).
- (h) Bridges of primary benefit to any land division applicant shall be constructed at the expense of the applicant without reimbursement from the Town. Cost sharing for construction of the bridges not of

primary benefit to the applicant may be fixed by agreement between the Town, other government entities and the applicant.

- (3) *Town public improvement plan.* Any applicant for a land division which includes the construction of public improvements to be dedicated to the Town shall file with the Town (or with the Agency if power hereunder is delegated to the Agency) a public improvement plan containing all of the following:
- (a) Elevation profiles of the centerline of all existing and proposed streets;
  - (b) Elevation profile of the centerline of all existing streets that intersect with a proposed street, within six hundred (600) feet of said intersection;
  - (c) Approximate radii of all curves, lengths of tangents, and central angles on all existing streets;
  - (d) Cross-sections of all proposed streets at one hundred (100) foot stations superimposed on existing topography (the Town Board may require cross-sections every fifty (50) feet in areas in excess of nine percent (9%) slope), and the location and cross-section of street pavements including drainageway easements, right-of-ways, and street signs;
  - (e) Location, dimension, and invert elevations of existing and proposed sanitary sewers, stormwater drainageways, drainage control facilities, and fire hydrants, identification of connections to any existing or proposed utility, and the location and size of all water, gas, or other underground utilities or structures;
  - (f) Location, dimension, and name (if applicable) of all streets and improvements designated for public dedication, and all necessary utilities;
  - (g) Any other special requirements deemed necessary by the Town Board to ensure the land division is in compliance with the Town comprehensive plan or the *Rock County Comprehensive Plan*.
- (4) *Financial guarantee.* A written financial guarantee in an amount determined by the Town Board (or the Agency if power hereunder is delegated to the Agency) to be reasonably sufficient to assure the payment of the cost of

construction of all public improvements shall be provided to the Town Board by any applicant for a land division which contemplates the construction of public improvements, for all improvements not constructed at the time of approval of the final land division, complying with all conditions of approval of any application for preliminary land division and assuring the construction and performance of all necessary improvements. Said financial guarantee shall take one of the following forms and be provided in a format acceptable to the Board (or to the Agency if power hereunder is delegated to the Agency):

- (a) An insurance contract from a bonding agency;
- (b) An irrevocable letter of credit from a recognized financial institution;
- (c) An escrow account in a recognized financial institution;

The monetary amount of said guarantee shall be in an amount reasonably sufficient to assure the payment the cost of the current phase of improvement construction, in accordance with [Sec. 236.13 \(2\) \(a\)](#), Wisconsin Statutes.

- (5) *Inspection.* The Town Board (or the Agency if power hereunder is delegated to the Agency) shall, at the developer's expense, provide for inspection of public improvements during construction to ensure completion satisfactory to the Town Board (or to the Agency if power hereunder is delegated to the Agency).
- (6) *Maintenance.* Any applicant for a land division contemplating public improvements shall be required to maintain all public improvements and services associated therewith ensuring the adequate performance of all said improvements until acceptance of improvements by the Town Board, including but not limited to snow removal on streets. The Town Board may, upon notice to the applicant, plow streets or effect emergency repairs and charge the cost of the same to the applicant. Utility entities and the applicant shall be responsible for accurate replacement of all lot corners and monuments destroyed while installing utilities, within a reasonable time period after installation.
- (7) *Timeline.* For all land divisions contemplating public improvements, the public improvements shall be constructed by the applicant within twelve (12) months of approval of the final land division. Extensions to the aforementioned timeline may be applied for by the applicant prior to expiration of said timeline and granted by the Town Board upon findings

that delays are beyond the control of the applicant and that no material change in standards or conditions of the final land division has occurred or is reasonably expected to occur.

**SECTION 8: ENVIRONMENTALLY SENSITIVE AREAS, CULTURAL RESOURCES, PRODUCTIVE AGRICULTURAL SOILS, AND WOODLANDS PROTECTION AND PRESERVATION**

Environmentally Sensitive Areas ("ESAs"), cultural resources, productive agricultural soils and woodlands (collectively "Resources") shall be protected and preserved throughout the land division and development process, and land division and development shall not occur in a manner which significantly degrades or depletes any Resources, nor compromises their function or integrity, the Town comprehensive plan or Chapter 1 of this Code of Ordinances. Protection and preservation of Resources throughout the land division and development process shall be ensured utilizing the mechanisms identified herein.

- (1) *Note on final land division or deed restriction.* Upon creation of a lot of 35 acres or smaller, or upon application for a Zoning Permit for a building or accessory building, if the lot contains specified Resources, the Town Board (or the Agency if power hereunder is delegated to the Agency) may, in its discretion, require the placement of a note on the final land division POS, CSM, or Sub-division Plat, or a deed restriction, identifying specified Resources and prohibiting building and accessory building sites, and earth-disturbing activity that would significantly degrade or deplete or compromise the function or integrity of said Resources as identified therein.
- (2) *Conservation easement.* Upon creation of a lot of 35 acres or smaller, or upon application for a Zoning Permit for a building or accessory building, if the lot contains specified Resources, the Town Board (or the Agency if power hereunder is delegated to the Agency) may, in its discretion, require that a conservation easement be created on the lot. Said easement may:
  - (a) Identify the land area subject to the easement and prohibit building and accessory building sites, and earth-disturbing activity detrimental to the intent and purpose of the easement, in or on any specified Resources identified therein;
  - (b) Designate the owner of the lot subject to the easement as grantor therein and either Rock County, the Town, or some combination thereof, as grantee therein;

- (c) Contain any additional information deemed appropriate by the Town Board (or the Agency if power hereunder is delegated to the Agency).

## **SECTION 9: TOWN BUILDING SITE PERMIT**

- (1) *Town building site plan.* Any lot subject to a land division, or on which a building or accessory building requiring a Zoning Permit is proposed for construction or location, shall require a Town building site plan identifying all of the following (if applicable): construction activities and products, approximate location and dimension of lot lines, building setback lines, building/accessory building, driveway, and bounding streets, building/accessory building use, bounding streets name and type, identification and approximate location of Environmentally Sensitive Areas (“ESAs”), cultural resources, productive agricultural soils, and woodlands, and a building envelope showing areas not included in any front, rear, or side yard setback areas, ESA, cultural resources, and required POWTS area and open space in accordance with County ordinances.

Building setback lines as identified on a Town building site plan shall be in accordance with Chapter 1 of this Code of Ordinances.

(Amended by Ordinance No. 13-02)

- (2) *Application submission requirements.* A Town Building Site Permit (“Town BSP”) shall be required if a residence is proposed for construction or location on a lot. The application shall require an application form and fee and a Town Building Site Plan prepared in accordance with Subsection (1) above.

(Amended by Ordinance No. 13-02)

- (3) *Agency review.* The Committee (or the Agency if power hereunder is delegated to the Agency) shall review an application for a Town BSP for compliance with all applicable ordinances.
- (4) *Agency action.* After review and after receiving the recommendation of the Committee, the Town Board (or after review by the Agency if power hereunder is delegated to the Agency) shall take action and approve or deny with findings the application for a Town BSP and shall notify the applicant of same.
- (5) *Approval and issuance.* If the Town Board (or the Agency if power hereunder is delegated to the Agency) approves the application for a Town BSP, all construction activities and products shall be completed to specifications contained therein within twelve (12) months of issuance of the Town BSP.

Approval and issuance of a Town BSP shall be subject to the following conditions:

- (a) Building and earth-disturbing activity sites as identified in the Town BSP shall not be in/on any area subject to a deed restriction or a conservation easement created under Section 8;
- (b) Erosion control measures must be in place on the lot in accordance with a stormwater management and erosion control plan;
- (c) The Rock County Health Department must have issued a sanitary permit for the lot, or a connection to a public sanitary sewer system must have been approved for the lot;
- (d) The Rock County Public Works Department or the Town must have issued a driveway/access control permit for the lot;
- (e) The lot shall have been reviewed and approved by the Committee (or the Agency if power hereunder is delegated to the Agency) in accordance with this Chapter and shall meet all Rock County, Town, State, and any other applicable standards and regulations;
- (f) Building sites, as identified in the Town BSP, less than ten (10) feet from any building setback line shall require a foundation survey, provided by the applicant to the Zoning Officer (or the Agency if power hereunder is delegated to the Agency). The foundation survey shall identify lot lines, building setback lines, and a building's existing foundation or footings, and the distance from the lot lines to said foundation or footings, and floodplain. The foundation survey shall be submitted to the Zoning Officer (or the Agency if power hereunder is delegated to the Agency) within thirty (30) days of construction of the foundation or footings. This aforementioned timeline may be extended in cases of extenuating circumstances at the discretion of the Town Board and upon submittal of a written extension request from the applicant.

(Amended by Ordinance No.13-02)

- (6) *Completion.* The applicant's Town BSP obligations shall be deemed fulfilled only if all of the following conditions have been met within twelve (12) months of issuance of the Town BSP:
  - (a) Construction of the building is substantially completed;
  - (b) All stormwater management, erosion control, landscaping, and final grading activities over which the Town and Rock County have

review authority, in accordance with any applicable ordinances, statutes, regulations, and plans, are completed;

(Amended by Ordinance No. 13-02)

(7) *Extension.* If (5) (a) and (b) of this Sec. are not completed within twelve (12) months of issuance of the Town BSP, a Town BSP extension shall be required if the applicant wishes to complete (5) (a) and (b). The applicant shall request a Town BSP extension from the Town Board and the Town Board shall issue said extension only if all of the following conditions have been met:

- (a) Applicant requests the Town BSP extension prior to twelve (12) months from the date the Town BSP was issued;
- (b) Applicant provides to the Town Board reasonable information regarding the need for the Town BSP extension, demonstrating that events leading to the extension request are beyond the control of the applicant and that no material change in the Town BSP has or is reasonably expected to occur during the duration of the extension;
- (c) The Town Board reviews the information per (b) of this Sub-sec., finds the information sufficient, and approves the Town BSP extension at a public meeting;

A Town BSP extension may not exceed twelve (12) months, unless the Town Board approves an additional extension on a month-to-month basis, at the request of the applicant.

(8) *Town requirements in relation to County requirements.* Except as otherwise clearly and expressly set forth in this Section, nothing in this Section shall be deemed to impose any condition relating to County or Town standards or ordinances unless such County or Town standards or ordinances already apply to the subject parcel, regardless of this Section. The intent of this Section is to assure compliance with existing County and Town standards and ordinances, and not to create new requirements that an applicant comply with County and Town standards and ordinances that do not already apply, except as clearly and expressly set forth in this Section. Thus, for example, if no deed restriction is already in place for a parcel for which an application for a Town BSP is made, nothing in this Section shall be deemed to create or require a new deed restriction.

## **SECTION 10: DELEGATION OF POWERS**

The Town Board may delegate the administration and enforcement of all or portions

of the provisions of this Chapter to the Rock County Planning, Economic and Community Development Agency under a Memorandum of Agreement as contemplated and permitted under Rock County Ordinances.

#### **SECTION 11: PENALTIES**

Any person convicted of a violation of this Chapter shall be subject to a fine of not less than \$100 nor more than \$5000, together with the costs of prosecution and the cost of remediation of any violation. The Town may obtain injunctive relief to prevent and abate further violations. Each day a violation exists or continues shall constitute a separate violation. In default of payment, the violator shall be imprisoned in the county jail until such fine and costs are paid, such imprisonment not to exceed 90 days.

#### **SECTION 12: SEVERABILITY**

Should any portion of this Chapter be declared to be unlawful or unconstitutional at any time, it shall be deemed severable from the rest of the Chapter and shall not affect the lawfulness or constitutionality of the remainder of the Chapter.

(Chapter created by Ord. No. 12-1)



**TOWN OF JOHNSTOWN**  
**CHAPTER 18 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**BOARD SIZE**

**SECTION 1: FIVE MEMBER BOARD**

The number of Town supervisors is increased to five pursuant to [Wis. Stat. § 60.21\(1\)](#).

**SECTION 2: TRANSITION**

For the spring election in April of 2017, a chair and four supervisors shall be elected. Candidates shall be nominated at the caucus for the office of the chair and for two additional numbered supervisor positions with each to serve two-year terms. Candidates shall be nominated for an additional two numbered supervisor positions to be elected for one-year terms. Each year thereafter, two supervisors will be elected for two-year terms at each spring election so as to create and perpetuate staggered terms.

(Chapter created by Ordinance No. 16-2)

**TOWN OF JOHNSTOWN**  
**CHAPTER 19 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**  
**WIND ENERGY SYSTEMS**

**SECTION 1. INTRODUCTION AND DEFINITIONS**

**1.1 Authority**

The Town Board of Johnstown has created this Chapter of the Municipal Code of the Town of Johnstown, Rock County, Wisconsin, under the authority granted to it pursuant to Wisconsin Statutes [Section 66.0401](#).

**1.2 Purpose**

The purpose of this Chapter is to, within the limited authority granted to the Town Board as a political subdivision, restrict the installation and use of Wind Energy Systems within the Town of Johnstown, establish procedures for regulation of Wind Energy Systems within the Town of Johnstown, and preserve and protect the public health and safety within the Town of Johnstown.

**1.3 Intent**

It is the general intent of this Chapter to regulate, within the limited authority granted to the Town Board by the [Sections 66.0401](#) and [66.0403](#) of the Wisconsin Statutes, the installation and use of Wind Energy Systems within the Town of Johnstown.

**1.4 Abrogation and Lesser Restrictions**

It is not intended by this Chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, or permits adopted or issued pursuant to law. If any specific provision of this Chapter is found to be a greater restriction than a specific restriction created by [Wisconsin Code Chapter PSC 128 – Wind Energy Systems](#), authorized by Wisconsin Statute Section 196.378(4g)(b), then the lesser restriction of [Wisconsin Code Chapter PSC 128](#) shall apply.

**1.5 Interpretation**

The provisions of this Chapter shall be liberally construed in favor of the Town and public health and safety and shall not be deemed a limitation or repeal of any other

power granted by the Wisconsin Statutes.

1.6 Severability

Should any provision in this Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

1.7 Definitions

- (A) “Applicant” means an Owner applying to the Town of Johnstown for approval of a Wind Energy System to be sited fully or partially within the Town of Johnstown and/or for a Permit.
- (B) “Application” means an application to the Committee for approval of a Wind Energy System to be sited fully or partially within the Town of Johnstown, Rock County, Wisconsin.
- (C) “Commercial Communications” includes communications used by government and military entities for emergency purposes, licensed amateur radio service, and non-emergency communications used by agricultural, business, government, and military entities including aviation radar, commercial mobile radio service, fixed wireless service, global positioning, line-of-sight, microwave, Personal Communications service, weather radar, and wireless internet service.
- (D) “Commission” means the Wisconsin Public Service Commission.
- (E) “Committee” means a Wind Energy committee composed of the members of the Town’s planning and zoning committee, but excluding the member of the planning and zoning committee who is also a member of the Town Board, and adding a member of the Town’s board of adjustment appointed by the Town Chair.
- (F) “Decommissioning” means removing wind turbines, buildings, cables, electrical components, roads, and any other facilities associated with a Wind Energy System that are located at the site of a Wind Energy System and restoring the site of the Wind Energy System.
- (G) “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 specifications, “maximum blade tip height” means the actual hub height plus the blade length.
- (H) “Nameplate Capacity” means the nominal generating capacity of a Wind Energy System, as listed in the wind turbine specifications provided by the wind turbine manufacturer.

- (I) “Nonparticipating Property” means real property that is not a Participating Property.
- (J) “Nonparticipating Residence” means a residence located on Nonparticipating Property.
- (K) “Occupied Community Building” means a school, church or similar place of worship, daycare facility or public library.
- (L) “Owner” means:
  - (1) A person with a direct ownership interest in a Wind Energy System, regardless of whether the person was involved in acquiring the necessary rights, permits and approvals or otherwise planning for the construction and operation of a Wind Energy System.
  - (2) 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.
- (M) “Participating Property” means any of the following:
  - (1) Property on which a Wind Energy System is located.
  - (2) Real property that is the 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; and 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.
- (N) “Participating Residence” means a residence located on a Participating Property.
- (O) “Personal Communications” includes wireless telecommunications, Personal Communications service, radio, television, wireless internet service, and other systems used for personal use purposes.
- (P) “Residence” means an occupied primary or secondary personal residence including a manufactured home, a hospital, community-based residential facility, residential care apartment complex or similar facility, or a nursing home. “Residence” includes a temporarily unoccupied primary or secondary personal residence. “Residence” does not include any of the following: (a) recreational vehicles; (b) camping trailers; or (c) permanently abandoned personal residences.

- (Q) “Shadow Flicker” means a pattern of moving shadows cast on a Residence or an Occupied Community Building caused by sunlight shining through moving wind turbine blades resulting in alternating changes in light intensity.
- (R) “Small Wind Energy System” means a Wind Energy System that has a total installed Nameplate Capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed Nameplate Capacity of not more than 100 kilowatts.
- (S) “Turbine Host Property” means real property on which at least one wind turbine is located.
- (T) “Wind Energy System” means equipment and associated facilities that convert and then store or transfer energy from the wind into usable forms of energy.
- (U) “Wind Energy System Emergency” means a condition or situation at a Wind Energy System that presents a significant threat of physical danger to human life or a significant threat to property or a natural event that causes damage to Wind Energy System Facilities.
- (V) “Wind Energy System Facility” means any component of a Wind Energy System, such as a wind turbine, collector circuit, access road, electric system interconnection facility or operation and maintenance facility.

## SECTION 2. PROCEDURE

### 2.1 Approval Required

No Owner may construct a Wind Energy System within the Town of Johnstown or expand an existing or previously-approved Wind Energy System within the Town of Johnstown without first obtaining approval from the Committee.

### 2.2 Reimbursement of Expenses

The Applicant shall reimburse the Town for all expenses incurred by the Town in conjunction with the review of an Application (including the fees of engineers, attorneys, planners, environmental specialists, and other consultants or experts retained by the Town).

### 2.3 Pre-Application Notice

- (A) At least 90 days before filing an Application with the Town regarding a Wind Energy System, except a Small Wind Energy System, the Owner shall

use a commercially reasonable method to provide written notice of the planned Wind Energy System to all of the following:

- (1) The owners of land located within one mile of the Turbine Host Property;
  - (2) The Town Clerk of the Town of Johnstown and to the city, village, town, or county within which the Wind Energy System will be located;
  - (3) Emergency first responders and air ambulance service providers servicing the Town of Johnstown and any city, village, town, or county within which the Wind Energy System will be located;
  - (4) The Wisconsin Department of Transportation;
  - (5) The Commission (although, if the Maximum Blade Tip Height of the Wind Energy System shall exceed 600 feet, notice must be provided to the Commission at least 180 days prior to making an Application);
  - (6) the Wisconsin Department of Natural Resources;
  - (7) The Wisconsin Department of Agriculture, Trade and Consumer Protection; and
  - (8) The Office of the Deputy Undersecretary of the U.S. Department of Defense.
- (B) At least 60 days before filing an Application with the Town regarding a Small Wind Energy System, the Owner shall use a commercially reasonable method to provide written notice of the planned Wind Energy System to all of the following:
- (1) Adjacent land owners; and
  - (2) The Town Clerk of the Town of Johnstown and to the city, village, town, or county within which the Wind Energy System will be located.
- (C) The pre-Application notice shall contain the following information:
- (1) A complete description of the Wind Energy System, including the number and size of the planned wind turbines;
  - (2) A map showing the planned location of all Wind Energy System Facilities;
  - (3) Contact information for the Owner;
  - (4) A list of all potential permits or approvals the Owner anticipates may be necessary for construction of the Wind Energy System; and

- (5) Whether the Owner requests the Town of Johnstown to be a part of a joint review process and the name of each city, village, town, or county that may participate in the joint review process (in which case the Town Clerk and the chairperson of the Committee shall coordinate with officials from participating.

## 2.4 Application

- (A) Each Application for approval of a Wind Energy System under this Chapter shall be filed with the Town Clerk. In addition to filing the original Application, the Applicant shall also provide the Town Clerk with 10 duplicate copies of the Application for use by the Town during the Application process. An Application shall contain the following information and the additional requirements specified on the Commission's website (see the publication "Application Filing Requirements, Wind Energy Systems, Less than 100 MW" dated September 2012, available at: <http://psc.wi.gov/renewables/documents/localWindAFR.pdf>, or successive publications), in compliance with Wisconsin Administrative Code [Section PSC 128.50\(1\)](#):
  - (1) Wind energy system description and maps showing the locations of all proposed wind energy facilities.
  - (2) Technical description of wind turbines and wind turbine sites.
  - (3) Timeline and process for constructing the Wind Energy System.
  - (4) Information regarding anticipated impact of the Wind Energy System on local infrastructure.
  - (5) Information regarding noise anticipated to be attributable to the Wind Energy System.
  - (6) Information regarding Shadow Flicker anticipated to be attributable to the Wind Energy System.
  - (7) Information regarding the anticipated effects of the Wind Energy System on existing land uses within 0.5 mile of the Wind Energy System, or in the case of a Small Wind Energy System, information regarding the anticipated effects of the Small Wind Energy System on existing land uses on parcels adjacent to the Small Wind Energy System.

- (8) Information regarding the anticipated effects of the Wind Energy System on airports and airspace.
  - (9) Information regarding the anticipated effects of the Wind Energy System on line-of-sight communications (see also Section 3.4(A), below).
  - (10) A list of all state and federal permits required to construct and operate the Wind Energy System.
  - (11) Information regarding the planned use and modification of roads within the Town during the construction, operation, and Decommissioning of the Wind Energy System, including a process for assessing road damage caused by Wind Energy System activities and for conducting road repairs at the Owner's expense.
  - (12) A copy of all emergency plans developed in collaboration with appropriate first responders under Section 3.6(D)(2). An Owner may file plans using confidential filing procedures as necessary. This Section 2.4(A)(12) does not apply in the case of a Small Wind Energy System.
  - (13) A Decommissioning and site restoration plan providing reasonable assurances that the Owner will be able to comply with Section 5. This Section 2.4(A)(13) does not apply in the case of a Small Wind Energy System.
  - (14) A representative copy of all notices issued under Sections 2.4(B), 2.3, and 2.9.
  - (15) Any other information necessary to understand the construction, operation or Decommissioning of the proposed Wind Energy System.
- (B) On the same day that the Application is filed with the Town Clerk, the Applicant shall mail or deliver written notice of the Application to the owners of land adjoining the site where the Applicant plans to install a Wind Energy System and the owners and residents of land within 1 (one) mile of any proposed Wind Energy System Facility. In the case of a Small Wind Energy System, the notice required in this paragraph must only be delivered or mailed by the Applicant to the owners and residents of parcels adjacent to the proposed Small Wind Energy System. This notice shall include the following information:



- (1) A complete description of the Wind Energy System, including the number and size of the wind turbines;
  - (2) A map showing the locations of all proposed Wind Energy System Facilities;
  - (3) The proposed timeline for construction and operation of the Wind Energy System;
  - (4) Locations where the Application is available for public review; and
  - (5) The Owner's contact information.
- (C) Upon receipt of an Application, the Town Clerk shall publish a class 1 notice (as defined in Wisconsin Statutes [Chapter 985](#)) stating that an Application has been filed with the Town. This notice shall contain the following information:
- (1) A brief description of the Wind Energy System and its proposed location;
  - (2) The locations where the Application is available for public review;
  - (3) That written comments regarding the Application, which shall be reviewed by the Committee as part of any hearing, may be submitted to the Town Clerk at any time until 48 hours prior to the Committee's hearing, and that at or prior to the public hearing the Committee shall schedule a time for oral public comments regarding the Application.
- (D) Public Review and Comment:
- (1) The Town Clerk shall deliver one copy of the Application to the Hedberg Public Library in Janesville, Wisconsin (or any successor library that services the Town of Johnstown) for public review. The Town Clerk shall make a second copy of the Application available for public review at the Town Hall during the normal hours of business.
  - (2) The Town Clerk shall compile all written comments regarding the Application that are received at least 48 hours prior to the Committee's hearing on the Application and deliver those comments to the members of the Committee.
  - (3) The chairperson of the Committee shall schedule a meeting to obtain comments from the public regarding the Application and to inform the public about the proposed Wind Energy System. Such meeting

may be a part of or immediately prior to the Committee's hearing on the Application (discussed below).

- (E) The Town Clerk shall determine if the Application is complete.
- (1) If the Application is complete, the Town Clerk shall, within 45 days of receiving an Application notify the Applicant that the Application is complete. The Town Clerk shall then deliver to each member of the Committee a copy of the Application.
  - (2) Within 10 days of determining that an Application is complete, the Town Clerk shall provide the Applicant with a written estimate of the expenses that are likely to be incurred by the Town during the Application process. The notice shall state that no written decision of the Committee shall be issued unless and until fifty percent of the estimated Town expenses are paid to the Town Clerk to reimburse the Town for the actual expenses associated with review of the Application (to include the fees of engineers, attorneys, planners, environmental specialists, and other consultants or experts retained by the Town or Committee).
  - (3) If the Application is not complete, the Town Clerk shall, within 45 days of receiving an Application notify the Applicant that the Application is not complete. The notice shall state the reason that for the determination that the Application is not complete. If the Application is incomplete the Town shall take no further action regarding the Application. An Applicant may supplement and re-file any Application that has been determined to be incomplete. Upon supplementing or refilling an Application all deadlines applicable to the Application process shall start again. Minor modifications to the Application shall not be considered supplementing or refilling an Application by the Applicant.
  - (4) If the Town Clerk, or the Committee in the absence of action by the Town Clerk, shall not notify the Applicant within 45 days of the Application being filed that it is incomplete, the Application shall be considered complete.

## 2.5 Hearing

- (A) Within 90 days of the Town Clerk determining that an Application is complete, the Committee shall hold one or more hearings on the Application. The chairperson of the Committee shall schedule the hearing(s). The Town Clerk shall publish notice of the hearing, and shall mail a notice regarding the hearing(s) to the Applicant, the owner of any Participating Property identified in the Application, and to the owners of land adjoining

the property on which the Applicant intends to operate a Wind Energy System.

- (B) The Committee, directly or through the Town Clerk, may request any additional information necessary to understand the Wind Energy System after the Town Clerk has determined that the Application is complete. An Owner shall provide additionally requested information, in a timely, complete, and accurate manner.
- (C) Within 90 days of the Town Clerk determining that an Application is complete and subsequent to any hearings held by the Committee, the Committee shall approve or disapprove the Application. If the Committee shall not render a decision on the Application within 90 days, the Application is considered approved. That said, the Committee may extend the time for rendering a decision on the Application as follows, so long as the total time of extension does not exceed an additional 90 days:
  - (1) Up to 45 additional days if the Committee needs additional information in order to render a decision regarding the Application;
  - (2) Up to 90 additional days if the Applicant makes a material modification to the Application; and/or
  - (3) Up to 90 additional days for other good cause stated in writing by the Committee.
- (D) The Committee shall create a record of its proceedings regarding each Application. The record shall be maintained by the Town Clerk. All public hearings held by the Committee regarding an Application shall be recorded. Copies of all documents submitted at any public hearing or provided to the Committee in connection with the Application shall be a part of the record.
- (E) The Committee's decision to approve or disapprove the Application shall be based on written findings of fact that are supported by the record, discussed above. If an Application is denied, the decision shall specify the reason(s) for the denial. If an Application is approved, the Town Clerk shall provide the Applicant with a duplicate original of the written decision of the Committee which shall be recorded by the Applicant with the Register of Deeds.
- (F) The Committee's approval of an Application may be conditioned upon any one or more of the following:
  - (1) Information. Receipt of information about whether an Owner has consulted with and received any non-binding recommendations for constructing, operating or Decommissioning the Wind Energy System from a state or federal agency, and whether the Owner has incorporated such non-binding recommendations into the design of the Wind Energy System. This Section 2.5(F)(1) does not apply in the case of a Small Wind Energy System.

- (2) Studies. The Owner's cooperation with any study of the effects of Wind Energy Systems coordinated by a state agency. This Section 2.5(F)(2) does not apply in the case of a Small Wind Energy System.
- (3) Monetary Compensation. An Owner of a Wind Energy System offering an agreement that includes annual monetary compensation to the owner of a Nonparticipating Residence, if the residence is located within 0.5 mile of a constructed wind turbine. For one turbine located within 0.5 mile of a Nonparticipating Residence, the initial annual monetary compensation may not exceed \$600. For two turbines located within 0.5 mile of a Nonparticipating Residence, the initial annual monetary compensation may not exceed \$800. For three or more turbines located within 0.5 mile of a Nonparticipating Residence, the initial annual monetary compensation may not exceed \$1,000. The initial annual monetary compensation under this subsection shall apply to agreements entered into in 2011. For agreements entered into in 2012 and thereafter, the initial annual amounts shall increase each year by the greater of two percent or the increase in the Consumer Price Index, as described in Wisconsin Statutes Section [196.374\(5\)\(bm\)2.b.](#), from the previous year. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under this chapter and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under this Chapter. This Section 2.5(F)(3) does not apply in the case of a Small Wind Energy System.
- (4) Aerial Spraying. The Owner of a Wind Energy System, except the Owner of a Small Wind Energy System, offering an agreement that includes monetary compensation to a farm operator farming on a Nonparticipating Property located within 0.5 mile of a constructed wind turbine if the farm operator demonstrates all of the following:
  - (a) Substantial evidence of a history, before the Wind Energy System Owner gives notice under s. [PSC 128.105\(1\)](#), of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans, sweet corn, field corn, soybeans, alfalfa, wheat or any other crops on all or part of a farm field located within 0.5 mile of a constructed wind turbine.
  - (b) A material reduction in potato, pea, snap bean or sweet corn production or a material increase in application costs on all

or part of a farm field located within 0.5 mile of a constructed wind turbine as a result of the Wind Energy System's effect on aerial spraying practices.

- (5) Permits. The Owner's submission to the Committee of copies of all necessary state and federal permits and approvals.
  - (6) Annual Reports. The Owner, except the Owner of a Small Wind Energy System, filing an annual report with the Committee documenting the operation and maintenance of the Wind Energy System during the previous calendar year.
  - (7) Financial Assurances. The Owner complying with financial assurances for Decommissioning as the Committee may require pursuant to Section 5.3(B) and (C).
- (G) The Owner of a Wind Energy System shall provide the Town Clerk with timely notice regarding any change in the Ownership of a Wind Energy System.

## 2.6 Grounds for Disapproval of Application

The Committee may deny an Application for any of the following reasons:

- (A) The proposed site for a Wind Energy System, of a nominal capacity of at least one megawatt, is in an area primarily designated for future residential or commercial development as shown on a map that is adopted as a part of the Town's comprehensive plan dated June 2, 2009 or earlier or shown on such a map, after December 31, 2015, that is a part of the Town's updated comprehensive plan.
- (B) The Owner did not provide the pre-Application notice to all interested persons and agencies as required in Section 2.3.
- (C) The Owner did not provide sufficiently timely, complete, and accurate additional information requested by the Committee that is necessary to understand the Wind Energy System.
- (D) The Owner has not made reasonable efforts to ascertain and accommodate any land use or commercial enterprise located on a Nonparticipating Property within 0.5 mile of a proposed wind turbine site, if such land use or commercial enterprise exists when the Owner provides its pre-Application notice required in Section 2.3, above, or if complete publicly-available plans for construction are on file with the Town of Johnstown (or a city, village, town, or county that is participating in a joint review process) within 30 days

of the date the Owner provides the pre-Application notice required in Section 2.3. In the case of Small Wind Energy Systems, the provisions of this paragraph only apply to adjacent Nonparticipating Properties.

- (E) The Owner has not designed the Wind Energy System to reasonably minimize the conversion of land from agricultural use.
- (F) The Owner has not worked with the Town or the owner of a Participating Property or Nonparticipating Property to site a wind turbine to minimize individual hardships.
- (G) The Application does not comply with any requirement of this Chapter or [Chapter PSC 128](#) of the Wisconsin Administrative Code.
- (H) Information provided by the Applicant in the Application is not accurate.

## 2.7 Review and Appeal

- (A) Any person aggrieved by a decision or enforcement action of the Town Clerk or the Committee in connection with an Application may petition the Town Board for a review of the aggrieving decision within 30 days of when such a decision was made. The petition shall be filed with the Town Clerk and the administrative review process shall be administered in accordance with Wisconsin Statute [Section 68.11](#). The administrative review process of the Town Board shall be completed within 90 days thereof or on the 90th day after such a petition is filed the process shall be deemed complete.
- (B) The Town Clerk shall within 30 days after receiving a notice from the Commission that an appeal has been filed with that body, provide a certified copy of the record, described in Section 2.8, to the Commission.

## 2.8 Record

- (A) The record of a decision by the Committee (and any review by the Town Board) shall include all of the following:
  - (1) The approved Application and all additions or amendments to the Application.
  - (2) A representative copy of all notices issued under Sections 2.3, 2.4(B), and 2.9.
  - (3) A copy of any notice or correspondence that the Town issues related to the Application.

- (4) A record of any public meeting under Section 2.4(D)(3) and any hearing related to the Application. The record may be an electronic recording, a transcript prepared from an electronic recording, or a transcript prepared by a court reporter or stenographer. The record shall include any documents or evidence submitted by meeting or hearing participants.
  - (5) Copies of any correspondence or evidentiary material that the Town considered in relation to the Application, including copies of all written public comments filed under Section 2.4(D)(2).
  - (6) Minutes of Committee or Town Board meetings held to consider or act on the Application.
  - (7) A copy of the written decision under Section 2.5(E).
  - (8) Other materials that the Committee or Town Board prepared to document its decision-making process.
  - (9) A copy of any Town ordinance cited in or applicable to the decision.
- (B) Post-construction Filing Requirement. Within 90 days of the date a Wind Energy System commences operation, the Owner shall file with the Town Clerk and the 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. An Owner shall in the filings under this subsection label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under Section 3.6(A)(7). The post-construction filing shall be kept in with the record of the Application maintained by the Town Clerk. This Section 2.8(B) does not apply in the case of a Small Wind Energy System.
- (C) Denied Applications. The record regarding any Application which is denied shall be retained by the Town Clerk for 7 calendar years following the year in which the Application is denied.
- (D) Approved Applications. The record regarding any Application which is approved shall be retained by the Town Clerk until 7 calendar years following the year in which the Wind Energy System is Decommissioned.

## 2.9 Pre-Construction Notice

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 land owners with a 0.5 mile radius of the planned Wind Energy System Facility. The notice shall comply with Wisconsin Administrative Code [Sections PSC 128.42\(1\)](#) and [PSC 128.40\(1\)](#). A copy of the notice shall be filed with the Town Clerk. The Owner shall keep current and on file with the Town Clerk the name and contact information for the Owner's contact person. This Section 2.9 does not apply in the case of a Small Wind Energy System.

## 2.10 Testing

If the Town Board determines that testing regarding an existing or planned Wind Energy System to be conducted by an Owner is objectionable, it shall notify the Owner of its objection. If the Owner does not satisfactorily address the Town's objections within a time set by the Town Board, then the Town Board may petition the Commission to impose reasonable restrictions on the Owner's actual or planned testing activity.

## 2.11 Modification

An Owner shall not make a material change to a Wind Energy System's design, location, or construction without the prior written approval of the Committee. Upon the Owner's Application for a modification due to a material change, the Committee shall consider only the modification and shall not reconsider aspects of the Wind Energy System previously approved. The Committee shall consider only those issues relevant to the proposed change. An Application for modification due to a material change shall be governed by all aspects of this Chapter regarding an Application, except that the Application itself need only contain that information that is necessary to understand the material change and the Committee may, in its discretion, hold or not hold one or more public meetings to obtain public comment regarding the proposed change.

## 2.12 Compliance Monitoring

- (A) Construction. During construction the Committee may engage a third-party inspector to monitor and report to the Committee regarding the Owner's compliance with permit requirements. The Owner shall pay to the Town a fee for such monitoring that shall be equal to the total cost of the third-party inspector's fees for monitoring and reporting services. This Section 2.12(A) does not apply in the case of a Small Wind Energy System.



(B) Ongoing Compliance

- (1) The Committee may conduct a review of Wind Energy System compliance within the Town.
- (2) The purpose of the review shall be to determine whether each Wind Energy System within the Town is operated in compliance with any condition(s) and whether each is maintained in good repair and operating condition.
- (3) The Committee may request relevant information from each Owner to be returned by a date not less than 30 days before a hearing.
- (4) The Committee may retain a third-party inspector who shall inspect each Wind Energy System site for compliance with the condition(s) relevant to each and the level of maintenance and operating condition of each Wind Energy System. The inspector shall render a written report to the Committee not less than 30 days prior to a hearing.
- (5) 30 days prior to a hearing before the Committee regarding ongoing compliance, a class 1 notice shall be published. The Committee shall subsequently hold a hearing on the ongoing compliance of Wind Energy Systems. The Committee may hear from Owners and the public regarding compliance with conditions and the level of maintenance and operating condition of each Wind Energy System.
- (6) The Town Clerk shall assess a compliance monitoring fee to each Owner of a Wind Energy System that shall be equal to the total fee of the third-party inspector divided by the total number of Wind Energy Systems in the Town; plus \$100 for each Wind Energy System. A notice regarding the fee to be paid shall be sent to the Owner at least 30 days prior to the Committee's hearing and shall be payable at the time of the hearing.
- (7) This Section 2.12(B) does not apply in the case of a Small Wind Energy System.

### SECTION 3. REQUIREMENTS

#### 3.1 Siting Criteria

- (A) An Owner shall design and construct a Wind Energy System, except a Small Wind Energy System, using the wind turbine setback distances shown in Table 1 (all distances shall be measured as a straight line from the vertical center 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):

<b>Table 1</b>	
<b>Setback Description</b>	<b>Setback Distance</b>
Occupied Community Buildings	The lesser of 1,250 feet or 3.1 times the maximum blade tip height
Participating Residences	1.1 times the maximum blade tip height
Nonparticipating Residences	The lesser of 1,250 feet or 3.1 times the maximum blade tip height
Participating Property Lines	None
Nonparticipating Property Lines	1.1 times the maximum blade tip height
Public Road Right-of-Way	1.1 times the maximum blade tip height
Overhead Communication and Electric Transmission or Distribution Lines — Not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height
Overhead Utility Service Lines — Lines to individual houses or outbuildings	None

- (B) The owner of a Nonparticipating Residence or Occupied Community Building may waive the applicable setback distances in Table 1 for structures so that the minimum setback distance shall be 1.1 times the Maximum Blade Tip Height. The owner of a Nonparticipating Property may waive the applicable setback distance in Table 1 for a Nonparticipating Property line.
- (C) An Owner shall design and construct a Small Wind Energy System using the wind turbine setback distances shown in Table 2 (all distances shall be measured as a straight line from the vertical center 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):

<b>Table 2</b>	
<b>Setback Description</b>	<b>Setback Distance</b>
Occupied Community Buildings	1.0 times the maximum blade tip height
Participating Residences	None
Nonparticipating Residences	1.01 times the maximum blade tip height
Participating Property Lines	None

Nonparticipating Property Lines	1.0 times the maximum blade tip height
Public Road Right-of-Way	None
Overhead Communication and Electric Transmission or Distribution Lines — Not including utility service lines to individual houses or outbuildings	1.0 times the maximum blade tip height
Overhead Utility Service Lines — Lines to individual houses or outbuildings	None

- (D) The owner of an adjacent Nonparticipating Residence or adjacent Occupied Community Building may waive the applicable turbine setback distances stated in Table 2, above.

### 3.2 Noise

- (A) Definitions. In this Section 3.2, nighttime hours are the hours beginning at 10:00 p.m. and ending at 6:00 a.m. daily and daytime hours are the hours beginning at 6:00 a.m. and ending at 10:00 p.m. daily.
- (B) Planning. The noise limits in this Section 3.2 apply at the outside wall of a Nonparticipating Residence or Occupied Community Building that exists when the Owner gives the pre-Application notice under Section 2.3, above, or for which complete publicly-available plans for construction are on file with the Town of Johnstown, or a city, village, town, or county, within 30 days of the date on which the Owner gives the pre-Application notice required under Section 2.3. An Owner shall design the proposed Wind Energy System to minimize noise at a Nonparticipating Residence or Occupied Community Building to the extent reasonably practicable. An Owner shall design a Wind Energy System to comply with the noise standards in this section under planned operating conditions.
- (C) Noise Limits. An Owner shall operate the Wind Energy System so that the noise attributable to the Wind Energy System does not exceed 50 dBA during daytime hours and 45 dBA during nighttime hours. Notwithstanding the prior sentence, 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 the noise.
- (D) Compliance
- (1) If an Owner uses sound level measurements to evaluate compliance with this section at a Nonparticipating Residence or Occupied

Community Building, those measurements shall be made as near as possible to the outside wall nearest to the closest wind turbine, or at an alternate wall as specified by the owner of the Nonparticipating Residence or Occupied Community Building. The Owner may take additional measurements to evaluate compliance in addition to those specified by this section.

- (2) Upon receipt of a complaint regarding a violation of the noise standards in Section 3.2(C), above, an Owner shall test for compliance with the noise limits above. The Committee may not require additional testing to show compliance with Section 3.2(C), above, if the Owner has provided the results of an accurate test conducted within 2 years of the date of the complaint showing that the Wind Energy System is in compliance with Section 3.2(C), at the location relating to the complaint.
  - (3) Methods available for the Owner to comply with Section 3.2(C) include operational curtailment of one or more wind turbines. Upon receipt of a complaint about a noise under Section 3.2(C), the Owner shall use operational curtailment to eliminate the noise until the Owner permanently corrects the problem.
  - (4) An Owner, except the Owner of a Small Wind Energy System, shall evaluate compliance with Section 3.2(C) as part of pre- and post-construction noise studies. An Owner shall conduct pre- and post-construction noise studies under the most current version of the noise measurement protocol as described in Wisconsin Administrative Code Section [PSC 128.50 \(2\)](#).
- (E) Waiver. Upon request by an Owner of a Wind Energy System, an owner of an affected Nonparticipating Residence or Occupied Community Building may relieve the Owner of the Wind Energy System of the requirement to meet any of the noise limits in this section at the affected Nonparticipating Residence or Occupied Community Building by written contract with the Wind Energy System Owner. Unless otherwise provided in a contract signed by an Owner of an affected Nonparticipating Residence or Occupied Community Building, a waiver by an owner of an affected Nonparticipating Residence or Occupied Community Building is an encumbrance on the real property, runs with the land until the Wind Energy System is Decommissioned, and shall be recorded in compliance with [Chapter 706](#) of the Wisconsin Statutes.
- (F) Notification. Before entering into a contract under Section 3.2(E) an Owner of a Wind Energy System shall provide written notice of the requirements of this section to the owner of an affected Nonparticipating Residence or Occupied Community Building. Before the initial operation of the Wind

Energy System, an Owner of a Wind Energy System shall provide notice of the requirements of this section to an owner of a Nonparticipating Residence or Occupied Community Building within 0.5 mile of a constructed wind turbine that has not entered into a contract under Section 3.2(E). In the case of a Small Wind Energy System, the notice required in this paragraph must only be provided by the Owner to the resident and owner of each adjacent Nonparticipating Residence and Occupied Community Building before initial operation of the Small Wind Energy System.

### 3.3 Shadow Flicker

#### (A) Planning

- (1) The Shadow Flicker requirements in this Section 3.3 apply to a Nonparticipating Residence or Occupied Community Building that exists when the Owner gives the pre-Application notice required under Section 2.1 or for which complete publicly-available plans for construction are on file with a political subdivision within 30 days of the date on which the Owner gives the pre-Application notice required under Section 2.3.
- (2) An Owner shall design the proposed Wind Energy System to minimize Shadow Flicker at a Nonparticipating Residence or Occupied Community Building to the extent reasonably practicable.
- (3) An Owner, except the Owner of a Small 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 Occupied Community Building will experience more than 30 hours per year of Shadow Flicker under planned operating conditions.

- (B) Limits. An Owner shall operate the Wind Energy System in a manner that does not cause more than 30 hours per year of Shadow Flicker at a Nonparticipating Residence or Occupied Community Building. If a Nonparticipating Residence or Occupied Community Building experiences more than 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.

(C) Shadow Flicker Mitigation

- (1) An Owner of a Wind Energy System shall work with an owner of a Nonparticipating Residence or Occupied Community Building to mitigate the effects of Shadow Flicker to the extent reasonably practicable.
- (2) An Owner, except the Owner of a Small Wind Energy System, shall provide reasonable Shadow Flicker mitigation at the Owner's expense for a Nonparticipating Residence or Occupied Community Building experiencing 20 hours or more per year of Shadow Flicker.
- (3) An Owner, except the Owner of a Small Wind Energy System, shall model Shadow Flicker and a Nonparticipating Residence or Occupied Community Building is eligible for mitigation if computer modeling shows that Shadow Flicker at the Nonparticipating Residence or Occupied Community Building will be 20 hours or more per year. An owner of a Nonparticipating Residence or Occupied Community Building is not required to document the actual hours per year of Shadow Flicker if modeling indicates the Nonparticipating Residence or Occupied Community Building is eligible for mitigation. A Nonparticipating Residence or Occupied Community Building that experiences 20 hours or more per year of Shadow Flicker based on records kept by the resident of a Nonparticipating Residence or the occupant of an Occupied Community Building shall also be eligible for mitigation.
- (4) An Owner, except the Owner of a Small Wind Energy System, may provide Shadow Flicker mitigation for any residence or Occupied Community Building in addition to the mitigation required under Section 3.3(C)(2).
- (5) The requirement under Section 3.3(C)(2) to mitigate Shadow Flicker applies when the Owner, except the Owner of a Small Wind Energy System, receives a complaint or request for mitigation regarding Shadow Flicker for an eligible Nonparticipating Residence or Occupied Community Building. If Shadow Flicker mitigation is required, the Owner of the Wind Energy System shall allow the owner of the Nonparticipating Residence or Occupied Community Building to choose a preferred reasonable mitigation technique, including installation of blinds or plantings at the Wind Energy System Owner's expense.

- (D) Waiver. Upon request by an Owner of a Wind Energy System, an owner of an affected Nonparticipating Residence or Occupied Community Building may relieve the Wind Energy System Owner of a requirement under

Sections 3.3(B) and 3.3(C)(2) at the affected Nonparticipating Residence or Occupied Community Building by written contract with the Wind Energy System Owner. Unless otherwise provided in a contract signed by an owner of an affected Nonparticipating Residence or Occupied Community Building, a waiver by an owner of an affected Nonparticipating Residence or Occupied Community Building is an encumbrance on the real property and runs with the land until the Wind Energy System is Decommissioned, and shall be recorded under Wisconsin Statutes [Chapter 706](#).

- (E) Notification. Before entering into a contract under Section 3.3(D), a Wind Energy System Owner, except the Owner of a Small Wind Energy System, shall provide notice of the requirements of this Section 3.3 to individual owners of an affected Nonparticipating Residence or Occupied Community Building. Before the initial operation of the Wind Energy System, a Wind Energy System Owner, except the Owner of a Small Wind Energy System, shall provide notice of the requirements of this Section 3.3 to an owner of a Nonparticipating Residence or Occupied Community Building within 0.5 mile of a constructed wind turbine that has not entered into a contract under Section 3.3(D).

#### 3.4 Signal Interference

- (A) Planning. Except as provided in Section 3.4(D), the signal interference requirements in this section apply to Commercial Communications and Personal Communications in use when the Wind Energy System begins operation. An Owner shall use reasonable efforts to avoid causing interference with Commercial Communications and Personal Communications to the extent practicable. An Owner may not construct Wind Energy System Facilities within existing line-of-sight communication paths that are used by government or military entities to provide services essential to protect public safety. An Owner shall provide information to the Town showing that wind turbines and other Wind Energy System Facilities will be in compliance with this paragraph.
- (B) Commercial Communications Interference Mitigation. An Owner 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 3.4(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. This Section 3.4(B) does not apply in the case of Small Wind Energy Systems.

- (C) Personal Communications Interference Mitigation. An Owner 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. An Owner shall 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 0.5 mile from a wind turbine. Before implementing mitigation measures, the Owner shall consult with affected parties regarding the preferred mitigation solution for Personal Communications interference problems. Except as provided in Section 3.4(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. This Section 3.4(C) does not apply in the case of Small Wind Energy Systems.
- (D) Mitigation Protocol. Under any protocol established under Wisconsin Administrative Code Section [PSC 128.50 \(2\)](#), an Owner shall 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 Sections 3.4(B) or (C) and for which the original mitigation solution implemented is only partially effective. This Section 3.4(D) does not apply in the case of Small Wind Energy Systems.

### 3.5 Stray Voltage

#### (A) Testing Required

- (1) An Owner shall work with the local electric distribution company to test for stray voltage at all dairy and confined animal operations within 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 Section 3.5(2).



- (2) Before any testing under Section 3.5(A)(1) begins, an Owner shall work with Commission staff 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 Section 3.3(A)(1) shall conduct or arrange to conduct all required testing at the expense of the Owner.
- (B) Results of Testing. An Owner and the electric distribution company shall provide to Commission staff the results of all stray voltage testing in writing.
- (C) 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.

### 3.6 Construction and Operation

#### (A) Physical Characteristics

- (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. An Owner shall use 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, except the Owner of a Small 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, except the Owner of a Small Wind Energy System, 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.

(B) 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 Wisconsin Administrative Code Chapter [PSC 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, except the Owner of a Small Wind Energy System, shall construct collector circuit facilities for a Wind Energy System underground to the extent practicable.
- (3) An Owner, except the Owner of a Small 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, except the Owner of a Small Wind Energy System, shall ensure that the third-party facilities are promptly removed.

(C) 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) An Owner, except the Owner of a Small Wind Energy System, shall minimize soil compaction, topsoil mixing and damage to drainage systems on agricultural land during the construction or Decommissioning of the Wind Energy System.
- (3) Except for the area physically occupied by the Wind Energy System Facilities, an Owner, except the Owner of a Small Wind Energy System, 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 DNR requirements.
- (4) An Owner, except the Owner of a Small Wind Energy System, shall carry general liability insurance relating to claims for property damage or bodily injury arising from the construction, operation or Decommissioning of the Wind Energy System and shall include turbine host property owners as additional insured persons on the policy.

(D) Emergency Procedures

- (1) An Owner shall notify the Town Clerk of the occurrence and nature of a Wind Energy System Emergency within 24 hours of the Wind Energy System Emergency.
- (2) An Owner, except the Owner of a Small Wind Energy System, shall establish and maintain liaison with the Committee 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 Section 3.6(D)(1).
  - (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 0.5 mile of any Wind Energy System Facility, including the location of alternate landing zones for emergency services aircraft.
- (3) The Owner, except the Owner of a Small Wind Energy System, 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, except the Owner of a Small Wind Energy System, shall distribute current copies of the emergency plan to the Town Clerk and fire, police and other appropriate first responders as identified by the Committee at the time an Application is approved or anytime thereafter.
- (5) An Owner of a Small Wind Energy System, shall provide annual training for fire, police and other appropriate first responders regarding responding to a Wind Energy System Emergency until the Wind Energy System has been Decommissioned.
- (6) An Owner, except the Owner of a Small Wind Energy System, of a 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 Section 3.6(D) 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.

## SECTION 4. DECOMMISSIONING

### 4.1 Requirement to Decommission

- (A) An Owner of a Wind Energy System shall Decommission and remove the Wind Energy System when the system is at the end of its useful life.
- (B) A Wind Energy System is presumed to be at the end of its useful life if the Wind Energy System generates no electricity for a continuous 360-day period. This presumption may be rebutted under Section 4.1(C). A Small Wind Energy System is presumed to be at the end of its useful life if it generates no electricity for a continuous 540-day period.
- (C) Upon application by the Owner, except the Owner of a Small Wind Energy System, and except as provided in Section 4.1(D), the Committee shall grant an extension of the time period for returning the Wind Energy System to service by one or more additional 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:
  - (1) The Owner submits a plan to the Committee that demonstrates an ongoing good faith effort to return the Wind Energy System to service and outlines the steps and schedule for returning the Wind Energy System to service in a reasonable period of time, including by repairing, replacing or repowering the Wind Energy System Facilities as necessary to generate electricity.
  - (2) The Owner demonstrates that the Wind Energy System is part of a prototype or other demonstration project being used for ongoing research or development purposes.
  - (3) The Owner demonstrates that the Wind Energy System is being used for educational purposes.
- (D) The Committee may deny a request for an extension under Section 4.1(C) if the Wind Energy System has not generated any electricity for a continuous period of 540 days or more and the Committee finds that the Owner is not capable of returning the Wind Energy System to service within a reasonable

period of time. This Section 4.1(D) does not apply in the case of Small Wind Energy Systems.

- (E) A Wind Energy System, except a Small Wind Energy System, is irrebuttably presumed to be at the end of its useful life if the Wind Energy System generates no electricity for a period of 540 days and any of the following occur:
  - (1) The Owner does not request an extension of the time period for returning the Wind Energy System to service under Section 4.1(C).
  - (2) The Committee denies a request for an extension under Section 4.1(D) and any appeal rights have expired.
- (F) When Decommissioning is required, the Owner shall begin Decommissioning within 360 days after the Wind Energy System has reached the end of its useful life. The Owner shall complete Decommissioning and removal of the Wind Energy System within 540 days after the Wind Energy System has reached the end of its useful life.

#### 4.2 Decommissioning Review

The Committee shall determine as part of its on-going compliance review, under Section 2.12(B), above, whether any Wind Energy System has reached the end of its useful life. The Committee may require each Owner of a Wind Energy System to submit a report to the Committee after the end of each calendar year stating the number of days during that year the Wind Energy System was in operation and other such information that will enable the Committee to make a determination. An Owner's failure to submit a report or other information required by the Committee by the deadlines established by the Committee shall be evidence to the Committee that the Wind Energy System was in operation for 0 days during the last calendar year. Upon its own motion or the request of any resident, the Committee may review whether any specific Wind Energy System has reached the end of its useful life and take evidence at a hearing. Notice of any such hearing shall be given to any resident who requests such a review, the Owner of the Wind Energy System and those persons entitled to notice under Section 2.3(1).

#### 4.3 Financial Responsibility.

- (A) The Owner of a Wind Energy System with a nameplate capacity of one megawatt or larger shall maintain proof of the Owner's ability to fund the actual and necessary cost to Decommission the Wind Energy System and shall ensure the availability of funds necessary for Decommissioning

throughout the expected life of the Wind Energy System and through to completion of the Decommissioning activities.

- (B) An Owner of a Wind Energy System with a nameplate capacity of one megawatt or larger shall provide financial assurance of the Owner's ability to pay for the actual and necessary cost to Decommission the Wind Energy System before commencing major civil construction activities such as blasting or foundation construction at the Wind Energy System site. An Owner may comply with this paragraph by choosing to provide a bond, deposit, escrow account, irrevocable letter of credit, or some combination of these financial assurances, that will ensure the availability of funds necessary for Decommissioning throughout the expected life of the Wind Energy System and through to completion of the Decommissioning activities.
- (C) An Owner shall provide the financial assurance under 4.3(B) in an amount up to the estimated actual and necessary cost to Decommission the Wind Energy System. The Committee may:
  - (1) Require the Owner to provide the Committee with up to 3 cost estimates of the actual and necessary cost to Decommission the Wind Energy System that are prepared by third parties agreeable to the Owner and the Committee.
  - (2) Require an Owner to establish financial assurance that places the Town in a secured position, and that any secured funds may only be used for Decommissioning the Wind Energy System until either the Committee determines that the Wind Energy System has been Decommissioned or until the Committee has otherwise approved the release of the secured funds, whichever is earlier.
  - (3) Require an Owner to establish financial assurance that allows the Committee to access funds for the purpose of Decommissioning the Wind Energy System if the Owner does not Decommission the Wind Energy System when Decommissioning is required.
- (D) If the Committee requires an Owner to provide cost estimates under Section 4.3(C)(1), the Committee may not require the amount of the financial assurance to exceed the average of the cost estimates provided.
- (E) The Committee shall condition its approval of a Wind Energy System on the Owner's compliance with Sections 4.3(B) and (C).

- (F) During the useful life of a Wind Energy System, the Committee may periodically request information from the Owner regarding the industry costs for Decommissioning the Wind Energy System. If the Committee finds that the future anticipated cost to Decommission the Wind Energy System is at least 10 percent more or less than the amount of financial assurance previously provided under Section 4.3(B), the political subdivision may correspondingly increase or decrease the amount of financial assurance required for the Wind Energy System. The Committee may not adjust the financial assurance under this paragraph more often than once in a 5-year period.
- (G) The Committee may require an Owner to submit to the Committee a substitute financial assurance of the Owner's choosing under Section 4.3(B) if an event occurs that raises material concerns regarding the viability of the existing financial assurance.
- (H) This Section 4.3 does not apply in the case of a Small Wind Energy System.

#### 4.4 Site Restoration

- (A) Except as provided in Section 4.4(B), if a Wind Energy System was constructed on land owned by a person other than the Owner of the Wind Energy System, the Owner of the Wind Energy System shall ensure that the property is restored to preconstruction condition, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with DNR requirements.
- (B) If a Wind Energy System was constructed on a brownfield, as defined in Wisconsin Statutes [Section 238.13\(1\)\(a\)](#), the Owner shall restore the property to eliminate effects caused by the Wind Energy System, except for the effects of environmental remediation activities, as defined in Wisconsin Statutes [Section 238.13\(1\)\(d\)](#).
- (C) This Section 4.4 does not apply in the case of a Small Wind Energy System.

#### 4.5 Decommissioning Completion

- (A) An Owner shall file a notice of Decommissioning completion with the Committee and the Commission when a Wind Energy System approved by the Committee has been Decommissioned and removed.



- (B) Within 360 days of receiving a notice of Decommissioning, the Committee shall determine whether the Owner has satisfied the requirements of Sections 4.1(A) and 4.4.
- (C) This Section 4.5 does not apply in the case of a Small Wind Energy System.

## SECTION 5. PENALTIES AND ENFORCEMENT

Any person who violates any of the prohibitions, restrictions and requirements set forth in this Chapter or any conditions established under a permit issued under this Chapter shall be deemed in violation of this Chapter and the Town Board may initiate action in any court of competent jurisdiction to impose a forfeiture and/or enjoin the violation. Any person shall, upon conviction of any such violation, forfeit not less than \$200 nor more than \$5000 for each day the violation continues, together with the costs of prosecution, and, in default of payment, shall be imprisoned in the county jail until such forfeiture is paid, but not to exceed 90 (ninety) days.

**TOWN OF JOHNSTOWN**  
**CHAPTER 20 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**  
**SOLAR ENERGY SYSTEMS**

**SECTION 1: INTRODUCTION AND DEFINITIONS**

**1.1     Authority**

The Town Board of Johnstown has created this Chapter of the Municipal Code of the Town of Johnstown, Rock County, Wisconsin, under the authority granted to it pursuant to Wisconsin Statutes [Section 66.0401](#).

**1.2     Purpose**

The purpose of this Chapter is to, within the limited authority granted to the Town Board as a political subdivision, restrict the installation and use of Solar Energy Systems within the Town of Johnstown, establish procedures for regulation of Solar Energy Systems within the Town of Johnstown, and preserve and protect the public health and safety within the Town of Johnstown.

**1.3     Intent**

It is the general intent of this Chapter to regulate, within the limited authority granted to the Town Board by [Sections 66.0401](#) and [66.0403](#) of the Wisconsin Statutes, the installation and use of Solar Energy Systems within the Town of Johnstown.

**1.4     Abrogation and Lesser Restrictions**

It is not intended by this Chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, or permits adopted or issued pursuant to law. If any specific provision of this Chapter is found to be a greater restriction than a specific restriction created by Wisconsin Statute [Section 66.0401](#) and defined in Wisconsin [Statute Section 13.48\(2\)\(h\)1.g.](#), then the lesser restriction of Wisconsin Statute [Section 66.0401](#) shall apply.

**1.5     Interpretation**

The provisions of this Chapter shall be liberally construed in favor of the Town and public health and safety and shall not be deemed a limitation or repeal of any other

power granted by the Wisconsin Statutes.

1.6 Severability

Should any provision in this Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

1.7 Definitions

- (A) “Applicant” means an Owner applying to the Town of Johnstown for approval of a Solar Energy System to be sited fully or partially within the Town of Johnstown and/or for a Permit.
- (B) “Application” means an application to the Committee for approval of a Solar Energy System to be sited fully or partially within the Town of Johnstown, Rock County, Wisconsin.
- (C) “Building-Integrated Solar Energy System” means a combination of building components integrated into any building envelope system such as vertical facades, including glass and other façade material, semitransparent skylight systems, roofing materials and shading over windows, rather than a separate mechanical device, for the purpose of producing electricity for on-site usage or consumption.
- (D) “Commercial Communications” includes communications used by government and military entities for emergency purposes, licensed amateur radio service, and non-emergency communications used by agricultural, business, government, and military entities including aviation radar, commercial mobile radio service, fixed wireless service, global positioning, line-of-sight, microwave, Personal Communications service, weather radar, and wireless internet service.
- (E) “Committee” means a Solar Energy committee composed of the members of the Town’s planning and zoning committee, but excluding the member of the planning and zoning committee who is also a member of the Town Board, and adding a member of the Town’s board of adjustment appointed by the Town Chair.
- (F) “Decommissioning” means removing solar panels, buildings, cables, electrical components, roads, and any other facilities associated with a Solar Energy System that are located at the site of a Solar Energy System and restoring the site of the Solar Energy System.
- (G) “Glare” means the effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects

- (H) “Ground-Mounted Solar Energy System” means a solar energy system anchored to the ground and mounted on a rack or pole, detached from any other structure for the purpose of producing electricity for on-site usage or consumption, with system capacity up to 25 kW AC and that generates no more than 110% of the electricity consumed on the site over the previous 12 months.
- (I) “Large-Scale Solar Energy System” means a solar energy system that is ground-mounted and produces energy for the purpose of on-site usage or consumption with system capacity of more than 25 kW AC and generates no more than 110% of the electricity consumed on the site over the previous 12 months.
- (J) “Nonparticipating Property” means real property that is not a Participating Property.
- (K) “Nonparticipating Residence” means a residence located on Nonparticipating Property.
- (L) “Occupied Community Building” means a school, church or similar place of worship, daycare facility or public library.
- (M) “Owner” means:
- (1) A person with a direct ownership interest in a Solar Energy System, regardless of whether the person was involved in acquiring the necessary rights, permits and approvals or otherwise planning for the construction and operation of a Solar Energy System.
  - (2) At the time a Solar Energy System is being developed, a person who is acting as a Solar Energy System developer by acquiring the necessary rights, permits and approvals for or by planning for the construction and operation of a Solar Energy System, regardless of whether the person will own or operate the Solar Energy System.
- (N) “Participating Property” means any of the following:
- (1) Property on which a Solar Energy System is located.
  - (2) Real property that is the 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 Solar Energy System is constructed on the property; and 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.
- (O) “Participating Residence” means a residence located on a Participating Property.

- (P) "Personal Communications" includes wireless telecommunications, Personal Communications service, radio, television, wireless internet service, and other systems used for personal use purposes.
- (Q) "Photovoltaic System" means a solar energy system that converts solar energy directly into electricity.
- (R) "Residence" means an occupied primary or secondary personal residence including a manufactured home, a hospital, community-based residential facility, residential care apartment complex or similar facility, or a nursing home. "Residence" includes a temporarily unoccupied primary or secondary personal residence. "Residence" does not include any of the following: (a) recreational vehicles; (b) camping trailers; or (c) permanently abandoned personal residences.
- (S) "Roof-Mounted Solar Energy System" means a solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for on-site usage or consumption of any kilowatt (kw) alternating current (ac) capacity.
- (T) "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.
- (U) "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.
- (V) "Solar Energy Equipment" means electrical energy storage devices, material, hardware, inverters or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.
- (W) "Solar Energy System" means the components and subsystems required to convert solar energy into electric energy suitable for use and storage. The term includes, but is not limited to, solar panels and solar energy equipment. The area of a solar energy system includes all the land inside the perimeter of the solar energy system, which extends to any interconnection equipment.
- (X) "Solar Energy System Emergency" means a condition or situation at a Solar Energy System that presents a significant threat of physical danger to human life or a significant threat to property or a natural event that causes damage to Solar Energy System Facilities.
- (Y) "Solar Farm" means the use of land where a series of one or more solar collectors are placed in an area on a parcel of land for the purpose of generating photovoltaic power and said series of one or more solar collectors placed in an area on a parcel of land collectively has nameplate generation capacity of more than 25 kW alternating current (ac) or more when

operating at maximum efficiency for the purpose of off-site sale, usage, and/or consumption. The term solar farm shall not be construed to include, so as to prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating or generating electricity for a residential property. The term solar farm shall not be construed in such a way as to prohibit the installation or mounting of a series of one or more solar collectors upon the roofs of residential and/or commercial structures regardless of whether said series of one or more solar collectors collectively has a total nameplate generation more than 25kW AC when operating at maximum efficiency.

- (Z) "Solar Panel" means a photovoltaic device capable of collecting and converting solar energy into electrical energy.
- (AA) "Solar Storage Unit" means a component of a solar energy device that is used to store solar generated electricity or heat for later use.

## SECTION 2. PROCEDURE

### 2.1 Approval Required

No Owner may construct a Solar Energy System within the Town of Johnstown or expand an existing or previously approved Solar Energy System within the Town of Johnstown without first obtaining approval from the Committee.

### 2.2 Reimbursement of Expenses

The Applicant shall reimburse the Town for all expenses incurred by the Town in conjunction with the review of an Application (including the fees of engineers, attorneys, planners, environmental specialists, and other consultants or experts retained by the Town).

### 2.3 Pre-Application Notice

- (A) At least 90 days before filing an Application with the Town regarding a Solar Energy System, the Owner shall use a commercially reasonable method to provide written notice of the planned Solar Energy System to all of the following:
  - (1) The owners of land located within one mile of the Participating Property;
  - (2) The Town Clerk of the Town of Johnstown and to the city, village, town, or county within which the Solar Energy System will be located;

- (3) Emergency first responders and air ambulance service providers servicing the Town of Johnstown and any city, village, town, or county within which the Solar Energy System will be located;
- (B) The pre-Application notice shall contain the following information:
  - (1) A complete description of the Solar Energy System, including the number and size of the planned solar panels.
  - (2) Contact information for the Owner;
  - (3) A list of all potential permits or approvals the Owner anticipates may be necessary for construction of the Solar Energy System; and
  - (4) Whether the Owner requests the Town of Johnstown to be a part of a joint review process and the name of each city, village, town, or county that may participate in the joint review process (in which case the Town Clerk and the chairperson of the Committee shall coordinate with officials from participating.

## 2.4 Application

- (A) Large-Scale Solar Energy Systems and Solar Farms are permitted through approval by the Committee, subject to the requirements set forth in this section. Any request to install a large-scale ground-mounted solar energy system or Solar Farm on property zoned residential, commercial, or industrial must be done by appropriate application to the Committee.
- (B) Each Application for approval of a Solar Energy System under this Chapter shall be filed with the Town Clerk. In addition to filing the original Application, the Applicant shall also provide the Town Clerk with 10 duplicate copies of the Application for use by the Town during the Application process. An Application shall contain the following information and the additional requirements specified on the Commission's website:
  - (1) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for duration of the project, including easements and other agreements, shall be submitted.
  - (2) To-scale horizontal and vertical elevation drawings signed by a professional engineer or registered architect. The drawings must show the location of the system on the building or on the property for a ground-mounted system, including the property lines.
    - (a) Pitched Roof Mounted Solar Energy Systems: For all roof-mounted systems other than a flat roof, the elevation must show the highest finished slope of the solar collector and the

slope of the finished roof surface on which it is mounted. Solar Panels on Pitched Roofs must be mounted at the same angle as the roof's surface with a maximum distance of eight inches between the roof and highest edge of system and not extend beyond the highest point of the roof system

- (b) Flat Roof Mounted Solar Energy Systems: For flat roof applications, a drawing shall be submitted showing 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, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
- (3) Technical description of solar panels and solar panel sites, including equipment specification sheets that document all photovoltaic panels, significant components, mounting systems and inverters that are to be installed.
- (4) Timeline and process for constructing the Solar Energy System.
- (5) Property operations and maintenance plan. Such plan shall describe continuing photovoltaic maintenance property upkeep, such as mowing and trimming.
- (6) Information regarding anticipated impact of the Solar Energy System on local infrastructure.
- (7) Information regarding glare anticipated to be attributable to the Solar Energy System.
- (8) Information regarding the anticipated effects of the Solar Energy System on existing land uses within 0.5 mile of the Solar Energy System.
- (9) Information regarding the anticipated effects of the Solar Energy System on airports and airspace.
- (10) A list of all state and federal permits required to construct and operate the Solar Energy System.



- (11) Information regarding the planned use and modification of roads within the Town during the construction, operation, and Decommissioning of the Solar Energy System, including a process for assessing road damage caused by Solar Energy System activities and for conducting road repairs at the Owner's expense.
  - (12) A Decommissioning and site restoration plan providing reasonable assurances that the Owner will be able to comply with Section 4.
  - (13) A representative copy of all notices issued under Sections 2.3 and 2.4(B).
  - (14) Any other information necessary to understand the construction, operation or Decommissioning of the proposed Solar Energy System.
- (F) On the same day that the Application is filed with the Town Clerk, the Applicant shall mail or deliver written notice of the Application to the owners of land adjoining the site where the Applicant plans to install a Solar Energy System and the owners and residents of parcels adjacent to the proposed Solar Energy System. This notice shall include the following information:
- (1) A complete description of the Solar Energy System, including the number and size of the solar panels;
  - (2) A map showing the locations of all proposed Solar Energy System Facilities;
  - (3) The proposed timeline for construction and operation of the Solar Energy System;
  - (4) Locations where the Application is available for public review; and
  - (5) The Owner's contact information.
- (G) Upon receipt of an Application, the Town Clerk shall publish a class 1 notice (as defined in Wisconsin Statutes Chapter 985) stating that an Application has been filed with the Town. This notice shall contain the following information:
- (1) A brief description of the Solar Energy System and its proposed location;
  - (2) The locations where the Application is available for public review;
  - (3) That written comments regarding the Application, which shall be reviewed by the Committee as part of any hearing, may be submitted to the Town Clerk at any time until 48 hours prior to the Committee's hearing, and that at or prior to the public hearing the

Committee shall schedule a time for oral public comments regarding the Application.

(H) Public Review and Comment:

- (1) The Town Clerk shall deliver one copy of the Application to the Hedberg Public Library in Janesville, Wisconsin (or any successor library that services the Town of Johnstown) for public review. The Town Clerk shall make a second copy of the Application available for public review at the Town Hall during the normal hours of business.
- (2) The Town Clerk shall compile all written comments regarding the Application that are received at least 48 hours prior to the Committee's hearing on the Application and deliver those comments to the members of the Committee.
- (3) The chairperson of the Committee shall schedule a meeting to obtain comments from the public regarding the Application and to inform the public about the proposed Solar Energy System. Such meeting may be a part of or immediately prior to the Committee's hearing on the Application (discussed below).

(I) The Town Clerk shall determine if the Application is complete.

- (1) If the Application is complete, the Town Clerk shall, within 45 days of receiving an Application notify the Applicant that the Application is complete. The Town Clerk shall then deliver to each member of the Committee a copy of the Application.
- (2) Within 10 days of determining that an Application is complete, the Town Clerk shall provide the Applicant with a written estimate of the expenses that are likely to be incurred by the Town during the Application process. The notice shall state that no written decision of the Committee shall be issued unless and until fifty percent of the estimated Town expenses are paid to the Town Clerk to reimburse the Town for the actual expenses associated with review of the Application (to include the fees of engineers, attorneys, planners, environmental specialists, and other consultants or experts retained by the Town or Committee).
- (3) If the Application is not complete, the Town Clerk shall, within 45 days of receiving an Application notify the Applicant that the Application is not complete. The notice shall state the reason that for the determination that the Application is not complete. If the Application is incomplete the Town shall take no further action regarding the Application. An Applicant may supplement and re-file any Application that has been determined to be incomplete.

Upon supplementing or refilling an Application all deadlines applicable to the Application process shall start again. Minor modifications to the Application shall not be considered supplementing or refilling an Application by the Applicant.

- (4) If the Town Clerk, or the Committee in the absence of action by the Town Clerk, shall not notify the Applicant within 45 days of the Application being filed that it is incomplete, the Application shall be considered complete.

## 2.7 Hearing

- (H) Within 90 days of the Town Clerk determining that an Application is complete, the Committee shall hold one or more hearings on the Application. The chairperson of the Committee shall schedule the hearing(s). The Town Clerk shall publish notice of the hearing, and shall mail a notice regarding the hearing(s) to the Applicant, the owner of any Participating Property identified in the Application, and to the owners of land adjoining the property on which the Applicant intends to operate a Solar Energy System.
- (I) The Committee, directly or through the Town Clerk, may request any additional information necessary to understand the Solar Energy System after the Town Clerk has determined that the Application is complete. An Owner shall provide additionally requested information, in a timely, complete, and accurate manner.
- (J) Within 90 days of the Town Clerk determining that an Application is complete and subsequent to any hearings held by the Committee, the Committee shall approve or disapprove the Application. If the Committee shall not render a decision on the Application within 90 days, the Application is considered approved. That said, the Committee may extend the time for rendering a decision on the Application as follows, so long as the total time of extension does not exceed an additional 90 days:
  - (1) Up to 45 additional days if the Committee needs additional information in order to render a decision regarding the Application;
  - (2) Up to 90 additional days if the Applicant makes a material modification to the Application; and/or
  - (3) Up to 90 additional days for other good cause stated in writing by the Committee.
- (K) The Committee shall create a record of its proceedings regarding each Application. The record shall be maintained by the Town Clerk. All public hearings held by the Committee regarding an Application shall be recorded.

Copies of all documents submitted at any public hearing or provided to the Committee in connection with the Application shall be a part of the record.

- (L) The Committee's decision to approve or disapprove the Application shall be based on written findings of fact that are supported by the record, discussed above. If an Application is denied, the decision shall specify the reason(s) for the denial. If an Application is approved, the Town Clerk shall provide the Applicant with a duplicate original of the written decision of the Committee which shall be recorded by the Applicant with the Register of Deeds.
- (M) The Committee's approval of an Application may be conditioned upon any one or more of the following:
  - (1) Information. Receipt of information about whether an Owner has consulted with and received any non-binding recommendations for constructing, operating or Decommissioning the Solar Energy System from a state or federal agency, and whether the Owner has incorporated such non-binding recommendations into the design of the Solar Energy System.
  - (2) Permits. The Owner's submission to the Committee of copies of all necessary state and federal permits and approvals.
  - (3) Annual Reports. The Owner filing an annual report with the Committee documenting the operation and maintenance of the Solar Energy System during the previous calendar year.
  - (4) Financial Assurances. The Owner complying with financial assurances for Decommissioning as the Committee may require pursuant to Section 5.3(B) and (C).
- (N) The Owner of a Solar Energy System shall provide the Town Clerk with timely notice regarding any change in the Ownership of a Solar Energy System.

## 2.8 Grounds for Disapproval of Application

The Committee may deny an Application for any of the following reasons:

- (I) The proposed site for a Solar Energy System, of a nominal capacity of at least one kilowatt, is in an area primarily designated for future residential or commercial development as shown on a map that is adopted as a part of the Town's comprehensive plan dated June 2, 2009 or earlier or shown on such a map, after December 31, 2015, that is a part of the Town's updated comprehensive plan.

- (J) The Owner did not provide the pre-Application notice to all interested persons and agencies as required in Section 2.3.
- (K) The Owner did not provide sufficiently timely, complete, and accurate additional information requested by the Committee that is necessary to understand the Solar Energy System.
- (L) The Owner has not made reasonable efforts to ascertain and accommodate any land use or commercial enterprise located on a Nonparticipating Property if such land use or commercial enterprise exists when the Owner provides its pre-Application notice required in Section 2.3, above, or if complete publicly-available plans for construction are on file with the Town of Johnstown (or a city, village, town, or county that is participating in a joint review process) within 30 days of the date the Owner provides the pre-Application notice required in Section 2.3.
- (M) The Owner has not designed the Solar Energy System to reasonably minimize the conversion of land from agricultural use.
- (N) The Owner has not worked with the Town or the owner of a Participating Property or Nonparticipating Property to site a solar panel to minimize individual hardships.
- (O) The Application does not comply with any requirement of this Chapter, or other applicable Chapter of the Wisconsin Statutes or Wisconsin Administrative Code.
- (P) Information provided by the Applicant in the Application is not accurate.

#### 2.13 Review and Appeal

- (A) Any person aggrieved by a decision or enforcement action of the Town Clerk or the Committee in connection with an Application may petition the Town Board for a review of the aggrieving decision within 30 days of when such a decision was made. The petition shall be filed with the Town Clerk and the administrative review process shall be administered in accordance with Wisconsin Statute [Section 68.11](#). The administrative review process of the Town Board shall be completed within 90 days thereof or on the 90th day after such a petition is filed the process shall be deemed complete.

#### 2.14 Record

- (A) The record of a decision by the Committee (and any review by the Town Board) shall include all of the following:
  - (1) The approved Application and all additions or amendments to the Application.

- (2) A representative copy of all notices issued under Sections 2.3 and 2.4(B).
  - (3) A copy of any notice or correspondence that the Town issues related to the Application.
  - (4) A record of any public meeting under Section 2.4(D)(3) and any hearing related to the Application. The record may be an electronic recording, a transcript prepared from an electronic recording, or a transcript prepared by a court reporter or stenographer. The record shall include any documents or evidence submitted by meeting or hearing participants.
  - (5) Copies of any correspondence or evidentiary material that the Town considered in relation to the Application, including copies of all written public comments filed under Section 2.4(D)(2).
  - (6) Minutes of Committee or Town Board meetings held to consider or act on the Application.
  - (7) A copy of the written decision under Section 2.5(E).
  - (8) Other materials that the Committee or Town Board prepared to document its decision-making process.
  - (9) A copy of any Town ordinance cited in or applicable to the decision.
- (B) POST-CONSTRUCTION FILING REQUIREMENT. Within 90 days of the date a Solar Energy System commences operation, the Owner shall file with the Town Clerk and the Commission an as-built description of the Solar Energy System, an accurate map of the Solar Energy System showing the location of all Solar Energy System Facilities, geographic information system information showing the location of all Solar Energy System Facilities and current information identifying the Owner of the Solar Energy System. An Owner shall in the filings under this subsection label each solar panel location with a unique identifier consistent with the information posted at the solar panel location under Section 3.3(A)(7). The post-construction filing shall be kept in with the record of the Application maintained by the Town Clerk.
- (C) Denied Applications. The record regarding any Application which is denied shall be retained by the Town Clerk for 7 calendar years following the year in which the Application is denied.

- (D) Approved Applications. The record regarding any Application which is approved shall be retained by the Town Clerk until 7 calendar years following the year in which the Solar Energy System is Decommissioned.

#### 2.15 Testing

If the Town Board determines that testing regarding an existing or planned Solar Energy System to be conducted by an Owner is objectionable, it shall notify the Owner of its objection. If the Owner does not satisfactorily address the Town's objections within a time set by the Town Board, then the Town Board may petition the Commission to impose reasonable restrictions on the Owner's actual or planned testing activity.

#### 2.16 Modification

An Owner shall not make a material change to a Solar Energy System's design, location, or construction without the prior written approval of the Committee. Upon the Owner's Application for a modification due to a material change, the Committee shall consider only the modification and shall not reconsider aspects of the Solar Energy System previously approved. The Committee shall consider only those issues relevant to the proposed change. An Application for modification due to a material change shall be governed by all aspects of this Chapter regarding an Application, except that the Application itself need only contain that information that is necessary to understand the material change and the Committee may, in its discretion, hold or not hold one or more public meetings to obtain public comment regarding the proposed change.

#### 2.17 Compliance Monitoring

- (A) Construction. During construction the Committee may engage a third-party inspector to monitor and report to the Committee regarding the Owner's compliance with permit requirements. The Owner shall pay to the Town a fee for such monitoring that shall be equal to the total cost of the third-party inspector's fees for monitoring and reporting services.
- (B) Ongoing Compliance
  - (1) The Committee may conduct a review of Solar Energy System compliance within the Town.
  - (2) The purpose of the review shall be to determine whether each Solar Energy System within the Town is operated in compliance with any condition(s) and whether each is maintained in good repair and operating condition.

- (3) The Committee may request relevant information from each Owner to be returned by a date not less than 30 days before a hearing.
- (4) The Committee may retain a third-party inspector who shall inspect each Solar Energy System site for compliance with the condition(s) relevant to each and the level of maintenance and operating condition of each Solar Energy System. The inspector shall render a written report to the Committee not less than 30 days prior to a hearing.
- (5) 30 days prior to a hearing before the Committee regarding ongoing compliance, a class 1 notice shall be published. The Committee shall subsequently hold a hearing on the ongoing compliance of Solar Energy Systems. The Committee may hear from Owners and the public regarding compliance with conditions and the level of maintenance and operating condition of each Solar Energy System.
- (6) The Town Clerk shall assess a compliance monitoring fee to each Owner of a Solar Energy System that shall be equal to the total fee of the third-party inspector divided by the total number of Solar Energy Systems in the Town; plus \$100 for each Solar Energy System. A notice regarding the fee to be paid shall be sent to the Owner at least 30 days prior to the Committee's hearing and shall be payable at the time of the hearing.

#### SECTION 4. REQUIREMENTS

##### 3.2 Siting Criteria

- (A) An Owner shall design and construct a Solar Energy System using the solar panel setback distances shown in Table 1 (all distances shall be measured as a straight line from the vertical center of the solar panel 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):

<b>Table 1</b>	
<b>Setback Description</b>	<b>Setback Distance</b>
Occupied Community Buildings	The front setback shall be 75 feet, the rear setback shall be 25 feet and the side setback shall be 25 feet.
Participating Residences	The front set back shall be 100 feet and the rear and side setbacks shall be 200 feet
Nonparticipating Residences	The front set back shall be 100 feet and the rear and side setbacks shall be 200 feet.
Participating Property Lines	None



Nonparticipating Property Lines	200 feet
Public Road Right-of-Way	100 feet

- (B) The owner of a Nonparticipating Residence or Occupied Community Building may waive the applicable setback distances in Table 1. The owner of a Nonparticipating Property may waive the applicable setback distance in Table 1 for a Nonparticipating Property line.
- (C) Any Solar Energy Systems that are ground-mounted shall not exceed a height of 12 feet.
- (D) A Large-Scale Solar Energy System and Solar Farm shall be located on lots with a minimum lot size of 10 acres.
- (E) A Large-Scale Solar Energy System and Solar Farm that is ground-mounted shall not exceed 80% of the lot size on which it is installed. The lot coverage percentage used by any ground-mounted solar energy system shall include all aspects necessary or required by the system (i.e. fences, shrubbery, roadways, and parking).

### 3.3 Stray Voltage

#### (A) Testing Required

- (1) An Owner shall work with the local electric distribution company to test for stray voltage at all dairy and confined animal operations within 0.5 mile of a Solar Energy System Facility.
- (2) The electric distribution company serving a dairy or confined animal operation where testing is required under Section 3.2(A)(1) shall conduct or arrange to conduct all required testing at the expense of the Owner.

- (B) Results of Testing. An Owner and the electric distribution company shall provide to the committee the results of all stray voltage testing in writing.
- (C) 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 Solar Energy System.

### 3.4 Construction and Operation

#### (A) Physical Characteristics

- (1) All Large-Scale Solar Energy Systems and Solar Farms shall be enclosed by fencing to prevent unauthorized access. Warning signs

with the owner's contact information shall be placed on the entrance and the perimeter of the fencing. The type of fencing shall be determined by the Committee. The fencing and the system shall be further screened by any landscaping needed to avoid adverse aesthetic impacts.

- (2) An Owner may not display advertising material or signage other than warnings, equipment information, or indicia of Ownership on a solar panel. An Owner may not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices to a solar panel. An Owner may attach a safety feature or solar monitoring device to a solar panel.
- (3) An Owner shall ensure that a solar panel has a conventional or unobtrusive finish.
- (4) An Owner shall take appropriate measures to ensure that a ground-mounted solar panel is not readily climbable except by authorized personnel.
- (5) An Owner shall ensure that all solar panel 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 solar panel.
- (7) An Owner of a Large-Scale Solar Energy System or Solar Farm 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 Solar Energy System. An Owner of a Large-Scale Solar Energy System or Solar Farm shall post these signs at every intersection of a Solar Energy System access road with a public road.

(B) 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 Wisconsin Administrative Code Chapter [PSC 114](#) and shall construct, maintain, and operate all Solar Energy System Facilities in a manner that complies with the national electrical code.

- (2) An Owner of a Large-Scale Solar Energy System or Solar Farm shall construct collector circuit facilities for a Solar Energy System underground to the extent practicable.
- (3) An Owner of a Large-Scale Solar Energy System or Solar Farm 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.

(C) Construction, Operation, and Maintenance Standards

- (1) An Owner shall construct, operate, repair, maintain and replace Solar Energy System Facilities as needed to keep the Solar Energy System in good repair and operating condition and in a manner that protects individuals from injury.
- (2) An Owner of a Large-Scale Solar Energy System or Solar Farm shall minimize soil compaction, topsoil mixing and damage to drainage systems on agricultural land during the construction or Decommissioning of the Solar Energy System.
- (3) Except for the area physically occupied by the Solar 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 DNR requirements.
- (4) An Owner of a Large-Scale Solar Energy System or Solar Farm shall carry general liability insurance relating to claims for property damage or bodily injury arising from the construction, operation or Decommissioning of the Solar Energy System and shall include turbine host property owners as additional insured persons on the policy.

(D) Emergency Procedures

- (1) An Owner shall notify the Town Clerk of the occurrence and nature of a Solar Energy System Emergency within 24 hours of the Solar Energy System Emergency.

- (2) An Owner of a Large-Scale Solar Energy System or Solar Farm shall establish and maintain liaison with the Committee and with fire, police, and other appropriate first responders serving the Solar Energy System to create effective emergency plans that include all of the following:
  - (a) A list of the types of Solar Energy System Emergencies that require notification under Section 3.3(D)(1).
  - (b) Current emergency contact information for first responders and for the Solar Energy System Owner, including names and phone numbers.
  - (c) Procedures for handling different types of Solar Energy System Emergencies, including written procedures that provide for shutting down the Solar 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 Solar Energy System Emergency.
- (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 of a Large-Scale Solar Energy System or Solar Farm shall distribute current copies of the emergency plan to the Town Clerk and fire, police and other appropriate first responders as identified by the Committee at the time an Application is approved or anytime thereafter.
- (5) Owner of a Large-Scale Solar Energy System or Solar Farm 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 Section 3.3(D) 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 Solar Energy System Emergency, review employee activities to determine whether the procedures were effectively followed.

## SECTION 5. DECOMMISSIONING

### 4.4 Requirement to Decommission

- (A) An Owner of a Solar Energy System shall Decommission and remove the Solar Energy System when the system is at the end of its useful life.
- (B) A Solar Energy System is presumed to be at the end of its useful life if the Solar Energy System generates no electricity for a continuous 360-day period. This presumption may be rebutted under Section 4.1(C).
- (C) Upon application by the Owner of a Large-Scale Solar Energy System or Solar Farm and except as provided in Section 4.1(D), the Committee shall grant an extension of the time period for returning the Solar Energy System to service by one or more additional 180 day periods if the Owner demonstrates it is likely the Solar Energy System will operate again in the future and any of the following occur:
  - (1) The Owner submits a plan to the Committee that demonstrates an ongoing good faith effort to return the Solar Energy System to service and outlines the steps and schedule for returning the Solar Energy System to service in a reasonable period of time, including by repairing, replacing or repowering the Solar Energy System Facilities as necessary to generate electricity.
  - (2) The Owner demonstrates that the Solar Energy System is part of a prototype or other demonstration project being used for ongoing research or development purposes.
  - (3) The Owner demonstrates that the Solar Energy System is being used for educational purposes.
- (D) The Committee may deny a request for an extension under Section 4.1(C) if the Solar Energy System has not generated any electricity for a continuous period of 540 days or more and the Committee finds that the Owner is not capable of returning the Solar Energy System to service within a reasonable period of time.

- (E) A Large-Scale Solar Energy System or Solar Farm is irrebuttably presumed to be at the end of its useful life if the Large-Scale Solar Energy System generates no electricity for a period of 540 days and any of the following occur:
  - (1) The Owner does not request an extension of the time period for returning the Solar Energy System to service under Section 4.1(C).
  - (2) The Committee denies a request for an extension under Section 4.1(D) and any appeal rights have expired.
- (F) When Decommissioning is required, the Owner shall begin Decommissioning within 360 days after the Solar Energy System has reached the end of its useful life. The Owner shall complete Decommissioning and removal of the Solar Energy System within 540 days after the Solar Energy System has reached the end of its useful life.

#### 4.5 Decommissioning Review

The Committee shall determine as part of its on-going compliance review, under Section 2.11(B), above, whether any Solar Energy System has reached the end of its useful life. The Committee may require each Owner of a Solar Energy System to submit a report to the Committee after the end of each calendar year stating the number of days during that year the Solar Energy System was in operation and other such information that will enable the Committee to make a determination. An Owner's failure to submit a report or other information required by the Committee by the deadlines established by the Committee shall be evidence to the Committee that the Solar Energy System was in operation for 0 days during the last calendar year. Upon its own motion or the request of any resident, the Committee may review whether any specific Solar Energy System has reached the end of its useful life and take evidence at a hearing. Notice of any such hearing shall be given to any resident who requests such a review, the Owner of the Solar Energy System and those persons entitled to notice under Section 2.3.

#### 4.6 Financial Responsibility.

- (I) The Owner of a Solar Energy System shall maintain proof of the Owner's ability to fund the actual and necessary cost to Decommission the Solar Energy System and shall ensure the availability of funds necessary for Decommissioning throughout the expected life of the Solar Energy System and through to completion of the Decommissioning activities.

- (J) An Owner of a Solar Energy System shall provide financial assurance of the Owner's ability to pay for the actual and necessary cost to Decommission the Solar Energy System before commencing major civil construction activities such as blasting or foundation construction at the Solar Energy System site. An Owner may comply with this paragraph by choosing to provide a bond, deposit, escrow account, irrevocable letter of credit, or some combination of these financial assurances, that will ensure the availability of funds necessary for Decommissioning throughout the expected life of the Solar Energy System and through to completion of the Decommissioning activities.
- (K) An Owner shall provide the financial assurance under 4.3(B) in an amount up to the estimated actual and necessary cost to Decommission the Solar Energy System. The Committee may:
- (1) Require the Owner to provide the Committee with up to 3 cost estimates of the actual and necessary cost to Decommission the Solar Energy System that are prepared by third parties agreeable to the Owner and the Committee.
  - (2) Require an Owner to establish financial assurance that places the Town in a secured position, and that any secured funds may only be used for Decommissioning the Solar Energy System until either the Committee determines that the Solar Energy System has been Decommissioned or until the Committee has otherwise approved the release of the secured funds, whichever is earlier.
  - (3) Require an Owner to establish financial assurance that allows the Committee to access funds for the purpose of Decommissioning the Solar Energy System if the Owner does not Decommission the Solar Energy System when Decommissioning is required.
- (L) If the Committee requires an Owner to provide cost estimates under Section 4.3(C)(1), the Committee may not require the amount of the financial assurance to exceed the average of the cost estimates provided.
- (M) The Committee shall condition its approval of a Solar Energy System on the Owner's compliance with Sections 4.3(B) and (C).
- (N) During the useful life of a Solar Energy System, the Committee may periodically request information from the Owner regarding the industry costs for Decommissioning the Solar Energy System. If the Committee finds that the future anticipated cost to Decommission the Solar Energy System is

at least 10 percent more or less than the amount of financial assurance previously provided under Section 4.3(B), the political subdivision may correspondingly increase or decrease the amount of financial assurance required for the Solar Energy System. The Committee may not adjust the financial assurance under this paragraph more often than once in a 5-year period.

- (O) The Committee may require an Owner to submit to the Committee a substitute financial assurance of the Owner's choosing under Section 4.3(B) if an event occurs that raises material concerns regarding the viability of the existing financial assurance.

#### 4.6 Site Restoration

- (A) Except as provided in Section 4.4(B), if a Solar Energy System was constructed on land owned by a person other than the Owner of the Solar Energy System, the Owner of the Solar Energy System shall ensure that the property is restored to preconstruction condition, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with DNR requirements.
- (B) If a Solar Energy System was constructed on a brownfield, as defined in Wisconsin Statutes Section 238.13 (1) (a), the Owner shall restore the property to eliminate effects caused by the Solar Energy System, except for the effects of environmental remediation activities, as defined in Wisconsin Statutes [Section 238.13 \(1\) \(d\)](#).

#### 4.7 Decommissioning Completion

- (A) An Owner shall file a notice of Decommissioning completion with the Committee and the Commission when a Solar Energy System approved by the Committee has been Decommissioned and removed.
- (B) Within 360 days of receiving a notice of Decommissioning, the Committee shall determine whether the Owner has satisfied the requirements of Sections 4.1(A) and 4.4.
- (C) This Section 4.5 only applies to Large-Scale Solar Energy Systems and Solar Farms.



## SECTION 5. PENALTIES AND ENFORCEMENT

Any person who violates any of the prohibitions, restrictions and requirements set forth in this Chapter or any conditions established under a permit issued under this Chapter shall be deemed in violation of this Chapter and the Town Board may initiate action in any court of competent jurisdiction to impose a forfeiture and/or enjoin the violation. Any person shall, upon conviction of any such violation, forfeit not less than \$200 nor more than \$5000 for each day the violation continues, together with the costs of prosecution, and, in default of payment, shall be imprisoned in the county jail until such forfeiture is paid, but not to exceed 90 (ninety) days.

## TOWN OF JOHNSTOWN

### CHAPTER 21 OF THE MUNICIPAL CODE OF THE TOWN OF JOHNSTOWN, WISCONSIN

#### ALL-TERRAIN VEHICLE AND UTILITY TERRAIN VEHICLE ROUTES AND REGULATIONS

##### SECTION 1. Purpose

The purpose of this Chapter is to establish routes and regulations to provide for the safe operation of All Terrain Vehicles (“ATVs”) and Utility Terrain Vehicles (“UTVs”) upon designated roadways within the Town.

##### SECTION 2. Authority and Conditions

- (a) The Town Board of the Town of Johnstown, Rock County, Wisconsin has the specific authority to adopt this Chapter pursuant to [Sections 23.33\(8\), 23.33\(11\)\(a\) and \(am\), and 350.18](#) of the Wisconsin Statutes.
- (b) The Town Board retains the right to close any Town road to ATV/UTV operation for any reason, including but not limited to special events, unlawful use, and road construction or repair. Said closures of Town roads to ATV/UTV use may occur without prior notice. The Town accepts no liability for the operation of ATV/UTVs on any Town road under the provisions of this Chapter. Operation of ATV/UTVs shall be at the operator’s own risk. ATV/UTV operators within the Town shall abide by all state, county, and local laws.

##### SECTION 3. Adoption of State Laws

Unless otherwise provided for in this Chapter, the statutory provisions in [Chapters 23, 340 to 348, and 350](#) of the Wisconsin Statutes and Chapter NR 64 of the Wisconsin Administrative Code (the “ATV/UTV Statutes”), which establish definitions and regulations with respect to ATVs and UTVs are hereby adopted and incorporated by reference as if fully set forth herein. Any future amendments, revisions or modifications of the ATV/UTV Statutes are made part of this Chapter by reference to ensure uniform regulation of ATVs and UTVs within the State of Wisconsin. The operation of ATVs and UTVs in the Town of Johnstown must comply with the ATV/UTV Statutes.

#### SECTION 4. Routes and Signage

The Town designates all roadways within the Town's jurisdiction as ATV/UTV routes except the following roadways:

- (a) ATV/UTVs are strictly prohibited from operating on all state and county highways in the Town, unless otherwise authorized by the State of Wisconsin or Rock County. ATV/UTVs may cross state and county highways as necessary to travel through the Town.
- (b) Under the direction of the Town, route signage for ATV/UTV routes shall be fabricated and installed by Rock County Public Works Department and paid for by the Western Rock County ATV Club Ltd., or their successor, with uniform all-terrain vehicle route signs in accordance with [Section NR 64.12\(7\)](#) of the Wisconsin Administrative Code. ATV/UTV signage shall be inspected annually and shall be maintained by the Western Rock County ATV Club Ltd., or their successor.
- (c) No person may do any of the following in regard to signs marking Town ATV/UTV routes:
  - 1. Intentionally remove, damage, deface, move, or obstruct any uniform ATV/UTV route or trail sign or standard or intentionally interfere with the effective operation of any uniform ATV/UTV route or trail sign or standard if the sign or standard is legally placed by the state, any municipality, Rock County, or any authorized individual.
  - 2. Possess any uniform ATV/UTV route or trail sign or standard type established by the department for the warning, instruction, or information of the public, unless he or she obtained the uniform ATV/UTV route or trail sign or standard in a lawful manner. Possession of an ATV/UTV route or trail sign or standard creates a rebuttable presumption of illegal possession.

#### SECTION 5. Operation of ATV/UTVs

All ATV/UTV operators on Town routes must comply with the following conditions of operation. Except as otherwise provided herein, the statutory provisions of [Section 23.33](#) of the Wisconsin Statutes and [Chapter NR 64](#) of the Wisconsin Administrative Code, which create, describe, and define regulations with respect to ATVs and UTVs, are adopted and, by reference, made a part of this Chapter as if fully set forth herein.

- (a) Operator and Rider Requirements: Any person who operates or rides as a passenger on an ATV or UTV on public roads within the Town designated as an ATV/UTV route must meet the following requirements:
1. Any operator or passenger shall comply with all federal, state, and local laws, orders, regulations, restrictions, and rules, including those outlined in Section 23.33 of the Wisconsin Statutes and Chapter NR 64 of the Wisconsin Administrative Code.
  2. No person may operate an ATV or UTV without having attained the age of 16.
  3. No person may operate an ATV or UTV without either a valid Wisconsin driver's license or a valid ATV Safety Certificate issued by the State of Wisconsin.
  4. Operators and passengers under the age of 18 are required to wear a minimum DOT approved ATV or motorcycle helmet with the chin strap properly fastened.
  5. Operators shall have a liability insurance policy in force on any ATV or UTV operated on an ATV/UTV route. The liability insurance policy must have the following minimum coverages:
    - i. \$10,000 for property damage;
    - ii. \$25,000 for the injury or death of one person; and
    - iii. \$50,000 for the injury or death of more than one person.
- (b) Rules of Operation: The operation of an ATV/UTV on roads within the Town designated as an ATV/UTV route is subject to the following rules of operation:
1. Any operator or passenger shall comply with all federal, state, and local laws, orders, regulations, restrictions, and rules, including those outlined in Section 23.33 of the Wisconsin Statutes and Chapter NR 64 of the Wisconsin Administrative Code.
  2. Operators may only operate on a designated ATV/UTV route if said route is properly signed in accordance with [Section 23.33\(8\)\(e\)](#) of the Wisconsin Statutes and [Section NR 64.12\(7\)](#) of the Wisconsin Administrative Code.
  3. Speed Limit: Posted speed limit of the highway unless a specific ATV/UTV speed limit is posted.

4. Operation on the unimproved right-of-way or ditch, outside of the regular traveled portion of the highway is prohibited.
5. ATV/UTVs shall yield the right-of-way to all other vehicular traffic and pedestrians.
6. Hours of operation restrictions: 5:00 AM to 11:00 PM.
7. Seasonal restrictions: None.

#### SECTION 6. Enforcement

This Chapter may be enforced by any law enforcement officer authorized to enforce the ordinances of the Town of Johnstown, laws of Rock County, and State of Wisconsin. Consistent with [Section 23.33\(11\)\(b\)](#) of the Wisconsin Statutes, the Town Clerk shall immediately send a copy of this Chapter to the Department of Natural Resources, the Wisconsin State Highway Patrol, and the Rock County Sheriff's Department.

#### SECTION 7. Penalties

Wisconsin ATV/UTV penalties as found in Section [23.33\(13\)\(a\)](#) of the Wisconsin Statutes are adopted by reference.

Any violation of a section of this Chapter without a penalty specified by statute or administrative code shall have a cash deposit requirement of fifty dollars (\$50.00) plus court costs. A cash deposit requirement of one hundred fifty dollars (\$150.00) plus court costs will be required for a second violation of this Chapter within a 12-month period.

#### SECTION 8. Severability

If any provision of this Chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable."

(Created by Ordinance No. \_\_\_\_)

**TOWN OF JOHNSTOWN**  
**CHAPTER 22 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**SEX OFFENDER RESIDENCY**

**SECTION 1. RECITALS**

The Wisconsin Statutes, including [Chapters 940, 944, and 948](#) thereof, govern the punishment of individuals who commit sex crimes. The Wisconsin Statutes also govern the release into the community of such individuals. The Town is responsible to maintain the public health, safety, and welfare, and finds that sex offenders have high recidivism rates that threaten the public health, safety, and welfare, especially that of children.

**SECTION 2. PURPOSE**

It is the intent of this Chapter to serve the Town's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Town of Johnstown, especially children, by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

**SECTION 3. DEFINITIONS**

- A. *Sex Offender*. A person who has been convicted of, has been found delinquent of, or has been found not guilty by reason of disease or mental defect of a Sexually Violent Offense or a Crime Against Children, as defined below.
- B. *Sexually Violent Offense*. Shall have the meaning set forth in [Wis. Stat. § 980.01\(6\)](#).
- C. *Crime Against Children*. Shall mean any of the following offenses set forth in the Wisconsin Statutes, as amended, or in the laws of this or any other state or the federal government having like elements necessary for conviction, respectively:
  - 1. [Wis. Stat. § 940.225\(1\)](#) – First Degree Sexual Assault
  - 2. [Wis. Stat. § 940.225\(2\)](#) – Second Degree Sexual Assault

3. [Wis. Stat. § 940.225\(3\)](#) – Third Degree Sexual Assault
4. [Wis. Stat. § 940.22\(2\)](#) – Sexual Exploitation by Therapist
5. [Wis. Stat. § 940.30](#) – False Imprisonment – Victim was Minor and not Offender’s Child
6. [Wis. Stat. § 940.31](#) – Kidnapping – Victim was Minor and note Offender’s Child
7. [Wis. Stat. § 940.225](#) – Rape
8. [Wis. Stat. § 944.06](#) – Incest
9. [Wis. Stat. § 948.02](#) – Sexual Intercourse with a Child
10. [Wis. Stat. § 948.02](#) – Indecent Behavior with a Child
11. [Wis. Stat. § 948.07](#) – Enticing Child for Immoral Purpose
12. [Wis. Stat. § 948.02\(1\)](#) – First Degree Sexual Assault of a Child
13. [Wis. Stat. § 948.02\(2\)](#) – Second Degree Sexual Assault of a Child
14. [Wis. Stat. § 948.025](#) – Engaging in Repeated Acts of Sexual Assault of the Same Child
15. [Wis. Stat. § 948.05](#) – Sexual Exploitation of a Child
16. [Wis. Stat. § 948.055](#) – Causing a Child to View or Listen to Sexual Activity
17. [Wis. Stat. § 948.06](#) – Incest with a Child
18. [Wis. Stat. § 948.07](#) – Child Enticement
19. [Wis. Stat. § 948.075](#) – Use of a Computer to Facilitate a Child Sex crime
20. [Wis. Stat. § 948.08](#) – Soliciting a Child for Prostitution
21. [Wis. Stat. § 948.095](#) – Sexual Assault of a Student by School Instruction Staff
22. [Wis. Stat. § 948.11 \(2\)\(a\) or \(am\)](#) – Exposing Child to Harmful Material
23. [Wis. Stat. § 948.12](#) – Possession of Child Pornography
24. [Wis. Stat. § 948.13](#) – Convicted Child Sex Offender Working with Children
25. [Wis. Stat. § 948.30](#) – Abduction of Another’s Child
26. [Wis. Stat. § 971.17](#) – Not Guilty by Reason of Mental Disease or Defect of Included Offense
27. [Wis. Stat. § 975.06](#) – Sex Crimes Law Enforcement

D. *Residence.* A place where a person sleeps, abides, lodges, or resides on a permanent or regular basis. For purposes of this definition, a permanent basis means 14 or more consecutive days and a regular basis means 14 or more aggregate dates during any

calendar year and four or more days in any month. A person may have more than one residence.

#### SECTION 4. RESIDENCY RESTRICTION

A. Except as otherwise provided in this Chapter, a Sex Offender may not reside within 1,500 feet of any real property upon which there exists any of the following uses:

1. A school for children.
2. A public park, park facility, or pathway.
3. A daycare licensed by the State of Wisconsin.
4. A public library.
5. A public playground.
6. A public athletic field.
7. A residence care center for children.
8. A public swimming pool.
9. A place of worship.
10. Farmland reserved for elementary, middle, or high school education.

B. For purposes of this Section, distance is to be measured in a straight line from the closest boundary line of the real property upon which the Sex Offender's residence is located to the closest boundary line of the real property of the applicable use.

#### SECTION 5. RESIDENCY RESTRICTION EXCEPTIONS

A Sex Offender residing within an area otherwise prohibited by Section 4 does not commit a violation of this Chapter if any of the following apply:

1. The person is required to serve a sentence at a jail, prison, juvenile facility, or other facility located at the otherwise prohibited location.
2. The person had established a Residence, as defined in Section 3 above, at the location prior to the effective date of this Chapter.
3. The use enumerated in Section 4 was established after the Sex Offender established a Residence at the location and registered that residence as required by law.
4. The Sex Offender is a minor or ward under guardianship.



## SECTION 6. ORIGINAL RESIDENCY RESTRICTION

In addition to the other residency restrictions set forth herein and subject to the limitations in Section 5, no Sex Offender may establish a residence in the Town of Johnstown unless he or she was a resident of Town of Johnstown at the time of the most recent offense resulting in the person's most recent conviction, commitment, or placement as a Sex Offender. This limitation shall not apply to the establishment of a residence at a dwelling that is owned by a member of the Sex Offender's family at the time the Sex Offender establishes residence therein. For purposes of this section, a member of the Sex Offender's family means the Sex Offender's mother, father, brother, sister, child, or grandparent.

## SECTION 7. RENTAL OF PROPERTY FOR USE BY SEX OFFENDERS

No person may rent any place, structure, or part thereof with knowledge that it will be used as a residence by any Sex Offender that is prohibited from establishing residence therein by this Chapter.

## SECTION 8. ENFORCEMENT

A person violating this Chapter shall be subject to forfeitures in an amount of not less than \$200 nor more than \$500 for each violation plus the costs of prosecution (including reasonable attorneys' fees). For purposes of calculating forfeitures, each day that a violation exists shall constitute a separate offense. Violations of this Chapter are also deemed public nuisances and the Town may bring an action in the Circuit Court of Rock County to enjoin or abate any violation.

(Created by Ordinance No. \_\_)

**TOWN OF JOHNSTOWN**  
**CHAPTER 23 OF THE MUNICIPAL CODE**  
**OF THE TOWN OF JOHNSTOWN, WISCONSIN**

**TOWN CEMETERY**

**SECTION 1. TITLE, PURPOSE, AND AUTHORITY.**

The purpose of this Chapter is to regulate the construction, management, operation and platting of cemeteries, the burial of human corpses, and other cemetery uses and activities in the Town. The Town Board of the Town of Johnstown (the "Town") has the specific authority under [Wis. Stats. section 157.50\(2\)](#) and general authority under its village powers under [Wis. Stats. section 60.22](#) to adopt this Chapter.

**SECTION 2. ADOPTION OF CHAPTER.**

This Chapter, adopted by a majority of the Town Board with a quorum present and voting and proper notice having been given, provides for the regulation of the construction, management, operation, and platting of cemeteries and the burial of human corpses and other cemetery uses and activities in the Town, including cemeteries that are not owned, operated, or controlled directly by the Town.

**SECTION 3. DEFINITIONS.**

The following terms have the following definitions in this Chapter:

- E. *"Burial"* means entombment, inurnment, or interment and *"bury"* means to entomb, inurn, or inter.
- F. *"Cemetery"* means any location for burial of human remains in the Town.
- G. *"Human remains"* means the body of a deceased individual that is in any stage of decomposition or has been cremated.
- H. *"Lot"* means a single grave lot platted in accordance with Section 4, whether or not occupied by a grave.
- I. *"Outer burial container"* means any container that is placed or intended to be placed into the burial excavation of a grave and

into which a casket is placed or intended to be placed at the time of burial.

- J. *“Sexton”* means a Town employee or independent contractor employed or retained by the Town board to administer, repair, maintain, manage, and operated a Town cemetery or any part of the operations of a Town cemetery consistent with this Chapter. In the event no person is specifically designated as *“Sexton”* by the Town board, *“Sexton”* means any person or committee designated to act administratively to manage, operate, maintain, and provide care for the Town cemetery or any part of the operations or of any Town cemetery pursuant to this Chapter.
- K. *“Town cemetery”* means a municipal cemetery owned, operated, and maintained by the Town of Johnstown, Rock County, Wisconsin, under [Wis. Stats. section 157.50](#), that is located within the Town.
- L. *“Wis. Stats.”* means the Wisconsin Statutes, including successor provisions to cited statutes.

#### SECTION 4. STATEMENT OF POLICY.

Every Town cemetery is owned, operated, directly controlled, and maintained by the Town for the benefit of all citizens. Persons of all denominations of all religions, sexes, creeds, and races, shall be allowed to be buried in a Town cemetery. This Chapter adopted pursuant to [Wis. Stats. 157.50\(2\)](#), governs the construction, management, administration, platting, maintenance, and operation of any Town cemetery and of any new cemetery or expanded cemetery of any other type in the Town, including cemeteries operated by associations, religious orders and societies, and privately owned, controlled, operated, and maintained cemeteries.

#### SECTION 5. NEW BURIALS, CEMETERIES, AND CEMETERY LOTS AND NEW OR EXPANDED CEMETERY OPERATIONS.

- A. Platting. Before any new block of any existing Town cemetery or any other new or expanded cemetery in the Town is opened for the sale of cemetery lots for burial of human remains after the effective date of this Chapter, the Town Board or the sexton for the Town cemetery and any person or agent for any other cemetery in the Town that is subject to [Wis. Stats. 157.065](#), shall cause the blocks and lots to be platted and recorded in the

Office of the Register of Deeds for Rock County, Wisconsin, in accordance with [Wis. Stats. 157.065](#).

- B. Single Grave Section. The Town Board or the sexton shall designate, for any Town cemetery, certain lots as a single grave section, and the lots within each grave section shall be platted and sold as single-grave lots. Unused portions of grave sections repossessed under [Chapter 157](#), Wis. Stats., for nonpayment of assessments for care shall likewise be designated and sold as single-grave lots.
- C. Purchase of New Lands. The Town Board or the sexton shall not purchase any land for cemetery purposes without approval of the electors of the Town at a regular or special Town meeting.
- D. New or Expanded Cemeteries.
  - 1. No person or authorized agent of any cemetery may conduct any burial, or construct, manage, plat, or operate any new or expanded cemetery of any type in the Town, after the date of adoption of this Chapter, without written approval of the Town Board. Approval, approval on condition, or denial of a permit shall only be made after a public hearing with a class 2 notice under [Chapter 985](#), Wis. Stats. Any new or expanded cemetery to be approved by the Town Board shall be, at a minimum, properly platted and filed with the Town Clerk and recorded in the Office of the Register of Deeds for Rock County, Wisconsin. No cemetery shall be located, established, or dedicated contrary to [Wis. Stats. 157.065](#) or [157.128](#). The minimum cemetery acreage must be at least 1.5 contiguous acres at platting dedication. No cemetery shall be located, established, or dedicated in violation of a Town, county, or other zoning ordinance.
  - 2. After the date of adoption of this Chapter, any place in the Town where human remains are buried on private or public land without written permit approval of the Town Board and not timely removed within 30 days after receipt of written notice from the Town Board to remove said remains is declared to be a public nuisance.

## SECTION 6. PURCHASE OF LOTS IN TOWN CEMETERY.

- A. Price of Lots. The Town Board shall from time to time by resolution fix a price on all lots to be sold for burials in any Town cemetery.
- B. Sale of Lots.
  - 1. Persons, or their authorized agents, desiring to purchase a lot in any Town cemetery for burial are referred to the Town Board, Town Clerk, or sexton. The Town Board, Town Clerk, or sexton shall have available suitable plans showing size and price of lots, and any other information that may be required, and render assistance to those desiring to make lot purchases. The Town Board, Town Clerk, or sexton shall issue an order for a selected lot to the prospective purchaser, or his or her agent, who shall present the order at the office of the Town Clerk. Upon receipt of property payment to the Town Treasurer, the Town Chair and Town Clerk shall issue a cemetery lot deed to the lot in the form prescribed by the Town attorney. The original deed from the Town and the records of the cemetery kept by the Town Clerk or other designee of the Town Board are the only evidence of title to any lot. The deed shall be signed by the Town Clerk and Town Chair or other person so designated by the Town Board and sealed and acknowledged so as to entitle the purchase to record the deed with the Register of Deeds for Rock County, Wisconsin.
  - 2. Person conveying any cemetery lot in any Town cemetery shall comply with [Wis. Stats. 157.08](#), and this Chapter.

## SECTION 7. OWNERSHIP RIGHTS OF BURIAL IN TOWN CEMETERY.

- A. Ownership Conditions.
  - 1. The owner of a Town cemetery lot, or his or her authorized agent, shall have the right to use a lot or portion of a lot for burial purposes only in accordance with the terms of this Chapter or any Town cemetery bylaws or regulations.
  - 2. Upon full payment by any person of the purchase price of a Town cemetery lot, the Town Clerk and Town Chair shall issue a cemetery lot deed, under seal, as provided in Section 6, subsection B., and a copy of the deed shall be filed in the

records of the Town as evidence of ownership of the lot. Lots for which lot deeds have been issued by the Town may not be subdivided except by consent in writing of the Town board.

3. All repossessed vacant lots in any Town cemetery when resold are subject to the same fees and charges as other unoccupied lots.

B. Burial.

1. In this subsection, "relative" means a parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law or sister-in-law, uncle or aunt, and nephew or niece.
2. Any lot owner at any Town cemetery acquires the lot solely for the purpose of burial of the owner at the time of the owner's death, and if the lot is owned jointly by spouses, either spouse is entitled to burial at that lot. The lot owner may grant written permission, which must be notarized and filed with the Town Clerk, for the burial of specific persons other than the owner and the owner's spouse. If more than one person has an ownership interest in the lot, the written consent of all persons having an ownership interest in the lot is required to permit the burial of a person other than an owner or owner's spouse.
3. Unless otherwise directed in a writing filed with the Town Clerk by the lot owner under paragraph 2 above, the Town Board or the sexton shall permit the burial of persons at any Town cemetery lot at the request of any interested person upon proof of eligibility for burial at the cemetery lot as follows:
  - a. The lot owner, and surviving spouse of the lot owner, have the first right to burial or to direct the right of burial.
  - b. When there is no surviving spouse, the devisees or heirs of the owner may, by agreement in writing of all the heirs or devisees, determine who shall have the right of burial or direction for burial, which agreement shall be filed with the Town Clerk.
  - c. If no agreement under subdivision b. is filed, the Town board or the sexton may determine use, giving preference to relatives in the order listed in paragraph 1.

- C. Ownership Rights. All burial rights in the cemetery lots located at any Town cemetery and purchased from the Town shall occupy the same position as real estate at the death of the owner. Only persons whose names appear on the cemetery records of the Town will be recognized as owners or part owners of lots. Lot owners may not allow burials to be made in their lots for any remuneration or financial consideration. In case of the death of a lot owner, when the cemetery lot is disposed of by a will, and when ownership is to be determined, a certified copy of the will or final judgment in the decedent's estate must be delivered to the Town Clerk before the Town will recognize the change of ownership. If the deceased lot owner left no will, satisfactory proof of descent must be provided. It is recommended that lot owners, in making their wills, include a provision covering the Town cemetery lots and devise the lots to one person.
- D. Resale. Lot owners may not resell or transfer lots or parts of lots in any Town cemetery except as follows:
1. Reconveyance of lots or parts of lots may be made only upon written application filed with and approved by the Town Clerk. The application shall be executed by the owner of the lots, or, if the owner is deceased, by the legal heirs. The application shall state the lot and block number. Upon approval by the Town Clerk, the owner of the lot shall execute a deed in the same form as an original deed from the Town under Section 6, subsection B, so as to entitle the purchaser to record the deed with the Register of Deeds for Rock County, Wisconsin.
  2. The Town clerk shall enter in the record kept for that purpose copies of all deeds of transfer and reconveyance of cemetery lots. No deed reconveyance may be received and filed by the Town clerk until a fee of \$50 has been paid therefor.
  3. The fee shall be deposited into the general Town municipal fund.
- E. Reburial.
1. In this subsection, "reburial" means to disentomb, disinter, or disinter human remains that are buried in a cemetery and reentomb, reinurn, or reinter the human remains in another grave, mausoleum space, or other place used or intended to

be used for the burial of human remains that is located in the same cemetery.

2. Any reburial of any person buried in a Town cemetery, or in any other cemetery in the Town, shall comply with the provisions of [Wis. Stats. 157.112](#). Any person seeking reburial shall seek approval from the appropriate cemetery authority. A county authorization for disinterment and reinternment shall be required prior to any reburial under [Wis. Stats. 69.18\(4\)](#).

- F. Use of Repossessed Lots. Whenever possible, lots repossessed under [Chapter 157](#), Wis. Stats., in any Town cemetery will be resold and used for burials before new areas of the cemetery are used or platted.

## SECTION 8. CARE OF LOTS AT THE TOWN CEMETERY.

- A. Perpetual Care Fund for Town Cemetery. To assure reliable means for permanent care of Town cemeteries, a perpetual care fund is created for Town cemeteries. Income from this fund shall provide all or partial maintenance costs of the Town cemeteries. All lots sold in any Town cemetery shall be charged a perpetual care fee included in the price of the lot and each grave shall be provided with perpetual care services under subsection B. A record of the perpetual care fund shall be kept in the office of the Town Clerk. The fund may be increased by gifts, bequests, a portion of memorial charges, and other service revenues. Gifts shall be received, kept, and maintained pursuant to Wis. Stats. [157.11 \(8\)](#) and [\(9\)](#).
- B. Perpetual Care. The Town assumes to use the net annual income received from the investments of the perpetual care fund under subsection A in furnishing perpetual care of graves in Town cemeteries. Perpetual care is limited to the maintenance of lawn, leaf disposal, filling sunken graves, raising markers, and caring for avenues, alleys, fences, buildings, and grounds in general. Expenditures of income from the perpetual care fund shall be made at the discretion of the Town Board or the sexton. The Town shall not be bound to make a separate investment of money set aside for perpetual care from a particular lot sale, but the proceeds of each lot sale shall be added to the perpetual care fund of the Town and the proceeds from the fund used by the Town as provided in this subsection. Nothing in this Chapter



shall be construed as obligating the Town as to any alleged existing contract as to perpetual care. The Town Board shall operate and maintain the Town cemetery to provide proper and decent care of Town cemeteries and the graves, and it may employ a sexton, staff, and any independent contractor necessary to provide such care.

- C.     Costs of Care Fixed. The Town Board shall annually fix, as required under [Wis. Stats. 157.11\(5\)](#), a sum necessary for the proper and decent care of graves and unoccupied cemetery lots and improvement of any Town cemetery to be paid from the following sources as determined by the Town Board:
1. Payments from Rock County to the Town for veteran's graves under subsection F and [Wis. Stats. 45.84](#).
  2. Income of the perpetual care fund.
  3. Assessments made under subsection D.
  4. A tax levied by the Town Board.
- D.     Assessments Against Unoccupied Lots. The Town Board may annually assess upon Town cemetery lots not occupied by graves amounts not to exceed the amounts reasonably required for actual and necessary costs for care of cemetery lots and care and improvement of the cemetery pursuant to [Wis. Stats. 157.11\(7\)](#). Notice of the assessment, along with a copy of [Wis. Stats. 157.11](#), shall be mailed to each owner or person having charge of a cemetery lot, at the owner's or person's last-known post office address, directing payment to the cemetery authority within 30 days and specifying that such assessments are a personal liability of the owner or person. When uniform care of a cemetery lot has been given for 2 consecutive years or more for which assessments are unpaid, after notice as provided in [Wis. Stats. 157.11\(2\)](#), the right to burial is forfeited until delinquent assessments are paid. When uniform care has been given for 5 consecutive years or more and the assessments are unpaid, upon like notice, title to all unoccupied parts of the cemetery lot shall pass to the Town, as cemetery authority, and may be sold, the payment of principal to be deposited into the perpetual care fund. Before depositing the payment of principal into the perpetual care fund, the cemetery authority may retain an amount necessary to cover the cemetery authority's administrative and other expenses related to the sale, but the amount retained may not exceed 50% of the proceeds.

E. General Improvements. The Town Board shall direct and administer all improvements and maintenance within the cemetery before and after any burials. The Town Board shall be responsible for determining proper and decent care of the cemetery. All graves shall be sodded and mowed, when determined necessary by the Town Board or the sexton. The grade of the cemetery lots shall be determined by the Town board or the sexton. The corners of all cemetery lots shall, when purchased, if possible, be permanently marked by the Town Board or the sexton. Resodding of existing graves or following disinterment will be done when determined necessary by the Town Board or the sexton.

F. Veterans Graves.

1. Pursuant to [Wis. Stats. 45.85](#), the Town Board shall at all times see that the graves and tombstones of all veterans, including women's auxiliary organizations created by act of Congress, who shall at any time have served in any branch of the armed forces of the United States, and of the spouses or surviving spouses of all those veterans, receive proper and decent care, and may employ all necessary assistance to carry out this section.
2. Pursuant to [Wis. Stats. 45.85\(1\)](#), the expense of the care of the graves and tombstones shall be borne by the county where the graves are located, except where suitable care is otherwise provided and the amount of expense charged the county for the care may not exceed the charge made for the care of other graves in the same cemetery. The Town Board shall report to the Rock County Clerk, on or before September 1 of each year, the locations of the graves cared for by the Town Board under [Wis. Stats. 45.85](#), together with the names of the deceased and the amount claimed for care of the graves for the fiscal year from the previous July 1 to June 30.

#### SECTION .: PRIVILEGES AND RESTRICTIONS IN TOWN CEMETERIES.

A. Bylaws and Regulations. The Town Board may adopt bylaws and regulations for the management and care of any Town cemetery and may enforce those bylaws and regulations under [Wis. Stats. 157.11\(2\)](#). The Town Board may require any person owning or controlling a cemetery lot to do anything necessary to comply with the bylaws or regulations by giving

reasonable personal notice in writing if the person is a resident of the state, otherwise by publishing a class 3 notice, under [Chapter 985](#), Wis. Stats., in the county. If the person fails to comply within 20 days thereafter, the Town board may cause the action required to be done and recover the expense from the person required to take the action. The Town Board may also impose a forfeiture not exceeding \$10 for violation of the bylaws or regulations posted in 3 conspicuous places in the cemetery, recoverable under [Chapter 778](#), Wis. Stats.

- B. Mounds Prohibited. No person may raise the level of the earth over any grave in a Town cemetery above the general level of the cemetery lot.
- C. Limitations on Structures and Urns.
  - 1. In this subsection “urn” means a vessel for the display of flowers or plants that is attached to a lot or is of such weight, as determined by the Town board or sexton, that it cannot be readily moved from its placement on the lot. “Urn” does not include a vessel containing cremated human remains properly inured on the lot.
  - 2. No structures, hedges, fences, railings, embankments, depressions, or other enclosures of any kind are permitted on or around lots in any Town cemetery. Wooden boxes, wire containers, glass jars, bottles, toys, cans, memorials, memorabilia, personal items, and other similar objects may not be placed on lots without written approval of the Town Board or the sexton, and if so placed may be removed by the Town Board or the sexton without oral or written notice. Urns are not permitted at any Town cemetery on lots sold after the passage of this Chapter. Urns existing in Town cemeteries prior to the passage of this Chapter shall be removed by the Town or the sexton as they become unsightly or deteriorated and shall not be replaced. Before an urn is destroyed or discarded, the last owner of record of the lot on which it is located shall be notified by registered or certified mail with return receipt requested by the Town Clerk that the urn has been removed from the lot and will be destroyed or discarded unless the owner of the urn claims it within 30 days after mailing of such letter.
- D. Landscaping. All landscaping, mowing, and general care of lots, and other work, construction or maintenance in the Town

cemetery shall be performed by the Town by its officers, employees, independent contractors, or agents, including any sexton, unless otherwise provided in writing by the Town board.

- E. Access to Lots; Opening and Closing of Burial Places. The Town reserves the right for its officers, employees, contractors, and agents, including the sexton and the Town Board, necessary to the performance of normal Town cemetery operations to enter upon or cross over any lot in any Town cemetery in the performance of any duties or work necessary under this Chapter. The Town Board, by its officers, employees, contractors, and agents, including the sexton, has the sole right to the opening and closing of burial places used or to be used for burial of human remains in the Town cemetery, unless so ordered by a court of record to open or close such places.
- F. No Assumption of Liability for Damages. The Town, and its officers, employees, contractors, and agents, including the sexton and the Town board, assume no liability for damages to property or person, or for physical or mental suffering arising out of the performance of its normal operations related to the construction, management, operation, maintenance, care, and platting of any Town cemetery, including care of the cemetery, any lot, and the graves, or for loss by vandalism or other acts beyond its reasonable control at a Town cemetery.
- G. Altering Physical Conditions. The Town Board reserves the right to alter, change, or close alleys, roadways, walkways, water mains, and other physical public properties at any Town cemetery.
- H. Enforcement of Regulations and Ordinance. The Town Board may appoint, with citation issuance and service powers, any employee or agent of the Town, including the sexton, to administer and enforce its Town cemetery bylaws and regulations and this Chapter.

#### SECTION 10. RULES FOR VISITORS TO TOWN CEMETERIES.

- A. Visiting Hours. Every Town cemetery shall be open to visitors at all beginning one-half hour before the official sunrise and one-half hour after the official sunset each day. Permission

to enter any Town cemetery at any other time must be obtained from the Town Board or the sexton.

- B. Children. Children under 16 years of age shall not enter upon any Town cemetery except when accompanied by parents or guardians unless this requirement is waived in writing by the Town Board or the sexton.
- C. Refreshments. Persons, including picnic parties, with food, refreshments, or alcoholic beverages, are prohibited within any Town cemetery.
- D. Dogs and other animals. Dogs are permitted in any Town cemetery only when confined in a vehicle or if the dog is a service animal accompanying a person with sight-impairment or other disability while in the Town cemetery. All other pets or domestic animals are prohibited without written consent of the Town Board or the sexton, except a service animal other than a dog accompanying a person with sight-impairment or other disability while in the Town cemetery.
- E. Firearms. Firearms are prohibited in any Town cemetery except in conjunction with military funerals or specific memorial events permitted by the Town board, the sexton, or other designees of the Town board. At all other times, firearms, bows and arrows, slingshots, and other like articles are prohibited.
- F. Visitors.
  - 1. Visitors to Town cemeteries are required to use existing walkways and roadways whenever possible.
  - 2. Except as provided in Section 14, no person in any Town cemetery may do any of the following:
    - a. Pick or cut any flowers, either wild or cultivated.
    - b. Injure any shrub, tree, or plant.
    - c. Mar or deface any monument, stone, or structure.
  - 3. No person, except the owner of the cemetery lot, a person with the cemetery lot owner's consent, or a person with the written consent of the Town Board or the sexton who is engaged in official cemetery management and care duties for the Town, may do any of the following in a Town cemetery:
    - a. Damage any grave or lot.

- b. Remove, deface, mark, or damage in any manner any cemetery markers, headstones, monuments, fences, or structures.
  - c. Remove, damage, or destroy any vases, flowerpots, urns, or other objects that have been placed on any cemetery lot.
  - d. Move or remove any cemetery equipment without the written consent of the Town board or the sexton.
  - e. Remove or damage any Town cemetery property not included within subdivisions a. to d.
4. In this paragraph, "recreational activity" means any activity undertaken for the purpose of exercise, relaxation, or pleasure, including practice or instruction in any such activity. "Recreational activity" includes hunting, fishing, trapping, camping, bowling, billiards, picnicking, exploring caves, nature study, dancing, bicycling, horseback riding, horseshoe pitching, birdwatching, motorcycling, operating an all-terrain vehicle, ballooning, curling, throwing darts, hang gliding, hiking, tobogganing, sledding, sleigh riding, snowmobiling, skiing, skating, participation in water sports, weight and fitness training, sightseeing, rock climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, sport shooting, and any other sport, game, or educational activity.
- a. No person may loiter, cause a public nuisance, or engage in any sport or other recreational activity on any Town cemetery property without the written consent of the Town Board or the sexton.

G. Vehicles.

- 1. Motor vehicles traveling within any Town cemetery may not exceed 15 miles per hour. No motor vehicle, except authorized maintenance vehicles for the Town, shall be driven except on roadways designated for that purpose, nor shall any motor vehicles be driven in a reckless manner in the cemetery.
- 2. No person may ride, operate, or make use of any of the following vehicles in any cemetery unless the vehicles are present in conjunction with the Town cemetery business or are authorized in writing by the Town Board or the sexton:
  - a. Snowmobiles.
  - b. Go-carts.
  - c. All-terrain vehicles.

- d. Mopeds.
    - e. Motor bicycles.
    - f. Motorcycles.
    - g. Play vehicles and other amusement vehicles, including any coaster, skateboard, roller skates, sled, toboggan, unicycle, or toy vehicle upon which a person may ride.
  - 3. No person, without the written consent of the Town Board, or the sexton, may park or abandon any motor vehicle in any Town cemetery on any grassy or seeded area or upon any other location except a designated parking area; nor shall any person park or abandon a motor vehicle on any Town cemetery property for any purpose except engaging in official cemetery business. Any motor vehicle parked more than 24 hours, without written consent of the Town board or the sexton, shall be declared abandoned by the Town board and may be towed or removed, or caused to be towed or removed, by the Town Board or the sexton.
- H. Protection of Cemetery Property. No person without written consent of the Town Board or the sexton may do any of the following:
- 1. Trap, hunt, kill, injure, or disturb, or attempt to trap, hunt, kill, injure, or disturb any animal, bird, or waterfowl, wild or domestic.
  - 2. Climb any tree.
  - 3. Break, cut down, trample upon, remove, or in any manner injure, deface, write upon, or damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign, or other property within any Town cemetery, except as otherwise provided in this Chapter.
- I. Littering, Soliciting, and Advertising Prohibited. No person may litter, dump, or deposit any rubbish, refuse, earth, or other material, including any placement of advertising, in any Town cemetery without the written consent of the Town Board or the sexton.
- J. Sound Devices. No person may operate or play any amplifying system or sound device in any Town cemetery without the written consent of the Town Board or the sexton.

- K. Authorized Notices. No person may post, paste, fasten, paint, or attach any placard, bill, notice, sign, or advertising matter upon any structure, tree, or other natural object in any Town cemetery, except with the written consent, or at the direction, of the Town Board or the sexton. No person shall remove, deface, or damage in any manner any sign or notice posted in any Town cemetery by or at the direction of the Town Board or sexton unless approved by the Town Board or the sexton.
- L. Working in Cemetery. All contractors or other persons having work in the Town cemetery shall notify the Town Clerk or the sexton prior to commencement of the work. All contractors or others doing work in the Town cemetery are responsible for the cost for any damages or losses resulting from the work and shall promptly, upon determination of the amount of damages or loss by the Town Board, pay that sum to the Town Board.

#### SECTION 11. TOWN CEMETERY BURIALS.

- A. Daylight Burials. Burials at any Town cemetery shall be made only during daylight hours, unless with written approval of the Town Board or the sexton.
- B. Outer Containers. All burials and reinternments, at any Town cemetery, shall be made in a permanent outer burial container not constructed of wood.
- C. Grave Digging. All graves at a Town cemetery and any other cemetery in the Town to be used for burials shall be opened and dug at no cost or expense to the Town, but shall be under the direction of the Town Board or the sexton. The minimum depth of graves shall be established by the Town Board from time to time and all graves shall be dug in strict conformity with the Town Board policy then in effect. The Town Board or the sexton may charge the full cost for any grave digging and opening service provided by the Town at any Town cemetery, including the fees for the sexton or other designee of the Town Board, for staking the plot, if the Town Board has authorized the Town or its officers, employees, contractors, or agents, including the sexton or other designees, to provide grave staking, grave openings, or digging services. The Town Board or the sexton may also establish charges for snowplowing and seasonal



additional access costs to the lot owner incurred by the Town to provide for burial or disinterment services. Arrangements for any disinterment or burial services, including payments due to the Town, shall be made with the Town Clerk, the sexton, or other person designated by the Town Board at least 48 hours in advance of the service. The time for any disinterment or burial service shall be arranged so that the grave shall be properly filled and all surplus earth removed before 4:30 p.m. on the day of the disinterment or burial service, unless that requirement is specifically waived in writing by the Town Clerk or the sexton.

- D. Burial Permit. No burial in the Town cemetery shall be permitted until a legal burial permit has been issued by the Town Clerk or the sexton.
- E. Maintenance of Flowers, Wreaths, and Other Personal Items at Burial Site. There shall be no responsibility on the part of the Town, its officers, employees, contractors, or agents, including the sexton or other designees of the Town Board, for the protection and maintenance of flowers, wreaths, plants, emblems, urns, family or personal items, memorials, or similar items used or placed at any Town cemetery in conjunction with funerals or burials, including disinterment, or memorial events. The Town Board shall place or cause to have placed a notice of disclaimer of responsibility consistent with this subsection at vehicle access locations to each Town cemetery.
- F. Number of Graves Per Lot. No lot at any Town cemetery may be used for the burial of more than one body except in the following circumstances:
  - 1. Two remains from cremation shall be allowed in one lot with one headstone or two flat markers to be placed only in line with other stones.
  - 2. One full body and one remains from cremation shall be allowed in one lot, with one headstone or two flat markers to be placed only in line with other stones.
  - 3. All cremation remains shall be placed in a permanent outer burial container not constructed of wood.
- G. Seasonal Burial; Duty to Bury. The Town Board or the sexton shall provide for cemetery services and burials at any Town cemetery during each season, including winter, whenever practicable, in compliance with [Wis. Stats. 157.114](#). However, the

Town has no duty to bury, remove any human remains, or allow the burial or removal of any human remains, unless those requesting burial or disinterment are or will be in full compliance with this Chapter, state law, and any bylaws and regulation established by the Town Board. The Town Board may, at its discretion, charge additional costs to the person requesting burial in order to provide safe and timely access to and from the grave or burial site during burial services.

## SECTION 12. TOWN CEMETERY MONUMENTS AND MARKERS.

### A. Setting Grave Markers.

1. Grave markers, monuments, and foundations at any Town cemetery may be set only after the person desiring to set the marker, monument, or foundation obtains a permit therefor from the office of the Town Clerk or the sexton. Grave markers, monuments, and foundations at any Town cemetery may be set by monument company employees or agents or other persons authorized by the lot owners, but not the Town Board or the sexton. Except as otherwise provided in this Chapter, under no conditions will the Town Board or the sexton construct monument or marker bases or erect monuments or markers on bases.
2. All markers and monuments must have a cement foundation. The construction of a foundation shall be of such size and design as will provide ample insurance against settlement or injury to the monument or marker as determined by the Town Board or the sexton. The top of the foundation shall be constructed flush with the ground line. Whenever possible, all markers shall be set with, at minimum, a 5-inch margin from the outer edges of the foundation.
3. The setting of grave markers, monuments, and foundations, and the transportation of all tools and related materials, within any Town cemetery is subject to the supervision and control of the Town Board or the sexton. Unless special arrangements are made in writing with the Town Board or the sexton, such work shall be conducted between the hours of 8:00 a.m. and 5:00 p.m., Mondays through Fridays, except national holidays. Truck operation is not permitted within any Town cemetery when, in the opinion of the Town Board or the sexton, the truck operation may cause damage to the driveways or other Town cemetery property. Except with

written permission of the Town Board or sexton, all work in the setting of grave markers, monuments, and foundations shall be completed promptly and debris removed immediately.

B. Limitations. All of the following apply to monuments and markers in Town cemeteries:

1. The Town Board or the sexton may refuse permission to erect any monument, marker, or foundation not in keeping with the good appearance of the grounds at a Town cemetery. The size of any monument or stonework must be provided to the Town Board or the sexton and approved before any work related to any monument, marker, or foundation will be permitted on a lot in a Town cemetery.
2. Only one monument or marker shall be allowed per lot.
3. No foundation marker or monument may be larger than the width of the lot or group of lots purchased. All monuments and foundations must be set in line with other monuments so far as possible as directed by the Town Board or the sexton. Government service monuments or markers shall be surface mounted or attached to the monument or marker. No monument or marker may be more than 5 feet in height.
4. Temporary markers shall be removed or replaced with a permanent marker within one year of burial.
5. A preneed marker may be placed on a lot or group of lots before burial.
6. No materials other than granite, marble, or standard bronze may be used for outside and above-ground portions of any marker or monument.
7. Within one year after burial, a marker or monument identifying the burial shall be placed at the grave site. The Town Board or the sexton may require, at minimum, prior to burial, a deposit of \$1,000 payable to the Town treasurer to insure timely placement of a proper marker or monument. The Town reserves the right to place a marker or monument and to assess any surviving owners of the lot for the costs of the marker or monument placed and the costs of installation of such marker or monument.

C. Removal of Monuments. A marker or monument, once placed at a Town cemetery on its foundation, may not be removed, except by written permission of the Town Board or the sexton.

- D. Payment. Any lot at a Town cemetery must be paid in full to the Town treasurer before markers, monuments, and foundation are set and before any cemetery deed conveyance. All outstanding charges due the Town must be paid prior to burial.

#### SECTION 13. TOWN CEMETERY VAULTS AND MAUSOLEUMS.

Construction of vaults and mausoleums in any Town cemetery is prohibited unless approved in writing by the Town board.

#### SECTION 14. TREES, SHRUBS, AND FLOWERS AT TOWN CEMETERY.

- A. Tree and Shrub Planting. The planting at any Town cemetery of trees and shrubs on newly purchased lots or parts of lots is prohibited except by written consent of the Town board or the sexton.
- B. Large Tree Removal. Lot owners may, with the written consent of the Town board or the sexton, remove large trees on or adjacent to cemetery lots in any Town cemetery that hinder the full usage of the lot. The expense of the tree and stump removal shall be paid for by the lot owners.
- C. Fresh Flowers and Flags. All flower baskets at grave or lot sites at a Town cemetery shall be removed by October 15 of each year. Fresh cut flowers may be used in any Town cemetery at any time. Containers for cut flowers are to be of a type that is level with the ground surface and not holding water when not in use; or of the type to be disposed of when flowers are removed. All flags placed on graves for Memorial Day shall be removed by the day following Flag Day of that year.
- D. Potted Plants. Potted plants at any Town cemetery may be set on lots, without disturbing the sod, if removed within 5 days after being set. If a potted plant is not removed within 5 days of being set on the lot, the potted plant may be picked up and destroyed by the Town board or the sexton of the Town or removed and preserved for planting within the Town cemetery.
- E. Artificial Flower Decorations; Baskets. Artificial flower decorations are prohibited in any Town cemetery unless in a vase or pot and when so used will be treated as potted plants.

Unfilled or unsightly baskets will be removed from the lot by the Town board or the sexton.

- F. Flower Beds. Individual flower beds or growing plants other than trees or shrubs are permitted at any Town cemetery but must be of a reasonable size as determined by the Town board or the sexton. In case of doubt, the Town board or the sexton of the Town should be consulted. Flower beds or growing plants that are not maintained, become unsightly or undesirable, or are not of a reasonable size as determined by the Town board or the sexton will be removed by the Town board or the sexton.
- G. Plant or Flower Removal. Plants or flowers planted in a Town cemetery may not be taken up or removed by any person, nor cuttings removed therefrom, without written consent from the Town board or the sexton, except that plants in flower beds and growing plants authorized under subsection F may be removed or cut by the person who planted the flower bed or growing plant.
- H. Vine, Wreath, and Memorial Removals. Vines that interfere with the proper care of lots or graves or injure or damage the grass will be removed from any Town cemetery by the Town Board or the sexton when found objectionable. No real or artificial wreaths, temporary or permanent, nor memorial or personal memorabilia items will be allowed on lots or graves without written consent of the Town board or the sexton.

#### SECTION 14. MISCELLANEOUS.

- A. Neglected Lots. It is urged that lot owners interest themselves in the present and future care of their lots, as a single neglected lot mars the beauty of the entire Town cemetery. The Town Board or the sexton may notify, or attempt to notify, in writing a lot owner that any lot, or monument or marker thereon, is being neglected and that failure to comply with this Chapter and Town cemetery bylaws and regulations regarding proper care and management, or failure to correct a neglected lot, may be cause for imposition of forfeitures under [Wis. Stats. 157.11\(2\)](#).
- B. Schedule of Payments. A schedule of the fees and charges for any Town cemetery, as established by the Town Board by

resolution shall be on file in the office of the Town Clerk. The Town Board may by resolution change the schedule from time to time without advance notice to conform the fees and charges to current economic conditions.

- C. Fee Payment Location. All fees and charges for any Town cemetery in the current schedule of fees and charges adopted under subsection B are payable to the Town Treasurer at the office of the Town Clerk, where receipts will be issued for the amounts paid.
- D. Sexton. The Town Board, by resolution, may designate, retain, or employ a person as sexton or may designate any other person or committee to act administratively and to manage, operate, maintain, and provide care for the Town cemetery or any part of the operations or of any Town cemetery pursuant to this Chapter. The sexton may be a Town employee or may, with proper insurance and indemnification protection for the Town, its officers, employees, and agents, be an independent contractor or agent retained under written contract for a fixed time of years. The Town Board, consistent with this Chapter, shall designate the authority, responsibility, and duties to the sexton by written resolution. The Town Board shall be responsible for proper supervision of the sexton.
- E. Amendment of Chapter. The Town Board reserves the right to amend this Chapter to conform with newly developed cemetery practices or any other legal purpose that the Town board deems necessary and appropriate. Before this Chapter is amended, a public hearing shall be held on the proposed amendment before the Town Board. Notice of the public hearing shall be published in a local newspaper at least 10 days prior to the hearing.

#### SECTION 15. PENALTIES.

- A. Citation. The Town board may establish a citation ordinance for enforcement of violations of this Chapter and for any bylaws or regulations.
- B. Penalties. Any person who violates any provision of this Chapter or any bylaws or regulations shall, upon conviction, be fined and shall forfeit for any bylaw or regulation violation

under Section XI, subsection A, of this Chapter and [Wis. Stats. 157.11\(2\)](#), not more than \$10, and for a violation of this Chapter, not less than \$100 nor more than \$500 for each offense, together with the costs of prosecution. Each day a violation exists or continues constitutes a separate offense under this Chapter. The Town Board may withhold the issuance of any Town licenses, authorities, grants, or permits and any additional cemetery lot purchases and permits for burial or disinterment until the violation has been abated and all penalties and costs satisfied.

C. Abatement.

1. In lieu of or in addition to any other penalty for a violation of this Chapter, if the violation consists of a physical condition, the Town Board may issue a written notice to the person responsible for the violation, if known, requiring the person responsible to abate or remove the violation within 10 days of receipt of the notice. Service of notice shall be by personal service or registered mail with return receipt requested.
2. If the person responsible for the violation of this Chapter is unknown or the person responsible has not abated or removed the violation within 10 days of receipt of the notice described in paragraph 1., the sexton, or some other person designated by the Town board, may immediately abate or remove the violation in a manner approved by the Town Board. The cost of the abatement or removal may be recovered from the person responsible for the violation.

D. Injunctive Relief. In lieu of or in addition to any other penalty for a violation of this Chapter the Town Board may seek to enjoin any continuing violation of this Chapter as provided in [Ch. 813 Wis. Stats.](#)

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