

**CHAPTER 500  
TOWN ZONING**

**ARTICLE 1  
GENERAL PROVISIONS**

**§500.01 Name**

This ordinance shall be known as “Town Zoning” and may be referred to herein as “this chapter.”

**§500.02 Authority**

This chapter is adopted under the authority granted under ss. 60.62, 61.35, and 62.23, Wis. Stats.

**§500.03 Jurisdiction**

This chapter shall only apply to that land lying within the Town of Eagle, Waukesha County, the boundary of which may change over time through annexations and detachments, to the extent the land is not governed by provisions of Waukesha County's shoreland jurisdiction.<sup>[1]</sup>

**Editorial notes:**

[1] An annexation removes land from a town and adds it to a city or village. A detachment removes land from a city or village and adds it to a town or another city or village.

**§500.04 Legislative findings**

- (A) **General findings.** The town board makes the following legislative findings:
- (1) The town board of the Town of Eagle adopted a comprehensive plan on November 10, 2009 pursuant to s. 66.1001, Wis. Stats.
  - (2) This chapter is intended to be consistent with the overall intent of the town's comprehensive plan, as may be amended.
- (B) **Other findings.** Other legislative findings are included in various articles, divisions, and sections of this chapter as may be appropriate.

**§500.05 Purpose**

- (A) **General purpose.** This chapter promotes the public health, safety, and welfare and is intended to:
- (1) implement the goals, objectives, and policies of the town's comprehensive plan to the greatest extent practicable;
  - (2) encourage the most appropriate use of land throughout the town;
  - (3) conserve the value of buildings;
  - (4) establish clear and consistent standards, regulations, and procedures for the review of proposed development as may be regulated by this chapter; and
  - (5) establish minimum standards for the use or development of land within the town.
- (B) **Specific purposes.** Consistent with s. 62.23(7), Wis. Stats., this chapter is also intended to:
- (1) secure safety from fire, panic, and other dangers;
  - (2) promote health and general welfare;

- (3) provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems;
  - (4) encourage the protection of groundwater resources;
  - (5) prevent the overcrowding of land;
  - (6) avoid undue concentration of population;
  - (7) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
  - (8) preserve burial sites, as defined in s. 157.70(1)(b), Wis. Stats.
- (C) **Other purposes.** Other purposes may be included in various articles, divisions, and sections as may be appropriate.

#### **§500.06 Re-enactment and repeal**

This chapter carries forward by re-enactment some of the provisions of the regulations governing zoning and related matters which the town board adopted under authority of state law prior to the effective date of this chapter. This chapter is not intended to repeal those regulations in their entirety, but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced, unless explicitly surrendered by specific provisions of this chapter. If a provision in the regulations which were in effect on the date this chapter became effective is not specifically carried forward in this chapter, such provision is repealed. As to the effect of this section on existing land uses refer to article 12.

#### **§500.07 Compliance**

(A) **Generally.** Except as specifically provided, the provisions of this chapter shall apply to all development within the Town of Eagle. No development shall be undertaken without the prior authorizations required by this chapter and other applicable rules and regulations of the Town of Eagle.

(B) **Exception for a previously granted permit or other approval.** If a permit or other approval has been previously granted and the authorized work, in whole or in part, is no longer allowed under the current zoning regulations, the holder of the permit is authorized to establish the use or undertake the authorized work within one year of the date of the approval. If the authorized work does not commence within that time period and continue in good faith to completion, such permit or other approval shall lapse and be null and void.

(C) **Exception for the establishment of a use, structure, or building not requiring authorization.** If prior to the adoption of this chapter, or amendment thereto, a lawful land use, structure, or building is actively being established that did not require a permit or other approval under the zoning regulations in effect at that time, said work may continue to completion even when such land use, structure, or building (1) now requires a permit or other authorization under this chapter, (2) is being developed contrary to this chapter, or (3) is otherwise prohibited under this chapter. If such work does not continue in good faith to completion, any work must there after conform to this chapter.

#### **§500.08 Liability**

The Town of Eagle and its officials, agencies, employees, agents, and assigns shall not be liable for any flood damage, sanitation problems, structural damage, or other damages or loss of property value that may occur as a result of reliance upon and conformance with this chapter.

#### **§500.09 Severability**

(A) If any section, clause, provision, or portion of this chapter is determined to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected by such ruling.

(B) If any application of this chapter to a particular structure or parcel is determined to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not apply to any other structure or parcel not specifically included in the ruling.

**§500.10 Relationship of this chapter to other regulations**

In addition to meeting the requirements in this chapter, development shall comply with all applicable regulations of Waukesha County and federal and state agencies. In all cases, the strictest of the applicable provisions shall apply. Regulations adopted by Waukesha County that may apply include the following:

- (1) Nonmetallic Mining Reclamation Ordinance
- (2) Waukesha County Animal Waste Management Ordinance
- (3) Waukesha County Shoreland and Floodplain Protection Ordinance

**Amendment(s):** Revised by Ordinance 2021-03

**§500.11 Relationship of this chapter to private agreements**

This chapter is not intended to repeal, abrogate, annul, impair, or interfere with any easement, covenant, deed restriction, or other private agreement governing land development. However, when this chapter imposes a greater restriction than the aforementioned, the provisions of this chapter shall apply.

**§500.12 Additional local regulations**

In addition to meeting the regulations in this chapter, development shall comply with all applicable regulations in the municipal code of the Town of Eagle, including the following and any amendments thereto:

- (1) Land Division and Development Control Code, Chapter 480 of the municipal code,
- (2) Stormwater Management ordinance (2007-08),
- (3) Erosion Control ordinance (2007-09),
- (4) Outdoor Solid Fuel Heating Device ordinance (2011-01),
- (5) High Capacity Well ordinance (2002-03),
- (6) Sewage Sludge disposal ordinance (16-1),
- (7) Ordinance to Regulate Outdoor Noise at Commercial Establishments (1993-06),
- (8) Residential Property Maintenance ordinance (2002-27),
- (9) Non-metallic Mining Reclamation ordinance (2001-04A),
- (10) Ordinance to Preserve Historic Sites, Structures and Districts (1994-05), and
- (11) Impact Fee ordinance (2007-03),

In all cases, the strictest of the applicable provisions shall apply.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.13 No defense to nuisance action**

Compliance with the standards and requirements in this chapter shall not constitute an absolute defense to an action to abate a public or private nuisance.

**§500.14 Applicability to public entities**

This chapter shall apply to all publicly-owned land to the fullest extent allowed by state and federal law. When a public entity undertakes any development that is exempted by state or federal law from this chapter, in whole or in part, it is strongly encouraged to meet the provisions of this chapter.

**§500.15 Applicability to projects under the purview of the Public Service Commission**

This chapter shall apply to projects under the purview of the Wisconsin Public Service Commission (PSC) to the fullest extent allowed by state law.<sup>[1]</sup> The plan commission or the town board, or both, may submit a written request to the PSC outlining those standards and/or requirements of this chapter that the PSC should impose as conditions of project approval, if approval is to be granted.

**Editorial notes:**

[1] See s. 196.491(3)(i), Wis. Stats., and also *American Transmission Co., LLC v. Dane County*, 2009 WI App. 126

**§500.16 Repeal of conflicting provisions**

All other ordinances or parts of ordinances of the town that are inconsistent or conflicting with this chapter, to the extent of the inconsistency only, are hereby repealed.

**Amendment(s):** Added by Ordinance 2021-03

**§500.17 Copyright protection**

This chapter may include images that are copyright protected and are denoted as such. All such images are used with permission of the copyright holder for the exclusive purposes of this chapter. Any images subject to copyright protection may be reproduced as part of this chapter and are subject to the open records law of Wisconsin, but may not be used in other works without the permission of the copyright holder.

**Amendment(s):** Added by Ordinance 2021-03

**§500.18 Website**

The town may create and maintain a website to share the key aspects of this chapter, including the zoning map, in an interactive platform. If there is any discrepancy between such website and this chapter, this chapter controls.

**Amendment(s):** Added by Ordinance 2021-03

**§500.19 through 500.20 Reserved**

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## ARTICLE 2 INTERPRETATION AND CONSTRUCTION

### §500.21      **General rules**

(A) **Generally.** In the interpretation and application of this chapter, all provisions shall be liberally construed in favor of the town so the true intent and meaning of this chapter is carried out as set forth in s. 500.05.

(B) **Minimum requirements.** The interpretation and application of any provision of this chapter shall be held to be the minimum requirement adopted for the promotion of the public health, safety, and general welfare and not be deemed a limitation or repeal of any other power granted by state statute.

### §500.22      **Interpretation**

In the event a question arises concerning any provision or the application of any provision of this chapter, interpretations shall be issued consistent with article 6 of this chapter.

### §500.23      **Delegation of authority**

If a provision in this chapter states that an elected official, department supervisor, or some other employee is to perform some act, such individual may designate, delegate, or authorize a subordinate to perform the act unless state law or the provision clearly specifies otherwise.

### §500.24      **Internal conflicts**

More specific provisions of this chapter shall be followed in lieu of more general provisions unless the context otherwise requires. Additionally, the most restrictive provisions shall apply.

### §500.25      **Use of graphics, illustrations, headings, references, and commentary notes**

(A) **Purpose.** Graphics, illustrations, headings, references, statutory citations, and commentary notes are included to improve the readability of this chapter and increase reader comprehension. Specifically, graphics and illustrations are included to help the reader visualize the meaning of the text. Headings and subheadings generally state the content of that section and are intended to help the reader quickly find information. References are included when the section is related to a state or local law or another section in this chapter. These are included to help the reader understand the relationship among various provisions. Commentary notes are included to supplement and/or further clarify a sentence or provision but are not part of this chapter.

(B) **Interpretation.** A graphic, illustration, heading, reference, statutory citation, or commentary note shall not govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision.

(C) **Effect of deficiency.** Because the text controls, no provision shall be held invalid by reason of any deficiency in any graphic, illustration, heading, reference, statutory citation, or commentary note.

### §500.26      **Reference to state and federal law**

If a provision in this chapter references a specific state or federal law, such reference shall be interpreted to mean the most current version of the referenced section at the time the reference is applied. If a referenced section is repealed and replaced by another section with comparable subject matter, the replacement section shall control. If a referenced section is repealed and not replaced, the repealed section shall control if it is determined by the town attorney that the town has the authority to apply the repealed language.

**§500.27 Interpretation of boundaries and designations for zoning districts**

(A) **Boundary line interpretations.** Interpretations regarding boundaries of zoning districts shall be made in accordance with the following rules:

- (1) **Political boundaries.** Boundaries shown as following, or approximately following, any political boundary shall be construed as following such line.
- (2) **Section lines.** Boundaries shown as following, or approximately following, a section line, half-section line, or quarter-section line shall be construed as following such line.
- (3) **Centerlines.** Boundaries shown as following, or approximately following, any railroad, alley, road, street, highway, or similar feature shall be construed as following the centerline of such feature.
- (4) **Property lines.** Boundaries shown as following, or approximately following, any platted lot line or other property line shall be construed as following such line.
- (5) **Natural boundaries.** Boundaries shown as following, or approximately following, any natural feature such as a stream, river, canal, other bodies of water, or topographical features, such as a watershed boundary, shall be construed as following such natural feature as verified by field inspection when necessary.

In the event there is a question as to the location of a zoning district boundary, the plan commission shall review such matter at a regular or special meeting and render a decision.

(B) **Street abandonment.** In the event a public road, street, or alley is officially vacated or abandoned, the zoning provisions applicable to the land to which it reverted shall apply to such vacated or abandoned road, street, or alley, unless otherwise provided by town action.

**§500.28 General rules of interpretation**

In the construction of this chapter, the following shall be observed, unless such construction would be inconsistent with the text or with the manifest intent of this chapter:

- (1) **Gender.** Words of the masculine gender include the feminine and neuter, and vice versa.
- (2) **Singular and plural words.** Words in the singular include the plural and words in the plural include the singular.
- (3) **Tense.** Words in the present tense include the past and future tense, and the future tense includes the present tense.
- (4) **“Must”, “shall” and “will”.** The words “must”, “shall” and “will” imply a mandatory condition.
- (5) **“May” or “should”.** The words “may” and “should” imply a permissive condition.
- (6) **“Includes” or “including”.** The words “includes” or “including” shall not limit a provision to the specific example(s) listed, but are intended to extend their meaning to all other instances or circumstances of like kind or character.
- (7) **“Such as”.** The phrase “such as” shall not limit a provision to the specific example(s) listed, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (8) **Conjunctions.** When used at the end of a series, the word “and” indicates that all listed items apply. When the word “or” is used at the end of a series, it indicates that one or more of the listed items apply.

**§500.29 Computation of time**

When a time period is specified in this chapter, the first day of the period shall be the first day after the event that triggered the time clock to start. If the last day of the time period is a Saturday, Sunday, or a legal holiday recognized by the state of Wisconsin, that day shall be excluded and the time period shall be extended to the next business day.

**§500.30 through 500.40      Reserved**

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**ARTICLE 3**  
**DEFINITIONS**

**§500.41 General definitions**

(A) **Words and phrases not defined.** Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. If there is any question in this regard, the procedures set forth in Division 17 of Article 6 shall be followed.

(B) **Words and phrases defined.** For the purpose of this chapter, certain words and phrases are defined below and shall have the meaning ascribed to them, except where the context clearly indicates a different meaning.

**A**

- (1) **Accessory building** See building, accessory
- (2) **Accessory land use** See land use, accessory
- (3) **Active farm operation** A property where the principal current and ongoing use of the property is crop production, animal production, or growing Christmas trees or ginseng. Land that was engaged in the preceding activities, but has been harvested at the end of the last possible production season, continues to be an active farm operation unless and until it fails to engage in production in the next production season or after a period of 12 months, whichever occurs first.
- (4) **Adult arcade** An establishment wherein coin, slug, electronically, or mechanically controlled or operated still or motion picture machines, projectors, computers, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (5) **Adult bath house** An establishment that provides a bath as a service, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the state of Wisconsin and which provides to its patrons an opportunity for engaging in specified sexual activities.
- (6) **Adult body painting studio** An establishment wherein patrons are afforded an opportunity to be painted or to paint images on specified anatomical areas. The term does not include a tattoo parlor.
- (7) **Adult book/video store** An establishment having as its stock in trade the sale, rental, or lease for any form of consideration, any one or more of the following:
  - (a) Books, magazines, periodicals or other printed or electronic matter, photographs, films, motion pictures, recordings, video cassettes, DVDs, video reproductions, slides, closed-circuit transmission, cable/satellite transmission, subscriber programming, or other visual representations or physical medium which are distinguished or characterized by their emphasis on any actual or simulated specified sexual activities or specified anatomical areas, the removal of articles of clothing, or partial or totally nude appearance;
  - (b) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities;
  - (c) Facilities or premises to which public patrons or members are invited or admitted for the presentation or viewing of adult entertainment as defined herein, including, but not limited to, adult-oriented films, motion pictures, video cassettes, video reproductions, slides, closed-circuit transmission, cable/satellite transmission, subscriber programming or other visual

representation or physical medium that allows an image to be displayed or transmitted; and/or any live performance, display, or dance of any type.

- (8) **Adult cabaret** An establishment, such as a nightclub, dance hall, bar, restaurant, or similar establishment, that regularly features (1) persons who appear nude or semi-nude; (2) live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or (3) film, motion pictures, video cassettes, streaming videos, DVDs, slides or other photographic or video reproductions or closed-circuit transmission, cable/satellite transmission, subscriber programming, or other visual representation or physical medium, which are characterized by the exhibition or display of specified sexual activities or specified anatomical areas.
- (9) **Adult entertainment** Any exhibition of any motion picture, video cassette or recording, photographic reproduction, closed-circuit transmission, cable/satellite transmission, subscriber programming, or other physical medium that allows an image to be displayed or transmitted; live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by an emphasis on any one or more of the following: (1) "specified anatomical areas" as defined in this section; (2) "specified sexual activities" as defined in this section; or (3) removal of articles of clothing or partial or total nude appearance.
- (10) **Adult massage parlor** An establishment with or without sleeping accommodations that provides the service of massage or body manipulation, including exercise, heat, and light treatment of the body, and any form or method of physiotherapy, not operated by a medical practitioner or professional physical therapist licensed by the state of Wisconsin and which also provides its patrons with the opportunity to engage in specified sexual activities.
- (11) **Adult modeling studio** An establishment that provides the services of modeling for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing, or other means.
- (12) **Adult motel** An establishment that (1) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, film, motion pictures, video cassettes, video reproductions, slides, cable/satellite transmission, subscriber programming, or other visual representation or physical medium characterized by depicting or describing specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this type of adult entertainment; (2) offers a sleeping room for rent for a period of time that is less than 10 hours; or (3) allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than 10 hours.
- (13) **Adult theater** An enclosed building such as a theater, concert hall, auditorium, or other similar business establishment which is used for presenting "adult entertainment."
- (14) **Agricultural zoning district** A zoning district so designated in s. 500.522. (See also business zoning district, manufacturing district, residential zoning district, and special purpose zoning district)
- (15) **Animal unit** A unit of measure used to determine the total number of single animal types or combination of animal types, as specified in s. NR243.03, Wis. Admin. Code, that is at an animal feeding operation.
- (16) **Antenna** Communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.  

**Editorial note:** This definition is based on the corresponding definition in s. 66.0404, Wis. Stats
- (17) **Appeal** A process initiated by an aggrieved party to review a decision made pursuant to this chapter or an alleged failure to act as required by this chapter.

**Exhibit 3-1. An example of an arbor over a sidewalk with a fence**



- (18) **Applicant** A person that submits an application as required by this chapter.
- (19) **Arbor** A structure over a walkway or other open area often supporting vines or other plants (Exhibit 3-1).
- (20) **Assessed value** The dollar amount assigned to taxable real and personal property by the assessor for the purpose of taxation.
- (21) **Auto title loan business** Any person licensed pursuant to s. 139.09, Wis. Stats., who makes a loan that is secured by an interest, other than a purchase money security interest, in the borrower's motor vehicle.

**B**

- (22) **Balcony** A floor area that projects beyond the exterior wall of an upper story, is enclosed by a half wall or railing, and is only accessible from the building's interior. A balcony can be supported by columns or brackets or be cantilevered. (Exhibit 3-2)
- (23) **Base farm tract** All land, whether one parcel or 2 or more contiguous parcels, which is in an agricultural land preservation (AP) district and is part of a single farm and so designated by the Town Board of the Town of Eagle, regardless of any subsequent changes in the size of the farm.

Base farm tracts are defined only for the purpose of calculating residential densities in connection with conditional use permit applications. They have no other legal or ownership implications, and are not used for any other purpose. A "base farm tract" is a fixed geographical reference area that (once determined) remains constant over time. A "base farm tract" is not necessarily synonymous with a "farm," except on the date that it is determined.

**Exhibit 3-2. An example of a balcony**



- (24) **Base setback line** An imaginary line that is parallel to the centerline of certain roadways depicted on the highway width map adopted by Waukesha County.
- (25) **Base zoning district** See zoning district, base
- (26) **Basement** A floor level of a building that is at least partly underground.
- (27) **Blasting** The use of an explosive material to loosen, move, or shatter a mass of earth materials.
- (28) **Board of appeals** See zoning board of appeals
- (29) **Body piercing** The perforating of any human body part or tissue, except an ear, and placing a foreign object in the perforation to prevent the perforation from closing.
- (30) **Body piercer** An individual who performs body piercing on another upon his or her request.
- (31) **Building** A structure having a roof supported by columns or walls that is used or intended for the shelter or enclosure of people, animals, equipment, or property of any kind.
- (32) **Building, accessory** A building or portion of a building used for a purpose customarily incidental to the permitted use of the lot and located on the same lot as the principal use.

- (33) **Building, principal** The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.
- (34) **Building codes** Those regulations adopted by a municipality or the state that regulate the construction, repair, alteration, and maintenance of buildings.
- (35) **Building coverage** The area of a lot that is occupied by buildings. Depending on the context, building coverage could refer to the actual or proposed amount, or the maximum amount that is permitted in a particular zoning district.  

**Editorial note:** Section 500.558 describes how building coverage is measured.
- (36) **Building scale** The relationship between the mass of a building and its surroundings; including streets, open space, and surrounding buildings. Mass is the three-dimensional bulk of a building: height, width, and depth.
- (37) **Building permit** A permit issued by the town that authorizes an applicant to conduct a specified construction activity that is consistent with the town's building code. (In contrast see zoning permit)
- (38) **Business zoning district** A zoning district so designated in s. 500.522. (See also agricultural zoning district, manufacturing zoning district, residential zoning district, and special purpose zoning district)
- (39) **Burden of proof** The obligation of a party to establish a fact by evidence.

**C**

- (40) **Caliper** The diameter of a tree, measured at a point 6 inches above the ground line if the resulting measurement is not more than 4 inches. If the resulting measurement is more than 4 inches, the measurement is taken 12 inches above the ground line.  

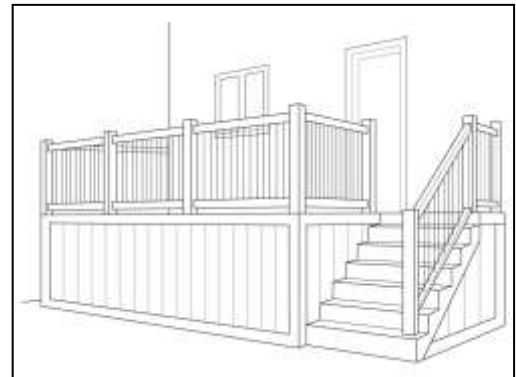
**Editorial note:** The plant nursery trade uses this measurement standard, while the timber industry uses diameter breast height (DBH).
- (41) **Campground space** A designated portion of a campground that is rented for the exclusive use of its occupants. A campground space may include a parking area, fire ring, table, and other amenities.
- (42) **CFR** An abbreviation for Code of Federal Regulations
- (43) **Clear vision triangle** See vision clearance triangle
- (44) **Co-location** The location of multiple antennas of more than one commercial wireless communication service provider or governmental entity on a single tower or alternative tower structure.
- (45) **Common open space** In planned unit developments, common open space is that portion of the project that will remain undeveloped and which is jointly owned and maintained by those owning property in the development.
- (46) **Comprehensive plan** The document adopted by the town board consistent with s. 66.1001, Wis. Stats.
- (47) **Conditional use** See land use, conditional
- (48) **Conditional use order** A written decision issued by the town board that indicates whether the conditional use is approved or denied, and the terms of the approval if so granted. The conditional use may only be established on the subject property when the zoning administrator issues a conditional use permit indicating that all initial conditions of the approval have been satisfied.

- (49) **Conditional use permit** A permit issued by the zoning administrator indicating that the conditional use may be established following a determination that all initial conditions of the conditional use order have been satisfied.
- (50) **Condominium** A form of property ownership where multiple owners individually own specified portions of a building along with any other common elements.
- (51) **Conversion order** A written decision issued by the town board authorizing the property owner to convert an existing nonconforming use to a different nonconforming use that is determined to be of the same or lesser degree of nonconformity.
- (52) **Corner lot** See lot, corner
- (53) **Curb** The barrier used to separate a street and other vehicle use areas from the surrounding environs.

**D**

- (54) **Deck** A structure characterized by a flat, unroofed, horizontal surface or platform suspended above the grade of the land it covers and which may be supported by posts, beams, cantilever, or other similar methods. (Exhibit 3-3) (In contrast see stoop)
- (55) **Density** As the context would indicate, the number of existing, proposed, or permitted dwelling units in a given area. For example, a 40-acre parcel with 7 dwelling units has a density of one dwelling unit per 5.7 acres.
- (56) **Developer agreement** A contract between a developer and a municipality that describes the obligations of both parties regarding a private development project.
- (57) **Development** Any activity that must comply with, or is anyway regulated by, this chapter.
- (58) **Disability** A mental or physical impairment that substantially limits one or more life activity.
- (59) **Distinguished or characterized by** The dominant or principal theme of the object referenced. For instance, when the phrase refers to films “which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas”, the films so described are those whose dominant or principal character and theme are the exhibition or display of specified sexual activities or specified anatomical areas.
- (60) **District** See zoning district
- (61) **Double frontage lot** See lot, through
- (62) **Driveway, private** A private route of ingress and egress from a private or public right-of-way, which provides access to residential dwellings/units, business buildings, or properties.
- (63) **Dwelling unit** A building, or portion thereof, that provides complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**Exhibit 3-3. An example of a deck**



**E**

(64) **Easement** A non-possessory legal interest a person has in the property of another for a specific use. An easement may apply to the entire property or a portion thereof and may be perpetual or temporary, expiring after a period of time or after a certain event occurs.

(65) **Equipment compound** When used in the context of telecommunication facilities, the area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

**Editorial notes:** This definition is based on the corresponding definition in s. 66.0404, Wis. Stats.

(66) **Established road grade** The elevation of the finished road at the centerline or curb as fixed by the town engineer or by such authority as shall be designated by law to determine such an elevation.

(67) **Expanded livestock facility** See livestock facility, expanded

(68) **Expansion** When used in the context of livestock facilities, 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.

**Editorial notes:** This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

**F**

(69) **FAA** An abbreviation for Federal Aviation Administration

(70) **Fall zone** When used in the context of telecommunication facilities, the area over which a mobile support structure is designed to collapse.

**Editorial notes:** This definition is based on the corresponding definition in s. 66.0404, Wis. Stats.

(71) **Family** An individual living alone in a dwelling unit, or 2 or more individuals living together in a dwelling unit who are related by blood, marriage, adoption, or other legal means, or a group of not more than 4 individuals who are not so related who live together as a single housekeeping unit in a dwelling unit. A single housekeeping entity infers the use in common of all spaces, household services, and utilities with a single source of food preparation for all occupants.

(72) **Farm** When used in the context of farmland preservation in the AP zoning district, a parcel of land or a collection of 2 or more contiguous parcels of land in common ownership provided more than 50 percent of the entire land area is assigned for property tax purposes to one or more of the following use classifications as defined by the Wisconsin Department of Revenue pursuant to s. 70.32(2), Wis. Stats., (1) agricultural land – class 4, (2) agricultural forest – class 5m, and productive forest – class 6.

**Editorial notes:** This definition is used for zoning purposes only. It does not change or limit a landowner’s statutory eligibility for farmland preservation tax credits. A landowner claiming such tax credits must meet various requirements under s. 71.613, Wis. Stats., including gross farm revenue requirements.

(73) **Farm tract** See base farm tract

(74) **Farmland preservation plan** That portion of Waukesha County’s comprehensive plan adopted consistent with ch. 91, Wis. Stats., that describes the ways the county will encourage preservation of farmland.

(75) **FCC** An abbreviation for Federal Communications Commission

(76) **FEMA** an acronym for Federal Emergency Management Agency

(77) **Flag lot** See lot, flag

- (78) **Flood** A general and temporary condition or partial or complete inundation of normally dry land areas caused by the overflow or rise of inland waters or the rapid accumulation of stormwater runoff or surface waters from any source.
- (79) **Floodplain** Those lands subject to inundation by the 100-year reoccurrence flood, or, where such data is not available, the maximum flood of record.
- (80) **Floor area** The maximum horizontal projected area of a building measured at each level from outside wall to outside wall.
- (81) **Front yard** See yard, front
- (82) **Fugitive dust** Solid airborne particulate matter resulting from any activity conducted on a parcel.

**G**

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

**H**

- (84) **Hazard** A condition, whether manmade or natural, that presents a tangible danger to the public health, safety, and general welfare.
- (85) **Hazardous substance** A material regulated by the Emergency Planning and Community Right-to-Know Act of 1986, 42 USC 1101-11050, as may be amended.
- (86) **Hazardous waste** A waste or combination of wastes that because of its quantity, concentration, or physical, chemical, or infectious characteristics, may (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.
- (87) **Highway** A State or County highway.
- (88) **Highway width map** A map adopted by Waukesha County pursuant to s. 66.1031, Wis. Stats., and approved by the town board.

**I**

- (89) **Impervious surface** The portion of a lot that substantially reduces or prevents the infiltration of stormwater into the ground. It includes areas of compacted soil, buildings, and nonporous surfaces such as sidewalks, parking lots, driveways, and similar features.
- (90) **Interior lot** See lot, interior

**L**

- (91) **Land** The earth, water, and air, above, below, or on the surface.
- (92) **Land use** As the context indicates (1) the development that has occurred on the land, (2) development that is proposed for the land, or (3) the use permitted for the land under this chapter.

- (93) **Land use, accessory** A land use that is subordinate to, and customarily incidental to, the permitted principal use of the property or buildings and located upon the same lot as the principal use.
- (94) **Land use, conditional** A land use, which by its nature, character, or circumstance, is so unique or so dependent upon specific conditions that permissibility by right is not practical, but which may be permitted subject to certain conditions and requirements as determined by the reviewing authority.
- (95) **Land use, permitted by right** A land use that is allowed throughout a specified zoning district. Land uses permitted by right may be reviewed to ensure that all provisions of local, state, and federal regulations are met.
- (96) **Land use, principal** The main or primary use of a property as may be allowed under this chapter.

Editorial notes: In some situations, a parcel of land can have more than one principal land use.

- (97) **Land use, temporary** A land use which is on a parcel of land for a limited and specified period of time.
- (98) **Legal nonconforming building** See nonconforming building
- (99) **Legal nonconforming lot** See nonconforming lot
- (100) **Legal nonconforming structure** See nonconforming structure
- (101) **Legal nonconforming use** See nonconforming use
- (102) **Livestock** When used in the context of livestock facility siting, “livestock” only includes cattle, swine, poultry, sheep, and goats. When not used in the context of livestock facility siting, “livestock” includes bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids (alpacas, llamas, camels), ratites (emus, ostriches), and farm-raised fish.

**Editorial notes:** This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

- (103) **Livestock expansion** When used in the context of livestock facilities, 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.
- (104) **Livestock facility** A feedlot, dairy farm, or other operation where livestock 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 this chapter, except that an operator may elect to treat a separate species facility as a separate livestock facility.

**Editorial notes:** This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

- (105) **Livestock facility, expanded** The entire livestock facility that is created by expansion, after May 1, 2006 regardless of whether those structures are new, existing, or altered.

**Editorial notes:** This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

- (106) **Livestock facility, new** 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. The term 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.

**Editorial notes:** This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.



- (107) **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. The term includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. The term 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.

**Editorial notes:** This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

- (108) **Livestock waste storage structure** An impoundment made by constructing embankments, a pit or dugout, or a structure used to hold agricultural waste. The term does not include equipment used to apply agricultural waste to land. For purposes of ss. ATCP 51.12(2) and 51.14, Wis. Admin. Code, the term does not include a structure used to collect and store agricultural waste under a livestock housing facility or a manure digester consisting of a sealed structure.

**Editorial notes:** This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

- (109) **Loading area** An off-street area set aside for the purpose of unloading or loading a motor vehicle, trailer, or truck.

- (110) **Loafing shed** A building open on one side that is placed in a pasture or other similar area to provide shelter for livestock.

- (111) **Lot** A land area having a definable location based on a survey or similar legal instrument recorded by the Waukesha County register of deeds. Where a public right-of-way divides a single described parcel into two or more parts, such severed portions shall be considered separate individual lots provided they meet the use, building location, and area regulations of the zoning district in which they are located. Where such separate parcels do not meet such use, building, location, and area regulations they, in combination, shall be considered to be a single lot for regulatory purposes, computation of area requirements, and other locational provisions of this chapter.

- (112) **Lot, corner** A lot situated at the junction of and fronting on two or more streets. A lot abutting on a curved street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

- (113) **Lot, flag** A lot which has a narrow strip of land that extends from the main part of the lot where a building could be lawfully constructed to the road.

- (114) **Lot, interior** A lot that abuts only one street.

- (115) **Lot, through** A lot having a frontage on two streets that are more or less parallel to one another.

- (116) **Lot area** As the context indicates, lot area can refer to the minimum required area, actual area, or proposed area.

**Editorial notes:** Section 500.552 defines how lot area is measured.

- (117) **Lot line** A line dividing one parcel of land from another.

- (118) **Lot line, front** The lot line described for each of the following types of lots. (1) For an interior lot, the property boundary line abutting a road right-of-way. (2) For a corner lot, the line abutting a street providing physical access (i.e., driveway) to the property. (3) For a through lot, the property boundary line abutting the road providing the primary access to the lot. (4) For a flag lot, the interior lot line most parallel to and nearest the road from which physical access is obtained.

- (119) **Lot line, rear** A lot line that does not intersect a front lot line and that is most distant from and most closely parallel to the front lot line.

- (120) **Lot line, side** A lot line that is not a front or rear lot line.
- (121) **Lot width** As the context would indicate, lot width can refer to the minimum required distance, actual distance, or proposed distance.

**Editorial notes:** Section 500.555 defines how lot width is measured.

- (122) **Low-impact stormwater design** A design approach to stormwater management intended to mimic the predevelopment hydrology of a site. Initial site design strategies include minimizing impervious surfaces and the integration of existing wetlands, riparian areas, and other environmentally sensitive natural resources into the overall site design. Manmade features, generally distributed throughout the site, are also used to store, infiltrate, evaporate, and detain stormwater runoff. Examples of such features include bioswales, rain gardens, and pervious surfaces.

**M**

- (123) **Maintenance and repair** See ordinary maintenance and repair
- (124) **Major road** A road so designated on the town's zoning map.
- (125) **Manufactured home** A dwelling unit that is constructed in an off-site facility in conformance with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the Manufactured Housing Construction and Safety Standards Act of 1974, as amended. (Note: A manufactured home bears a red insignia which certifies that it meets all applicable federal construction and safety standards.)
- (126) **Manufacturing zoning district** A zoning district so designated in s. 500.522. (See also agricultural zoning district, business zoning district, residential zoning district, and special purpose zoning district)
- (127) **Mitigate** To take an action designed to offset or rectify a negative effect.
- (128) **Mobile home** A dwelling unit that was originally constructed prior to June 15, 1976, and that is (1) constructed off-site, (2) equipped with the necessary utility service connections, (3) made to be readily movable as a unit or units on its (their) own running gear, and (4) designed to be used with or without a permanent foundation. (Note: After June 15, 1976 no mobile homes have been constructed.)
- (129) **Mobile service** A radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (1) both one-way and two-way radio communication services; (2) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and (3) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding.

**Editorial notes:** This definition is based on the corresponding definition in s. 66.0404, Wis. Stats.

- (130) **Mobile service facility** 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.

**Editorial notes:** This definition is based on the corresponding definition in s. 66.0404, Wis. Stats.

- (131) **Mobile service provider** A person who provides mobile service.

**Editorial notes:** This definition is based on the corresponding definition in s. 66.0404, Wis. Stats.

- (132) **Modular home** A dwelling unit that meets local building codes and which was constructed off site in a factory as separate modules which are joined together and set on a permanent foundation.
- (133) **Mulch** A nonliving organic or inorganic material customarily used in landscape design to retard erosion, retain soil moisture, maintain even soil temperature, control weeds, and/or enrich the soil. Examples of materials often used include tree bark, wood chips, and decorative stones.
- (134) **Municipal code** The compilation of laws as adopted by the Town of Eagle town board.

**N**

- (135) **Natural Resources Conservation Service (NRCS)** A federal agency created in 1935 within the U.S. Department of Agriculture to work with private land owners and managers to conserve their soil, water, and other natural resources by providing technical and financial assistance. From 1935 to 1994, it was known as the Soil Conservation Service (SCS).
- (136) **Navigable waterway** All natural inland lakes, streams, ponds, sloughs, flowages, and other waters, which are navigable under the laws of this state. The term does not include farm drainage ditches if (1) such lands are not adjacent to a natural navigable stream or river, (2) those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching, and (3) such lands are maintained in nonstructural agricultural use.

**Editorial notes:** In Wisconsin, a navigable body of water is capable of floating the lightest boat or skiff used for recreation or any other purpose on a regularly recurring basis. See *DeGayner & Co., Inc. v. DNR*, 70 Wis. 2d 936 (1975) and *Village of Menomonee Falls v. DNR*, 140 Wis. 2d 579 (Ct. App. 1987).

- (137) **New livestock facility** See livestock facility, new
- (138) **Nonconforming building** A building that at the time of construction conformed to existing regulations including size, location, and other dimensional standards, but is now inconsistent with this chapter.
- (139) **Nonconforming lot** A lot that at the time of creation conformed to existing regulations including lot size, dimensions, lot configuration, and other dimensional and design standards, but is now inconsistent with this chapter.
- (140) **Nonconforming structure** A structure that at the time of construction or placement conformed to existing regulations including size, location, and other dimensional standards, but is now inconsistent with this chapter.
- (141) **Nonconforming use** A use of land that at the time of establishment conformed to existing regulations, but is now inconsistent with this chapter.
- (142) **Nonmetallic mineral** A product, commodity, or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc, and topsoil.

**Editorial notes:** See s. NR 135.02, Wis. Admin. Code.

- (143) **Nuisance** A thing, act, occupation, condition or use of property which shall continue for such length of time as to substantially annoy, injure or endanger the comfort, health, repose or safety of the public or to unlawfully and substantially interfere with, obstruct or 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 or private property.

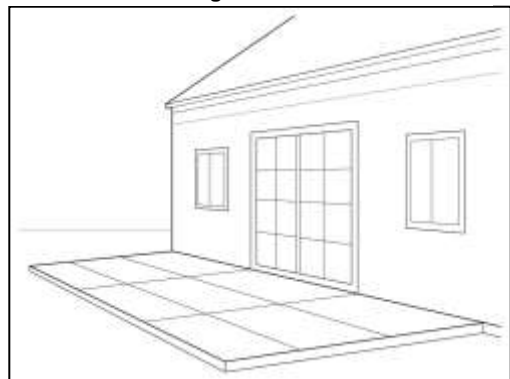
**O**

- (144) **Offset** The horizontal distance between any structure and any lot line (other than a street setback line), measured from the nearest point of the structure to the nearest point of any lot line. (In contrast see setback)
- (145) **Operating standards** Regulations governing the ongoing operation of a land use, including related business practices.
- (146) **Ordinary high-water mark (OHWM)** The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore of any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.
- (147) **Ordinary maintenance and repair** Those activities related to the general day-to-day maintenance of a building or other similar structure including interior remodeling; painting, decorating, paneling, plumbing, insulation, the repair of cracks in a foundation wall, the application of waterproof coatings to a foundation wall, and the replacement of windows, doors, electric wiring, siding, roofing materials, and other nonstructural components. (In contrast see structural alteration)
- (148) **Overlay zoning district** See zoning district, overlay

**P**

- (149) **Panelized home** A dwelling unit that meets local building codes and which was constructed off site in a factory as flat panels (e.g., walls, roof, and floor) which are joined together and set on a permanent foundation.
- (150) **Parking space** An area permanently reserved and maintained for the parking of one motor vehicle that meets the dimensional standards of this chapter.
- (151) **Patio** An at-grade surfaced area intended for outdoor living that may be next to a building or separated from a building (Exhibit 3-4).
- (152) **Payday loan business** Any person licensed pursuant to s. 218.05, Wis. Stats., or a person licensed pursuant to s. 139.09, Wis. Stats., who accepts a check, holds the check for a period of time before negotiating or presenting the check for payment, and pays to the issuer an agreed-upon amount of cash, or who refinances or consolidates such a transaction.
- (153) **Permanent foundation** A foundation wall under the entire perimeter of a building.
- (154) **Permitted use** See land use, permitted by right
- (155) **Person** An individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.
- (156) **Plan commission** The commission established by the town board to make recommendations and

**Exhibit 3-4. An example of a patio next to a building**



**Exhibit 3-5. An example of a porch**



decisions relating to planning and land use issues as authorized by Wisconsin Statutes.

- (157) **Plan of operation** A document describing the operation of a particular enterprise and other related matters as may be required by this chapter. (Also see site plan)
- (158) **Planned development district (PDD)** A zoning district established pursuant to this chapter that has "PDD" followed by a number as its abbreviation (e.g., PDD-01).
- (159) **Platted subdivision** A subdivision meeting the definition set forth in s. 236.02, Wis. Stats.
- (160) **Playhouse** An accessory building, either at ground level or elevated, or supported by a tree, characteristically used by children for play.
- (161) **Porch** A part of a building with a roof of its own that covers an entrance (Exhibit 3-5).
- (162) **Pre-cut home** A dwelling unit that meets local building codes and which was largely constructed off site in a factory and then disassembled and transported to the site where it is reassembled and set on a permanent foundation.
- (163) **Primary floor area** The floor area measurement that only includes service, sales and office space, and not warehouse, utility, storage and other accessory spaces which do not generate parking demand.
- (164) **Prime farmland** Land with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture or is otherwise identified as prime farmland in Waukesha County's certified farmland preservation plan.
- (165) **Principal building** The primary building on a lot housing a principal use.
- (166) **Principal land use** See land use, principal
- (167) **Property boundary line** See lot line
- (168) **Protected farmland** Land that is (1) located in a farmland preservation zoning district certified under ch. 91, Wis. Stats.; (2) covered by a farmland preservation agreement under ch. 91, Wis. Stats.; (3) covered by an agricultural conservation easement under s. 93.73, Wis. Stats.; or (4) otherwise legally protected from nonagricultural development.
- (169) **Public notice** The means that a governmental body uses, or is required to use, to formally notify people and other interested entities of a pending governmental hearing or proposed action.
- (170) **Public utility** A public utility as defined in s. 196.01, Wis. Stats.

**Editorial notes:** This definition is based on the corresponding definition in s. 66.0404, Wis. Stats.

**R**

- (171) **Rear yard** See yard, rear
- (172) **Recreational vehicle** A motorized or nonmotorized vehicle that includes a cabin for living accommodations, commonly used for recreational travel and touring. Vehicles included in this category come in several forms: travel trailers, tent trailers and camping trailers, all of which must be towed by another vehicle; and truck campers, motor homes and camper vehicles, all of which have a motor within the body of the vehicle and are self-propelled.
- (173) **Regularly features or regularly shows** A consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as part of the ongoing business of the adult establishment.

- (174) **Related livestock facilities** Livestock facilities that are owned or managed by the same person, and related to each other in that (1) they are located on the same tax parcel or adjacent tax parcels of land, (2) they use one or more of the same livestock structures to collect or store manure, or (3) at least a portion of their manure is applied to the same land-spreading acreage.

**Editorial notes:** This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code. A mere acquisition of a neighboring livestock facility does not constitute an "expansion" unless more animal units are added to the combined facilities

- (175) **Repair and maintenance** See ordinary maintenance and repair
- (176) **Residential zoning district** A zoning district so designated in s. 500.522. (See also agricultural zoning district, business zoning district, manufacturing district, and special purpose zoning district)
- (177) **Reviewing authority** As the context would indicate, the zoning administrator, plan commission, town board, or zoning board of appeals.
- (178) **Retaining wall** A structure more than 18 inches above grade, that is constructed to resist the lateral pressure of soil, loose rock, and the like creating a step in the grade of a site.
- Editorial notes:** A retaining wall is generally defined in this section, and further classified by their overall height for use in the land-use matrix.
- (179) **Right-of-way** A strip of land dedicated to or acquired by the Town of Eagle, Waukesha County, or state of Wisconsin for public use. (In contrast see easement)
- (180) **Road** A hard-surfaced travelway, generally within a public right-of-way or an easement, that is open to the public for vehicular travel.
- (181) **Road, private** A road not maintained by the Town of Eagle, Waukesha County, the state of Wisconsin, or the federal government.
- (182) **Road, public** A road maintained by the Town of Eagle, Waukesha County, the state of Wisconsin, or the federal government.

## S

- (183) **Screen** A feature, such as a wall, fence, hedge, berm, or similar feature used to shield or obscure elements of a development from adjacent sites.
- (184) **Search ring** When used in the context of telecommunication facilities, 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.
- Editorial notes:** This definition is based on the corresponding definition in s. 66.0404, Wis. Stats.
- (185) **Seasonal high-water table** The upper limit of the zone of saturation caused by underlying groundwater at its highest level.
- (186) **Semi-nude or semi-nude condition** The showing of the human male or female genitals, pubic area, vulva or anus, with not more than a complete opaque covering, or the showing of the female breast with not more than a complete opaque covering of any part of the nipple or areola.
- (187) **Separate livestock facility** A livestock facility that (1) has only one type of livestock (i.e., cattle, swine, poultry, sheep, or goats) 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 facility"); (2) has no more than 500 animal units; (3) 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; and (4) meets one of the following criteria:

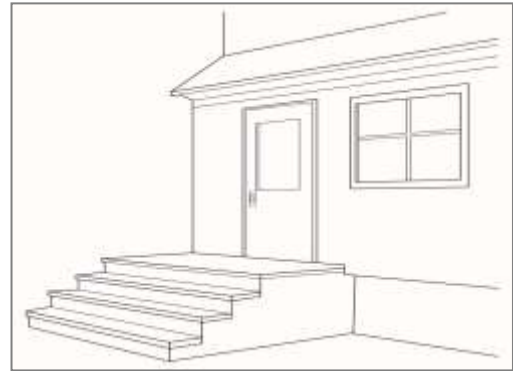
1. Its livestock housing and manure storage structures, if any, are located at least 750 feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.
2. It and the other livestock facilities to which it is related have a combined total of fewer than 1,000 animal units.

**Editorial notes:** This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code. For purposes of this definition, cattle and poultry are different "types" of livestock, but dairy and beef cattle are livestock of the same "type" ("cattle"). Milking cows, heifers, calves and steers (all "cattle") are livestock of the same "type." Turkeys, ducks, geese and chickens are livestock of the same "type" ("poultry").

- (188) **Setback** The horizontal distance between any structure and the base setback line, measured from the nearest vertical wall to the nearest point of the base setback line. (In contrast see offset)
- (189) **Setback averaging** An approach to determining the minimum setback when the subject property is in an area of previously developed lots and the actual setbacks on those lots are less than the required setback for the district in which the subject property is located.
- (190) **Setback, base** See base setback line
- (191) **Side yard** See yard, side
- (192) **Sight triangle** See vision clearance triangle
- (193) **Sign** Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.
- (194) **Site plan** A drawing of a subject property that shows existing and proposed conditions and other features required by this chapter. (Also see plan of operation)
- (195) **Site-built home** A dwelling unit that meets the Wisconsin Uniform Dwelling Code standards and which was largely constructed on-site. Also known as a "conventional home" or "stick-built home."
- (196) **Special exception** An approval that may be granted by the Plan Commission to deviate from otherwise applicable provisions of this chapter when certain circumstances apply. (In contrast see variance)
- (197) **Special purpose zoning district** A zoning district so designated in s. 500.522. (See also agricultural zoning district, business zoning district, manufacturing district, and residential zoning district)
- (198) **Specified anatomical areas** The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or less than completely and opaquely covered human genitals, pubic region, vulva, anus, or the nipple and areola of the human female breast.
- (199) **Specified sexual activity** Any of the following (1) showing of human genitals in a state of sexual stimulation or arousal; (2) the fondling or erotic touching of human genitals, pubic region, anus, or female breasts; (3) the act of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus, or anilingus; or (4) excretory functions as part of, or in connection with, a live performance, display, or dance of any type.
- (200) **Sport court** A hard-surfaced area located out of doors used exclusively for basketball, tennis, or other similar sports-related activity. This term does not include any portion of a driveway that is also used for a sport-related use.

- (201) **State** The state of Wisconsin.
- (202) **Stoop** A raised platform in front of an entrance to a building with one or more steps. (Exhibit 3-6) (In contrast see deck, which is intended for outdoor living.)
- (203) **Stormwater** Water from a rainfall event or melting snow or ice.
- (204) **Stream** A natural body of running water flowing continuously or intermittently in a channel on or below the surface of the ground.
- (205) **Street** See road

**Exhibit 3-6. An example of a stoop**



- (206) **Structural alteration** Any change in a supporting member of a structure such as foundation, bearing wall, column, beam or girder, footing, or pile, or any substantial change in the roof structure or in an exterior wall. (In contrast see ordinary maintenance and repair)
- (207) **Structure** A manmade object with form, shape, and utility that is either permanently or temporarily placed on or into the ground, a stream bed, or a lake bed or on another structure. Examples include buildings, decks, patios, stoops, play structures, swimming pools, hot tubs, bridges, storage tanks, fences, towers, flag poles, utility poles, pipelines, transmission lines, smokestacks, and signs.
- (208) **Substandard lot** A lot, with or without a structure, having a lesser dimension or area, or both, than what is required for the zoning district in which it is located.
- (209) **Substantial evidence** Facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion

**Editorial notes:** This definition is based on the definition in s. 62.23(7)(de), Wis. Stats.

- (210) **Substantial modification** When used in the context of telecommunication facilities, the modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:
  - (a) For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet, except as provided below.
  - (b) For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more, except as provided below.
  - (c) 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, except as provided below.
  - (d) Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

**Editorial notes:** Definition derived from s. 66.0404, Wis. Stats.

An activity is not a substantial modification under subs. (a) and (b) above, if a greater height is necessary to avoid interference with an existing antenna. Furthermore, an activity is not a substantial modification under sub. (c) above, if a greater protrusion is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.



- (211) **Support structure** 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.

**Editorial notes:** Definition derived from s. 66.0404, Wis. Stats.

**T**

- (212) **Tattoo** To insert pigment under the surface of the skin of an individual by pricking with a needle or other instrument or technique so as to produce an indelible mark or figure through the skin.
- (213) **Tattooist** An individual who tattoos another upon his or her request.
- (214) **Temporary use** See land use, temporary
- (215) **Through lot** See lot, through
- (216) **Trellis** A structure consisting of lattice with supporting posts and rails often supporting vines or other plants and used for aesthetic purposes or as a visual screen or barrier, or both.

**U**

- (217) **Utility pole** In the context of telecommunication facilities, a structure owned or operated by an alternative telecommunications utility, as defined in s. 196.01 (1d), Wis. Stats.; a public utility, as defined in s. 196.01 (5), Wis. Stats.; a telecommunications utility, as defined in s. 196.01 (10), Wis. Stats.; a city, village, town, or county; or a cooperative association organized under ch. 185, Wis. Stats.; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in s. 182.017 (1g)(cq), Wis. Stats.; for video service, as defined in s. 66.0420 (2)(y), Wis. Stats.; for electricity; or to provide light.

**Editorial notes:** Definition derived from s. 66.0404, Wis. Stats.

**V**

- (218) **Variance** A grant of relief, as approved by the zoning board of appeals, from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited. (In contrast see special exception)
- (219) **Vision clearance triangle** The area in the shape of a triangle located at the intersection of two roads or at the intersection of a road and a driveway within which the type and placement of structures and vegetation are controlled to ensure adequate sight distances for pedestrians and motorists. The configuration and size of this area is based on standards included in this chapter.

**W**

- (220) **Wetland** An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- (221) **Winter grazing area** Cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period October 1 to April 30. The term does not include (1) an area, other than a pasture, where livestock are kept during the period from May 1 to September 30; (2) an area which at any time has an average of more than 4 livestock animal units per acre; (3) 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; or (4) an

area in which manure deposited by livestock causes nutrient level to exceed standards in s. ATCP 51.16, Wis. Admin. Code.

**Editorial notes:** This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

(222) **Written or in writing** Any representation of words, letters, drawings, graphics, or pictures.

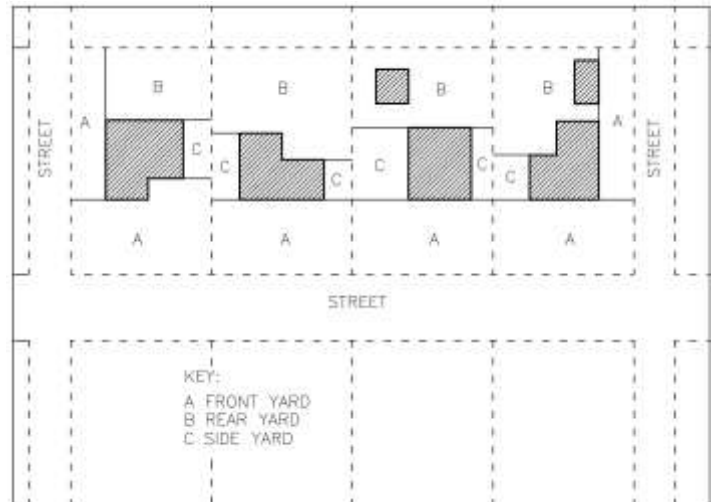
**Y**

(223) **Yard** The area of a lot that is required to be unoccupied and unobstructed from the ground upward, except by trees, shrubbery, or as otherwise provided in this chapter.

(224) **Yard, front** A yard as described for each of the following types of lots. (1) For an interior lot, that area that extends across the front of a lot between the side lot lines from the front lot line to the front of the principal building. (2) For a corner lot, that area that extends across the front of a lot between the side lot lines from the front lot line to the front of the principal building and that area that extends between the rear lot line to the front lot line from the side lot line to the side of the building. (3) For a double frontage lot, that area that extends across the front of a lot between the side lot lines from the front lot line to the front of the principal building and also that area that extends across the rear of a lot between the side lot lines from the rear lot line to the rear of the principal building. (Exhibit 3-7)

(225) **Yard, rear** A yard as described for each of the following types of lots. (1) For an interior lot, that area that extends across the rear of a lot between the side lot lines from the rear lot line to the rear of the building. (2) For a corner lot, that area that extends between the front yard abutting the street right of way and the opposing side lot line from the rear lot line to the rear of the principal building. (Exhibit 3-7)

Exhibit 3-7. Yard types



(226) **Yard, side** A yard as described for each of the following types of lots: (1) interior lot, the area that extends between the front yard and rear yard from the side lot line to the side of the building; (2) corner lot, that area that extends between the front yard and the rear yard from the side lot line to the side of the principal building; (3) and double frontage lot, that area that extends between the front yard from the side lot line to the side of the principal building. (Exhibit 3-7)

**Z**

(227) **Zoning administrator** The individual so designated by the town board chairman to perform those duties as enumerated in this chapter and as authorized by state law.

(228) **Zoning board of appeals (ZBA)** A board created by the town board to render decisions relating to variances and administrative appeals and other matters enumerated in this chapter and in state law.

(229) **Zoning district** An area on the zoning map within which the zoning code is uniformly applied to all properties. Zoning districts can be classified as base zoning districts or overlay zoning districts.

(230) **Zoning district, base** A type of zoning district that establishes uniform regulations for the use and development of land.

(231) **Zoning district, overlay** A type of zoning district that is superimposed over one or more base districts, or parts of districts, and that modifies the requirements of the base district or imposes additional requirements, or both.

(232) **Zoning permit** A written permit issued for a specified parcel of land prior to the issuance of a building permit to ensure that the proposed use is consistent with the zoning requirements of the zoning district in which it is to be located.

**Amendment(s):** Revised by Ordinance 2021-03; Ordinance 2023-01

**§500.42 through 500.50          Reserved**

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**ARTICLE 4  
ADMINISTRATIVE BODIES**

**Divisions**

- |   |
|---|
| <ol style="list-style-type: none"><li>1. Plan commission</li><li>2. Zoning board of appeals</li><li>3. Zoning administrator</li></ol> |
|---|

**DIVISION 1  
PLAN COMMISSION**

**§500.51 Establishment**

Pursuant to s. 62.23(1), Wis. Stats., a plan commission is established to undertake the responsibilities as defined in this chapter and as allowed by state law.

**§500.52 Authority**

(A) **Generally.** The plan commission shall have such powers as may be necessary to enable it to perform its functions and promote the proper planning for the Town of Eagle, whether enumerated in this section or not.<sup>[1]</sup>

(B) **Right to enter property.** The plan commission, along with its individual members and authorized agents, may enter upon land which is the subject of a pending application it has authority to act on as set forth in s. 500.104.<sup>[2]</sup>

(C) **Staff.** The plan commission may employ, or contract for the services of, such professional planning technicians and staff as are considered necessary for the discharge of the duties and responsibilities of the commission, provided such expense does not exceed the appropriation that may be made for the commission by the town board for such purpose.<sup>[3]</sup>

(D) **Comprehensive plan.** The plan commission may by resolution recommend to the town board the adoption of or amendment to a comprehensive plan.<sup>[4]</sup>

(E) **Code amendments.** The plan commission shall act on proposed amendments of this chapter as set forth in article 6.

(F) **Interpretation of this code.** The plan commission shall act on interpretations of this chapter as set forth in article 6.

(G) **Conditional uses.** The plan commission shall act on conditional uses as set forth in article 6.

(H) **Special exceptions.** The plan commission shall act on special exceptions as set forth in article 6.

(I) **Planned development overlay districts.** The plan commission shall act on planned development overlay districts as set forth in article 6.

**Editorial notes:**

[1] See s. 62.23(4), Wis. Stats

[2] See s. 62.23(4), Wis. Stats

[3] See s. 62.23(1)(e), Wis. Stats.

[4] See s. 62.23(2), Wis. Stats.

**§500.53 Composition and appointment of members**

(A) **Number and appointment.** The plan commission shall consist of 7 members as appointed by the town board chairman. The chairman of the town board may appoint himself or herself to the commission and may appoint other town board members, except that the commission shall have at least 3 citizen members who are not town supervisors.<sup>[1]</sup> Appointments shall be made by the chairman of the town board, with

confirmation by the town board, during the month of April for terms that expire in April or at any other time of the year if a vacancy occurs during the middle of a term.<sup>[2]</sup>

(B) **Terms.** Each citizen member shall be appointed to a 3-year term.<sup>[3]</sup> The term of a town supervisor shall be for one year and can be reappointed for consecutive terms without limitation. The term of the chairman of the town board shall coincide with his or her elected term.

(C) **Considerations in making citizen appointments.** Citizen members shall be persons of recognized experience and qualifications and shall be residents of the Town of Eagle.<sup>[4]</sup>

(D) **Conditions for removal.** A citizen member shall be removed from the plan commission and the member's office declared vacant when the member moves outside of the town. If the chairman of the town board or a town supervisor serving on the commission resigns or is removed from his or her office, or his or her term expires, his or her term on the commission shall automatically terminate.

**Editorial notes:**

[1] See s. 62.23(1)(a), Wis. Stats.

[2] See s. 62.23(1)(d), Wis. Stats.

[3] See s. 62.23(1)(d), Wis. Stats.

[4] See s. 62.23(1)(a), Wis. Stats.

#### **§500.54 Officers**

The chairman of the town board shall appoint a chairperson from its membership, including himself or herself.<sup>[1]</sup> If the chairperson is absent for a meeting, another member of the commission shall serve as acting chairperson in his or her absence. The commission may create and fill other offices.

**Editorial notes:**

[1] See s. 62.23(1)(a), Wis. Stats.

#### **§500.55 Commission procedures**

The plan commission may adopt rules of procedure to carry out its purposes. All such rules shall conform to this chapter, other town regulations, and state law and shall be filed in the office of the town clerk.<sup>[1]</sup>

**Editorial notes:**

[1] See s. 62.23(2), Wis. Stats.

#### **§500.56 Meetings**

Meetings of the plan commission shall be open to the public unless conducted in close session as authorized by state law. All meetings except site visits shall be conducted in the town hall or in such other public place as may be selected by the commission.

#### **§500.57 Meeting minutes**

The plan commission shall keep minutes of its proceedings. The commission may amend previously adopted minutes provided such revision is based on substantive evidence.

#### **§500.58 Schedule of meetings**

Meetings of the plan commission shall be held at the call of the chairperson of the commission and at such other times as the commission may determine.

#### **§500.59 Voting and quorum**

(A) **Requirements for quorum.** A quorum of the plan commission shall consist of 4 voting members.

(B) **Requirements for voting.** Unless otherwise specifically stated, a decision of the plan commission shall be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.

(C) **Disqualification or voluntary abstention.** A member of the plan commission shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present when (1) the member has a direct financial interest in the outcome of the matter at issue; (2) the member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; (3) the member would violate the code of ethics set forth in ch. 19. Wis. Stats., or any ethics code as may be adopted by the town; (4) participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or (5) another law precludes participation.

**§500.60 Compensation of members**

Members of the plan commission may be compensated as determined by the town board.

**§500.61 Official oath**

Citizen members of the plan commission shall take the official oath as required by s. 19.01, Wis. Stats. The town clerk shall keep a copy of such oaths.

**§500.62 through 500.70 Reserved**

**DIVISION 2  
ZONING BOARD OF APPEALS**

**§500.71 Establishment**

Pursuant to s. 62.23(7)(e), Wis. Stats., a zoning board of appeals is established to undertake the responsibilities as defined in this chapter and state law.

**§500.72 Authority**

(A) **Administrative appeals.** The zoning board of appeals shall hear and decide administrative appeals consistent with the requirements in article 6 of this chapter where it is alleged that the zoning administrator or building inspector (1) failed to act as required by this chapter; (2) made an error in issuing a permit or in denying an application; (3) made an error in enforcement; or (4) made an error in an interpretation or any other determination. In exercising these powers, the board may compel the administrative official to act as required or reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination being appealed and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

(B) **Variances.** The zoning board of appeals shall hear and decide variances consistent with the requirements in article 6 of this chapter.

(C) **Right to enter.** The zoning board of appeals, its individual members, employees, and authorized agents, may enter upon land which is the subject of a pending application as set forth in s. 500.104.

(D) **Amendments to this code.** The zoning board of appeals may recommend amendments to this chapter it deems advisable.

**§500.73 Authority of chairperson**

The chairperson of the zoning board of appeals or acting chairperson may administer oaths and compel the attendance of witnesses.<sup>[1]</sup>

**Editorial notes:**

[1] See s. 62.23(7)(e)(3), Wis. Stats.

**§500.74 Composition and appointment of members**

(A) **Number and appointment.** The zoning board of appeals shall consist of 5 regular members as appointed by the chairman of the town board, subject to confirmation by the town board.<sup>[1]</sup>

(B) **Alternates.** The chairman of the town board shall, subject to confirmation by the town board, appoint 2 alternates to the zoning board of appeals for staggered 3-year terms and annually appoint one of them as the first alternate and the other as the second alternate.<sup>[1]</sup>

(C) **Considerations in making appointments.** Regular members and alternate members of the zoning board of appeals shall reside in the Town of Eagle. A town employee shall not serve as a regular member or as an alternate.

(D) **Terms.** Each regular member on the zoning board of appeals shall be appointed to hold office for a period of 3 years, except that for regular members 2 of those first appointed shall serve for one year, 2 for 2 years, and the fifth for 3 years.

(E) **Vacancies.** Vacancies on the zoning board of appeals shall be filled for the unexpired term of any member or alternate whose term becomes vacant.

(F) **Removal.** The chairman of the town board may remove a regular member or an alternate from the zoning board of appeals.

**Editorial notes:**

[1] See s. 62.23(7)(e)(2), Wis. Stats.

[2] See s. 62.23(7)(e)(2), Wis. Stats.

**§500.75 Officers**

The chairman of the town board shall designate one regular member to be the chairperson. The zoning board of appeals may designate other such officers deemed necessary.

**§500.76 Board procedures**

The zoning board of appeals may adopt rules of procedure to carry out its purposes. All such rules shall conform to this chapter, other town regulations, and state law and shall be filed in the office of the town clerk.

**§500.77 Meetings**

Meetings of the zoning board of appeals shall be open to the public unless conducted in close session as authorized by state law.<sup>[1]</sup> Meetings, except for site visits, shall be conducted in the town hall or in such other public place as may be selected by the board.

**Editorial notes:**

[1] See s. 62.23(7)(e)(3), Wis. Stats.

**§500.78 Meeting minutes**

The zoning board of appeals shall keep minutes of its proceedings, showing the vote of each voting member on each question, or, if absent or failing to vote, indicating such fact.<sup>[1]</sup> The board may amend previously adopted minutes provided such revision is based on substantive evidence.

**Editorial notes:**

[1] See s. 62.23(7)(e)(3), Wis. Stats.



**§500.79 Schedule of meetings**

Meetings shall be held at the call of the chairperson of the zoning board of appeals and at such other times as the zoning board of appeals may determine.

**§500.80 Voting and quorum**

(A) **Requirements for quorum.** A quorum shall consist of 3 voting members.

(B) **Requirements for voting.** A decision of the zoning board of appeals shall be by majority vote of the members present at a meeting in which a quorum is in attendance and voting.<sup>[1]</sup>

(C) **Disqualification or voluntary abstention.** A member shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present when (1) the member has a direct financial interest in the outcome of the matter at issue; (2) the member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; (3) the member would violate the code of ethics set forth in ch. 19. Wis. Stats., or any ethics code as may be adopted by the town, (4) participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or (5) another law precludes participation.

(D) **Voting by alternates.** The first alternate may vote only when one of the regular members of the board is absent or is not able to vote on a pending matter. The second alternate may vote only when the first alternate is absent or is not able to vote or when more than one regular member is absent is or is not able to vote.<sup>[2]</sup>

**Editorial notes:**

[1] See s. 62.23(7)(e)(3m), Wis. Stats.

[2] See s. 62.23(7)(e)(2), Wis. Stats.

**§500.81 Compensation of members**

The regular members and alternates of the zoning board of appeals may be compensated as determined by the town board.

**§500.82 Official oath**

Members of the zoning board of appeals shall take the official oath as required by s. 19.01, Wis. Stats. The town clerk shall keep a copy of such oaths.

**§500.83 through 500.90 Reserved**

**DIVISION 3  
ZONING ADMINISTRATOR**

**§500.91 Establishment**

The position of zoning administrator is established to undertake the responsibilities as defined in this chapter and state law.

**§500.92 Appointment**

The chairman of the town board shall appoint, subject to confirmation by the town board, and supervise the zoning administrator.

**§500.93 Authority**

The zoning administrator shall administer, supervise, and enforce the provisions of this chapter and in furtherance of those duties shall have the authority to:

- (1) meet with applicants to advise them of the requirements of this chapter;
- (2) issue administrative permits;
- (3) revoke or modify any administratively-issued permit or interpretation with reasonable cause;
- (4) keep a written record of permits issued, interpretations made, inspections, work approved, enforcement activities, and other similar official actions;
- (5) prepare staff reports consistent with this chapter and make recommendations as may be required or deemed appropriate;
- (6) work with the town clerk in the preparation of meeting agendas for the plan commission and zoning board of appeals and submit them to the appropriate chairperson for review and approval;
- (7) develop, amend, and utilize application forms, checklists, and other forms he or she deems appropriate to administer the development review processes in this chapter;
- (8) recommend amendments to this chapter and to other chapters of the municipal code of the Town of Eagle relating to land use and development;
- (9) assist the building inspector and town attorney with enforcement proceedings as may be requested; and
- (10) undertake any other activity not enumerated in this section but necessary to administer and enforce this chapter or any other section of the municipal code of the Town of Eagle as may be appropriate.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.94 Conflict of interest**

The zoning administrator and/or authorized designee of the zoning administrator shall not perform work on a proposed or approved development project in which he or she has a direct financial interest in the outcome of the matter at issue or otherwise has a conflict of interest.

**§500.95 through 500.100 Reserved**

**ARTICLE 5  
GENERAL PROCEDURAL REQUIREMENTS**

**Divisions**

- |  |
|--|
| <ol style="list-style-type: none"><li>1. Generally</li><li>2. Notice requirements</li><li>3. Public hearings</li><li>4. Financial guarantees</li></ol> |
|--|

**DIVISION 1  
GENERALLY**

**§500.101 Legislative findings**

The town board makes the following legislative findings:

- (1) Development review processes should be easily understood and well-structured, and only involve those steps and requirements that are needed to properly review the application. Excessive procedural requirements add unnecessary costs to development projects.
- (2) The general public, property owners in the area, and affected agencies have a right to know about proposed development projects and have meaningful participation in the review process to the extent allowed or required by this chapter.
- (3) Enforcing the rules and regulations in this chapter is an important function of government.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.102 Purpose**

The development review requirements and procedures in this chapter are intended to:

- (1) provide efficient and timely review of applications and ensure fairness and due process,
- (2) ensure that applications are reviewed consistently by establishing criteria in making recommendations and final decisions, and
- (3) ensure complete and timely compliance.

**§500.103 Authority to file an application**

Unless otherwise specified in this chapter, the owner of the property or a person having the power of attorney for the property owner shall sign the application submitted for review. A person signing an application under the authority of a power of attorney shall include a copy of the power of attorney with the application.

**§500.104 Permission to enter subject property**

Submission of an application as may be required in this chapter authorizes town officials and employees, or other designated agents to enter the subject property to verify information in the application and to conduct other site investigations as may be necessary to review the application. This does not authorize any individual to enter any building on the subject property in the absence of the property owner or his or her authorized agent. Failure to allow access to the subject property is sufficient grounds to deny the application.

**§500.105 Burden of proof**

(A) **During application review process.** During the application review process, the applicant has the burden of proof to show that the application should be approved based on the decision criteria relating to that application.

(B) **During appeal of an administrative decision.** During an administrative appeal proceeding, the petitioner has the burden of proof to show that such decision is not consistent with this chapter.

(C) **During enforcement proceedings.** During an enforcement proceeding, the zoning administrator or administrative unit taking enforcement action has the burden of proof to show that the action or development is in violation of this chapter.

**§500.106 Effect of an outstanding violation**

If the zoning administrator determines that a parcel is in violation of this chapter, no permit or approval of any kind shall be granted under this chapter that would benefit such parcel, except to correct the violation or as may be required by state law.

**§500.107 Effect of an outstanding obligation**

No permit or approval of any kind shall be granted under this chapter that would benefit a parcel for which taxes, assessments, special assessments, or other required payments are delinquent and unpaid.

**§500.108 Concurrent review**

To the extent possible, a development project requiring multiple reviews should be done concurrently. When one approval is a condition precedent to approval of another application, the approvals shall be issued in the requisite order.

**§500.109 Application fees and other charges**

(A) **Assessment of fees.** From time to time, the town board may by resolution establish application fees and other charges it deems necessary in the administration of this chapter. Pursuant to s. ATCP 51.30(4), Wis. Admin. Code, the board may not establish an application fee for special use permits for livestock siting in excess of \$1,000.

(B) **After the fact fees.** The town board may establish an “after-the-fact” fee for any procedure it deems appropriate. Payment of such fees shall not release the applicant from full compliance with this chapter nor from prosecution for a violation of this chapter.

(C) **Timing for payment.** Application fees shall be paid at the time the application is submitted for review.

(D) **Refunds.** Application fees are nonrefundable, except when the application and fee were accepted by the zoning administrator or town staff in error.

**§500.110 Charge back of professional service fees**

(A) **Generally.** When specifically authorized by this chapter and pursuant to s. 66.0628, Wis. Stats., an applicant shall be responsible for paying the professional service fees of individuals or private firms the town board elects to hire to assist in the review of a submitted application. Such fees may cover time, materials, and other related expenses of attorneys, planners, engineers, and other specialists, and their support staff. Payment of fees is required whether the application is approved or not.

(B) **Upfront payment.** The applicant shall submit an upfront payment established by the town when submitting an application. In the event the amount in the escrow account is not anticipated to cover related costs, the applicant shall promptly submit additional funds. In the event, the amount in the escrow is not

sufficient, no additional work should proceed. In addition, the town clerk shall automatically charge any unpaid balance as a delinquent tax against the property as provided by state law.

**§500.111 Non-confidentiality of submitted information**

All written information that an applicant submits to the zoning administrator during a pre-submittal meeting or at any point in the review process is considered part of the public record subject to disclosure under state and local law.

**§500.112 Nature of staff comments**

Statements and recommendations that are made by the zoning administrator, town staff and officials, and other representatives prior to or during the application review process are informational and are not binding on the decision-making body responsible for making the final decision.

Amendment(s): Ordinance 2023-01

**§500.113 Withdrawal of application**

(A) **Timing of withdrawal.** An applicant may withdraw an application anytime after submittal, but prior to a final decision.

(B) **Effect of withdrawal.** A request to withdraw an application terminates the review process and no decision shall be rendered.

(C) **Retention of application materials.** A withdrawn application and related review documents shall be kept as a permanent public record.

**§500.114 Appeals**

If a development project is approved under this chapter, the applicant may, upon receipt of the decision notice and satisfaction of all precedent conditions of approval, commence the work as authorized under the approval with the understanding that an aggrieved person may file an appeal with the appropriate review body. Prior to the end of the appeal period, all such work proceeds at the risk of the applicant. Similarly, any work that is done while an appeal is pending is done at the risk of the applicant.

**§500.115 Application review schedule**

(A) **Authority.** The zoning administrator shall from time to time prepare a schedule establishing deadlines for submitting the various types of applications.

(B) **Publication of schedule.** The zoning administrator shall make the current review schedule available to the public and may post it on the town's website.

**§500.116 Application forms**

The zoning administrator shall prepare application forms and may amend them from time to time.

**§500.117 Other approvals**

It is the responsibility of those undertaking development projects within the town to obtain all applicable permits and other approvals as may be required by the Town of Eagle, Waukesha County, and federal and state authorities as may be required.

**§500.118 Building permit**

A building permit for the construction of a new building or the expansion of an existing building shall not be issued until such time as a zoning permit has been issued or a written determination is made that one is not required.

**§500.119 through 500.120 Reserved**

**DIVISION 2  
NOTICE REQUIREMENTS**

**§500.121 Generally**

The type of notice that is given for each of the various procedures outlined in this article is dictated by the nature of the decision. Administrative decisions, such as a zoning permit, involve very little discretion. Either the proposed development meets the standards in this chapter or it does not. In contrast, there are other decisions that involve more discretion and judgment based on particular circumstances. The review of a conditional use application, for example, involves discretion on the part of those involved in making recommendations and a final determination whether the application should be approved or not. As a general rule, notice for an application is not given for administrative decisions. More notice is given when a proposed action could potentially affect other parties, including nearby property owners, other governmental bodies, and the general public. This division outlines when notice is to be given and the nature of the notice when it is required.

**§500.122 When notice is required**

Notice shall be provided as shown in Exhibit 5-1.

**Exhibit 5-1. Notice**

Division in Article 6	Type of Action	Public Notice [1]		Property	Distribution	
		Class 1	Class 2	Owner	List	Meeting
				Notice [2]	Notice [3]	Agenda [4]
1.	Code amendment – map amendment – landowner initiated	-	X [5]	X	X	X
1.	Code amendment – map amendment – town initiated	-	X [5]	-	X	X
1.	Code amendment – text amendment	-	X [5]	-	X	X
2.	Zoning map amendment due to annexation	-	-	-	-	X
3.	Planned unit development	-	X	X	-	X
4.	Conditional use	-	X	X	-	X
5.	Special use permit for specified livestock operations	-	-	[6]	-	X
6.	Determination of unsafe conditions	-	X	X	-	X
7.	Termination of approval	-	X	X	-	X
8.	Conversion of a nonconforming use	-	X	X	-	X
9.	Special exception	-	-	X	-	X
10.	Wireless telecommunication facilities	-	X	X	-	X
11.	Variance	-	X	X	-	X
12.	Administrative appeal	-	X	-	-	X
13.	Zoning permit	-	-	-	-	-
14.	Building, site plan, and operation plan	-	-	-	-	X
15.	Rural accessory structure determination	-	-	-	-	X
16.	Registration of a nonconforming use	-	-	X	-	X
17.	Code interpretation	-	-	-	-	X
18.	Expansion of a nonconforming structure	-	-	X	-	X
19.	Change in topography	-	-	X	-	X

Key: An "X" means that the indicated notice is required; a dash "-" means that the indicated notice is not required

Notes:

1. See s.500.125 for more details
2. See s.500.126 for more details
3. See s.500.127 for more details
4. See s.500.128 for more details
5. If the proposed amendment would have the effect of changing the allowable use of any property, the notice shall include either a map showing the property affected by the amendment or a description of the property affected by the amendment and a statement that a map may be obtained from the town clerk.
6. Special requirements apply. See the procedural requirements in Division 5 of Article 6.

**§500.123 Content of required notice**

Notices shall include the information listed in Exhibit 5-2.

**Exhibit 5-2. Content of notice**

	<b>Public Notice</b>	<b>Property Owner Notice</b>	<b>Distribution List Notice</b>
Applicant name	X	X	X
Subject property address or other description by which the public can locate the subject property	X	X	X
Nature of the application	X	X	X
A description of the proposed project	X	X	X
Name of body or official who will consider the application	X	X	X
Date, time and location of the public hearing	X	X	X
Location where the public can view the application	X	X	X
The criteria that will be used to evaluate the proposal	-	X	-
General location map (or available from the town clerk during normal office hours)	-	X	-

Key: An "X" means that the indicated information is required; a dash "-" means that the indicated information is not required

**§500.124 Cost to provide notice**

The town shall pay the costs related to the provision of notice required under this division, unless otherwise specified by the town board.

**§500.125 Public notice**

When required, the official responsible for processing the application shall place public notice in the official newspaper consistent with the following provisions:

- (1) **Time requirements.** A class 1 notice shall be published one time at least 7 days before the meeting or hearing. A class 2 notice shall be published once each week for 2 consecutive weeks, the last one occurring at least 7 days before the meeting or hearing.<sup>[1]</sup>
- (2) **Content.** The notice shall include the information listed in Exhibit 5-2.

**Editorial notes:**

[1] See ss. 985.01(1m) and 985.07, Wis. Stats.

**§500.126 Property owner notice**

(A) **Generally.** When required, the zoning administrator shall mail a notice to property owners within 300 feet of the subject property involved in the application consistent with the following provisions:

- (1) **Time requirements.** The notice shall be mailed by regular mail at least 10 business days prior to the date of the meeting at which the matter will be considered.
- (2) **Content.** The notice shall include the information listed in Exhibit 5-2.

(B) **Source of names and addresses.** The names and addresses of property owners shall be deemed to be those listed on the tax records maintained by Waukesha County.

(C) **Failure to receive notice.** The failure of a person to receive notice as described in this section shall not invalidate or otherwise have any effect upon a public hearing or other action taken on the application.

(D) **Additional notice.** When the applicant also owns the land adjoining the subject property involved in the application, the administrator shall mail a notice to those property owners within 300 feet of such property.



(E) **Affidavit of mailing.** The person sending the notices shall prepare an affidavit of mailing to certify that notice was provided as described in this section.

**§500.127 Distribution list notice** <sup>[1]</sup>

(A) **Establishment of distribution list.** The town clerk shall maintain a list of persons who submit a written request to receive notice of any proposed regulation or amendment thereof that may affect the allowable use of the person's property.

(B) **When notice is required.** The body conducting the public hearing shall send a notice, which contains a copy of the proposed regulation or amendment, to each person on the distribution list whose property, the allowable use of which may be affected by the proposed regulation or amendment.

(C) **Method of distribution of notices.** The notice shall be by mail or in any reasonable form that is agreed to by the person and the town clerk.

(D) **Establishment of charges.** The town board may from time to time adopt a resolution establishing a processing fee that shall be charged to each person on the list who is sent a notice. The amount of such fee shall not exceed the approximate cost of providing the notice to the person.

(E) **Effect of failure to send notice.** An ordinance or amendment shall take effect if the body conducting the meeting fails to send the notice as required by this section.

(F) **Affidavit of mailing.** The person sending the notices shall prepare an affidavit of mailing to certify that notice was provided as described in this section.

**Editorial notes:**

[1] See s. 62.23(7)(d)(4), Wis. Stats.

**§500.128 Meeting agenda notice**

When required, the body responsible for acting on the application shall place the item on its meeting agenda.

**§500.129 Affidavit of mailing**

An affidavit of mailing provides documentary evidence that a mailing as required in this chapter was mailed. An affidavit of mailing shall be kept as a public record.

**§500.130 through 500.140 Reserved**

**DIVISION 3  
PUBLIC HEARINGS**

**§500.141 Legislative findings**

The town board makes the following legislative findings relating to public hearings:

- (1) Public hearings should be conducted in an orderly, timely, and efficient manner.
- (2) Public input is important and should be encouraged.

**§500.142 General requirements**

(A) **Meetings to be public.** All public hearings shall be conducted in the town hall or in such other public place as may be selected by the body conducting the hearing.

(B) **Notice of meetings.** Notice of public hearings shall be given as provided for in Division 2 of this article.

**§500.143 General procedure**

The presiding officer conducting the public hearing may follow the following procedure listed in this section as a general guideline. For matters of little complexity or controversy, the presiding officer may adjust the procedures as appropriate.

- (1) Announce the purpose and subject of the public hearing.
- (2) Determine whether public notice as required by this chapter has been provided. If notice has not been provided, the hearing shall be postponed until such time as proper notice has been provided.
- (3) Ask if any member of the body conducting the public hearing has a conflict of interest in regard to the matter being discussed and excuse those who do.
- (4) Ask if any member of the body conducting the public hearing believes another member has a conflict of interest in regard to the matter being discussed. If so, and following a discussion of the alleged conflict of interest, the members (except the member with the alleged conflict) shall determine by vote whether a reasonable person may conclude that the member has a conflict of interest and should be removed from the pending decision.
- (5) Ask the applicant to describe the proposal.
- (6) Ask the staff to present a staff report, if required.
- (7) Allow members of the body conducting the public hearing to direct questions to the applicant and staff, if present.
- (8) Ask for statements from the public.
- (9) Read aloud written comments which were submitted when the individual submitting the comments is not in attendance.
- (10) Call for discussion of the members of the body conducting the public hearing during which time they may ask questions of a member of the public, the applicant, and the staff, if present.
- (11) Ask the applicant if he or she wishes to (1) respond to any comment made by an individual during the proceeding, (2) submit additional information, (3) amend the application, or (4) request a continuance.
- (12) Announce that the body shall not accept any additional comment from the applicant or any member of the public once the public hearing is closed.
- (13) Ask for a motion and second to close the public hearing.

**§500.144 Continuances**

(A) **Prior to start of public hearing.** In the event the applicant or the applicant's agent is not present for the public hearing, the body conducting the public hearing may authorize a continuance.

(B) **During a public hearing.** Prior to the close of the public hearing, the applicant may request a continuance and the body conducting the public hearing may agree to the continuance upon a showing of good cause. Likewise, the body conducting the public hearing may ask the applicant for a continuance, but the applicant is not required to grant such request. If the applicant does not grant a continuance, the body shall act on the information at its disposal.

(C) **Effect.** A continuance stops the time clock for making a decision.

(D) **Notice requirements.** A public hearing may be continued to a later date without again providing public notice, provided the location, date, time for the continued hearing are announced at the time of the continuance.

**§500.145 Public comment**

(A) **Time limitations on public comment.** The presiding officer may impose a time limit on members of the public who wish to address the body conducting the public hearing to assure completion of the agenda in a timely manner. Under no circumstance shall such time limit be less than 3 minutes.

(B) **Written comment.** Prior to the close of the public hearing, members of the public may submit written comments to the body conducting the public hearing. Such documents shall be retained and made part of the public record for the proceeding.

**§500.146 through 500.150 Reserved**

**DIVISION 4  
FINANCIAL GUARANTEES**

**§500.151 Performance bond**

For the purpose of this chapter, a performance bond is not an acceptable financial guarantee.

**§500.152 Letter of credit**

(A) **Form.** The letter of credit shall be irrevocable and shall be in a form acceptable to the town attorney.

(B) **Amount.** The amount of the letter of credit shall conform to the amount established in this chapter. If an amount is not specified in this chapter, the town board shall establish the amount.

(C) **Acceptance required.** A letter of credit is not accepted by the town until formal action by the town board upon the recommendation of the town attorney.

(D) **Minimum requirements for issuer.** The bank, savings and loan, or other financial institution issuing the letter of credit must be authorized to do business in the state of Wisconsin and have a financial standing acceptable to the town attorney.

(E) **Obligation of private party.** The provision of a letter of credit shall not remove the burden of performing the work the letter of credit is intended to guarantee.

**§500.153 Cash deposit**

(A) **Generally.** If a cash deposit is provided under this chapter, the town is not obligated to pay interest thereon. Any such cash deposit shall remain in the custody of the town treasurer.

(B) **Amount.** The amount of the cash deposit shall conform to the amount established in this chapter. If an amount is not specified in this chapter, the town board shall establish the amount.

(C) **Acceptance required.** A cash bond is not accepted by the town until formal action by the town board.

(D) **Obligation of private party.** The provision of a cash deposit shall not remove the burden of performing the work the cash deposit is intended to guarantee.

(E) **Administrative fee.** When a cash deposit is offered as a financial guarantee, the town may charge a fee for the additional work required of the town clerk and town treasurer to monitor and handle the cash deposit. The amount of such fee shall be set by the town board from time-to-time by resolution.

**§500.154 Insufficient funds**

If the town exercises its right to use a financial guarantee and the cost of performing the authorized work exceeds the amount of the financial guarantee, the town shall send a bill to the property owner for the

outstanding balance. If the property owner does not pay such costs within 30 days after billing, such costs shall constitute a special charge under s. 66.0628, Wis. Stats., or as otherwise authorized by state law.

**§500.155 through 500.160      Reserved**

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**ARTICLE 6**  
**SPECIFIC PROCEDURAL REQUIREMENTS**

**Divisions**

1. Code amendment (text and zoning map)	10. Wireless telecommunication facilities
2. Zoning map amendment due to annexation	11. Variance
3. Planned unit development	12. Administrative appeal
4. Conditional use	13. Zoning permit
5. Special use permit for specified livestock operations	14. Building, site plan, and operation plan
6. Determination of unsafe conditions	15. Rural accessory building determination
7. Termination of approval	16. Registration of a legal nonconforming use
8. Conversion of a legal nonconforming use	17. Code interpretation
9. Special exception	18. Expansion of a legal nonconforming building
	19. Change in topography

**DIVISION 1**  
**CODE AMENDMENT**

**§500.161      Generally**

From time to time, it may be necessary or desirable to amend the text of this chapter and the zoning map as established in Division 3 of Article 7. This division describes the procedures and requirements to amend this chapter and the zoning map.

**§500.162      Initiation**

Any of the following may submit an application to amend the text of this chapter or the zoning map as established in Division 3 of Article 7:

- (1) a property owner in the area to be affected by the proposed amendment,
- (2) the plan commission, and
- (3) the town board.

**§500.163      Review procedure <sup>[1]</sup>**

The general steps outlined below shall be used to amend the text of this chapter and the zoning map.

- (1) **Submittal of application materials.** The applicant shall submit a complete application to the zoning administrator along with the application fee as may be established by the town board.
- (2) **Staff review.** Within 10 days of receiving the application and other required materials, the zoning administrator shall either schedule a date for the public hearing with the plan commission if the application is deemed complete or make a determination that the application is incomplete and notify the applicant in writing of the deficiencies and that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.

- (3) **Special notice to airport.** If the application is for any change in an airport affected area, as defined in s. 62.23(6)(am)1.b., Wis. Stats., the zoning administrator shall mail a copy of the notice by regular mail to the owner or operator of the airport bordered by the airport affected area.
- (4) **Special notice to county supervisor.** If the application would revise the town's zoning map, the zoning administrator shall send one copy of the application to each county supervisor whose district would be affected by a revision to the zoning map.
- (5) **General notice by type of application.** If a proposed amendment would revise the text of this chapter, the zoning administrator shall provide for class 2 public notice, distribution list notice, and meeting agenda notice consistent with Division 2 of Article 5. If a proposed amendment would revise the zoning map and is initiated by a property owner, the zoning administrator shall provide for class 2 public notice, property owner notice, distribution list notice, and meeting agenda notice consistent with Division 2 of Article 5. If a proposed amendment would revise the zoning map and is initiated by the town, the zoning administrator shall provide for class 2 public notice, distribution list notice, and meeting agenda notice consistent with Division 2 of Article 5.
- (6) **Staff report preparation and distribution.** The zoning administrator should prepare a written staff report as described in this division and provide a copy of it to each member of the plan commission and town board and the applicant, prior to the meeting at which the matter will be considered. The zoning administrator should also provide a copy to interested people upon request.
- (7) **Public hearing.** Allowing for proper notice, the plan commission and the town board shall conduct a joint public hearing to review the application consistent with division 3 of article 5. Prior to the close of the public hearing, the applicant, the plan commission, or the town board may request a continuance consistent with Division 3 of Article 5. The plan commission shall not render its recommendation at this meeting, unless the plan commission, by majority vote, determines that preparation of an updated staff report is not needed.
- (8) **Recommendation.** At a subsequent meeting of the plan commission, but no more than 60 days after the close of the public hearing, the plan commission after considering the comments and the staff report shall make a recommendation to the town board based on the decision criteria in this division to (i) approve the amendment, (ii) approve the amendment with conditions, or (iii) deny the amendment.
- (9) **Transmittal of recommendation.** If the plan commission action is favorable, the zoning administrator shall draft an ordinance effectuating its determination. If the plan commission action is not favorable, the plan commission shall report its determination to the town board including its reasons for denial.
- (10) **Decision.** The town board after considering the plan commission's recommendation shall make a decision based on the decision criteria in this division to (i) approve the amendment, (ii) approve the amendment with conditions, or (iii) deny the amendment.
- (11) **Required vote with downzoning.** An amendment must be approved by at least two-thirds of the members of the town board if the amendment would decrease the development density of the land to be less dense than was allowed under its previous usage or that would reduce the number of permitted uses of the land to fewer uses than were allowed under its previous usage. If the person who owns the land affected by the amendment agrees to the amendment, the ordinance may be enacted by a simple majority of the members of the town board.<sup>[2]</sup>
- (12) **Required vote with a protest by qualified property owners.** An amendment to the zoning map may not become effective except upon a favorable vote of 3/4 of the town board members voting on the proposed change when (i) those owning 20 percent or more of the land area within the proposed map amendment file a written protest, (ii) those owning 20 percent or more of the land area within 100 feet of the proposed map amendment file a written protest, or (iii) those owning 20 percent or more of the land directly opposite of the proposed map amendment but within 100 feet of the street frontage file a written protest.<sup>[3]</sup>
- (13) **Required vote with protest of airport.** If a proposed amendment would make any change in an airport affected area, as defined under s. 62.23(6)(am)1.b., Wis. Stats., and the owner or operator of the airport bordered by the airport affected area files a protest against the proposed amendment, no

ordinance which makes such change may be approved except by the affirmative vote of two-thirds of the members of the town board present and voting.<sup>[4]</sup>

- (14) **Preparation of decision notice.** Based on the action of the town board, the zoning administrator shall prepare a decision notice consistent with this division.
- (15) **Applicant notification.** Within a reasonable time following the town board's decision, the zoning administrator shall send the decision notice to the applicant by regular mail or email.
- (16) **County notification.** If the town board approves the amendment, the town clerk shall, within a reasonable time following the town board's decision, send 3 copies of the decision notice to the county clerk for approval of the county board.
- (17) **Preparation of new zoning map.** The zoning administrator shall cause a new zoning map to be prepared consistent with Division 3 of Article 7, if the amendment involves a change to the zoning map and the county board approves the amendment.

**Editorial notes:**

[1] See s. 62.23(7)(d), Wis. Stats.

[2] See s. 66.10015(3), Wis. Stats.

[3] See s. 62.23(7)(d)(2m)(a), Wis. Stats.

[4] See s. 62.23(7)(d)(2m)(b), Wis. Stats.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.164 Effective date of adopted ordinance**

An adopted ordinance shall take effect only after the county board approves the amendment.

#### **§500.165 Basis of decision**

(A) **Text amendment.** If a proposed amendment would revise the text of this chapter, the plan commission in making its recommendation and the town board in making its decision shall consider the following factors:

- (1) whether the amendment is consistent with the town's comprehensive plan;
- (2) whether the amendment is consistent with other planning documents adopted by the town board;
- (3) whether the chapter with the amendment is internally consistent;
- (4) whether the amendment is the least restrictive approach to address issues of public health, safety, and welfare; and
- (5) any other factor not specifically or generally listed, but deemed appropriate by the plan commission or board given the particular circumstances.

(B) **Zoning map amendment initiated by a property owner.** If a proposed zoning map amendment is initiated by a property owner and would change the zoning classification of a parcel not classified as A-P, the plan commission in making its recommendation and the town board in making its decision shall consider the following factors:

- (1) whether the amendment is consistent with the town's comprehensive plan, including any future land use maps or similar maps;
- (2) the extent to which the lot and structures on the subject property conform to the dimensional standards that apply to the proposed zoning district; and
- (3) any other factor not specifically or generally listed, but deemed appropriate by the plan commission or board given the particular circumstances.

If a proposed zoning map amendment is initiated by a property owner and would change the zoning classification of land classified as A-P, the plan commission shall only recommend approval and the town board shall only approve the proposed amendment when all of the following findings can be made:

- (1) Such land is better suited for a use not otherwise allowed in the AP district.

- (2) The amendment is consistent with the town's comprehensive plan.
- (3) The amendment is substantially consistent with Waukesha County's farmland preservation plan as certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection.
- (4) The amendment will not substantially impair or limit current or future agricultural use of other protected farmland in the area.

The special requirements stated above relating to the rezoning of land in a AP district do not apply to a map amendment that is certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under ch. 91, Wis. Stats., or makes the zoning map more consistent with Waukesha County's farmland preservation plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the amendment.

(C) **Zoning map amendment initiated by the town.** If a proposed zoning map amendment is initiated by the town, the plan commission in making its recommendation and the town board in making its decision shall consider the following factors:

- (1) whether the amendment is consistent with the town's comprehensive plan, including any future land use maps or similar maps;
- (2) whether the amendment is consistent with other planning documents adopted by the town board; and
- (3) any other factor not specifically or generally listed, but deemed appropriate by the plan commission or board given the particular circumstances.

#### **§500.166 Imposition of conditions**

(A) **Generally.** The plan commission may recommend and the town board may impose one or more conditions of approval as may be necessary to grant approval.

(B) **Mandatory conditions of approval relating to certain existing land uses.** If a proposed amendment would revise the zoning map and is initiated by a property owner and the subject property hosts a land use that at the time of application is not permitted in the proposed zoning district, such use shall be removed as a condition of approval. If the subject property hosts a land use that at the time of application is classified as a conditional use in the proposed zoning district, the property owner shall as a condition of approval submit a conditional use application and obtain approval for that land use or, if conditional use approval is not granted, remove such use.

#### **§500.167 Application content**

(A) **Landowner-initiated map amendment.** An application for a landowner-initiated zoning map amendment shall include the following:

- (1) an application form as may be used by the town,
- (2) a project map prepared at an appropriate scale depicting the information listed in appendix E, and
- (3) other supporting information the applicant deems appropriate.

(B) **Other amendments.** For all other types of amendments, the application shall include the following:

- (1) an application form as may be used by the town, and
- (2) other supporting information the applicant deems appropriate.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.168 Staff report content**

The staff report should include the following:

- (1) information related to the decision criteria listed in this division;
- (2) proposed revisions, if appropriate; and



- (3) other information deemed necessary.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.169 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**§500.170 through 500.180 Reserved**

**DIVISION 2  
ZONING MAP AMENDMENT DUE TO ANNEXATION**

**§500.181 Generally**

From time to time, cities and villages adjoining the town may annex lands. This division describes the procedures and requirements to amend the zoning map following an annexation.

**§500.182 Initiation**

Following the approval of an ordinance annexing land into a city or village, any of the following may initiate the process to amend the zoning map as described in this division:

- (1) the person owning the annexed land,
- (2) the municipality that annexed the subject property,
- (3) the zoning administrator,
- (4) the plan commission, and
- (5) the town board.

**§500.183 Review procedure**

The general steps outlined below shall be used to amend the zoning map following an annexation.

- (1) **Preparation of draft ordinance.** The zoning administrator shall prepare a draft ordinance that if adopted would remove the annexed lands from the town's zoning map.
- (2) **Schedule date of review.** The town board shall schedule the date the board will review the draft ordinance and take action on the same.
- (3) **General notice.** Notice for this review shall consist of meeting agenda notice.
- (4) **Meeting.** Allowing for proper notice, the town board shall review the draft ordinance at a regular or special meeting.
- (5) **Decision.** The town board shall make a decision based on the decision criteria in this division to remove the annexed lands from the town's zoning map or not remove the annexed lands from the town's zoning map. The town board may render its decision at the same meeting the matter was initially considered or at a subsequent meeting.
- (6) **Preparation of new zoning map.** If the town board adopts an ordinance removing annexed lands from the town's zoning map, the zoning administrator shall cause a new zoning map to be prepared consistent with Division 3 of Article 7.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.184 Basis of decision**

The town board in making its decision shall determine whether a city or village has annexed the subject property. Such determination does not constitute a legal determination, but merely reflects the city's or village's action.

**§500.185 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the date of the final decision.

**§500.186 through 500.190 Reserved**

**DIVISION 3  
PLANNED UNIT DEVELOPMENT**

**§500.191 Generally**

A planned unit development allows for more flexibility in the development of land while ensuring substantial compliance with the basic intent of this chapter and the town's comprehensive plan. By definition, a planned unit development is a unique zoning district and the process is discretionary in nature.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.192 Initiation**

The owner of the subject property may submit an application for the establishment of a planned unit development.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.193 Where allowed**

A planned unit development is allowed in any zoning district, except in the Agricultural Land Preservation (AP) district.

**§500.194 Ownership**

At the time of establishment, all land within a planned unit development shall be under single ownership or control.

**§500.195 Minimum size**

To qualify for consideration as a planned unit development, the area shall be of sufficient size in relation to the proposed uses.

**§500.196 Development agreement**

Depending on the nature of the planned unit development, the developer and town shall enter into a development agreement that specifies the duties and obligations of both parties with respect to the development project.

**§500.197 Allowable uses**

(A) **Generally.** Land uses allowed in the underlying zoning districts may be allowed in a planned unit development as specified in a general development plan, except as provided below.

(B) **Exceptions.** When the underlying zoning district is a residential or business district, a combination of residential, recreational, and/or business uses may be allowed. When the underlying zoning is a manufacturing district, a combination of business and manufacturing uses may be allowed. A planned unit development with a mix of residential and manufacturing uses is prohibited.

**§500.198 Review procedure**

Establishment of a planned unit development involves a two-step process. The review of a proposed project begins with a general development plan. If the general development plan is approved, a precise implementation plan for all or a part of the project is reviewed. If the precise implementation plan is approved, the project is officially approved. The general steps outlined below shall be used in the review of an application for the establishment of a planned unit development.

**Step One – General Development Plan**

- (1) **Pre-submittal meeting with zoning administrator.** The applicant or the applicant's agent shall meet with the zoning administrator to review (i) applicable regulations and procedures, (ii) applicable sections of the town's comprehensive plan, and (iii) the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the town's zoning requirements.
- (2) **Pre-application conference with plan commission.** The applicant shall meet with the plan commission for an informal discussion relating to the proposed project. At that meeting, the applicant shall provide the plan commission with materials that describe the proposed project in sufficient detail for a preliminary, non-binding review.
- (3) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the town board.
- (4) **Staff review.** Within 10 days of receiving the application and other required materials, the zoning administrator shall either schedule a date for the public hearing allowing for proper public notice or make a determination that the application is incomplete and notify the applicant in writing of the deficiencies and that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
- (5) **General notice.** Consistent with Division 2 of article 5, the zoning administrator shall provide for class 2 public notice, property owner notice, and meeting agenda notice.
- (6) **Staff report preparation and distribution.** The zoning administrator should prepare a written staff report as described in this division and provide a copy of it to each member of the plan commission and town board and the applicant prior to the meeting at which the matter will be considered. The zoning administrator should also provide a copy to interested people upon request.
- (7) **Public hearing.** Allowing for proper notice, the plan commission and the town board shall conduct a joint public hearing to review the application consistent with Division 3 of article 5. Prior to the close of the public hearing, the applicant, the plan commission, or the town board may request a continuance consistent with Division 3 of article 5. If a continuance is granted, the plan commission may direct the zoning administrator to conduct additional research related to the proposed district.

- (8) **Staff follow-up.** After the close of the public hearing, the plan commission may direct the zoning administrator, town engineer, and/or the town attorney to submit a follow-up report to the commission and/or direct the zoning administrator to prepare such documents it deems necessary, including a preliminary decision document.
- (9) **Recommendation.** At a subsequent meeting of the plan commission, but no more than 60 days after the public hearing, the plan commission shall make a recommendation to the town board based on the decision criteria in this division to (i) approve the general development plan, subject to approval of a precise implementation plan; (ii) approve the general development plan with conditions, subject to approval of a precise implementation plan; or (iii) deny the approve the general development plan.
- (10) **Town board meeting.** Allowing for proper notice, the town board shall consider the application at a regular or special meeting.
- (11) **Decision.** The town board after considering the plan commission's recommendation shall make a decision based on the decision criteria in this division to (i) approve the general development plan, subject to approval of a precise implementation plan; (ii) approve the general development plan with conditions, subject to approval of a precise implementation plan; or (iii) deny the general development plan.
- (12) **Preparation of decision notice.** Based on the action of the town board, the zoning administrator shall prepare a decision notice consistent with this division.
- (13) **Applicant notification.** Within a reasonable time following the town board's decision, the zoning administrator shall send the decision notice to the applicant by regular mail or email.
- (14) **Acceptance by property owner required if approved.** The property owner shall sign the decision notice to acknowledge the terms of the approval and return the same to the zoning administrator within 2 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the town clerk requesting an extension and the town board may, with cause, extend the period within which the decision notice must be signed. If the signed decision notice is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the town at the expiration of such time limit. The decision notice shall only become effective when all required signatures have been obtained and the original signature copy is returned to the town clerk.

#### **Step Two – Precise implementation plan**

- (1) **Submittal of precise implementation plan.** The applicant shall submit a precise implementation plan and other required materials to the zoning administrator along with the application fee as may be established by the town board. At the discretion of the applicant, such materials may be submitted concurrently with the review of the general development plan.
- (2) **Staff review.** Within 10 days of receiving the application and other materials, the zoning administrator shall either schedule a date for review by the plan commission or make a determination that the application is incomplete and notify the applicant in writing of the deficiencies and that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
- (3) **General notice.** Consistent with Division 2 of article 5, the zoning administrator shall provide for a meeting agenda notice.
- (4) **Staff report preparation and distribution.** The zoning administrator should prepare a staff report that evaluates whether the precise implementation plan is consistent with the approved general development plan and the suitability of the proposed plan given the additional

information provided in the plan and supplemental materials. The zoning administrator shall provide a copy of it to each member of the plan commission and town board and the applicant prior to the meeting at which the matter will be considered. The zoning administrator should also provide a copy to interested people upon request.

- (5) **Meeting.** Allowing for proper notice, the plan commission and the town board shall jointly review the precise implementation plan and the staff report.
- (6) **Determination of consistency.** The plan commission shall determine whether the precise implementation plan is generally consistent with the approved general development plan with respect to density/intensity and permissible land uses. If the plan commission determines that the precise implementation plan is not generally consistent, the plan commission shall render that decision in writing and take no further action on the precise implementation plan.
- (7) **Town board meeting.** Allowing for proper notice, the town board shall consider the application at a regular or special meeting.
- (8) **Recommendation.** If the precise implementation plan is deemed to be consistent, the plan commission shall make a recommendation to the town board based on the decision criteria in this division to (i) approve the precise implementation plan, (ii) approve the precise implementation plan with conditions, or (iii) deny the precise implementation plan.
- (9) **Decision.** The town board after considering the plan commission's recommendation shall make a decision based on the decision criteria in this division to (i) approve the precise implementation plan, (ii) approve the precise implementation plan with conditions, or (iii) deny the precise implementation plan.
- (10) **Preparation of decision notice.** Based on the action of the town board, the zoning administrator shall prepare a decision notice consistent with this division.
- (11) **Applicant notification.** Within a reasonable time following the town board's decision, the zoning administrator shall send the decision notice to the applicant by regular mail or email.
- (12) **Acceptance by property owner required if approved.** The property owner shall sign the decision notice to acknowledge the terms of the approval and return the same to the zoning administrator within 2 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the town clerk requesting an extension and the town board may, with cause, extend the period within which the decision notice must be signed. If the signed decision notice is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the town at the expiration of such time limit. The decision notice shall only become effective when all required signatures have been obtained and the original signature copy is returned to the town clerk.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.199      Lots**

(A) **Lot size.** If the underlying zoning district has a minimum lot size requirement of 3 acres, lot sizes may be reduced to 2 acres. If the zoning district has a minimum lot size of 1 acre, lot sizes may be reduced to 0.75 acres. Where the total area involved includes more than one zoning district, the proportionate average of the district lot sizes shall apply.

(B) **Lot density.** The density of the proposed development must not exceed the permitted density of lots in the existing zoning district. (Refer to Example #1) If regulations related to a particular zoning district do not specify a lot density, the density shall be one principal building site per the minimum required lot size. (Refer to Example #2) Where the total area involved includes more than one zoning district, the proportionate average of the district density factors shall apply.

(C) Up to 20 percent of the land in the proposed development currently zoned C-1 may be used in the open space computation. (Refer to Example #3 below)

<b>Example #1:</b>	
<i>A PUD on 100 acres of land in the UC district, for which 40 acres are planned to be set aside as Common Lands to be Preserved.</i>	
<b>Zoning Parameters:</b>	
Zoning District:	Upland Conservancy (UC)
Maximum Lot Density:	1 buildable lot per 5 acres
Minimum Lot Size for District:	3 acres per buildable lot
Minimum Common Lands to be Preserved:	40%
<b>Developer's Proposal:</b>	
Total acreage:	100 acres
Common Lands to be Preserved:	40 acres
<b>Check for Adequacy of Common Lands:</b>	
Required Minimum Common Lands: (40% of 100 acres)	40 acres minimum (met by proposal)
<b>Number of lots allowed:</b>	
100 acres x 1 lot per 5 acre density =	20 lots
<i>With 40 acres set aside as Common Lands to be Preserved, the developer may create up to 20 lots in the remaining 60 acres, as long as each lot is at least 2 acres in size.</i>	

<b>Example #2:</b>	
<i>A PUD on 100 acres of land in the RR district, for which 40 acres are planned to be set aside as Common Lands to be Preserved.</i>	
<b>Zoning Parameters:</b>	
Zoning District:	Rural Residential (RR)
Maximum Lot Density:	not otherwise specified, so defaults to 1 building lot per 3 acres.
Minimum Lot Size for District:	3 acres per lot
Minimum Common Lands to be Preserved:	40%
<b>Developer's Proposal:</b>	
Total acreage:	100 acres
Common Lands to be Preserved:	40 acres
<b>Check for Adequacy of Common Lands:</b>	
Required Minimum Common Lands: (40% of 100 acres)	40 acres minimum
<b>Number of lots allowed:</b>	
60 buildable acres	up to 30 lots
<i>With 40 acres set aside as Common Lands to be Preserved, the developer may create up to 30 lots in the remaining 60 acres, as long as each lot is at least 2 acres in size.</i>	

<b>Example #3:</b>			
<i>A PUD on 100 acres of land, of which 85 acres lie in the RR district and 15 acres are in C-1 (Conservancy).</i>			
<b>Zoning Parameters:</b>			
	<u>Rural Res</u>	<u>Conservancy</u>	<u>Total:</u>
Zoning District:	(RR)	(C-1)	
Acreage:	85 acres	15 acres	100 acres
Use potential:	developable	not developable	
Maximum Lot Density:	not otherwise specified, so 1 building lot per 3 acres	no buildable lots	
Minimum Lot Size for District:	3 acres	n/a	
<b>Minimum Common Lands to be Preserved:</b>			
Minimum Common Lands to be Preserved: (100 acres x 40%)			40 acres minimum
Allowed provision from C-1 lands: (20% of 15 acres of C-1)		3 acres	
Minimum required Common Lands to be Preserved from lands not C-1: (40 acres – 3 acres)	37 acres		
Total Common Lands to be Preserved:	37 acres	15 acres	52 acres
Buildable land: (85 acres - 37 acres set aside)	48 acres	--	48 acres
<b>Number of lots allowed:</b>			
Acreage to which density is applied:	85 acres	4 acres (C-1 allowance)	89 acres
Maximum allowed number of lots: (89 acres x 1 lot per 3 acres, but capped by 2 acre min size)	24 lots	--	24 lots
<i>The 15 acres of C-1 Conservancy land plus at least 37 acres of the RR land must be set aside as Common Lands to be Preserved. If this is done, the developer may theoretically create up to 24 lots in the remaining 48 acres of RR lands, as long as each lot is at least 2 acres per lot.</i>			

(D) **Other lot specifications.** The minimum lot width, offset, and setback shall be set at the discretion of the plan commission and town board.

**§500.200 Common land**

(A) **Minimum area.** At least 30 percent of the subject property shall be designated as common land in those zoning districts where the minimum lot size is 1 acre or larger, but less than 3 acres. At least 40 percent of the subject property shall be designated as common land in those zoning districts where the minimum lot size is 3 acres or larger.

(B) **Designation of common land.** Common land shall be clearly delineated as an outlot and not included within any developable lot.

(C) **Buildings and uses.** Buildings or uses for noncommercial, recreational, public, or accessory facilities may be permitted in an open space area subject to a specific grant in the approval.

(D) **Miscellaneous.** Provisions for perpetual ownership, property tax liability, and care and maintenance of common land shall be submitted for approval to the plan commission and town board.

**§500.201 Design considerations**

(A) The town enjoys a rural character and desires to maintain it to the extent possible as land is developed. In the design of a planned unit development farm fields, pastures, orchards and natural open spaces should be preserved either as common open spaces or as farm operations. This may be accomplished by leaving vistas of farming activity along the main town roads, by grouping home-sites in farm-like clusters surrounded by fields and pasture, or by preserving complete farm operations.

(B) Grouping lots on interior streets and courts to provide higher densities on smaller areas of land is encouraged to allow other areas to remain preserved as common space. The most favorable consideration will be given to a development plan that includes: roads and building sites based upon the most appropriate relationship to existing terrain conditions, preservation of natural vegetation, and minimizes the potential impact upon the surrounding area.

(C) Important natural resources located on a private lot must be protected with a protective covenant or deed restriction.

(D) Buildings or uses for noncommercial, recreational, or accessory facilities may be permitted in common lands with review and recommendation by the plan commission and approval by the town board.

(E) For mixed use planned unit developments, (1) the architecture, landscaping, lighting, and general site development must be compatible with the surrounding neighborhood, (2) the proposed mix of uses must produce a unified composite which is compatible both within itself and with the surrounding neighborhood, (3) the proposed mix of uses must meet the general requirements applicable to the underlying zoning district for each use except as specifically stated in the approved conditional use, and (4) the project must be served by adequate off-street parking and loading and service facilities as may be required.

**§500.202 Basis of decision**

In the review of a general development plan and the precise implementation plan, the plan commission in making its recommendation and the town board in making its decision shall consider the following factors:

- (1) whether development in the proposed project is in keeping with the spirit and intent of this chapter;
- (2) whether development in the proposed project is consistent with the town's comprehensive plan;
- (3) the effects of development in the proposed project on traffic safety and efficiency, both within and outside of the district;

- (4) whether the proposed plan for development in the proposed project is properly planned and is properly coordinated with the existing and anticipated land uses on properties in the immediate and surrounding area;
- (5) the extent to which the natural features, open space, and/or farmland on the site are preserved;
- (6) the extent to which the rural character of the area is preserved;
- (7) whether development in the proposed project complies with provisions of this chapter and other land development regulations of the town that may apply;
- (8) the effects of development in the proposed project on public services and facilities;
- (9) whether adequate water and sanitary sewer facilities can be provided to development in the proposed project;
- (10) the proposed means of maintaining any undeveloped areas of the proposed project for the purpose for which it was set aside;
- (11) effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances;
- (12) effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts;
- (13) whether the plan for development is clearly superior to development that is permitted based on the design and development standards of the underlying zoning district; and
- (14) any other factor that relates to the purposes of this chapter as set forth in s. 500.05 or as allowed by state law.

#### **§500.203 Imposition of conditions**

(A) **Generally.** The plan commission may recommend and the town board may impose conditions as may be necessary to grant approval. Such conditions may relate to any of the factors it considered in reaching its decision. In addition, the plan commission may recommend and the town board may require the provision of off-site exactions that may be necessary to approve the establishment of the planned unit development project.

(B) **Effect on contracts with another party.** The town board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

**Editorial notes:**

[1] See s. 62.23(7)(gm), Wis. Stats. The town, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

#### **§500.204 Application form and content**

(A) **General development plan.** The application submittal for a general development plan shall include the following:

- (1) an application form as may be used by the town;
- (2) a general development plan prepared at an appropriate scale depicting the information listed in appendix E;
- (3) a preliminary draft of covenants if any are to be imposed; and
- (4) a development schedule, if the project is to be constructed in phases, which includes the anticipated beginning date and ending date of each phase and a description of those project-related elements to be completed in each phase.

(B) **Precise implementation plan.** The application submittal for a precise implementation plan shall include the following:



- (1) an application form as may be used by the town;
- (2) a precise implementation plan prepared at an appropriate scale depicting the information listed in appendix E;
- (3) a final draft of covenants if any are to be imposed;
- (4) homeowners association documents, if required;
- (5) a development agreement, if required; and
- (6) a development schedule, if the project is to be constructed in phases, which includes the anticipated beginning date and ending date of each phase and a description of those project-related elements to be completed in each phase.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.205 Staff report content**

The staff report should include the following:

- (1) information related to the decision criteria listed in this division;
- (2) a preliminary list of recommended conditions of approval; and
- (3) other information deemed necessary.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.206 Effect of approval**

If the town approves a planned unit development, the approval shall run with the land and is binding on all subsequent property owners.

**§500.207 Effect of approved planned unit development on land division standards**

Development in a planned unit development is subject to the town's land division regulations to the extent applicable, except that the plan commission/town board may waive a development standard in the land division regulations as provided therein.

**§500.208 Review of actual development within an approved planned unit development**

If the town approves a planned unit development, proposed development in the district shall be reviewed consistent with the requirements of this article as may apply (e.g., building, site plan, and plan of operation).

**§500.209 Amendment of an approved planned unit development**

If the town approves a planned unit development, the plan commission and town board shall review all proposed changes to the project plan that was approved at the time of approval. If in the opinion of the town board, the proposed change constitutes a minor alteration, the town board may approve the requested change at a regular or special meeting of the town board. If the proposed change constitutes a major alteration, the review procedure in this division shall be followed.

**§500.210 Revocation or modification of a prior approval**

Following a public hearing, the town board may revoke or modify an approval issued pursuant to this division if it is determined that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

**§500.211 Expiration of approval**

If any area of a planned unit development that can be developed remains substantially undeveloped and/or unplatted 3 years after final approval, the town board shall have the authority to unilaterally rescind the approval, in whole or in part, following a public hearing. Upon written petition and with good cause, the town board may grant an extension.

**§500.212 Appeal**

An aggrieved person may appeal the final decision of the town board to a court of competent jurisdiction within 30 days of the final decision.

**§500.213 through 500.220 Reserved**

**DIVISION 4  
CONDITIONAL USE**

**§500.221 Generally**

Although each zoning district is primarily intended for a predominant type of land use, there are a number of uses that may be appropriate under certain conditions. These are referred to as “conditional uses” and are listed in Division 4 of Article 7. This division describes the requirements and procedures for reviewing a conditional use, including an amendment of an approved conditional use.

**§500.222 Initiation**

The owner of the subject property may submit an application for the establishment of a conditional use.

**§500.223 Applicability and restrictions**

(A) **General applicability.** Those land uses designated as a conditional use in this chapter must comply with the requirements in this article, along with other sections of this chapter as applicable.

(B) **Conditional uses on a nonconforming lot.** In the event a lot is classified as a nonconforming lot (e.g., lot area, lot width), all conditional uses are prohibited, unless the town board, upon recommendation of the plan commission, determines, on a case-by-case basis, that the nature of the nonconformity does not affect the appropriateness of the lot for the conditional use. Any such determination in the affirmative shall have no bearing on the plan commission’s recommendation or the town board’s decision made under this division.

(C) **Conditional uses on a lot with a nonconforming use.** In the event a lot has a nonconforming use all conditional uses are prohibited, unless the town board, upon recommendation of the plan commission, determines, on a case-by-case basis, that the nonconforming use and proposed conditional use are compatible. Any such determination in the affirmative shall have no bearing on the plan commission’s recommendation or the town board’s decision made under this division.

(D) **Conditional uses on a lot with an existing conditional use.** In the event a lot has an approved conditional use, all conditional uses are prohibited, unless the town board, upon recommendation of the plan commission, determines, on a case-by basis, that the existing and proposed conditional uses are compatible. Any such determination in the affirmative shall have no bearing on the plan commission’s recommendation or the town board’s decision made under this division.

**Amendment(s):** Created by Ordinance 2021-03

**§500.224 Review procedure**

The general steps outlined below shall be used in the review of an application for a conditional use.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the zoning administrator to review applicable regulations and procedures and the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the town's zoning requirements.
- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the town board.
- (3) **Staff review.** Within 10 days of submittal, the zoning administrator shall either schedule a date for the public hearing with the plan commission allowing for proper public notice or make a determination that the application is incomplete and notify the applicant in writing of the deficiencies and that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
- (4) **General notice.** Consistent with Division 2 of article 5, the zoning administrator shall provide for a class 2 public notice, property owner notice, and meeting agenda notice.
- (5) **Site inspection.** The zoning administrator and building inspector shall conduct a site inspection to determine the nature of the request and whether the subject property is otherwise in compliance with town ordinances.
- (6) **Staff report preparation and distribution.** The zoning administrator should prepare a written staff report as described in this division and provide a copy of it to each member of the plan commission and town board and the applicant prior to the meeting at which the matter will be considered. The zoning administrator should also provide a copy to interested people upon request.
- (7) **Public hearing.** Allowing for proper notice, the plan commission and town board will conduct a joint public hearing to review the application and to hear from the applicant, town staff, and the public on the application's compliance with the standards of the code. The applicant and each interested person will be given the opportunity to present substantial evidence to rebut or offer countervailing evidence. The purpose of the hearing is to gather the record, for the petitioner to prove with substantial evidence they meet the standards of the code or the public to prove they don't and to address concerns from the public and or plan commission/town board. Before adjourning the public hearing (i.e., not the close of the public hearing) the plan commission/town board may give the following direction to the petitioner and to the public:
  - a. The remaining questions/standards that need to be proved/responded to.
  - b. Additional conditions to include in the conditional use order that the plan commission and/or town board deems appropriate. The petitioner will need to prove they can meet those at the adjourned public hearing date.

In addition, the plan commission may direct staff to prepare a draft conditional use order authorizing the conditional use. Such draft is intended to form the basis for the ongoing review of the conditional use and in no way binds the plan commission and/or town board in making their recommendation or decision.

- (8) **Recommendation.** After the public hearing has been closed, the plan commission shall make a recommendation to the town board for approval or denial. The recommendation shall state the terms of the approval or reasons for denial as set forth in a draft conditional use order. The burden of proof is on the applicant to prove they have met the standards of the chapter and those set forth by the plan commission/town board during the process. The plan commission shall render its

recommendation within 40 days from the close of the public hearing unless an extension is consented to in writing by the applicant.

- (9) **Town board meeting.** Allowing for proper notice, the town board shall consider the application at a regular or special meeting.
- (10) **Decision.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the staff report, and the plan commission's recommendation, the town board shall make a decision based on the decision criteria in this division to (i) approve the conditional use, (ii) approve the conditional use with conditions, or (iii) deny the conditional use.
- (11) **Preparation of decision notice.** Based on the action of the town board, the zoning administrator shall prepare a decision notice consistent with this division.
- (12) **Applicant notification.** Within a reasonable time following the town board's decision, the zoning administrator shall send the decision notice to the applicant by regular mail or email.
- (13) **Acceptance by property owner required if approved.** The property owner shall sign the decision notice to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision notice must be signed. If the signed decision notice is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the town at the expiration of such time limit. The decision notice shall only become effective when all required signatures have been obtained and the original signature copy is returned to the town clerk.
- (14) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.
- (15) **Recordation.** If the application is approved and the property owner signs the decision notice within the required time period, the town clerk or the zoning administrator shall record such document in the office of the register of deeds, at the expense of the applicant.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.225 Basis of decision**

(A) The plan commission in making its recommendation and the town board in making its final decision shall consider whether the proposal complies with (i) the special requirements for certain land uses in the AP district set forth in s. 500.226, if applicable, (ii) each of the special conditions of approval set forth in s. 500.227, (iii) each of the performance standards set forth in Article 7; (iv) each of the development standards prescribed for the requested conditional use, (v) all other applicable sections of the zoning code, and (vi) all other applicable sections of the municipal code. The recommendation of the plan commission and the decision by the town board must be based on substantial evidence.

In addition, the plan commission in making its recommendation and the town board in making its decision must determine whether the proposed conditional use is compatible with surrounding properties, whether in the same or different zoning districts. In making this determination, the plan commission and town board must determine whether the petitioner has demonstrated there are no adverse effects on surrounding properties or that potentially adverse effects have been eliminated or reduced to an acceptable level. Approaches that could be employed to mitigate potentially adverse effects will depend on the particular circumstances but may include (1) adjusting the location of the use, or parts thereof, on the subject property; (2) limiting hours of operation; (3) limiting the size or scope of the use, or parts thereof; (4) controlling how the use is managed on an on-going basis; (5) providing additional landscaping; (6) providing additional screening; and (7) limiting operations conducted out-of-doors, if otherwise allowed.

(B) Pursuant to Wis. Stats. 66.1001(2m)(b), a conditional use approval that may be issued by the town board does not need to be consistent with the Town's adopted comprehensive plan.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.226 Special requirements for certain land uses in the AP district**

(A) **Agriculture-related uses.** Subject to the general requirements under this division, the town board may approve agriculture-related uses in the AP district as listed in Appendix A as a conditional use only if all of the following apply:

- (1) The use supports agricultural uses in the AP zoning district in direct and significant ways, and is more suited to the AP zoning district than to an industrial or commercial zoning district.
- (2) The use and its location in the AP zoning district are consistent with the purposes of the AP zoning district.
- (3) The use and its location in the AP zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (4) The use is reasonably designed to minimize conversion of land, at and around the use site, from agricultural use or open space use.
- (5) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (6) Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

(B) **Nonmetallic mine.** Subject to the general requirements under this division, the town board may approve a nonmetallic mine in the AP district as listed in Appendix A as a conditional use only if all of the following apply:

- (1) The operation complies with (i) subchapter I of ch. 295, Wis. Stats., and administrative rules promulgated under that subchapter; (ii) applicable provisions of chapter 20 of the general code; and (iii) any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mineral extraction sites.
- (2) The use and the location of such use in the AP zoning district are consistent with the purposes of the AP zoning district.
- (3) The use and the location of such use in the AP zoning district are reasonable and appropriate, considering alternative locations outside the AP zoning district, or are specifically approved under state or federal law.
- (4) The use is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
- (5) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (6) Following cessation of this use, all disturbed areas will be restored to a condition suitable for agricultural use consistent with a written restoration plan as approved by Waukesha County.

(C) **Government and nonprofit community uses.** Subject to the general requirements under this division, the town board may approve government and nonprofit community uses in the AP district as listed in Appendix A as a conditional use only if all of the following apply:

- (1) The use and the location of such use in the AP zoning district are consistent with the purposes of the AP zoning district.
- (2) The use and the location of such use in the AP zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (3) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- (4) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (5) Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

(D) **Specified infrastructure.** Subject to the general requirements under this division, the town board may approve certain types of infrastructure in the AP district as listed in Appendix A as a conditional use only if all of the following apply:

- (1) The use and the location of such use in the AP zoning district are consistent with the purposes of the AP zoning district.
- (2) The use and the location of such use in the AP zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (3) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- (4) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

(E) **Oil and gas exploration or production** Subject to the general requirements under this division, the town board may approve oil and gas exploration or production that is licensed by the Wisconsin Department of Natural Resources under subch. II of ch. 295, Wis. Stats.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.227 Imposition of conditions**

(A) **Generally.** Based on substantial evidence, the plan commission may recommend and the town board may impose one or more conditions of approval as may be necessary to grant approval. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, operation of the use, off-site impacts, and any other aspect of the use that impacts the public health, safety, or general welfare. Examples of such conditions are listed below.

Issue	Potential Conditions
1. Hours of operation	Limit hours of operation to hours to be more compatible with surrounding uses.
2. Buffering	Require more of a buffer than what is otherwise required by this chapter. Buffering may include landscaping, walls or fences, berms, and other features to physically separate adjoining uses.
3. Maximum floor area	Establish a maximum floor area that may be less than what is otherwise allowed.
4. Maximum number of patrons	Limit the size of the use by establishing maximum patron loads, often by seats and/or tables.
5. Uses within buildings	Limit commercial uses to the first floor of a multistory building.
6. Number and/or location of entrances	Design the site and building so that entrances are located in areas away from adjoining properties.
7. Outdoor activity	Restrict locations and/or times of outdoor activity.
8. Outdoor storage	Establish a maximum area for outdoor storage that may be less than what is otherwise allowed.
9. Take-out food service	Prohibit drive-up service windows and/or walk-up service windows in certain areas of the property (e.g., near a residential use). If these are allowed, limitations could be set.
10. Delivery services	Prohibit deliver services that entail frequent trips or establish upper limits on the activity.
11. Signage	Prohibit signage in areas of the property that may cause an impact on surrounding areas.

(B) **Limitation on imposing conditions.** A condition of approval shall not lessen a development standard or other requirement in this chapter.

(C) **Effect on contracts with another party.** The town board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

**Editorial notes:**

[1] See s. 62.23(7)(gm), Wis. Stats. The town, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.228 Standards terms for an approved conditional use**

The terms and conditions listed below are automatically incorporated into a conditional use order authorizing a use, unless otherwise stated in the conditional use order.

- (1) Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the plan commission for determination.
- (2) No use is hereby authorized unless the use is conducted in a lawful, orderly, and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, Waukesha County, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by town ordinance or other law.
- (3) This conditional use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the plan commission as being in compliance with all pertinent ordinances.
- (4) All buildings and grounds shall be maintained in a neat, attractive and orderly way.
- (5) The property shall comply with all rules and regulations of the Town and the local fire department, including submission to routine inspections by the town staff and fire department staff.
- (6) Prior to the execution of the conditional use permit, the applicant must obtain any and all approvals that must be obtained before the use may be established or the commencement of any land-disturbing activity related to the approved conditional use.
- (7) Should the permitted conditional use be abandoned in any manner, or discontinued in use for 12 months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to the Town, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the plan commission, pursuant to the enforcement provisions of this conditional use order, and all applicable ordinances.
- (8) Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises, structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
- (9) Unless this conditional use permit expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the plan commission if the plan commission finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the plan commission feels, in its sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.
- (10) As a condition precedent to the issuance of the conditional use permit, the owner of the subject property shall approve the issuance of this conditional use permit upon the terms and conditions described herein in writing, and the petitioner is required to accept the terms and conditions of the same in its entirety in writing.
- (11) Petitioner shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connection with this application, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and

preparation of the necessary documents or attendance at meetings or other related professional services for this application, as well as for any actions the Town is required to take to enforce the conditions in this conditional approval due to a violation of these conditions.

- (12) Any unpaid bills owed to the Town by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the subject property if not paid within 30 days of billing by the Town, pursuant to s. 66.0627, Wis. Stats. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of this approval.
- (13) The petitioner is obligated to file with the town clerk a current mailing address and current phone number at which the petitioner can be reached, which must be continually updated by the petitioner if such contact information should change, for the duration of this conditional use. If the petitioner fails to maintain such current contact information, the petitioner thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.
- (14) Should any paragraph or phrase of this conditional use order be determined by a court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use order and the remainder shall continue in full force and effect.
- (15) If any aspect of this conditional use order or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Plan Commission.
- (16) If the property owner/operator is a business entity, such as a limited liability company or a corporation, such entity shall for the life of the conditional use continuously maintain a registered office in the state of Wisconsin as evidenced by registration with the Wisconsin Department of Financial Institutions.
- (17) The property owner shall not change the size and/or shape of the subject property by any means without the approval of the town board. If the town board determines that a proposed change is substantial with regard to the overall size of the parcel and/or configuration, such change shall require issuance of a new conditional use approval pursuant to the requirements in effect at the time of application.
- (18) This approval is given under the Town's zoning code and is not to be, in any way, interpreted to abrogate any private rights other property owners may have pursuant to deed restrictions or restrictive covenants.
- (19) If this conditional use terminates for any reason, the property owner is obligated to remove any improvements specifically related to the conditional use and which cannot be utilized for an approved use (i.e., a use permitted by right or a different conditional use as approved).
- (20) The property owner/operator agrees to allow on-site inspections, upon request, as deemed necessary by the Town to ensure compliance with the terms and conditions of the approval.
- (21) The property owner/operator agrees to promptly reply to any written request related to a self-certification process as may be established by the Town.

**Amendment(s):** Created by Ordinance 2021-03

#### **§500.229 Application form and content**

The application submittal shall include an application form as may be used by the town and a project map prepared at an appropriate scale depicting the information listed in appendix E.

**Amendment(s):** Revised by Ordinance 2021-03



**§500.230 Staff report content**

The staff report should include information related to the decision criteria listed in this division and other information deemed appropriate.

**§500.231 Content of decision notice**

(A) **Approval.** If the application for a conditional use is approved, the decision notice should include the following:

- (1) a statement that the application is approved;
- (2) a description of the conditional use;
- (3) a description of where the conditional use will occur on the property;
- (4) reasons for the decision based on the criteria listed in this division;
- (5) a list of conditions of approval that must be satisfied prior to the establishment of the conditional use or complied with during the life of the conditional use, or both;
- (6) a statement indicating that the property owner must sign the decision notice and return it to the zoning administrator to acknowledge acceptance of the same;
- (7) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- (8) a statement that an aggrieved person, other than the applicant, may appeal the decision to a court of competent jurisdiction and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (9) a statement indicating the nature of the approval (i.e., personal to the property owner or runs with the land);
- (10) other information the town board or zoning administrator deems appropriate;
- (11) the signature of the town board chair; and
- (12) the date of the decision.

(B) **Denial.** If the application for a conditional use is denied, the decision notice should include the following:

- (1) a statement that the application is denied;
- (2) a description of the project, including acreage and proposed use characteristics;
- (3) reasons for the decision based on the criteria listed in this division;
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration;
- (5) a statement that the decision may be appealed as provided for in this division;
- (6) other information the town board or zoning administrator deems appropriate;
- (7) the signature of the town board chair; and
- (8) the date of the decision.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.232 Effect of approval**

Unless otherwise specified in the conditional use order, approvals are personal to the property owner meaning the approval automatically terminates without any town action when the property owner ceases to own the property. A conditional use order authorizing a conditional use shall have 3-year terms unless otherwise specified in the conditional use order. The order shall describe an administrative renewal process to allow for streamlined renewal of the conditional use order with a provision that allows the plan commission

and/or the town board to remove the conditional use order from automatic renewal if there are concerns with compliance with the conditional use order or concerns raised by the public about the applicant's operations. If the plan commission or the town board removes the conditional use order from automatic approval the conditional use order shall remain in effect while the plan commission provides due process to the applicant in reviewing the conditional use order and its potential renewal.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.233 Revocation or modification of a prior approval**

Following a public hearing, the town board may revoke or modify an approval issued pursuant to this division if it is determined that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.234 Expiration of approval**

(A) **Non-establishment of use.** If the zoning administrator determines that substantial work as authorized by a conditional use approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 7 of this article. Upon written petition and with cause, the zoning administrator may grant a one-time extension not to exceed 6 months.

(B) **Cessation of use.** If the zoning administrator determines that a conditional use has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to Division 7 of this article.

**§500.235 Amendment of an approved conditional use**

Following approval of a conditional use, the plan commission shall review all proposed changes to the approval. If in the opinion of the plan commission, the proposed change constitutes a minor alteration, the plan commission may approve the requested change in writing at a regular or special meeting of the plan commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

**§500.236 Violation of a condition of approval**

If a property owner does not comply with the terms of an approval, such action shall be deemed a violation of this chapter and cause for termination of the approval consistent with Division 7 of this article.

**§500.237 Appeal**

An aggrieved person may appeal the final decision of the town board to a court of competent jurisdiction within 30 days of the final decision.

**§500.238 through 500.240 Reserved**

**DIVISION 5**  
**SPECIAL USE PERMIT FOR SPECIFIED LIVESTOCK OPERATIONS**

**§500.241      Generally**

This division describes the procedural requirements relating to the review of new or expanded livestock operations that will have 500 or more animal units.

**§500.242      Initiation**

The owner of the subject property may submit an application for the establishment of a livestock operation.

**§500.243      Review procedure**

The general steps outlined below shall be used in the review of an application for a special use permit for a new or expanded livestock operation.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent may meet with the zoning administrator to review applicable regulations and procedures and the proposed livestock operation.
- (2) **Submittal of application materials.** The applicant shall submit 4 copies of the completed application form and worksheets prescribed by s. ATCP 51.30, Wis. Admin Code, to the zoning administrator along with the application fee as may be established by the town board.
- (3) **Determination of completeness.** Within 45 days of submittal, the zoning administrator shall determine whether the application is complete or incomplete. If the zoning administrator determines that the application is incomplete, he or she shall send the applicant a written notice that describes the reason or reasons why the application is incomplete. If the zoning administrator determines that the application is complete, he or she shall send a written notice to the applicant within 14 days of such determination.<sup>[1]</sup>
- (4) **Staff report preparation and distribution.** The zoning administrator should prepare a written staff report as described in this division and provide a copy of it to each member of the plan commission and town board, the applicant, and any other person upon request.
- (5) **Notice to adjacent property owners.** Within 14 days of a determination of completeness, the zoning administrator shall mail a completed notice as in ch. ATCP 51, Wis. Admin. Code (Appendix C) to the recorded owner of each parcel of land that is adjacent to the proposed livestock facility. Such notices shall be mailed by first class mail. Failure to comply with the notice requirement under this subsection does not invalidate the approval of a proposed livestock facility, or create a cause of action by a property owner against the Town of Eagle or any town committee, board, employee, or other agent.<sup>[2]</sup>
- (6) **General notice.** Consistent with Division 2 of article 5, the zoning administrator shall provide for meeting agenda notice in addition to the special notice sent to the adjoining property owners in the previous step.
- (7) **Meeting.** Allowing for proper notice, the plan commission shall consider the application at a regular or special meeting.
- (8) **Decision.** The plan commission shall (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application based on the decision criteria in this division. The plan commission may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 90 days after the zoning administrator determines the application is complete unless the applicant agrees to an extension of a specified duration. The plan commission may, with or without the consent of the applicant, extend the review period with good cause, including a determination that (i) it needs more time to obtain additional information needed to act on the application, (ii) the applicant materially modified the application following a determination of completeness, or (iii) the applicant requested an extension. If the review period is extended, the

zoning administrator shall provide the applicant with a written notice of such decision that includes a date by which the plan commission will act on the application.<sup>[3]</sup>

- (9) **Preparation of decision notice.** Based on the action of the plan commission, the zoning administrator shall prepare a decision notice consistent with this division and give a copy to the applicant.
- (10) **Recordation of approval.** If the application is approved, the applicant may record such decision in Waukesha County register of deeds office.
- (11) **DATCP notification of decision.** The zoning administrator shall send a copy of the decision notice, within 30 days of such decision, to the Wisconsin Department of Agriculture, Trade and Consumer Protection by mail or fax as follows:

Mail: Wisconsin Department of Agriculture, Trade and Consumer Protection  
Agricultural Resource Management Division  
Bureau of Land and Water Resources  
PO Box 8911  
Madison, WI 53708-8911  
Fax: (608) 224-4615

Failure to comply with this notice requirement shall not invalidate such decision.<sup>[4]</sup>

- (12) **Compilation of public record.** The zoning administrator shall compile all of the materials specified in s. 500.527.

**Editorial notes:**

- [1] See s. ATCP 51.30(5), Wis. Admin. Code
- [2] See s. ATCP 51.30(6), Wis. Admin. Code. This type of notice is different than what is provided for a conditional use application (300 feet).
- [3] See s. ATCP 51.32, Wis. Admin. Code
- [4] See s. ATCP 51.34(5), Wis. Admin. Code

**Amendment(s):** Revised by Ordinance 2021-03

**§500.244 Basis of decision**

The plan commission in making its decision shall consider whether the application complies with the standards in s. 500.527 and other provisions of this chapter as may be applicable.

**§500.245 Imposition of conditions**

The plan commission may impose one or more conditions of approval provided they are limited to those actions required to comply with the standards related to livestock operations.

**§500.246 Application form and content**

The application submittal shall include the application shown in Appendix A of ch. ATCP 51, Wis. Admin. Code, along with any related worksheets, maps, or other material.<sup>[1]</sup>

**Editorial notes:**

- [1] See s. ATCP 51.30(1), Wis. Admin. Code

**§500.247 Staff report content**

The staff report should include the following:

- (1) information related to the decision criteria listed in this division;
- (2) a recommendation to approve the application, approve the application with conditions, or deny the application; and

- (3) other information deemed necessary.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.248 Content of decision notice**

(A) **Approval.** If the application for a livestock operation is approved, the decision notice should include the following:

- (1) a statement that the application is approved;
- (2) conditions of approval as described in this division, if any;
- (3) written findings of fact supported by evidence in the record that the approval is warranted;<sup>[1]</sup>
- (4) a statement that an aggrieved person may appeal the decision to the zoning board of appeals or the Wisconsin Livestock Facility Siting Review Board and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (5) other information the town board or zoning administrator deems appropriate;
- (6) the signature of the zoning administrator on behalf of the plan commission;
- (7) the date of the decision; and
- (8) a duplicate copy of the approved application, including all worksheets, maps, and other documents (other than engineering specifications) included in the application, marked "approved."<sup>[2]</sup>

(B) **Denial.** If the application for a livestock operation is denied, the decision notice should include the following:

- (1) a statement that the application is denied,
- (2) written findings of fact supported by evidence in the record that the denial is warranted,<sup>[3]</sup>
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the plan commission or zoning administrator deems appropriate,
- (7) the signature of the zoning administrator on behalf of the plan commission, and
- (8) the date of the decision.

**Editorial notes:**

[1] Pursuant to s. ATCP 51.34(3)(a), Wis. Admin. Code, the findings may be based on presumptions created by ch. ATCP 51, Wis. Admin. Code

[2] See s. ATCP 51.34(3)(b), Wis. Admin. Code

[3] Pursuant to s. ATCP 51.34(3)(a), Wis. Admin. Code, the findings may be based on presumptions created ch. ATCP 51, Wis. Admin. Code.

**§500.249 Effect of approval**

An approval granted under this division shall run with the land and is binding on all subsequent property owners.

**§500.250 Revocation or modification of a prior approval**

(A) Following a public hearing, the town board may revoke or modify an approval issued pursuant to this division if it is determined that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered the decision to approve the application or the conditions of approval which were or were not imposed.<sup>[1]</sup>

(B) **Notification required for termination of approval.** If an approval is terminated under this section, the zoning administrator shall send a copy of the notice, within 30 days of such decision, to the Wisconsin Department of Agriculture, Trade and Consumer Protection by mail or fax as follows:

Mail: Wisconsin Department of Agriculture, Trade and Consumer Protection  
Agricultural Resource Management Division  
Bureau of Land and Water Resources  
PO Box 8911  
Madison, WI 53708-8911  
Fax: (608) 224-4615

Failure to comply with this requirement shall not invalidate such decision.<sup>[2]</sup>

**Editorial notes:**

[1] See s. ATCP 51.34(4)(b)(1), Wis. Admin. Code

[2] See s. ATCP 51.34(5), Wis. Admin. Code

**§500.251 Expiration of approval**

If the zoning administrator determines that the livestock operator has not begun to populate the approved livestock facility within 2 years of approval and the operator has not begun construction on every new or expanded livestock housing structure and every new or expanded waste storage structure proposed in the application within 2 years of approval, he or she shall initiate the process to terminate the approval pursuant to Division 9 of this article.<sup>[1]</sup> Termination of an approval does not prevent a livestock operator from submitting a new application for review.<sup>[2]</sup> If an aggrieved person appeals an approval, the date of approval shall be the date the appeal is concluded if the court does not overturn the approval.

**Editorial notes:**

[1] See s. ATCP 51.08(2), Wis. Admin. Code. So long as the livestock operator begins the establishment of the authorized use, the approval remains in effect even if the expansion occurs over a period of time chosen by the operator or if the operator does not expand to the full amount of livestock units as authorized by the approval.

[2] See s. ATCP 51.08(3), Wis. Admin. Code

**§500.252 Amendment of an approval**

(A) **Generally.** At anytime following approval of a livestock operation, the livestock operator may submit a written request to the zoning administrator proposing an amendment to the approval. So long as the proposed amendment complies with the required standards, the plan commission may allow the amendment without following the review procedures in this division.<sup>[1]</sup> If the plan commission approves the proposed amendment, such decision shall be documented in writing and include the signature of the chairperson of the plan commission or the zoning administrator. Each approved amendment shall be sequentially identified (i.e., "First Amendment," etc).

(B) **Recordation of approval.** If the amendment is approved, the livestock operator may record the decision document in the office of the register of deeds.

**Editorial notes:**

[1] See s. ATCP 51.34(4)(b)(2), Wis. Admin. Code

**Amendment(s):** Revised by Ordinance 2021-03

**§500.253 Record of decision-making**

The zoning administrator shall compile the following materials and retain them for at least 7 years after the date the plan commission makes a decision to approve or deny an application:

- (1) The application and all subsequent additions or amendments to the application which were made by the applicant prior to the town board's final decision.
- (2) A copy of the notice sent to the applicant stating that the application was deemed incomplete or complete.

- (3) Copies of any other notices or correspondence that the zoning administrator or town board issued in relation to the application.
- (4) A record of any public hearing related to the application. The record may be in the form of an electronic recording, a transcript prepared from an electronic recording, or a direct transcript prepared by a court reporter or stenographer. The record shall also include any documents or evidence submitted by hearing participants.
- (5) Copies of any correspondence or evidentiary material that the plan commission and board considered in relation to the application.
- (6) Minutes of all meetings when the application was considered.
- (7) The written decision as required under this division.
- (8) Other documents that the town board prepared to document its decision or decision-making process.
- (9) A copy of any local ordinance cited in the town board's final decision.<sup>[1]</sup>

**Editorial notes:**

[1] See s. ATCP 51.36, Wis. Admin. Code

**§500.254 Violation of a condition of approval**

(A) **Generally.** If a property owner does not comply with the terms of the approval, such action shall be deemed a violation of this chapter and cause for termination of the approval consistent with Division 8 of this article.

(B) **Considerations in pursuing enforcement.** The zoning administrator and the town board should exercise sound judgment in deciding whether to take compliance action under this section. The following factors should be considered: whether adverse weather conditions may have affected an operator's ability to comply, the nature and seriousness of the violation, whether the violation was intentional or accidental, the operator's compliance history, consistency of enforcement, and whether the problem can be resolved without formal enforcement. Before taking compliance action, the town should give the operator notice and a reasonable opportunity to demonstrate compliance.<sup>[1]</sup>

**Editorial notes:**

[1] See s. ATCP 51.34(4), Wis. Admin. Code

**§500.255 Appeal**

(A) **Appeal to zoning board of appeals.** Because the decision of the plan commission to approve or deny an application is considered an administrative matter, an aggrieved person, as defined in this section, may appeal the final decision of the plan commission to the zoning board of appeals within 30 days of such decision.

(B) **Appeals to Livestock Facility Siting Review Board.** As provided under the Wisconsin Livestock Siting Law, an aggrieved person may appeal the decision of the plan commission to approve or deny an application to the Wisconsin Livestock Facility Siting Review Board within 30 days of such decision. An aggrieved person may appeal the decision of the zoning board of appeals to the Wisconsin Livestock Facility Siting Review Board within 30 days of such decision.<sup>[1]</sup>

(C) **Definition of aggrieved person.** For the purpose of this division, an "aggrieved person" includes the applicant and any person who resides or owns land within 2 miles of the proposed livestock facility.

**Editorial notes:**

[1] The Wisconsin Livestock Facility Siting Review Board has the authority to overturn the decision of the plan commission and the zoning board of appeals. The town, however, has the right to appeal such decision to a court of competent jurisdiction within the time period specified by state law.

**§500.256 through 500.260 Reserved**

**DIVISION 6**  
**DETERMINATION OF UNSAFE CONDITIONS**

**§500.261      Generally**

There may be instances where a land use has become unsafe through neglect or lack of maintenance and has become a threat to the public health, safety, or welfare. This division describes the requirements and procedures for terminating an unsafe situation.

**§500.262      Initiation**

Any of the following may submit an application for a determination of unsafe conditions:

- (1) the zoning administrator;
- (2) the plan commission, or any member thereof; or
- (3) the town board, or any member thereof.

**§500.263      Review procedure**

The general steps outlined below shall be used in the review of an application to terminate an unsafe land use authorized under this chapter.

- (1) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator.
- (2) **Staff review.** Within 10 days of receiving the application and other required materials, the zoning administrator shall either schedule a date for the public hearing allowing for proper public notice or make a determination that the application is incomplete and notify the applicant in writing of the deficiencies and that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
- (3) **Special notice to property owner.** The zoning administrator shall mail a written notice to the property owner by certified mail at least 30 days prior to the date of the public hearing. Such notice shall state the reason for the public hearing; the reasons why the zoning administrator believes the conditions are unsafe; the date and time of the public hearing; contact information for the zoning administrator, including telephone number; and other information deemed appropriate by the zoning administrator.
- (4) **General public notice.** Consistent with Division 2 of Article 5, the zoning administrator shall provide for a class 2 public notice, property owner notice, and meeting agenda notice.
- (5) **Public hearing.** Allowing for proper notice, the town board shall conduct a public hearing consistent with Division 3 of Article 5. Prior to the close of the public hearing, the applicant or the town board may request a continuance consistent with Division 3 of Article 5.
- (6) **Decision.** After the public hearing has been closed, the town board shall approve or deny the application. The town board may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, but no later than 40 days after the public hearing.
- (7) **Preparation of decision notice.** Based on the action of the town board, the zoning administrator shall prepare a decision notice consistent with this division.
- (8) **Applicant notification.** Within a reasonable time following the town board's decision, the zoning administrator shall send the decision notice to the property owner by regular mail or email.



- (9) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.
- (10) **Administrative steps.** If the application is approved, the zoning administrator shall update any town records to indicate that the use as specified in the application has been terminated because of unsafe conditions.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.264 Basis of decision**

The town board in making its decision shall consider the following factors:

- (1) the type and nature of unsafe conditions;
- (2) potential remedies to correct unsafe conditions; and
- (3) any other factor that relates to the purposes of this chapter as set forth in s. 500.05 or as allowed by state law.

**§500.265 Staff report content**

The staff report should include the following information:

- (1) the type and nature of the unsafe conditions;
- (2) potential remedies to correct the unsafe conditions; and
- (3) other information deemed necessary.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.266 Content of decision notice**

If a permit or other approval is revoked or suspended, the decision notice should include the following:

- (1) a statement that the permit or other approval is revoked or suspended,
- (2) reasons for the revocation or suspension,
- (3) conditions that must be satisfied to reinstate the approval if the permit or other approval is suspended,
- (4) requirements for the removal of the feature that is determined to be unsafe,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) the signature of the zoning administrator on behalf of the town board,
- (7) other information the plan commission or zoning administrator deems appropriate,
- (8) the date of the decision, and
- (9) other information deemed necessary.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.267 Compliance with requirements of zoning district**

If the town board revokes a permit or other approval under this division, the property owner shall remove the feature determined to be unsafe. The town board shall establish a timeframe it determines appropriate to comply with this requirement. In making such determination, the town board should consider the type of actions the property owner will need to take to remove the feature and weather conditions. In no event, shall the compliance period be less than 30 days or more than 9 months.

**§500.268 Appeal**

The person having a development interest in the original development order may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**§500.269 Other remedies**

In addition to the revocation or modification of the development order, the town board may seek other remedies allowed by law.

**§500.270 through 500.280 Reserved**

**DIVISION 7  
TERMINATION OF APPROVAL**

**§500.281 Generally**

There are certain situations when the approval for a land use may be terminated. This division describes the requirements and procedures for terminating an approved use. The procedures set forth in this division are optional. Failure to initiate such procedures does not waive any termination by operation of law and the Town is not foreclosed from asserting such termination.

**§500.282 Initiation**

(A) **Termination of a conditional use approval by property owner.** The property owner, and no other, is authorized to submit an application to terminate a conditional use approval for his or her property, except as authorized in this section.

(B) **Termination of a conditional use approval due to cessation.** The zoning administrator or the town board may submit an application to terminate a conditional use approval when there is reason to believe the land use authorized by such approval has ceased to operate for more than 12 months.

(C) **Termination of a conditional use approval due to violation.** The zoning administrator or the town board may submit an application to terminate a conditional use approval when there is reason to believe the property owner has violated one or more conditions of approval and action has not been taken to correct the violation.

(D) **Termination of a specified land use due to cessation.** The zoning administrator or the town board may submit an application to terminate an approved land use when there is reason to believe that such use is no longer in use for the time period specified for such use.

(E) **Termination of a nonconforming use.** The zoning administrator or the town board may submit an application to terminate a nonconforming use when there is reason to believe that such use is having a significant harmful effect on the public health, safety, and welfare.

**§500.283 Review procedure**

The general steps outlined below shall be used in the review of an application to terminate the approval of a land use authorized under this chapter.

- (1) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the town board.
- (2) **Staff review.** Within 10 days of receiving the application and other required materials, the zoning administrator shall either schedule a date for the public hearing allowing for proper public notice or

make a determination that the application is incomplete and notify the applicant in writing of the deficiencies and that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.

- (3) **Special notice to property owner.** If the zoning administrator is the applicant, he or she shall mail a written notice to the property owner by certified mail at least 30 days prior to the date of the public hearing. Such notice shall state the reasons why the zoning administrator has submitted an application to terminate the specified use; the date and time of the public hearing; contact information for the zoning administrator, including telephone number; and other information deemed appropriate by the zoning administrator. If the action is intended to terminate a conditional use for a violation, the notice shall state the alleged violation along with supporting evidence. If the action is intended to terminate an inactive land use, the notice shall state the time period when the land use was not in use along with supporting evidence.
- (4) **General public notice.** Consistent with Division 2 of Article 5, the zoning administrator shall provide for a class 2 public notice, property owner notice, and meeting agenda notice.
- (5) **Public hearing.** Allowing for proper notice, the town board shall conduct a public hearing consistent with Division 3 of Article 5. Prior to the close of the public hearing, the applicant or the town board may request a continuance consistent with Division 3 of Article 5.
- (6) **Decision.** After the public hearing has been closed, the town board shall approve or deny the application. The town board may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, but no later than 40 days after the public hearing.
- (7) **Preparation of decision notice.** Based on the action of the town board, the zoning administrator shall prepare a decision notice consistent with this division.
- (8) **Applicant notification.** Within a reasonable time following the town board's decision, the zoning administrator shall send the decision notice to the property owner by regular mail or email.
- (9) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.
- (10) **Administrative steps.** If the application is approved, the zoning administrator shall update any town records to indicate that the use as specified in the application has been terminated.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.284 Basis of decision**

The town board in making its decision shall consider the following factors:

- (1) the nature of those buildings or other structures, if any, on the subject property that relate to the use and the extent to which they are or are not otherwise permitted in the district in which the subject property is located;
- (2) effects of the existing use on surrounding properties, including detriment to the full and complete use of such properties and potential for concerns related to possible nuisances;
- (3) effects of the existing use on the normal and orderly development and improvement of the surrounding property for those uses permitted in the zoning district in which they are located; and
- (4) any other factor that relates to the purposes of this chapter as set forth in s. 500.05 or as allowed by state law.

**§500.285 Application form and content**

The application submittal shall include an application form as may be used by the town. The application form shall request the following information:

- (1) the subject property location;
- (2) a description of the original approval, including conditions of approval, if any;
- (3) verification that the property owner is voluntarily seeking termination of a conditional use approval or evidence supporting the assertion that the use may be involuntarily terminated consistent with this division;
- (4) a description of those buildings or other structures, if any, on the subject property that relate to the use and the extent to which they are or are not otherwise permitted in the district in which the subject property is located; and
- (5) other information deemed necessary.

**§500.286 Content of decision notice**

(A) **Approval.** If the application to terminate an approval is approved, the decision notice should include the following:

- (1) a statement that the specified use is terminated,
- (2) a description of the land use being terminated,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) requirements for the removal of any building or other structure, if any, on the subject property that are related to the terminated use and that are not otherwise permitted in the zoning district in which the subject property is located,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the town board or zoning administrator deems appropriate,
- (7) the signature of the town chairperson or the zoning administrator on behalf of the town board, and
- (8) the date of the decision.

(B) **Denial.** If the application to terminate an approval is denied, the decision notice should include the following:

- (1) a statement that the specified use continues to be an approved use,
- (2) a description of the land use,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement that the decision may be appealed as provided for in this division,
- (5) other information the town board or zoning administrator deems appropriate,
- (6) the signature of the town chairperson or the zoning administrator on behalf of the town board, and
- (7) the date of the decision.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.287 Compliance with requirements of zoning district**

If the town board terminates an approval under this division, the property owner shall bring the subject property into conformity with the permitted use regulations of the zoning district in which the property is located. The town board shall establish a timeframe it determines appropriate to bring the property into compliance. In making such determination, the town board should consider the type of actions the property

owner will need to take to bring the property into compliance and weather conditions. In no event, shall the compliance period be less than 30 days or more than 9 months.

**§500.288 Appeal**

The property owner or other person having a development interest in the terminated use may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**§500.289 through 500.290 Reserved**

**DIVISION 8  
CONVERSION OF A LEGAL NONCONFORMING USE**

**§500.291 Generally**

Upon written petition, the town board may, on a case-by-case basis, allow the conversion of a legal nonconforming use to another nonconforming use.

**§500.292 Initiation**

The owner of the subject property may submit an application for a conversion of a legal nonconforming use, but only when the nonconforming use has been registered as a legal nonconforming use pursuant to this article.

**§500.293 Review procedure**

The general steps outlined below shall be used in the review of an application for a conversion of a nonconforming use.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the zoning administrator to review (i) applicable regulations and procedures, (ii) applicable sections of the town's comprehensive plan, and (iii) the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the town's zoning requirements.
- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the town board.
- (3) **Staff review.** Within 10 days of receiving the application and other required materials, the zoning administrator shall either place the matter on the agenda for the meeting at which the matter will be considered allowing for proper public notice or make a determination that the application is incomplete and notify the applicant in writing of the deficiencies and that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
- (4) **Staff report preparation and distribution.** The zoning administrator should prepare a written staff report as described in this division and provide a copy of it to each member of the plan commission and town board and the applicant prior to the meeting at which the matter will be considered. The zoning administrator should also provide a copy to interested people upon request.

- (5) **General notice.** Consistent with division 2 of Article 5, the zoning administrator shall place the matter on the meeting agenda of the plan commission and town board.
- (6) **Public hearing.** Allowing for proper notice, the plan commission and town board shall conduct a joint public hearing consistent with Division 3 of Article 5. Prior to the close of the public hearing, the applicant, the plan commission, or the town board may request a continuance consistent with Division 3 of Article 5. If a continuance is granted, the plan commission may direct the zoning administrator to conduct additional research.
- (7) **Recommendation.** Following the close of the public hearing the plan commission shall make a recommendation to the town board based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (8) **Town board meeting.** Allowing for proper notice, the town board shall consider the application at a regular or special meeting.
- (9) **Decision.** The town board after considering the plan commission's recommendation shall make a decision based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (10) **Preparation of decision notice.** Based on the action of the town board, the zoning administrator shall prepare a decision notice consistent with this division, and a conversion order if approved.
- (11) **Applicant notification.** If the application is denied, the zoning administrator shall, within a reasonable time following the town board's decision, shall send the decision notice to the applicant by regular mail or email.
- (12) **Acceptance by property owner required.** If the application is approved, the property owner shall sign the conversion order and return the same to the zoning administrator within 6 months of the decision. Failure to return the signed document within the aforementioned time period shall render the town board's decision null and void.
- (13) **Recordation.** If the application is approved and the property owner signs the decision notice, the town clerk or the zoning administrator shall record the conversion order in the office of the register of deeds, at the expense of the applicant.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.294 Basis of decision**

The plan commission in making its recommendation and the town board in making its decision shall compare the known and anticipated impacts of the existing nonconforming use on properties in the area and those of the proposed nonconforming use. The town board shall not approve a conversion when the new nonconforming use would be more of a nonconformity than the existing nonconforming use.

#### **§500.295 Imposition of conditions**

(A) **Generally.** In approving a conversion, the plan commission may recommend and the town board may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping and screening, outdoor lighting, and hours of operation.

(B) **Effect on contracts with another party.** The town board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

**Editorial notes:**

[1] See s. 62.23(7)(gm), Wis. Stats. The town, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

**§500.296 Application form and content**

The application submittal shall include an application form as may be used by the town and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in appendix E.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.297 Staff report content**

The staff report should include the following:

- (1) a description of the requested conversion;
- (2) information related to the decision criteria listed in this division;
- (3) a recommendation to approve the application, approve the application with conditions, or deny the application;
- (4) a preliminary list of conditions whether the staff recommendation is for approval or denial; and
- (5) other information deemed necessary.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.298 Content of decision notice**

(A) **Approval.** If the application for a conversion is approved, the decision notice should include the following:

- (1) a statement that the application is approved;
- (2) a statement indicating that the property owner must sign the conversion order and return it to the zoning administrator;
- (3) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- (4) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (5) other information the town board or zoning administrator deems appropriate;
- (6) the signature of the town chairperson or the zoning administrator on behalf of the town board;
- (7) the date of the decision; and
- (8) the copy of the conversion order described in s. 500.299.

(B) **Denial.** If the application for a conversion is denied, the decision notice should include the following:

- (1) a statement that the application is denied,
- (2) a description of the proposed conversion,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the town board or zoning administrator deems appropriate,
- (7) the signature of the town chairperson or the zoning administrator on behalf of the town board, and
- (8) the date of the decision.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.299 Content of conversion order**

If the conversion is approved, a conversion order shall be prepared and adopted that includes the following:

- (1) a description of the subject property's location (e.g., address, tax key number, reference to a parcel in a certified survey map or subdivision plat);
- (2) a description of the existing and of the new nonconforming use;
- (3) conditions of approval, if any; and
- (4) other provisions deemed necessary given the nature of the approval.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.300 Effect of approval**

If the town board approves the conversion, such approval shall run with the land and is binding on all subsequent property owners.

**§500.301 Revocation or modification of a prior approval**

The town board may revoke or modify the approval of a conversion if it determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

**§500.302 Expiration of approval**

If the zoning administrator determines that substantial work as authorized by a conversion approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 8 of this article. Upon written petition and with cause, the zoning administrator may grant a one-time extension not to exceed 6 months.

**§500.303 Violation of approval**

If a property owner does not comply with the terms of an approval, such action shall be deemed a violation of this chapter.

**§500.304 Appeal**

An aggrieved person may appeal a final decision of the town board that is made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**§500.305 through 500.310 Reserved**

**DIVISION 9  
SPECIAL EXCEPTION**

**§500.311 Generally**

Upon written petition, the town board may, on a case-by-case basis, grant a special exception for those development standards specifically noted as special exceptions in this chapter.



**§500.312 Initiation**

The owner of the subject property may submit an application for a special exception.

**§500.313 Review procedure**

The general steps outlined below shall be used in the review of a special exception application.

- (1) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the town board.
- (2) **Staff review.** Within 10 days of receiving the application and other required materials, the zoning administrator shall either place the matter on the agenda for the meeting at which the matter will be considered allowing for proper public notice or make a determination that the application is incomplete and notify the applicant in writing of the deficiencies and that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
- (3) **Site inspection.** The zoning administrator and building inspector shall conduct a site inspection to determine the nature of the request and whether the subject property is otherwise in compliance with town ordinances.
- (4) **Staff report preparation and distribution.** The zoning administrator should prepare a written staff report as described in this division and provide a copy of it to each member of the plan commission and the town board and the applicant prior to the meeting at which the matter will be considered. The zoning administrator should also provide a copy to interested people upon request.
- (5) **General notice.** Consistent with Division 2 of Article 5, the zoning administrator shall provide for property owner notice and meeting agenda notice.
- (6) **Meeting.** Allowing for proper notice, the plan commission shall consider the application at a regular or special meeting.
- (7) **Recommendation.** At the initial meeting or at a subsequent meeting, the plan commission shall make a recommendation to the town board based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (8) **Town board meeting.** Allowing for proper notice, the town board shall consider the application at a regular or special meeting.
- (9) **Decision.** The town board after considering the plan commission's recommendation shall make a decision based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (10) **Preparation of decision notice.** Based on the action of the town board, the zoning administrator shall prepare a decision notice consistent with this division.
- (11) **Applicant notification.** Within a reasonable time following the town board's decision, the zoning administrator shall send the decision notice to the applicant by regular mail or email.
- (12) **Acceptance by property owner required.** If an approval includes one or more condition of approval, the property owner shall sign the decision notice to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the town clerk requesting an extension and the town board may, with cause, extend the period within which the decision notice must be signed. If the signed decision notice is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the town at the expiration of such time limit. The decision notice shall only

become effective when all required signatures have been obtained and the original signature copy is returned to the town clerk.

- (13) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.314 Basis of decision**

The plan commission in making its recommendation and the town board in making its decision shall consider the following factors:

- (1) the size of the property in comparison to other properties in the area;
- (2) the extent to which the issuance of the special exception permit would be in keeping with the overall intent of this chapter;
- (3) whether there are any unique circumstances and the nature of those circumstances that warrant the issuance of the special exception permit;
- (4) the nature and extent of anticipated impacts to the natural environment that could potentially occur if the special exception permit was granted;
- (5) the nature and extent of anticipated positive and negative effects on properties in the area;
- (6) actions the applicant will undertake to mitigate the negative effects, if any, of the proposed special exception;
- (7) a factor specifically listed under a section of this chapter authorizing the issuance of a special exception permit; and
- (8) any other factor that relates to the purposes of this chapter as set forth in s. 500.05 or as allowed by state law.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.315 Imposition of conditions**

(A) **Generally.** In approving a special exception, the plan commission may recommend and the town board may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping and screening, outdoor lighting, and hours of operation.

(B) **Effect on contracts with another party.** The town board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

**Editorial notes:**

[1] See s. 62.23(7)(gm), Wis. Stats. The town, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

#### **§500.316 Limitations on issuing a special exemption permit**

A special exception shall only be approved in those instances where issuance is specifically authorized in this chapter.

#### **§500.317 Application form and content**

The application submittal shall include an application form as may be used by the town and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in appendix E.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.318 Staff report content**

The staff report should include the following:

- (1) a description of the requested special exception;
- (2) information related to the decision criteria listed in this division;
- (3) a recommendation to approve the application, approve the application with conditions, or deny the application;
- (4) a preliminary list of conditions whether the staff recommendation is for approval or denial; and
- (5) other information deemed necessary.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.319 Content of decision notice**

(A) **Approval.** If the application for a special exception is approved, the decision notice should include the following:

- (1) a statement that the application is approved;
- (2) a description of the special exception;
- (3) reasons for the decision based on the criteria listed in this division;
- (4) conditions of approval, if any;
- (5) if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision notice and return it to the zoning administrator to acknowledge acceptance of the same;
- (6) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- (7) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (8) other information the town board or administrator deems appropriate;
- (9) the signature of the zoning administrator on behalf of the town board; and
- (10) the date of the decision.

(B) **Denial.** If the application for a special exception is denied, the decision notice should include the following:

- (1) a statement that the application is denied,
- (2) a description of the special exception,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the town board or zoning administrator deems appropriate,
- (7) the signature of the zoning administrator on behalf of the town board, and
- (8) the date of the decision.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.320 Effect of approval**

If the town board approves the special exception, such approval shall run with the land.

**§500.321 Revocation or modification of a prior approval**

The town board may revoke or modify the approval of a special exception if it determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

**§500.322 Expiration of approval**

If the zoning administrator determines that substantial work as authorized by a special exception approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 8 of this article. Upon written petition and with cause, the zoning administrator may grant a one-time extension not to exceed 6 months.

**§500.323 Violation of a condition of approval**

If a property owner does not comply with the terms of an approval such action shall be deemed a violation of this chapter.

**§500.324 Appeal**

An aggrieved person may appeal a final decision of the town board that is made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**§500.325 through 500.330 Reserved**

**DIVISION 10**

**WIRELESS TELECOMMUNICATION FACILITIES**

**§500.331 Review procedure**

(A) **New telecommunication tower and Class 1 collocation.** The general steps outlined below shall be used to review an application for a new telecommunication tower and a Class 1 collocation as designated in the land-use matrix (Appendix A).

- (1) **Submittal of application materials.** The applicant shall submit a completed application to the zoning administrator along with the application fee as may be established by the town board.
- (2) **Determination of completeness.** The zoning administrator shall review the application and determine whether the application is complete. If the application includes all of the required information, the application shall be found to be complete. The zoning administrator shall notify the applicant in writing within 10 days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their application as often as necessary until it is complete. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate
- (3) **General notice.** Consistent with Division 2 of Article 5, the zoning administrator shall provide for a class 2 public notice, property owner notice, and meeting agenda notice.
- (4) **Staff report preparation and distribution.** The zoning administrator should prepare a written staff report and provide a copy of it to each member of the plan commission and the applicant prior to the

meeting at which the matter will be considered. The zoning administrator should also provide a copy to interested people upon request.

- (5) **Public hearing.** Allowing for proper notice, the plan commission shall conduct a public hearing to review the application consistent with Division 3 of Article 5. Prior to the close of the public hearing, the applicant or the plan commission may request a continuance consistent with Division 3 of Article 5.
- (6) **Staff follow-up.** If the plan commission does not render a decision immediately following the public hearing, the plan commission may direct the zoning administrator, to prepare a preliminary decision document.
- (7) **Recommendation.** After considering all of the information submitted by the applicant, public comments received at the public hearing, and the staff report, the plan commission, no more than 40 calendar days after the close of the public hearing, shall make a recommendation to the town board to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (8) **Transmittal of recommendation.** If the plan commission action is favorable, the zoning administrator shall prepare a draft decision document effectuating its determination. If the plan commission action is not favorable, the plan commission shall report its determination to the town board including its reasons for denial.
- (9) **General notice.** Consistent with Division 2 of Article 5, the zoning administrator shall place the matter on the meeting agenda of the town board.
- (10) **Town board meeting.** Allowing for proper notice, the town board shall consider the application at a regular or special meeting.
- (11) **Decision.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the staff report, and the plan commission's recommendation, the town board shall make a decision to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application. Final action shall be taken within 90 days of the date the application is deemed complete, unless the time is extended by the applicant.
- (12) **Preparation of final decision document.** Based on the action of the town board, the zoning administrator shall prepare a final decision document.
- (13) **Applicant notification.** Within a reasonable time following the town board's decision, the zoning administrator shall send the decision document to the applicant by regular mail or email.
- (14) **Acceptance by property owner.** If the application is approved, the property owner shall sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the town clerk requesting an extension and the town board may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the town at the expiration of such time limit. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
- (15) **Public record copy.** A duplicate copy of the decision document shall be retained as a public record.
- (16) **Recording of decision document.** If the property owner returns the decision document within the required time period with the required signatures, the zoning administrator shall record the decision document against the subject property in the office of the Waukesha County register of deeds.

In the event an applicant believes the town has exceeded its authority as set forth in s. 66.0404(4), Wis. Stats. and s. 66.0414, Wis. Stats. as applicable, and other such laws as may apply which may include 47 USCA s. 1455, the applicant shall notify the zoning administrator in writing and the reviewing authority reserves the right to reconsider the matter, to ensure that applicable laws are followed.

(B) **Class 2 collocation.** The general steps outlined below shall be used to review an application for a Class 2 collocation which is allowed in all zoning districts.

- (1) **Submittal of application materials.** The applicant shall submit a completed application to the zoning administrator along with the application fee as may be established by the town board.
- (2) **Determination of completeness.** The zoning administrator shall review the application and determine whether the application is complete. If the application includes all of the required information, the application shall be found to be complete. The zoning administrator shall notify the applicant in writing within 5 days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their application as often as necessary until it is complete.
- (3) **Decision.** The zoning administrator shall make a decision on the application within 45 days of the date the application is deemed complete, unless the time is extended by the applicant. The decision shall be stated in writing. If approval is not granted, the reasons therefor must be stated.
- (4) **Public record copy.** A duplicate copy of the decision document shall be retained as a public record.

In the event an applicant believes the town has exceeded its authority as set forth in s. 66.0404(4), Wis. Stats. and s. 66.0414, Wis. Stats. as applicable, and other such laws as may apply which may include 47 USCA s. 1455, the applicant shall notify the zoning administrator in writing and the reviewing authority reserves the right to reconsider the matter, to ensure that applicable laws are followed.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.332 Application form**

(A) **New telecommunication tower and Class 1 collocation.** An application form for a new telecommunication tower or a Class 1 collocation should include all of the following information as appropriate:

- (1) The name and business address of, and the contact individual for, the applicant.
- (2) The location of the proposed tower or affected tower.
- (3) The location of the proposed mobile service facility.
- (4) If an application is to substantially modify an existing telecommunication tower, a construction plan which describes the proposed modifications to the tower, and equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
- (5) If an application is to construct a new telecommunication tower, a construction plan which describes the proposed tower and equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new tower.
- (6) If an application is to construct a new telecommunication tower, an explanation as to why the applicant chose the proposed location, and why the applicant did not choose collocation, including a sworn statement from the responsible party attesting that collocation within the applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.

(B) **Class 2 collocation.** An application form for a Class 2 collocation should include the following information:

- (1) The name and business address of, and the contact individual for, the applicant.
- (2) The location of the proposed tower or affected tower.
- (3) The location of the proposed mobile service facility.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.333 Imposition of conditions**

(A) **Generally.** The reviewing authority may impose one or more conditions of approval as may be necessary to grant approval. Such conditions may relate to any aspect of the use that impacts the public health, safety, or general welfare, subject to subsection (b) below.

(B) **Limitations.** The reviewing authority may not impose any of the following as a condition of approval:

- (1) A requirement relating to environmental testing, sampling, or monitoring.
- (2) A requirement relating to radio frequency emissions.
- (3) A requirement to pay a reoccurring fee.
- (4) A requirement that the structure or mobile service facility owner must provide space on or near the structure for the use of or by the town at less than the market rate, or to provide the town other services via the structure or facilities at less than the market rate.
- (5) Limit the duration of the approval.
- (6) A requirement that the applicant must indemnify or insure the town in connection with the political subdivision's exercise of its authority to approve the application.
- (7) A requirement that the applicant must give the town the right to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, the town or an entity in which the town has a governance, competitive, economic, financial, or other interest.

**§500.334 Expiration of an approval**

(A) **Non-establishment of use.** If the zoning administrator determines that substantial work as authorized by the approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 6 of this article. Upon written petition and with cause, the zoning administrator may grant a one-time extension not to exceed 6 months provided (i) the permit holder requests the extension prior to the expiration of the approval, (ii) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (iii) the project complies with this chapter in effect at the time the extension is granted.

(B) **Cessation of use.** If the zoning administrator determines that a wireless telecommunication facility has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to Division 6 of this article.

**§500.335 Amendment of an approval**

Following approval, the plan commission shall review all proposed changes to the approval. If in the opinion of the plan commission, the proposed change constitutes a minor alteration, the plan commission may approve the requested change in writing at a regular or special meeting of the plan commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

**§500.336 Fees**

(A) **Professional services fees.** Costs incurred by the town in obtaining legal, planning, engineering, and other technical and professional advice in connection with an application shall be charged to the applicant as set forth in s. 500.110.

(B) **Limitation on fees.** The total of all fees associated with the review of an application shall not exceed the limits established in s. 66.0404(4)(d), Wis. Stats.

**§500.337 through 500.350      Reserved**

**DIVISION 11  
VARIANCE**

**§500.351      Generally**

Recognizing that there may be situations where a zoning regulation that if enforced would cause unnecessary hardship to individual landowners, the state legislature established a mechanism to allow a town to issue a variance in those instances where a minor deviation would be appropriate to alleviate such hardship without circumventing or undermining the intent of the town's zoning regulations. This division describes the requirements and procedures for reviewing variance applications.

**§500.352      Initiation**

The owner of the subject property may submit an application for a variance.

**§500.353      Review procedure**

The general steps outlined below shall be used in the review of a variance application.

- (1) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the town board.
- (2) **Staff review.** Within 10 days of receiving the application and other required materials, the zoning administrator shall either schedule a date for the public hearing with the zoning board of appeals allowing for proper public notice or make a determination that the application is incomplete and notify the applicant in writing of the deficiencies and that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
- (3) **General notice.** Consistent with Division 2 of Article 5, the zoning administrator shall provide for class 2 public notice, property owner notification, and meeting agenda notice.
- (4) **Staff report preparation and distribution.** The zoning administrator should prepare a written staff report as described in this division and provide a copy to each member of the zoning board of appeals and the applicant. The zoning administrator should also provide a copy to interested people upon request.
- (5) **Public hearing.** Allowing for proper notice, the zoning board of appeals shall hold a public hearing consistent with Division 3 of Article 5. Prior to the close of the public hearing, the applicant or the board may request a continuance consistent with Division 3 of Article 5.
- (6) **Decision.** After the public hearing has been closed, the zoning board of appeals after considering the comments and the staff report shall make a decision based on the decision criteria in this division to (i) approve the variance, (ii) approve the variance with conditions, or (iii) deny the variance. The zoning board of appeals may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, but no later than 40 days after the close of the public hearing.
- (7) **Preparation of decision notice.** Based on the action of the zoning board of appeals, the zoning administrator shall prepare a decision notice consistent with this division.
- (8) **Applicant notification.** Within a reasonable time following the zoning board of appeal's decision, the zoning administrator shall send the decision notice to the applicant by regular mail or email.



- (9) **Acceptance by property owner required.** If the zoning board of appeals grants the variance with one or more conditions of approval, the property owner shall sign the decision notice to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the town clerk requesting an extension and the town board may, with cause, extend the period within which the decision notice must be signed. If the signed decision notice is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the town at the expiration of such time limit. The decision notice shall only become effective when all required signatures have been obtained and the original signature copy is returned to the town clerk.
- (10) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.
- (11) **Additional procedural steps.** If the zoning board of appeals grants the variance, the applicant shall then follow other review procedures as may be required.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.354 Basis of decision**

When making its decision, the zoning board of appeals shall consider each of the following standards:

- (1) The requirement in question would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with such requirement unnecessarily burdensome and such circumstances were not self-created.
- (2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question.
- (3) The granting of the variance will not be contrary to or harm the public interest given the general purposes of the zoning regulations and the specific purposes of the requirement in question.

The zoning board of appeals shall grant a variance only if the board can make an affirmative finding for all of the criteria listed in this section.

#### **§500.355 Limitations on issuing a variance**

- (A) **Dimensional variance.** The following actions shall not be allowed by a dimensional variance:
  - (1) expansion of a nonconforming use (e.g., expansion of area, increase in operational characteristics, etc.), or
  - (2) modification to lot size density requirements so as to increase the permitted density or intensity of use.
- (B) **Use variance.** The zoning board of appeals may not issue a variance to allow a use not otherwise permitted under this chapter. <sup>[1]</sup>
- (C) **Variance type.** In the event there is a question as to whether a variance constitutes a dimensional variance or a use variance, the zoning board of appeals shall have the authority to make a final determination. If a provision includes a number that is the basis for a variance application, the board should consider whether the number is used to control the scope of a land use (i.e., use variance) or to control the location of an otherwise permissible improvement on a property (i.e., dimensional variance).

**Editorial notes:**

[1] Although a municipality in Wisconsin may have the implicit authority to issue a use variance, the Town of Eagle has determined that use variances should not be issued.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.356 Imposition of conditions**

In approving a variance, the zoning board of appeals may impose such conditions and restriction as may be necessary to grant approval to preserve the general and specific purposes of this chapter as set forth in s. 500.05 and as allowed by law.

**§500.357 Application form and content**

The application submittal shall include an application form as may be used by the town and a project map prepared at an appropriate scale depicting the information listed in appendix E.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.358 Staff report content**

The staff report should include the following:

- (1) information related to the decision criteria listed in this division;
- (2) a recommendation to approve the application, approve the application with conditions, or deny the application;
- (3) a preliminary list of conditions whether the staff recommendation is for approval or denial; and
- (4) other information deemed necessary.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.359 Content of decision notice**

(A) **Approval.** If an application for a variance is approved, the decision notice should include the following:

- (1) a statement that the variance is approved;
- (2) a description of the variance;
- (3) reasons for the decision based on the criteria listed in this division;
- (4) conditions of approval, if any;
- (5) if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision notice and return it to the zoning administrator to acknowledge acceptance of the same;
- (6) a statement that the approval will automatically expire 12 months after the date of approval unless substantial work as authorized by the approval has commenced and continues in good faith to completion and that the zoning board of appeals may, with cause, grant a one-time extension not to exceed 6 months;
- (7) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- (8) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (9) other information the zoning board of appeals or zoning administrator deems appropriate;
- (10) the signature of the chairperson of the zoning board of appeals; and
- (11) the date of the decision.

(B) **Denial.** If the application for a variance is denied, the decision should include the following:

- (1) a statement that the variance request is denied,
- (2) a description of the proposed variance,
- (3) reasons for the decision based on the criteria listed in this division,

- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration provided there is a substantial change in the circumstances relating to the application,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the zoning board of appeals or zoning administrator deems appropriate,
- (7) the signature of the chairperson of the zoning board of appeals, and
- (8) the date of the decision.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.360 Effect of approval**

An approved variance merely sets aside the rule or regulation from which relief is sought. All other rules and regulations not part of the variance decision must be followed. The variance runs with the land.

**§500.361 Revocation or modification of a prior approval**

Following a public hearing, the zoning board of appeals may revoke or modify a variance approval if it determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

**§500.362 Effect of denial**

If the zoning board of appeals denies a variance application, the board may not rehear the same, or essentially the same, application unless there has been substantial change in the circumstances relating to the application.<sup>[1]</sup>

**Editorial notes:**

[1] See *Tateoka v City of Waukesha Bd. of Zoning Appeals*, 220 Wis.2d 656, 583 N.W. 2d 871 (Ct. App. 1998).

**§500.363 Expiration of approval**

If the zoning administrator determines that substantial work as authorized by a variance did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 8 of this article. Upon written petition and with cause, the zoning board of appeals may grant a one-time extension not to exceed 6 months.

**§500.364 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**§500.365 through 500.370 Reserved**

**DIVISION 12**  
**ADMINISTRATIVE APPEAL**

**§500.371      Generally**

Recognizing that there may be situations where a property owner or another party believes that the zoning administrator made an error in administering a zoning code, the state legislature established a mechanism to allow the zoning board of appeals to review alleged administrative errors. This division describes the requirements and procedures for reviewing an alleged administrative error.

**§500.372      Initiation**

Any person aggrieved by a final decision of the zoning administrator may file an appeal with the zoning board of appeals consistent with this division.

**§500.373      Review procedure**

The general steps outlined below shall be used in the review of an administrative appeal.

- (1) **Submittal of appeal.** The applicant shall submit a written appeal to the town clerk within 30 days of the date of the administrative decision being appealed, except that an appeal of an interpretation issued under the authority of this chapter may be appealed at any time without limitation.
- (2) **Notification of appeal.** The town clerk shall provide a duplicate copy of the appeal to the zoning board of appeals and the zoning administrator.
- (3) **Compilation and submittal of record.** The zoning administrator shall compile a complete and accurate record relating to the action being appealed and transmit it to the zoning board of appeals in a timely manner.
- (4) **Special notice.** The chairperson of the zoning board of appeals shall give notice for the public hearing to the parties in interest, including the applicant and the zoning administrator.
- (5) **General notice.** The chairperson of the zoning board of appeals shall provide a class 2 public notice and meeting agenda notice consistent with Division 2 of Article 5.
- (6) **Public hearing.** Allowing for proper notice, the zoning board of appeals shall conduct a public hearing consistent with division 3 of Article 5. Prior to the close of the public hearing, the applicant or the zoning board of appeals may request a continuance consistent with division 3 of Article 5.
- (7) **Decision.** After the public hearing has been closed, the zoning board of appeals shall make a decision to affirm the zoning administrator's decision, set aside the decision, or modify the decision. The zoning board of appeals may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.
- (8) **Notification of decision.** Within a reasonable time following the zoning board of appeal's decision, the clerk shall send the decision notice to the applicant by regular mail or email and provide a duplicate copy of the same to the zoning administrator and the plan commission.
- (9) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.374      Basis of decision**

(A) **Generally.** The zoning board of appeals shall determine if the zoning administrator made an error in judgment as applied to the instance being appealed.

(B) **Historic property.** In an action involving a historic property, as defined in s. 44.31(3), Wis. Stats., the zoning board of appeals shall consider any suggested alternatives or recommendations submitted by the landmarks commission, if one has been established, or the plan commission.

**§500.375 Effect of appeal**

An appeal shall stay all legal proceedings in furtherance of the action from which the appeal is made, unless the zoning administrator certifies in writing to the zoning board of appeals that a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the zoning board of appeals or by a court of competent jurisdiction, with notice to the zoning administrator from whom appeal is made.

**§500.376 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**§500.377 through 500.380 Reserved**

**DIVISION 13  
ZONING PERMIT**

**§500.381 Permit required**

A zoning permit is required prior to the establishment of the land uses specifically listed in Exhibit 7-1.

**§500.382 Initiation**

The owner of the subject property may submit an application for a zoning permit.

**§500.383 Review procedure**

The general steps outlined below shall be used in the review of an application for a zoning permit.

- (1) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the town board.
- (2) **Staff review.** Within 10 days of receiving the application and other required materials, the zoning administrator shall either determine that the application is incomplete and notify the applicant, in writing, of the deficiencies and that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
- (3) **Decision.** The zoning administrator shall make a decision based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (4) **Applicant notification.** Within a reasonable time following his or her decision, the zoning administrator shall send the decision notice to the applicant by regular mail or email.
- (5) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.384 Basis of decision**

In determining whether to issue a zoning permit or deny the permit, the zoning administrator shall determine whether the proposed use is consistent with this chapter and other town ordinances.

**§500.385 Expiration of approval**

(A) **Project involving construction.** For a project involving any construction, a zoning permit shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension not to exceed 12 months provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

(B) **Change in use.** For a change in use, the zoning permit shall automatically expire 6 months after the date of issuance if the applicant does not move into the vacant space.

**§500.386 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an administrative appeal with the zoning board of appeals within 30 days of the final decision.

**§500.387 through 500.390 Reserved**

**DIVISION 14  
BUILDING, SITE PLAN AND OPERATION PLAN**

**§500.391 Generally**

Because certain land uses have the potential to negatively affect properties in the area they must be reviewed with regard to the layout of such use, design of buildings, and operational characteristics of such use. This division describes the procedural requirements and applicable requirements.

**§500.392 Applicability**

Those land uses designated as requiring approval in the land use matrix (Appendix A) for a building plan "BP," site plan "SP," and/or plan of operation "PO" must comply with the requirements in this division.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.393 Initiation**

The owner of the subject property may submit a building, site plan, and operation plan application.

**§500.394 Review procedure**

The general steps outlined below shall be used in the review of a building, site plan, and operation plan application.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent may meet with the zoning administrator to review applicable regulations and procedures and the proposal.

- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the town board.
- (3) **Staff review.** Within 10 days of receiving the application and other required materials, the zoning administrator shall either place the matter on the agenda for the meeting at which the matter will be considered allowing for proper public notice or make a determination that the application is incomplete and notify the applicant in writing of the deficiencies that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate
- (4) **Staff report preparation and distribution.** The zoning administrator should prepare a written staff report as described in this division and provide a copy of it to each member of the plan commission and the town board and the applicant prior to the meeting at which the matter will be considered. The zoning administrator should also provide a copy to interested people upon request.
- (5) **General notice.** Consistent with Division 2 of Article 5, the zoning administrator shall place the matter on the meeting agenda of the plan commission.
- (6) **Meeting.** Allowing for proper notice, the plan commission shall consider the application at a regular or special meeting.
- (7) **Recommendation.** The plan commission shall make a recommendation to the town board based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (8) **Town board meeting.** Allowing for proper notice, the town board shall consider the application at a regular or special meeting.
- (9) **Decision.** The town board shall make a decision based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (10) **Preparation of decision notice.** Based on the action of the town board, the zoning administrator shall prepare a decision notice consistent with this division.
- (11) **Applicant notification.** Within a reasonable time following the town board's decision, the zoning administrator shall send the decision notice to the applicant by regular mail or email.
- (12) **Acceptance by property owner required.** If an approval includes one or more condition of approval, the property owner shall sign the decision notice to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the town clerk requesting an extension and the town board may, with cause, extend the period within which the decision notice must be signed. If the signed decision notice is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the town at the expiration of such time limit. The decision notice shall only become effective when all required signatures have been obtained and the original signature copy is returned to the town clerk.
- (13) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

**Amendment(s):** Revised by Ordinance 2021-03

### **§500.395 Basis of decision**

The plan commission in making its recommendation and the town board in making its decision shall consider the following factors:

- (1) effects of the project on traffic safety and efficiency and pedestrian circulation, both on-site and off-site;

- (2) effects of the project on the natural environment;
- (3) effects of the project on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances;
- (4) compliance with the site design principles and architectural standards enumerated in Division 8 of Article 7;
- (5) compliance with other applicable requirements in this chapter; and
- (6) any other factor that relates to the purposes of this chapter as set forth in s. 500.05 or as allowed by state law.

**Amendment(s):** Revised by Ordinance 2021-03

### **§500.396 Imposition of conditions**

The plan commission may recommend and the town board may impose one or more conditions of approval as may be necessary to grant approval. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, operation of the use, off-site impacts, and any other aspect of the use that impacts the public health, safety, morals, comfort, or general welfare.

**Amendment(s):** Revised by Ordinance 2021-03

### **§500.397 Application form and content**

The application submittal shall include a completed application form as used by the town and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in appendix E. As part of the application, the following information must be provided for the plan of operation:

- (1) The proposed use of the land and/or structures.
- (2) Activities to occur both inside and outside of any principal buildings.
- (3) The frequency and duration of all activities.
- (4) The number of employees of any business or manufacturing enterprise.
- (5) The estimated number of occupants of any residential use.
- (6) The number, size, and type of all vehicles associated with the use.
- (7) The season, days, and hours of operation.
- (8) The expected starting and completion dates of construction.
- (9) The proposed phasing of the project if appropriate.
- (10) Other information as requested by the Plan Commission

**Amendment(s):** Revised by Ordinance 2021-03

### **§500.398 Content of decision notice**

(A) **Approval.** If the application for a building, site plan, and operation plan is approved, the decision notice should include the following:

- (1) a statement that the application is approved;
- (2) a description of the project, including acreage and proposed use characteristics;
- (3) reasons for the decision based on the criteria listed in this division;
- (4) conditions of approval, if any;
- (5) if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision notice and return it to the zoning administrator to acknowledge acceptance of the same;



- (6) a statement that the approval will automatically expire 12 months after the date of approval unless substantial work as authorized by the approval has commenced and continues in good faith to completion and that the zoning administrator may, with cause, grant a one-time extension not to exceed 12 months;
  - (7) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
  - (8) a statement that an aggrieved person, other than the applicant, may appeal the decision to a court of competent jurisdiction, and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
  - (9) other information the town board deems appropriate;
  - (10) the signature of the town chairperson or the zoning administrator on behalf of the town board; and
  - (11) the date of the decision.
- (B) **Denial.** If the application for a building, site plan, and operation plan is denied, the decision notice should include the following:
- (1) a statement that the application is denied;
  - (2) a description of the project, including acreage and proposed use characteristics;
  - (3) reasons for the decision based on the criteria listed in this division;
  - (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration;
  - (5) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
  - (6) other information the town board deems appropriate;
  - (7) the signature of the town chairperson or the zoning administrator on behalf of the town board; and
  - (8) the date of the decision.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.399 Effect of approval**

If the town board approves a building, site plan, and operation plan, the approval shall run with the land and is binding on all subsequent property owners.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.400 Revocation or modification of a prior approval**

The town board may revoke or modify an approval issued pursuant to this division if it is determined that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.401 Expiration of approval**

The approval of a building, site plan, and operation plan shall automatically expire 12 months after the date of issuance unless substantial work as authorized by the approval has commenced and continues in good faith to completion. Upon written petition and with cause, the zoning administrator may grant a one-time extension not to exceed 12 months.

#### **§500.402 Amendment of an approved building, site plan, and operation plan**

Following approval of a building, site plan, and operation plan, the zoning administrator shall review all proposed changes to the approval. If in the opinion of the zoning administrator, the proposed change

constitutes a minor alteration, he or she may approve the requested change in writing without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure shall be followed.

**§500.403 Appeal**

Following the final decision of the plan commission, an aggrieved person may appeal such decision to a court of competent jurisdiction within 30 days of such decision.

**§500.404 through 500.410 Reserved**

**DIVISION 15  
RURAL ACCESSORY BUILDING DETERMINATION**

**§500.411 Generally**

As more fully described in this division, the town board is authorized to designate certain existing accessory buildings as a “rural accessory building” in those zoning districts listed in appendix A. If a building is so designated, it is not counted towards the allowable number of accessory buildings permitted on a lot or towards the allowable building square footage permitted on a lot with the approval of the town board. This division describes the procedures and requirements for a rural accessory building determination.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.412 Initiation**

The owner of the subject property may submit an application for a rural accessory building determination.

**§500.413 Review procedure**

The general steps outlined below shall be used in the review of a rural accessory building determination application.

- (1) **Pre-submittal meeting.** Before submitting an application for formal consideration, the applicant or the applicant's agent may meet with the zoning administrator to review applicable regulations and procedures and the proposal.
- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the town board.
- (3) **Staff review.** Within 10 days of receiving the application and other required materials, the zoning administrator shall either place the matter on the agenda for the meeting at which the matter will be considered allowing for proper public notice or make a determination that the application is incomplete and notify the applicant in writing of the deficiencies and that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
- (4) **Staff report preparation and distribution.** The zoning administrator should prepare a written staff report as described in this division and provide a copy of it to each member of the plan commission

and the town board and the applicant prior to the meeting at which the matter will be considered. The zoning administrator should also provide a copy to interested people upon request.

- (5) **General notice.** Consistent with Division 2 of Article 5, the zoning administrator shall place the matter on the meeting agenda of the plan commission.
- (6) **Meeting.** Allowing for proper notice, the plan commission shall consider the application at a regular or special meeting.
- (7) **Recommendation.** The plan commission shall make a recommendation to the town board based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (8) **Town board meeting.** Allowing for proper notice, the town board shall consider the application at a regular or special meeting.
- (9) **Decision.** The town board shall make a decision based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (10) **Preparation of decision notice.** Based on the action of the town board, the zoning administrator shall prepare a decision notice consistent with this division.
- (11) **Applicant notification.** Within a reasonable time following the town board's decision, the zoning administrator shall send the decision notice to the applicant by regular mail or email.
- (12) **Acceptance by property owner required.** The property owner shall sign the decision notice to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the town clerk requesting an extension and the town board may, with cause, extend the period within which the decision notice must be signed. If the signed decision notice is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the town at the expiration of such time limit. The decision notice shall only become effective when all required signatures have been obtained and the original signature copy is returned to the town clerk.
- (13) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

**Exhibit 6-1. An example of a rural accessory building**



**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.414 Basis of decision**

The plan commission in making its recommendation and the town board in making its decision shall initially determine whether the building meets at least one of the following criteria:

- (1) The building is set apart from other buildings as being distinct, due to its construction technique, construction materials, age, local historic significance, or design.
- (2) The building is characteristic of past agricultural practices or rural life, whether presently utilized or not for agricultural practice.
- (3) The building is associated with a person of historic significance or with important historical events.
- (4) The building represents a notable work of a master builder, designer, or architect who influenced their age.

If the building meets one of the above criteria, the plan commission in making its recommendation and the town board in making its decision shall then consider the following factors in making its final decision:

- (1) effects of the building on the natural environment,
- (2) effects of the building on surrounding properties,
- (3) the overall appearance of the building, and
- (4) any other factor that relates to the purposes of this chapter as set forth in s. 500.05 or as allowed by state law.

No building shall be designated a rural accessory building if it is not structurally sound to meet minimum safety requirements for the proposed use, as determined by the building inspector, provided that such determination shall not relieve the property owner of any responsibility or liability as to the building and shall not form a basis of liability against the building inspector or any other governmental official or entity.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.415 Imposition of conditions**

The plan commission may recommend and the town board may impose one or more conditions of approval as may be necessary to grant approval.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.416 Application form and content**

The application submittal shall include an application form as may be used by the town and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in appendix E.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.417 Content of decision notice**

(A) **Approval.** If the application for a rural accessory building determination is approved, the decision notice should include the following:

- (1) a statement that the application is approved;
- (2) a description of the building or buildings;
- (3) reasons for the decision based on the criteria listed in this division;
- (4) conditions of approval, if any;
- (5) a determination as to whether additional buildings are allowed and under what circumstances;
- (6) a statement indicating that the property owner must sign the decision notice and return it to the zoning administrator to acknowledge acceptance of the same;
- (7) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- (8) a statement that an aggrieved person, other than the applicant, may appeal the decision to a court of competent jurisdiction, and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (9) other information the town board or the zoning administrator deems appropriate;
- (10) the signature of the town chairperson or the zoning administrator on behalf of the town board;
- (11) the date of the decision,
- (12) any other information deemed appropriate.

(B) **Denial.** If the application for a rural accessory building determination is denied, the decision notice should include the following:

- (1) a statement that the application is denied,
- (2) a description of the building or buildings,

- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the applicant may appeal the decision to a court of competent jurisdiction,
- (6) other information the town board or the zoning administrator deems appropriate,
- (7) the signature of the town chairperson or the zoning administrator on behalf of the town board,
- (8) the date of the decision,
- (9) any other information deemed appropriate.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.418 Effect of approval**

If the town board designates a building as a rural accessory building, such designation shall run with the land and is binding on all subsequent property owners.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.419 Revocation or modification of a prior approval**

The town board may revoke or modify an approval issued pursuant to this division if it is determined that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.420 Appeal**

An aggrieved person may file an appeal with a court of competent jurisdiction within 30 days of such decision.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.421 through 500.430 Reserved**

### **DIVISION 16**

#### **REGISTRATION OF A LEGAL NONCONFORMING USE**

#### **§500.431 Generally**

There may be now or in the future certain uses of land that are not in compliance with this chapter, but which were legally established. These uses are referred to as "legal nonconforming uses," and consistent with the provisions of article 12 are allowed to continue to operate. For this reason, it is necessary to document those uses that are considered legal nonconforming. Registration of a use as a nonconforming use provides documentary evidence establishing (1) when the use was first established; (2) that the use at the time of establishment was done consistent with the rules and regulations in effect at the time, if any; (3) that it has continued continuously, without cessation of more than 12 continuous months; and (4) the nature of the use. The procedures and requirements in this division are intended to comply with s. 60.61(5)(d), Wis. Stats.

#### **§500.432 Initiation**

Any of the following may submit an application to register a specific land use as a nonconforming use:

- (1) a person having a financial interest in the property or in the use occurring on the property;
- (2) the zoning administrator;
- (3) the plan commission, or any member thereof; or
- (4) the town board, or any member thereof.

**§500.433 Review procedure**

The general steps outlined below shall be used in the review of an application for the registration of a nonconforming use.

- (1) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the town board.
- (2) **General notice.** Consistent with Division 2 of Article 5, the zoning administrator shall place the matter on the meeting agenda of the plan commission.
- (3) **Meeting.** Allowing for proper notice, the plan commission shall consider the application at a regular or special meeting.
- (4) **Recommendation.** The plan commission shall make a recommendation to the town board based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (5) **Town board meeting.** Allowing for proper notice, the town board shall consider the application at a regular or special meeting.
- (6) **Decision.** The town board shall make a decision based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application. The plan commission may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
- (7) **Preparation of decision notice.** Based on the action of the town board, the zoning administrator shall prepare a decision notice consistent with this division.
- (8) **Applicant notification.** Within a reasonable time following the town board's decision, the zoning administrator shall send the decision notice to the applicant by regular mail or email.
- (9) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.
- (10) **Inclusion in registry.** If the application is approved, the zoning administrator shall include the nonconforming use in the registry authorized in article 12.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.434 Basis of decision**

The plan commission in making its recommendation and the town board in making its decision shall determine whether there is sufficient evidence to show that (1) the use in question was legally established; (2) such use does not now comply with one or more of the requirements of this chapter; and (3) such use has continued from the date, or approximate date, of establishment to the current date without an interruption of more than 12 continuous months.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.435 Application form and content**

The application submittal shall include an application form as may be used by the town and scaled drawing of the property and the location of the land use on the property. At a minimum, the application shall request the following information:

- (1) the date, or approximate date, the use was first established or believed to be first established;
- (2) evidence showing that the use at the time of establishment was legally established;
- (3) the date, or approximate date, when the use became nonconforming;
- (4) the section of the zoning regulation causing the use to be nonconforming;
- (5) evidence showing that the use has continued from the date, or approximate date, of establishment to the current date without an interruption of more than 12 continuous months; and
- (6) the nature of the use and location on the property.

Sources of such information may be derived from any of the following:

- (1) written document (e.g., business license, meeting minutes, reports, planning documents, or a permit or other authorization) maintained by a local, state, or federal governmental body;
- (2) a newspaper article;
- (3) a dated photograph;
- (4) an aerial photograph;
- (5) a sworn affidavit supplied by the applicant or any other person; and
- (6) any other authoritative source as approved by the zoning administrator.

**§500.436 Content of decision notice**

(A) **Approval.** If the application for registering a nonconforming use is approved, the decision notice should include the following:

- (1) a statement that the use is a legal nonconforming use as of the date of such determination,
- (2) a description of the use,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement that the applicant may appeal the decision to the zoning board of appeals,
- (5) other information the town board or zoning administrator deems appropriate,
- (6) the signature of the town chairperson or the zoning administrator on behalf of the town board, and
- (7) the date of the decision.

(B) **Denial.** If the application for registering a nonconforming use is denied, the decision notice should include the following:

- (1) a statement that the use cannot be classified as a legal nonconforming use,
- (2) a description of the use,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the applicant may appeal the decision to a court of competent jurisdiction,
- (6) other information the town board or zoning administrator deems appropriate,
- (7) the signature of the town chairperson or the zoning administrator on behalf of the town board, and
- (8) the date of the decision.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.437 Effect of decision**

(A) **Generally.** If the town board determines that a land use meets the criteria for a legal nonconforming use, such decision constitutes documentary evidence establishing the legitimacy of the use as a legal nonconforming use as of the date of such determination.

(B) **Expansion not authorized.** If a use was legally established and has been operated without interruption, but has been illegally expanded over time (i.e., area, extent, mode of operation, or other parameter) such expansion shall be removed in keeping with a timeline established by the plan commission.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.438 Revocation or modification of a prior approval**

The town board may revoke or modify an approval issued pursuant to this division if it is determined that (1) information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate; (2) new or additional information shows the use does not meet the decision criteria established in this division; or (3) the section of the zoning code creating the nonconforming use no longer exists.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.439 Appeal**

An aggrieved person may file an appeal with a court of competent jurisdiction within 30 days of such decision.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.440 Reserved**

**DIVISION 17  
CODE INTERPRETATION**

**§500.441 Generally**

From time to time, there may be instances where a person may have a question concerning a provision of this chapter or the application of a provision of this chapter. To ensure this chapter is consistently interpreted, a mechanism is needed to issue written interpretations. This division describes the procedures and requirements to issue such interpretations.

**§500.442 Initiation**

Any person, including the zoning administrator, may submit a question for interpretation.

**§500.443 Responsibility for interpretation**

The town board shall be responsible for rendering a written interpretation.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.444 Limitations on interpretations**

The responsibility for interpretation shall not be construed as overriding the responsibilities specifically given to any commission, board, or official named in other parts of this chapter.



**§500.445 Review procedure**

The general steps outlined below shall be used to render an interpretation.

- (1) **Submittal of question.** The individual requesting the interpretation shall submit the question in writing to the zoning administrator and the application fee as may be established by the town board.
- (2) **Meeting.** Allowing for proper notice, the plan commission shall consider the application at a regular or special meeting.
- (3) **Recommendation.** In consultation with the zoning administrator, the town attorney, and others as appropriate, the plan commission shall make a recommendation to the town board based on the decision criteria in this division.
- (4) **Town board meeting.** Allowing for proper notice, the town board shall consider the application at a regular or special meeting.
- (5) **Decision.** In consultation with the zoning administrator, the town attorney, and others as appropriate, the town board shall make a written decision based on the decision criteria in this division within 60 business days of when the plan commission made its recommendation.
- (6) **Notification of decision.** Within a reasonable time following completion of the interpretation, the zoning administrator shall send a copy of the interpretation to the individual requesting the interpretation by regular mail or email and provide a copy of the same to the plan commission, the town attorney, and those town employees and agents involved in the administration of this chapter, as appropriate.
- (7) **Public record copy.** A duplicate copy of the interpretation shall be retained as a public record.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.446 Basis of decision**

In consultation with the zoning administrator, the town attorney and others as appropriate, the plan commission in making its recommendation and the town board in making its decision shall evaluate the section of this chapter in question and those which are related, consider the purposes of this chapter as set forth in s. 500.05 along with applicable legislative findings in this chapter, and consider other applicable interpretations that have previously been made and make a decision consistent with this division giving this chapter its most reasonable application. If the town board cannot make a reasonable interpretation, an interpretation shall not be issued.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.447 Repeal or revision of an interpretation**

The town board may rescind or modify an interpretation if such interpretation is deemed to be incorrect in whole or in part.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.448 Interpretation content**

An interpretation shall be in writing and include the following:

- (1) the name of the person posing the question,
- (2) the section number of this chapter in question,
- (3) the question or alleged ambiguity,
- (4) the factors that were considered in making the interpretation,
- (5) the interpretation or a statement that an interpretation is not possible,
- (6) other information the town board deems appropriate,
- (7) the signature of the town chairperson or the zoning administrator on behalf of the town board, and

(8) the date of decision.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.449 Effect of interpretation**

An interpretation once rendered shall have full effect as if set forth in this chapter. Where appropriate, interpretations should be addressed through the amendment process. If the town board determines that it is not possible to make a reasonable interpretation, such decision shall not affect the validity of any section of this chapter.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.450 Compilation of interpretations**

The zoning administrator shall keep a written record of all interpretations in effect and make them available for public inspection.

**§500.451 Appeal**

An aggrieved person may, without time constraint, appeal an interpretation made pursuant to this division by filing an administrative appeal with the zoning board of appeals as provided for in this article.

**§500.452 through 500.460 Reserved**

**DIVISION 18**

**EXPANSION OF A NONCONFORMING BUILDING**

**§500.461 Generally**

A nonconforming building with a conforming use may be expanded provided the expansion complies with all other requirements in this chapter that apply, including setback and offset requirements. This division describes the procedures and requirements to allow such expansion.

**§500.462 Initiation**

The owner of the subject property may submit an application to expand a nonconforming building.

**§500.463 Review procedure**

The general steps outlined below shall be used in the review of an application to expand a nonconforming building.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent may meet with the zoning administrator to review applicable regulations and procedures and the proposal.
- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the town board.
- (3) **Staff review.** Within 10 days of receiving the application and other required materials, the zoning administrator shall either place the matter on the agenda for the meeting at which the matter will be considered allowing for proper public notice or make a determination that the application is incomplete and notify the applicant in writing of the deficiencies and that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any.

The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.

- (4) **Staff report preparation and distribution.** The zoning administrator should prepare a written staff report as described in this division and provide a copy of it to each member of the plan commission and the town board and the applicant prior to the meeting at which the matter will be considered. The zoning administrator should also provide a copy to interested people upon request.
- (5) **General notice.** Consistent with Division 2 of Article 5, the zoning administrator shall provide property owner notice and place the matter on the meeting agenda of the plan commission.
- (6) **Meeting.** Allowing for proper notice, the plan commission shall consider the application at a regular or special meeting.
- (7) **Recommendation.** The plan commission shall make a recommendation to the town board based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (8) **Town board meeting.** Allowing for proper notice, the town board shall consider the application at a regular or special meeting.
- (9) **Decision.** The town board shall make a decision based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (10) **Preparation of decision notice.** Based on the action of the town board, the zoning administrator shall prepare a decision notice consistent with this division.
- (11) **Applicant notification.** Within a reasonable time following the town board's decision, the zoning administrator shall send the decision notice to the applicant by regular mail or email.
- (12) **Acceptance by property owner required.** If an approval includes one or more condition of approval, the property owner shall sign the decision notice to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the town clerk requesting an extension and the town board may, with cause, extend the period within which the decision notice must be signed. If the signed decision notice is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the town at the expiration of such time limit. The decision notice shall only become effective when all required signatures have been obtained and the original signature copy is returned to the town clerk.
- (13) **Recording of decision notice.** The decision notice shall be recorded in the Waukesha County register of deeds office when approval is granted.
- (14) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.464 Basis of decision**

The plan commission in making its recommendation and the town board in making its decision shall consider the following factors:

- (1) the degree of the existing nonconformity (i.e., 1 foot into the setback or 1 foot from the property boundary line);
- (2) the size and configuration of the lot;
- (3) whether the lot conforms to the dimensional standards of the zoning district in which it is located;
- (4) the size and location of the existing nonconforming building;

- (5) the size and location of other existing structures and those structures reasonably anticipated on the lot;
- (6) the impact, if any, that the expansion may have on adjoining properties;
- (7) whether the proposed expansion would violate the intent of this chapter; and
- (8) any other factor that relates to the purposes of this chapter as set forth in s. 500.05 or as allowed by state law.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.465 Imposition of conditions**

(A) **Generally.** In approving an expansion of a nonconforming building, the plan commission may recommend and the town board may impose one or more conditions of approval deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping, screening, and the maximum size of the building(s).

(B) **Effect on contracts with another party.** The town board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

**Editorial notes:**

[1] See s. 62.23(7)(gm), Wis. Stats. The town, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.466 Application form and content**

The application submittal shall include an application form as may be used by the town and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in appendix E.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.467 Content of decision notice**

(A) **Approval.** If the application for an expansion of a nonconforming building is approved, the decision notice should include the following:

- (1) a statement that the application is approved;
- (2) a description of the use;
- (3) reasons for the decision based on the criteria listed in this division;
- (4) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- (5) a statement that an aggrieved person, other than the applicant, may appeal the decision to a court of competent jurisdiction, and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (6) other information the town board or zoning administrator deems appropriate;
- (7) the signature of the town chairperson or the zoning administrator on behalf of the town board; and
- (8) the date of the decision.

(B) **Denial.** If the application for expansion of a nonconforming building is denied, the decision notice should include the following:

- (1) a statement that the application is denied,
- (2) a description of the use,
- (3) reasons for the decision based on the criteria listed in this division,

- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the applicant may appeal the decision to a court of competent jurisdiction,
- (6) other information the town board or zoning administrator deems appropriate,
- (7) the signature of the town chairperson or the zoning administrator on behalf of the town board, and
- (8) the date of the decision.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.468 Effect of decision**

If the town board approves the expansion of a nonconforming building, the approval runs with the land and is binding on all subsequent property owners.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.469 Revocation or modification of a prior approval**

The town board may revoke or modify an approval issued pursuant to this division if it is determined that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval where were or were not imposed.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.470 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**§500.471 through 500.480 Reserved**

**DIVISION 19  
CHANGE IN TOPOGRAPHY**

**§500.481 Generally**

In certain circumstances, a permit is needed to alter the topography of a site. This division describes the procedures and requirements to issue change in topography permits.

**§500.482 Applicability**

This division applies to each of the following:

- (1) increasing or decreasing existing ground surface elevation greater than 4 feet at any point where the top or bottom of the proposed slope is within 10 feet of any existing property boundary or within 50 feet of an environmental corridor;
- (2) increasing or decreasing existing ground surface elevation steeper than 2 horizontal to 1 vertical or a total elevation change of 6 feet or greater at any point;
- (3) modifying the existing ground surface by bringing in, removing, or moving within a site in quantities greater than 250 cubic yards, unless otherwise approved through a master grading plan;
- (4) increasing or decreasing existing ground surface elevation greater than 4 feet at any point within 50 feet of a floodplain or wetland boundary at any point;

- (5) ponds as denoted in the land-use matrix (Appendix A); and
- (6) major retaining walls.

The following are exempt:

- (1) Any wetland enhancement or restoration project approved by the Wisconsin Department of Natural Resources where the top or bottom of a proposed slope is 15 feet or greater from the nearest existing property boundary at any point; and
- (2) Any stormwater management practice permitted under the Waukesha County's Stormwater Ordinance if the top or bottom of the proposed slope is located 15 feet or greater from the nearest existing property boundary or environmental corridor at any point. However, if a proposed berm for a storm water management practice is greater than 4 feet in height at any point, the applicant may be required to complete an additional engineering review or meet more restrictive berm design requirements, depending on the Waukesha County's determination of risk for downstream damages.

**Amendment(s):** Revised by Ordinance 2021-03

### **§500.483 Initiation**

The owner of the subject property may submit an application to modify the topography of a site.

### **§500.484 Review procedure**

The general steps outlined below shall be used to review an application to modify the topography of a site.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent may meet with the zoning administrator to review applicable regulations and procedures and the proposal.
- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the town board.
- (3) **Staff review.** Within 10 days of receiving the application and other required materials, the zoning administrator shall either place the matter on the agenda for the meeting at which the matter will be considered allowing for proper public notice or make a determination that the application is incomplete and notify the applicant in writing of the deficiencies and that the applicant has 3 months from the date of such determination to resubmit the application or forfeit the application fee, if any. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
- (4) **Staff report preparation and distribution.** The zoning administrator should prepare a written staff report as described in this division and provide a copy of it to each member of the plan commission and the town board and the applicant prior to the meeting at which the matter will be considered. The zoning administrator should also provide a copy to interested people upon request.
- (5) **General notice.** Consistent with Division 2 of Article 5, the zoning administrator shall provide for property owner notice and place the matter on the meeting agenda of the plan commission.
- (6) **Meeting.** Allowing for proper notice, the plan commission shall consider the application at a regular or special meeting.
- (7) **Recommendation.** The plan commission shall make a recommendation to the town board based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (8) **Town board meeting.** Allowing for proper notice, the town board shall consider the application at a regular or special meeting.

- (9) **Decision.** The town board shall make a decision based on the decision criteria in this division to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- (10) **Preparation of decision notice.** Based on the action of the town board, the zoning administrator shall prepare a decision notice consistent with this division.
- (11) **Applicant notification.** Within a reasonable time following the town board's decision, the zoning administrator shall send the decision notice to the applicant by regular mail or email.
- (12) **Acceptance by property owner required.** If an approval includes one or more condition of approval, the property owner shall sign the decision notice to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the town clerk requesting an extension and the town board may, with cause, extend the period within which the decision notice must be signed. If the signed decision notice is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the town at the expiration of such time limit. The decision notice shall only become effective when all required signatures have been obtained and the original signature copy is returned to the town clerk.
- (13) **Recording of decision notice.** The decision notice shall be recorded in the Waukesha County register of deeds office when approval is granted.
- (14) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.485 Basis of decision**

The plan commission in making its recommendation and the town board in making its decision shall consider the following factors to the extent they apply to the petitioner's application:

- (1) the stability of the proposed slope;
- (2) the aesthetic impact;
- (3) the potential for adverse drainage;
- (4) the potential impact upon neighboring properties;
- (5) the potential impact upon environmentally sensitive areas;
- (6) the potential impact upon existing lakes and streams;
- (7) the potential impact on roadways and other infrastructure;
- (8) public safety;
- (9) the length, height, design, and location of any retaining walls or berms;
- (10) whether a retaining wall is needed to stabilize the grade or control soil erosion based on existing topography;
- (11) how the proposed activity fits with the master grading plan, if applicable;
- (12) proposed landscaping and screening;
- (13) the materials used and source for fill, landscaping, and retaining walls;
- (14) the amount of land disturbance in relation to the size of the subject property;
- (15) proposed pond size, use, location, design, landscaping, and water source; and
- (16) any other factor that relates to the purposes of this chapter as set forth in s. 500.05 or as allowed by state law.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.486 Imposition of conditions**

(A) **Generally.** In approving a change in topography, the plan commission may recommend and the town board impose one or more conditions of approval deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping, screening, preservation of existing vegetation, engineering considerations for excessively steep or unstable slopes, and erosion control.

(B) **Effect on contracts with another party.** The town board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

**Editorial notes:**

[1] See s. 62.23(7)(gm), Wis. Stats. The town, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.487 Application form and content**

The application submittal shall include an application form as may be used by the town and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in appendix E.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.488 Content of decision notice**

(A) **Approval.** If the application for a change in topography is approved, the decision notice should include the following:

- (1) a statement that the application is approved;
- (2) a description of the use;
- (3) reasons for the decision based on the criteria listed in this division;
- (4) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- (5) a statement that an aggrieved person, other than the applicant, may appeal the decision to a court of competent jurisdiction, and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (6) other information the town board or zoning administrator deems appropriate;
- (7) the signature of the town chairperson or the zoning administrator on behalf of the town board; and
- (8) the date of the decision.

(B) **Denial.** If the application for a change in topography is denied, the decision notice should include the following:

- (1) a statement that the application is denied,
- (2) a description of the use,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the applicant may appeal the decision to a court of competent jurisdiction,
- (6) other information the town board or zoning administrator deems appropriate,
- (7) the signature of the town chairperson or the zoning administrator on behalf of the town board, and
- (8) the date of the decision.

**Amendment(s):** Revised by Ordinance 2021-03



**§500.489 Effect of decision**

If the town board approves a change in topography, the approval runs with the land and is binding on all subsequent property owners.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.490 Revocation or modification of a prior approval**

The town board may revoke or modify an approval issued pursuant to this division if it is determined that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.491 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**§500.492 through 500.500 Reserved**

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**ARTICLE 7**  
**LAND USE**

**Divisions**

- |                                      |  |
|--------------------------------------|--|
| 1. General provisions                | 6. Environmental and engineering regulations |
| 2. Reasonable accommodations         | 7. General standards                         |
| 3. Zoning districts and zoning map   | 8. Site design and architectural standards   |
| 4. Allowable land uses               | 9. Performance standards                     |
| 5. Dimensional and related standards |  |

**DIVISION 1**  
**GENERAL PROVISIONS**

**§500.501 Legislative findings**

The town board of the Town of Eagle makes the following legislative findings:

- (1) The use of land in the town has a direct bearing on the public health, safety, and welfare.
- (2) Standards are needed to ensure that new development is done in a coordinated manner.
- (3) The provisions contained in this article are adopted consistent with state statutes.
- (4) Each parcel of land in the town is intended to have a zoning designation.
- (5) In some instances, state and federal law limit the town's ability to regulate certain land uses.

**§500.502 Purpose**

This article promotes the public health, safety, and welfare and is intended to:

- (1) promote a sound development pattern by separating the town into various districts where each has uniformly applicable development standards;
- (2) separate incompatible land uses to the greatest extent possible;
- (3) encourage the most appropriate use of land throughout the town;
- (4) regulate and control the erection, construction, reconstruction, alteration, repair, and use of buildings, structures, and land;
- (5) provide for a variety of housing options;
- (6) allow different, but compatible land uses (i.e., mixed uses), to occur in specified areas of the town;
- (7) avoid, or, as a less preferred alternate, minimize congestion;
- (8) avoid, or, as a less preferred alternate, minimize environmental degradation; and
- (9) preserve prime agricultural lands and stabilize the economic base of farming in the town as well as to allow for needed urban expansion.

**§500.503 through 500.510 Reserved**

## DIVISION 2 REASONABLE ACCOMMODATIONS

### §500.511 Legislative findings

The town board makes the following legislative findings relating to reasonable accommodations for persons with disabilities:

- (1) The federal government has adopted laws with respect to various rights afforded persons with disabilities.
- (2) Some of these laws, most notably the Fair Housing Act and the Americans with Disabilities Act, affect how local zoning rules and regulations are administered by municipalities.
- (3) Under the Fair Housing Act, reasonable accommodations must be made with respect to local zoning laws so that a person with a disability has an equal opportunity to use and enjoy a dwelling unit.
- (4) Under Title II of the Americans with Disabilities Act, reasonable accommodations must be made with respect to local zoning laws to avoid discrimination as provided in the act.
- (5) If a local municipality can demonstrate that a requested modification would fundamentally alter the nature of its service, program, or activity (in this instance zoning requirements) it is not required to grant the modification.
- (6) Requests for wheelchair ramps in setback and offset areas as authorized in this section do not fundamentally alter the nature of this zoning code.
- (7) Requests for all other types of reasonable accommodations will be reviewed individually to determine if the requested accommodation fundamentally alters the nature of this zoning code.

### §500.512 Types of accommodations

(A) **Wheelchair ramps in setback and offset areas.** The building inspector is authorized to approve the construction of wheelchair access ramps in setbacks and offsets.

(B) **Other reasonable accommodations.** All other requests for reasonable accommodations under the above-mentioned federal laws shall be accomplished through the variance process described in Article 6.

### §500.513 General requirements

If a person's disability is not obvious or otherwise known, the reviewing authority may request information that (1) is necessary to verify that the person meets the federal government's definition of disability (i.e., has a physical or mental impairment that substantially limits one or more major life activities), (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation.

### §500.514 Confidentiality of applicant information

In reviewing petitions for reasonable accommodations, the reviewing authority will attempt to balance the privacy rights and reasonable request of an applicant for confidentiality, with normal procedural requirements relating to public notice, public hearings, written decision documents that may include findings of fact and conclusions of law, and maintaining adequate records. Any document identifying the disability or medical condition of any specific person shall be treated as confidential and shall not be subject to disclosure by the town for any reason, including Wisconsin's Open Records law, unless ordered to do so by a court of competent jurisdiction and notice is given to the person who provided the document to the town. Specifically, any medical records regardless of source, including statements of medical providers, shall not be subject to disclosure. For any other type of document, such as an application or determination, the document may be subject to disclosure, but only after the nature or description of the person's disability or medical condition

has been redacted by the town attorney. A statement regarding the town's handling of information subject to this provision should be included in the decision document.

**§500.515 Nature of approval**

Any accommodation approved under this chapter is considered a personal accommodation for the individual applicant and does not run with the land.

**§500.516 Imposition of conditions**

The reviewing authority may impose conditions of approval deemed necessary to uphold the overall intent of this chapter. Typical conditions of approval include, but are not limited to, the following:

- (1) periodic inspection of the property to verify compliance with this section and any conditions of approval;
- (2) removal of the improvements, where removal would not constitute an unreasonable financial burden, when the need for which the accommodation was granted no longer exists;
- (3) time limits and/or expiration of the approval if the need for which the accommodation was granted no longer exists;
- (4) recordation of a deed restriction requiring removal of the accommodating feature once the need for it no longer exists;
- (5) measures to reduce the impact on surrounding properties and uses;
- (6) measures in consideration of the physical attributes of the property and structures; and
- (7) other conditions necessary to protect the public health, safety, and welfare.

**§500.517 through 500.520 Reserved**

**DIVISION 3**

**ZONING DISTRICTS AND ZONING MAP**

**§500.521 Generally**

The town is divided into a number of base zoning districts so that each parcel of land is located in at least one district and potentially more than one district. For each of these districts, appropriate types of land uses are identified along with development standards when applicable.

**§500.522 Establishment and purpose of zoning districts**

(A) **Base zoning districts.** Recognizing that different areas of the town serve unique functions, the town is divided into a number of zoning districts. Even though some of the districts may share similar characteristics, they possess one or more unique qualities that set them apart from the other districts. Although these districts may not now possess each of the attributes in these descriptions, it is intended that as land uses change over time they more closely reflect the intended uses. Uses are allowed in the various districts consistent with this chapter including the development standards in Appendix B and development limitations as described in s. 500.581. Each of the land uses listed in the land use matrix (Appendix A) that are shown as being allowed in a zoning district are determined to be consistent with the purpose statements of such district. The base zoning districts are as follows:

### Special Purpose Districts

- (1) **Public (P-1) district.** This district is intended to include publicly-owned facilities and lands, facilities and land used for telecommunications or utilities, facilities and lands used for K-12 schools and private campgrounds, or non-profit facilities and lands that serve a public purpose.
- (2) **Quarry (Q-1) district.** This district is intended to allow for nonmetallic mining and other compatible land uses.
- (3) **Conservancy (C-1) district.** This district primarily includes wetland areas and is intended to preserve and protect environmentally-sensitive resources by limiting the uses and intensity of uses that may be placed upon them in order to maintain safe and healthful conditions, prevent water pollution, protect fish spawning grounds and wildlife habitat, preserve shore cover and natural beauty, and control building and development whenever possible. When development is permitted, it shall occur in a manner that minimizes adverse impacts on the environmentally-sensitive resources. This district, as mapped or intended to be mapped, includes areas as mapped by the Southeastern Wisconsin Regional Planning Commission (SEWRPC), typically at 5-year intervals. Where questions arise as to the exact boundary of this district, the zoning administrator shall conduct investigations deemed appropriate and make a final determination and keep a written record of such for future reference and map amendment purposes. In making this determination, the zoning administrator may request the assistance of SEWRPC.
- (4) **Railroad (T-1) district.** This district is intended to accommodate commercial railroad lines and spur lines.

### Agricultural Districts

- (5) **Agricultural land preservation (AP) district.** This district is intended to accommodate large-scale agricultural uses and related support services. It includes those areas of the town where productive agricultural lands predominate and can be used for the production of forest products, crops, and livestock, including large livestock operations. Because the primary intent of this district is agricultural production, incompatible urban uses are not permitted. It is designed to meet the requirements of a certified farmland preservation zoning ordinance under ch. 91, Wis. Stats. Land in this district is limited to those lands that have been mapped as a farmland preservation area in the Waukesha County Farmland Preservation Plan, as may be amended from time to time.

### Residential Districts

- (6) **Rural Residential (RR) district.** This district is intended to accommodate single-family residential uses, limited agricultural uses, and other compatible land uses in areas planned for potential residential growth.
- (7) **Residential (R-1) district.** This district is intended to accommodate residential development and other compatible land uses on comparatively small lots near or adjacent to urban centers.
- (8) **Upland conservancy (UC) district.** This district is intended to preserve, protect, enhance, and restore significant woodlands, upland wildlife habitats, prairie remnants, areas of rough topography, and related scenic overlook areas. Regulation of these areas will also serve to control erosion and sedimentation and will promote and maintain the natural beauty of the Town. Residential uses that are allowed in this district are subject to site plan approval. This district, as mapped or intended to be mapped, includes non-wetland/floodplain Primary and Secondary Environmental Corridors and Isolated Natural Resource Areas as mapped by the Southeastern Wisconsin Regional Planning Commission (SEWRPC), typically at 5-year intervals. Where questions arise as to the exact boundary of this district, the zoning administrator shall conduct investigations deemed appropriate and make a final determination and keep a written record of such for future reference and map amendment purposes. In making this determination, the zoning administrator may request the assistance of SEWRPC.

### Business Districts

- (9) **Neighborhood business (B-1) district.** This district is primarily intended to accommodate a single retail or service establishment or a small grouping of such establishments that primarily serve the daily needs of residents in the surrounding area. Because this district characteristically is near or

within residential areas, standards are designed to ensure the commercial uses are compatible in appearance and character with the surrounding residential uses.

- (10) **Local business (B-2) district.** This district is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, shops, offices and service establishments serving the daily needs of the surrounding community area. The size and location of such districts shall be based upon evidence of justifiable community need, of adequate customer potential, of satisfactory relationship to the traffic circulation system and other related traffic facilities, and of potential contribution of the economic welfare of the community.
- (11) **Mixed business (B-4) district.** This district is intended to accommodate a range of compatible commercial businesses including retail sales, services, manufacturing, and warehouses.

### Industrial Districts

- (12) **Limited industrial (M-1) district.** This district is intended to accommodate primarily light manufacturing and warehousing uses along with a range of sales and service establishments that are compatible with the predominant uses in the district.
  - (13) **General industrial (M-2) district.** This district intended to encourage the establishment of manufacturing and wholesale business establishments that are clean, quiet, and free of objectionable elements such as noise, odor, dust, glare, or smoke.
- (B) **Overlay zoning districts.** In addition to the base zoning districts enumerated above, the following overlay districts are established to account for unique conditions or requirements:
- (1) **Wellhead protection (WP) overlay district.** This district includes those lands around the Village of Eagle's public wellhead located off of STH 67. Provisions are intended to further the purposes set forth in Article 8.
  - (2) **Hydric soils (HS) overlay district.** This overlay district includes those lands that are mapped as having hydric soil conditions (depth to groundwater of one foot or less) according to the Soil Survey of Milwaukee and Waukesha Counties published by the USDA Soil Conservation Service. Where questions arise as to the exact boundary of this overlay district, the zoning administrator shall conduct investigations deemed appropriate and make a final determination and keep a written record of such for future reference and map amendment purposes. In making this determination, the administrator may request the person making the inquiry to provide soil tests to establish the presence and/or extent of the district.
  - (3) **Farmland preservation overlay districts.** These overlay districts are only located within the farmland preservation (AP) zoning district to account for the upland conservancy (UC) district and conservancy (C-1) district.

**Amendment(s):** Revised by Ordinance 2020-02; Ordinance 2020-04; Ordinance 2021-03

**Editorial note:** The R-L and B-3 districts were removed as part of the 2016 rewrite of the zoning code. The Railroad (T-1) district was added in 2021.

### §500.523 Relationship between base and overlay zoning districts

If a parcel is located in one or more overlay districts, the regulations that apply to the underlying base zoning district remain in effect, except as modified by the overlay district(s), and if there is any conflict between the overlay districts, the most restrictive shall control.

### §500.524 Necessity of zoning district designation

It is the intent of this article that no land shall be without a zoning district designation, unless specifically noted on the zoning map. In the event a parcel of land is for any reason deemed to be without a designation, no land development shall occur until such time as the town board has assigned the parcel an appropriate zoning classification.

**§500.525 Effect of a boundary line relocation on zoning designation**

Pursuant to ch. 236, Wis. Stats., a lot line between adjoining parcels of land may be relocated in certain circumstances, potentially making one parcel larger and the other smaller. In those situations where the affected parcels are in different zoning districts, a lot line relocation shall not alter the location of the zoning district boundary until such time as the zoning map has been amended to reflect the new lot line.

**§500.526 Zoning map**

(A) **Title.** The map that depicts the location of the various zoning districts shall be titled "Town of Eagle Zoning Map – Waukesha County, Wisconsin."

(B) **Official zoning map.** The town clerk shall maintain one paper copy of the zoning map as the official map which shall be signed by the town board chairperson and attested by the town clerk. If there is a discrepancy between this zoning map and other maps as may be made available, the map maintained by the town clerk shall control in all instances.

(C) **Availability.** The zoning map maintained by the town clerk shall be available for public inspection upon request. The town clerk and zoning administrator may post the zoning map on the town's website and otherwise make and distribute copies in a manner deemed appropriate.

(D) **Preparation of a new official map.** In the event the zoning map maintained by the town clerk is damaged, lost, or destroyed and after each amendment, the zoning administrator shall prepare a new zoning map and submit it to the town board chairperson and town clerk for signature.

(E) **History of amendment.** The zoning map maintained by the town clerk may contain a descriptive history of recent amendments that have been made, indicating the ordinance number and date of action.

(F) **Archive of superseded maps.** The town clerk shall maintain a permanent archive of superseded zoning maps that are created after March 31, 2017.

(G) **Amendment.** The procedure and requirements to amend the zoning map are set forth in Article 6.

**§500.527 through 500.530 Reserved**

**DIVISION 4  
ALLOWABLE LAND USES**

**§500.531 Land uses generally allowed within zoning districts**

(A) **General purpose zoning districts.** For the purposes of this chapter, land uses, as defined in Appendix B are classified as principal, accessory, or temporary. Appendix A lists principal land uses (Series 1 to 17), accessory uses (Series 18), and temporary uses (Series 19). Each of the land uses are designated as one of the following:

- (1) "P" indicates that the use is permitted in the zoning district by right provided that all other provisions of this chapter are met
- (2) "C" indicates that the use is allowed in the zoning district as a conditional use provided that all other provisions of this chapter are met
- (3) "WT" indicates that the use is subject to the special review standards and procedures for wireless telecommunication facilities
- (4) "TC" indicates that the use is subject to the special review standards and procedures for change in topography.
- (5) "-" indicates that the use is not permitted in the zoning district

Any commercial or industrial land use that is shown as permitted either by right or as a conditional use that emits air contaminants or potentially offensive odors outside of the building; incinerates any substance; or



handles radioactive materials, hazardous substances, hazardous waste, or regulated substances is considered a conditional use.

(B) **Planned development districts.** Land uses that are permitted in a planned development district are enumerated in the general development plan for the district, along with development standards, if any.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.532 Similarity of land uses**

Because the list of land uses cannot include every conceivable type of activity, those land uses that are listed shall be interpreted to include other land uses that are of a similar nature and have similar impacts to the listed use.

**§500.533 Land uses not listed**

A land use that is not listed, and which cannot be interpreted to be similar to any listed land use as provided for above, is prohibited.

**§500.534 Project classified in more than one land use category**

If a proposed project includes both an allowable land use and a prohibited land use, the prohibited portion of the project shall not occur in the zoning district.

**§500.535 Wind energy**

This chapter does not include any regulations relating to wind energy systems. The Town of Eagle may, however, enact an ordinance to regulate wind energy systems pursuant to the procedures and requirements set forth in s. 66.0401, Wis. Stats.

**§500.536 Special standards for accessory land uses**

(A) **Generally.** No accessory building shall be constructed until the principal building is completed or has the footings poured on any lot located in the UC, RR, or R-1 districts.

(B) **General exemption for farm buildings.** On land used principally for an agricultural pursuit, farm buildings may be allowed without the necessity of having a residence in place, or under construction, if the parcel is 35 acres or more in area, and if a conditional use is granted subject to a determination that the building will be used for legitimate agricultural operations, and will not include other business operations. The owner will provide for proper sanitation and maintenance of the structure.

(C) **Exemption for a utility cabinet.** For the purpose of this chapter, a utility cabinet may be established on a vacant lot prior to the establishment of a principal use.

(D) **Removal of a principal building while retaining an accessory building.** Pursuant to the procedures and requirements in Article 6, the town board may approve a special exception to allow the removal of a principal building, while retaining the accessory building, when the commission determines that the principal building is dilapidated and the accessory building meets current building codes and serves a useful purpose. If the board approves the special exception, the property owner shall record a deed restriction, as approved by the board, in the Waukesha County register of deeds office that controls the use of the accessory building and incorporates any requirement imposed by the board as a condition of approval, such as time limitations.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.537 Special provisions for community living arrangements**

(A) **Limitations.** Under state law, a town may not limit the number of community living arrangements so long as the total capacity of such facilities does not exceed 25 or one percent of the town's population,

whichever is greater. When that threshold is exceeded, the town board may prohibit additional community living arrangements from being located in the town. Additionally, when the capacity of community living arrangements in a ward reaches 25 or one percent of the population, whichever is greater, the town board may prohibit additional community living arrangements from being located in the ward. A foster home or a foster treatment home that is the primary domicile of a foster parent or foster treatment parent and that is licensed under s. 48.62, Wis. Stats., and an adult family home certified under s. 50.032(lm)(b), Wis. Stats., are exempt from this provision.<sup>[1]</sup>

(B) **Periodic review of existing facilities.** Not less than 11 months but not more than 13 months after the first licensure of an adult family home under s. 50.033, Wis. Stats., or of a community living arrangement and every year thereafter, the town board may make a determination pursuant to s. 59.69(15)(j), Wis. Stats., as to the effect of such facility on the health, safety, or welfare of residents of the municipality. If the town board determines such facility poses a threat to the health, safety, or welfare of the residents of the municipality, the town board may order such facility to cease operation or obtain a conditional use permit to continue operation. Such facility shall cease operation within 90 days after date of the order, or the date of final judicial review of the order, or the date of the denial of a conditional use permit, whichever is later. The fact that an individual with acquired immunodeficiency syndrome or a positive test for the presences of HIV, as defined in s. 252.01(1M), Wis. Stats., antigen or nonantigenic products of HIV or an antibody to HIV resides in a community living arrangement with a capacity of 8 or fewer persons may not be used under this subsection to assert or prove that the existence of the community living arrangement in the community poses a threat to the health, safety, or welfare of the residents of the town.<sup>[2]</sup>

**Editorial notes:**

[1] See s. 59.69(15)(b)(1) and also s. 59.69(15)(bm), Wis. Stats.

[2] See ss. 59.69(15)(i), 59.69(15)(im), Wis. Stats.

**§500.538 Special provisions for specified foster homes and treatment foster homes**

Foster homes which are owned, operated, or contracted for by the state of Wisconsin or a county department, are not subject to this article.<sup>[1]</sup> All other foster homes and treatment foster homes shall comply with this article.

**Editorial notes:**

[1] See 63 Atty. Gen. 34

**§500.539 Map of conditional uses**

The zoning administrator is authorized to prepare a map showing those properties that have an active conditional use permit and to amend the same from time to time.

**§500.540 through 500.550 Reserved**

**DIVISION 5**

**DIMENSIONAL AND RELATED STANDARDS**

**§500.551 Generally**

Lots, buildings, and other structures not located within a planned development district shall conform to the dimensional standards specified in Appendix C, except as may be otherwise allowed in this chapter. The standards for lots, buildings, and other structures in a planned development district are enumerated in the general development plan for the zoning district.

**§500.552 Lot area**

(A) **Generally.** The minimum size of lots shall comply with the standards specified in Appendix C, except when such lots are otherwise authorized herein.

(B) **Exemptions.** A parcel created by a land division that is authorized by the town is exempt from the minimum lot size requirements if such parcel is to be dedicated to the public or used for stormwater facilities or other types of development-related infrastructure or common open space, including walking and recreation trails.

(C) **Measurement of lot area.** Lot area is measured on the horizontal plane and shall not include the area between the front lot line and the base setback line so designated on Waukesha County's highway width map. If a parcel of land is located in Waukesha County's shoreland jurisdiction and the Town's zoning jurisdiction, that portion in the county's shoreland jurisdiction is included in the measurement of lot area. The area of a parcel that is zoned conservancy (C-1) is included in the measurement of lot area. That portion of a flag lot that constitutes the stem is not included in the measurement of lot area.

(D) **Use of a lot not meeting specified dimensional standards.** The use of a vacant nonconforming lot is governed by requirements in Article 12.

(E) **Change in lot, generally.** No existing lot area shall be reduced by any means so as to create a lot of less than the required size or so that the existing offsets, setbacks, or lot area would be reduced below that required by the regulations for the zoning district in which such lot is located.

(F) **Change in lot with a conditional use.** The property boundary lines of a lot containing a conditional use shall not be modified in any manner without the express authorization of the town board upon recommendation of the plan commission. If the town board determines that the proposed reconfiguration or change in lot area is substantive, the proposed change may only occur if the board grants a new approval with the proposed lot consistent with the review procedures and requirements for a conditional use in effect at the time.

(G) **Special provisions for the AP district.** New residences and new lots or parcels of less than 35 acres are prohibited in the AP zoning district except as may be allowed in this subsection.

(1) **Rezoning required.** If a new residence or lot of less than 35 acres is proposed, the land must first be rezoned to the R-1 Residential District where farm or non-farm residences are a permitted use. Lands to be rezoned must comply with the density in this subsection.

(2) **Density, generally.** A maximum density of one dwelling unit per 35 acres shall be permitted for lands designated for Farmland Preservation on the adopted Comprehensive Development Plan for Waukesha County. Existing dwelling units and land divisions that have taken place after the dates specified below shall be used in computing available density. If only part of a parcel is within the town's zoning jurisdiction, the entire property's acreage, number of existing dwelling units, and prior land divisions from parent parcels shall be considered in determining available density.

(3) **Density, with land divisions after January 1, 1997.** New lots or parcels of less than 35 acres that were created from a parent parcel or parcels that comprised a farm, as it existed on January 1, 1997, and that were located on lands designated "Agricultural Preservation" or "Farmland Preservation" at the time of land division on the Comprehensive Plan for Waukesha County, shall be counted in determining the available density or "development rights" remaining for a farm as it was configured on May 31, 2015. The number of available development rights shall be reduced by one development right for each such lot that was created after January 1, 1997.

(4) **Density exception for legal lots of record that existed on May 31, 2015.** Existing legal lots of record as of May 31, 2015 that are less than 35 acres are entitled to one dwelling unit if a dwelling unit does not already exist on the parcel, with the following exceptions:

(i) If new lots or dwelling units have been created from a parent parcel or farm after 1997 without the benefit of a comprehensive development plan amendment from the Farmland Preservation category to another appropriate land use category, and 35-acre density cannot be maintained with the addition of another dwelling unit, then no additional dwelling units are permitted.

- (ii) If a prior imposed rezoning condition, deed restriction, conveyance, or some other official action prohibiting future land splits or dwelling units exists, then no additional dwelling units shall be permitted on said existing legal lot of record.
- (5) **Density tracking.** The town will adopt a map depicting each of the individual farms consisting of one or more contiguous parcels that were owned by a common owner or owners as of May 31, 2015. Each time a new dwelling unit or lot is created in the future as provided for in this subsection, such map will be updated. In addition, a deed restriction must be recorded against the land to disclose the remaining density available to a given farm.
- (6) **Density transfer.** Transfer of density rights from one farm tracking unit to another farm tracking unit or property must be approved by the town board. A deed restriction must be recorded against the land to disclose the density transfer.
- (7) **Siting standards.** Lands that are to be rezoned R-1 must comply with the following standards:
  - (i) New residences or lots shall be located on uncultivated lands to the greatest extent practicable.
  - (ii) New residences or lots shall be clustered together to the greatest extent practicable.
  - (iii) New residences or lots shall be located on non-prime (non-Class I and II) soils to the greatest extent practicable.
  - (iv) Lots shall be located near existing roads to the extent practicable with consideration of the above criteria.
- (8) **Lot size requirements.** Newly created lots shall comply with the following standards:
  - (i) Minimum parcel size: one acre
  - (ii) Minimum average width: 150 feet
  - (iii) Maximum parcel size, 3 acres, except 5 acres for those residual existing dwellings and parcels that result from a farm consolidation.
- (9) New residences must qualify as a farm residence under s. 91.01(19), Wis. Stats.
- (H) **Lot area in the context of land divisions.** Minimum lot area requirements are one of many factors that affect how many lots could potentially be created through the land division process.

**Amendment(s):** Revised by Ordinance 2021-03

### **§500.553 Lot configuration**

(A) **Generally.** Lot lines shall be substantially at right angles or radial to street lines. Lot lines shall not cross municipal boundaries.

(B) **Depth and width.** The depth to width ratio of a lot shall not exceed 2.5 to 1. Pursuant to the procedures and requirements in Article 6, the town board may approve a special exception to exceed this standard to account for special circumstances provided all other requirements can be met. A special exception shall not be granted when doing so will allow an increase in the number of lots that could be created through the land division process.

**Amendment(s):** Revised by Ordinance 2021-03

### **§500.554 Lot density**

(A) **Intent.** The concept of residential density regulations is to control the intensity of land use pursuant to the town's comprehensive plan and in relationship to the natural, physical, and ecological characteristics of the area; the capacity for adequate sewerage disposal; the ability to provide appropriate municipal services; basic economic factors, and achieve the desired residential environmental character.

(B) **Maximum density restrictions.** No lot or lots shall be created which would allow principal buildings at a density in excess of that specified by the regulations for the specific zoning district. If the zoning district

does not specify a density, the maximum lot density will be presumed to be one principal building per the minimum required lot size.

(C) **Calculation.** The total number of lots to be created is divided by the total acreage of the parcel(s) to be divided, less any deductions specifically enumerated in this chapter. For example: In a district with a maximum density of one building lot per 3 acres, no more than 10 lots would be allowed to be created from a parcel of 30 acres.

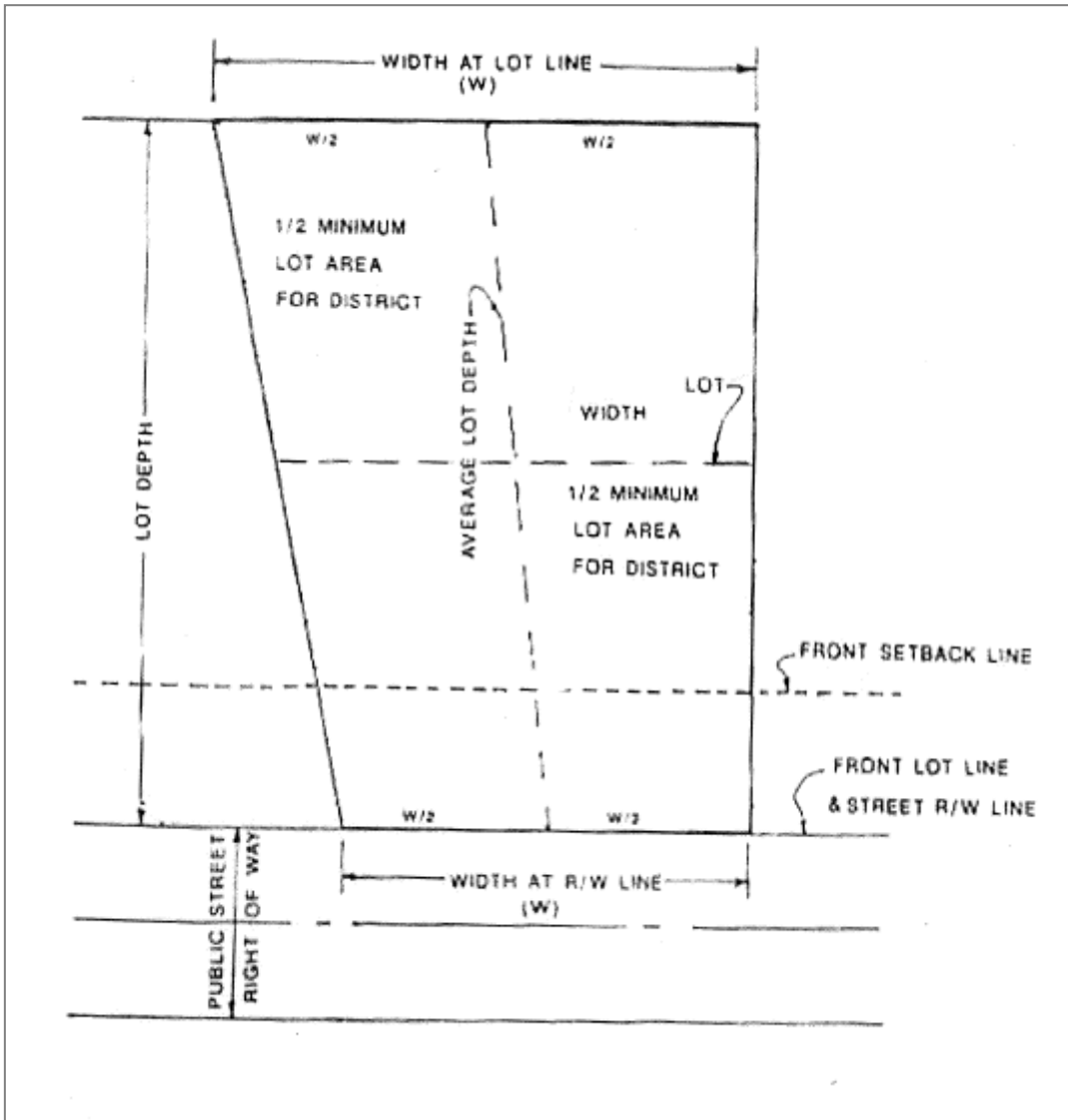
**§500.555 Lot width**

(A) **Generally.** The width of lots shall comply with the standards specified in Appendix C.

(B) **Exemptions.** A parcel created by a land division that is authorized by the town is exempt from the lot width requirements if such parcel is to be dedicated to the public or used for stormwater facilities and other types of development-related infrastructure or common open space including walking and recreation trails.

(C) **Measurement of lot width.** Lot width is measured along an imaginary line generally parallel to the front lot line and at a point where one half of the lot area is in front of such line. (Exhibit 7-2)

Exhibit 7-2. Measurement of lot width



**Amendment(s):** Revised by Ordinance 2021-03

**§500.556 Lot frontage**

(A) **Generally.** Each lot shall maintain frontage on a public street or approved private road for physical access to the lot in the location approved by the town, Waukesha County, or state of Wisconsin for the distance specified in Appendix C. Frontage on a public road where access is prohibited does not constitute frontage for the purpose of this section.

(B) **Measurement of lot frontage.** Lot frontage is measured along the base setback line established by the Waukesha County highway width map or along the front property boundary line, whichever is furthest from the center of the abutting roadway.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.557 Floor area**

(A) **Minimum residential living area.** A building intended in whole or part for residential purposes shall provide a minimum floor area as specified in Appendix C. Such minimums are stated in terms of the minimum total floor area required for a building and that portion of the total which must be provided on the first floor level. In a split level building the first floor level shall include all areas which are not over another living area of the building. The following areas are not counted as floor area for the purpose of this section: basements or attics not used for living purposes, attached garages, unenclosed porches, stoops, any space where the floor-to-ceiling height is less than 7 feet, and similar features.

(B) **Limitations on floor area of residential garages.** The floor area of residential garages shall comply with the standards in Appendix C for attached and detached garages as applicable. Per Appendix B, Section 18.02, detached residential garages are an “accessory building-residential” and shall be subject to all applicable standards for accessory buildings in Appendix C.

**Amendment(s):** Revised by Ordinance 2021-03  
Revised by Ordinance 2024-01

**§500.558 Building coverage**

The total footprint of buildings on a lot shall comply with the standards in Appendix C. For the purposes of this subsection, all buildings are included including accessory buildings. Decks and patios are specifically not included.

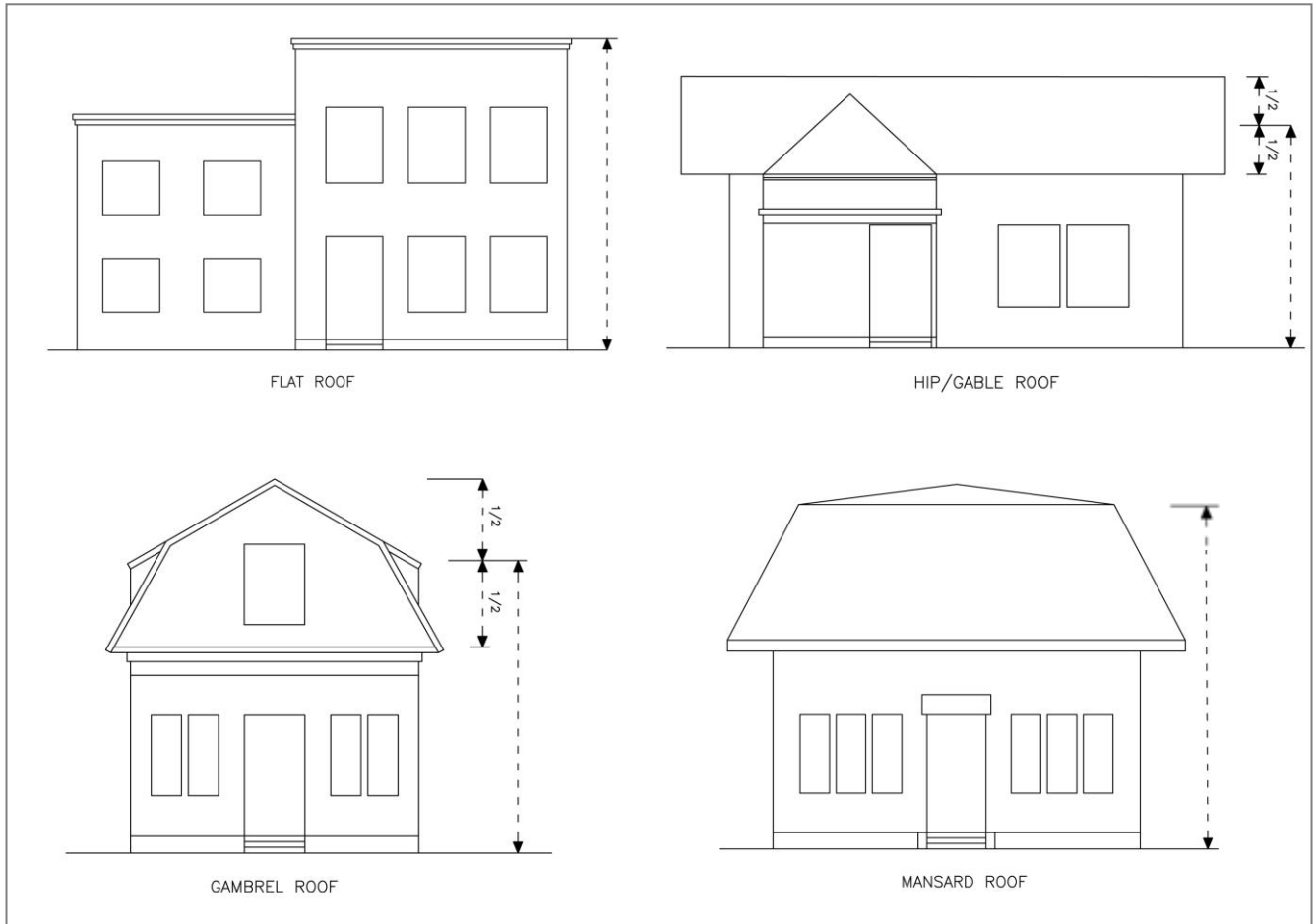
**Amendment(s):** Revised by Ordinance 2021-03

**§500.559 Building and structure height**

(A) **Generally.** Except as specified in this section, the height of structures shall comply with the standards specified in Appendix C. (See also s. 500.582 with regard to the establishment of building grade.)

(B) **Measurement of building height.** The height of a building shall be measured from the lowest finished grade at the building line to (1) the highest point of a flat roof, (2) the mean height of a gable, gambrel, hip, and pitch roof, or (3) the deck line of a mansard roof as generally depicted in Exhibit 7-3. The overall height of a gable, gambrel, hip, or pitch roof is measured from the bottom of the fascia to the uppermost extent of the roof.

**Exhibit 7-3. Measurement of building height**



- (C) **Modifications.** The height standards in Appendix C are modified as follows:
- (1) Essential services, such as utilities, water towers, transmission towers and lines, are exempt from the height limitation for the zoning district in which they are located.
  - (2) The height of telecommunication towers are governed by the standards established for this use in Appendix B.
  - (3) Pursuant to the procedures and requirements in Article 6, the town board may approve a special exception for spires, steeples, copulas, and chimneys on institutional, commercial, and industrial buildings.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.560 Setback requirements**

(A) **Establishment of base setback line.** Base setback lines are hereby established parallel to the center line of all public streets and ways, and shall be located on the street right-of-way line as shown on the Waukesha County highway width map, and parallel to the arc of all cul-de-sac right-of-way lines as amended from time to time, unless otherwise established by the town board upon recommendation of the plan commission, or as established by land division regulations as adopted by the Town of Eagle.

(B) **Setback standards.** No building shall be erected, structurally altered, or relocated so that any vertical wall, supporting a roofed or enclosed portion, and excluding a roof overhang measuring 24 inches or

less, is closer to the base setback line than the setback distance specified in Appendix C, except as allowed in this section.

(C) **Setback averaging.** The following exceptions are applicable only where the setback requirements affect all properties identically:

- (1) Where the nearest existing building on one side of the building is within 500 feet and has less than the required setback, the average between the existing setback and the required setback shall apply.
- (2) Where the nearest existing buildings on both sides of a building are within 500 feet of the building, but not closer than 300 feet to each other, and have less than the required setback, the average of the existing setbacks and the required setback shall apply.
- (3) Where the nearest buildings on both sides of a building are within 300 feet of each other and have less than the required setback, the average between the existing setbacks shall apply.
- (4) In the case of a proposed addition to an existing building which has less than the required setback, such existing building may be considered the “nearest existing building” in order to apply these exceptions in determining the required setback for the proposed addition.

For the purpose of this subsection, the following rules shall apply when applying setback averaging:

- (1) Building projections which may extend into the setback area are not to be included.
- (2) Setback reductions as allowed by a variance shall not be included.

(D) **Use of setback areas.** The only permanent structures permitted within the setback area shall be necessary public utility devices, fences, and those signs permitted in residential and agricultural zoning districts and in the P-1 district. Any required setback area shall be landscaped and kept clean and free from the accumulation of debris or refuse, and shall not be used for the storage or display of equipment, products, vehicles, or any other material.

(E) **Corner lots.** On corner lots of record, as of the date of this chapter, the effect of the setback regulations shall not reduce the buildable width of such corner lot to less than 30 feet. If setback regulations create a building envelope that is less than 30 feet wide, the town board may approve a lesser setback as a special exception consistent with the procedures and requirements in Article 7.

#### **§500.561 Offset requirements**

(A) **Generally.** No building shall be erected, structurally altered, or relocated so that any vertical wall, supporting a roofed or enclosed portion, and excluding a roof overhang measuring 24 inches or less, is closer to any lot line than the offset distance specified in Appendix C.

(B) **Specific building types.** In the case of business or manufacturing uses, no building shall be erected, structurally altered, or relocated so that any roofed or enclosed portion is closer to any lot line than the offset distance specified in Appendix C, except as follows:

- (1) Two or more buildings on adjoining lots may be erected with common or directly adjoining walls provided the requirements of the State Industrial Code relative to such construction are complied with and provided that at both ends of such “row” type buildings the applicable offset requirements shall be complied with.
- (2) The required offset may be reduced on one side of a structure provided the offset on the other side is increased by an equivalent amount and provided the owners of any property adjoining the area of reduced offset shall file with the Town a copy of a recorded deed restriction stipulating that no building shall be erected on said property so as to reduce the combined offset in such case to a distance less than that resulting from the normal application of the minimum offset requirements to both properties.

(C) **Use of offset areas.** The only permanent structures permitted within the offset area shall be necessary public utility devices, fences, and those signs permitted in residential and agricultural zoning districts and in the P-1 district and UC district. Any required offset area shall be landscaped and kept clean and free from the accumulation of debris or refuse, and shall not be used for the storage or display of equipment, products, vehicles or any other material.



(D) **Exceptions.** The following may be located in a required setback or offset, provided they do not extend into, or are located within, a utility easement or a required fire lane and meet all other requirements of this chapter:

- (1) landscaping;
- (2) retaining walls;
- (3) fences;
- (4) freestanding mailboxes and newspaper boxes;
- (5) play equipment, except not in a front yard;
- (6) small objects easily moved by hand such as birdbaths, birdfeeders, and birdhouses;
- (7) portable grills, picnic tables, and yard furniture but not when located on a patio or deck;
- (8) gardens;
- (9) flag poles,
- (10) compost bins;
- (11) clotheslines;
- (12) sidewalks, but not closer than 5 feet to a lot line of a parcel;
- (13) driveways, but not closer than 5 feet to a side lot line;
- (14) specified building projections as provided for in Exhibit 7-4;
- (15) components of a private on-site sewage system, including holding tanks (if allowed), leach fields, and septic tanks provided separation requirements in chapter 16 of the general code of Waukesha County are met;
- (16) wellheads not located in a building or other structure, provided separation requirements in state law are met;
- (17) those structures and uses where applicable development standards included in Division 7, relating to principal uses; Division 8, relating to accessory uses; and Division 9, relating to temporary uses, of this article either exempt the structure or use from setback requirements or establish alternate setbacks requirements; and
- (18) other structures and land uses when exempted by the zoning administrator, provided such exemption is in keeping with the intent of this chapter.

**Exhibit 7-4. Allowable building projections into a required setback or offset**

Feature	Maximum projection
Sills, belt courses, buttresses, cornices, ornamental features, and the like	8 inches into a required front, side, or rear yard
Eaves	24 inches into a required front, side, or rear yard
Chimneys	36 inches into a required front, side, or rear yard
Open or lattice enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers	5 feet into a required side or rear yard
Balconies	3 feet into a required front or side yard; 5 feet into a required rear yard
Steps, stoops, and porches, provided they are not higher than the ground floor elevation	8 feet into a required front yard; 3 feet into a required side or rear yard

**Amendment(s):** Revised by Ordinance 2021-03

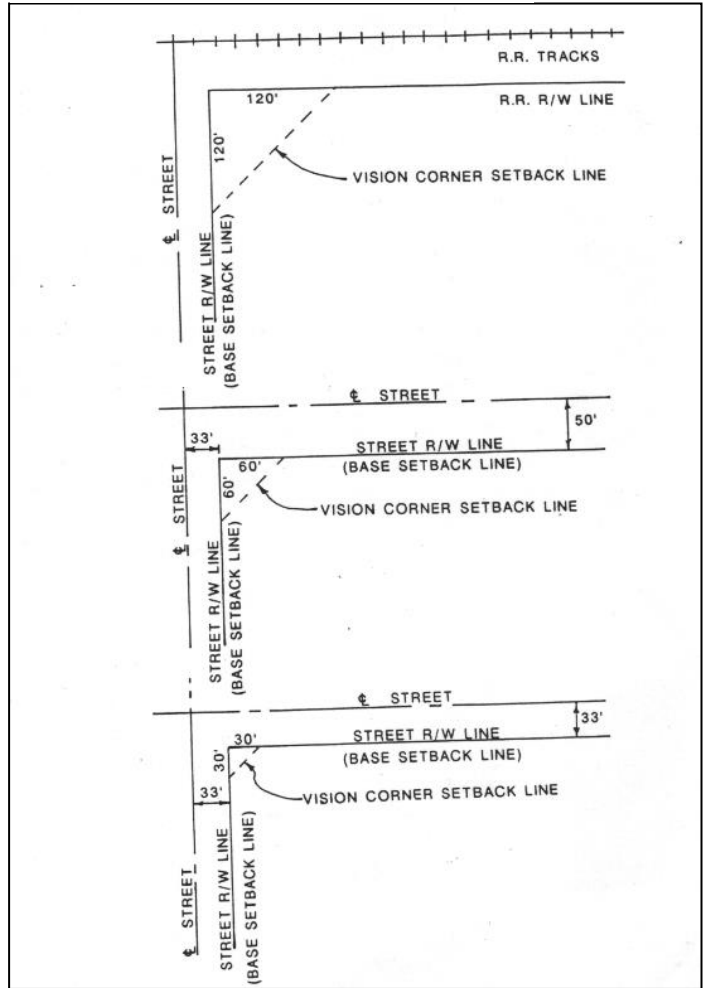
**§500.562 Vision corner setbacks**

(A) **Establishment.** Vision setback lines at the intersections of public streets and of a street with a railroad, where the grades are not separated, are established as follows:

- (1) Across each sector between the intersections of a street with a railroad, a vision setback line shall be established by a straight line connecting points on the base setback line and the railroad right-of-way line, which points are located 120 feet from the intersection of the base setback line and the railroad right-of-way.
- (2) Across each sector between intersecting streets, where one or more of which has a designated width of 100 feet or greater, a vision setback line shall be established by a straight line connecting two points on the intersecting base setback lines, which points are located 60 feet distant from the intersection of the base setback lines.
- (3) Across each sector between any other intersecting streets, a vision setback line shall be established by a straight line connecting two points on the intersecting base setback lines, which points are located 30 feet distant from the intersection of said base setback lines.

(B) **Permissible use.** No structure of any kind shall be permitted in the vision setback area which exceeds a height of 3 feet above the elevation of the center of the intersection, except for necessary highway and traffic signs, public utility line, and open fences through which there is clear vision, nor shall any plant material or natural growth be permitted which obscures safe vision of the approaches to the intersection.

Exhibit 7-5. Example of vision corner setbacks



**§500.563 Separation requirements for on-site sewage systems and water wells**

On-site sewage systems and water wells shall comply with all separation requirements as may be established by Waukesha County or the state of Wisconsin.

**§500.564 Separation requirements for buildings**

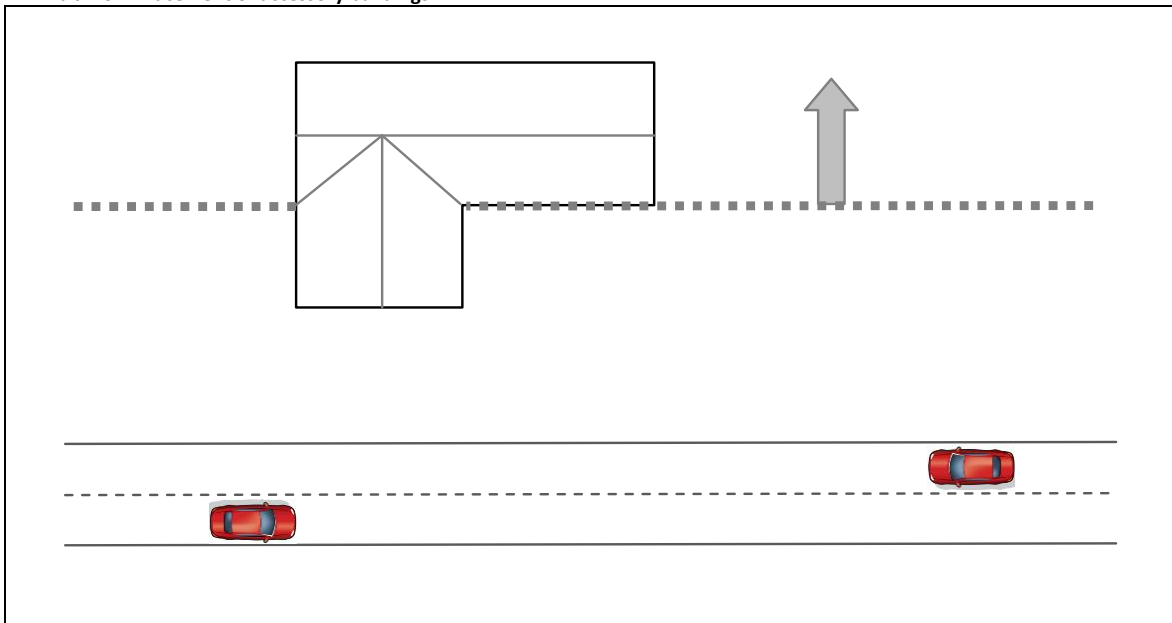
No accessory building shall be erected, structurally altered, or relocated so that any roofed or enclosed portion thereof is closer than 10 feet to the principal building on the lot, without a firewall.

**§500.565 Placement of detached accessory buildings on a lot**

Except as permitted in this section, a detached accessory building shall be located behind the most recessed portion of the front face (i.e., face of the building closest to the street) of the principal building. (Exhibit 7-6) In the case of a corner lot, the detached accessory building shall meet the minimum setback requirements from all streets. Only accessory buildings for agricultural uses are permitted in front of the principal building. Pursuant to the procedures and requirements in Article 6, the town board may approve a special exception to allow an accessory building in front of the principal building on a parcel larger than 3 acres provided the

principal building was constructed prior to October 31, 1990, which is the effective date of the Town's initial zoning ordinance. The plan commission in making its recommendation and the town board in making its decision shall consider (1) the size of the subject property, (2) the character of the area, (3) the size of the proposed accessory building, (4) the extent to which the proposed accessory building is visible from public and private streets and other properties in the area, (5) the practical difficulty in placing the proposed accessory building in the location described in this subsection, and (6) other factors related to relevant circumstances.

Exhibit 7-6. Placement of accessory buildings



Amendment(s): Revised by Ordinance 2021-03

### §500.566 Number of principal buildings on a lot

(A) **Generally.** Every building hereafter erected, structurally altered, or relocated shall be located on a single lot. In no case, except in business districts, industrial districts, and planned development districts, shall there be more than one principal building on a lot, except as provided in this section. The principal residential building shall be built first in all districts.

(B) **Exception.** The town board, upon recommendation of the plan commission, may approve the issuance of a new single-family residential home building permit, and allow the occupancy of an existing residential structure on a parcel, for a period of time not to exceed 2 years during the construction of the new residence. Such approval shall be subject to specifications and additional conditions as required by the plan commission and town board, in the interest of the health, safety, and welfare of the Town.

Prior to issuance of the building permit, the property owner shall provide a financial guarantee, approved by the building inspector and the town board, and a signed agreement, approved by the town attorney and the town board. The financial guarantee shall equal 110 percent of the cost of removing the existing residential building and restoring the site to an acceptable condition as determined by the building inspector. In setting the amount of the financial guarantee, the property owner may submit, and the building inspector may require the property owner to submit, bids from qualified contractors for all work related to the removal of the building and restoration of the site. The signed agreement shall, at a minimum, include the following provisions:

- (1) The property owner will remove the existing residential building within 60 days from the issuance of the occupancy permit for the new residence.

- (2) The Town is authorized to access the property to remove the existing residential building if the property owner fails to do so within 60 days of issuance of an occupancy permit for the new residence.
- (3) The Town may assess a special charge against the subject property to the extent the financial guarantee is insufficient to remove the existing residential building and restore the site to an acceptable condition as determined by the building inspector.

(C) **Additional standards.** When this chapter allows more than one principal building on a lot, the plan commission or town board may (1) require a greater setback or offset than what is normally required for the zoning district in which it is located, (2) require additional landscaping, (3) establish a minimum separation between principal buildings, and (4) impose any other condition necessary to account for concerns related to the purposes of this chapter as set forth in s. 500.05 or in other sections of this chapter.

(D) **Distinction between one building and multiple buildings.** In the administration of this section, a person may not claim that two or more buildings should be counted as one building by virtue of any of the following:

- (1) connection by a breezeway of any length;
- (2) connection by a deck;
- (3) connection by a porch;
- (4) any underground connection of any type;
- (5) any connection that is not heated, ventilated, or air conditioned in the same manner of the main building;
- (6) any connection that serves no significant purpose other than a walkway;
- (7) any connection that is significantly smaller in dimension than the connected parts; or
- (8) any connection that allows motor vehicles to drive through the connection.

The above distinction is intended to require each building to have a single, integrated configuration of enclosed space and to prohibit the appearance of multiple buildings in excess of established limitations.

**Amendment(s):** Revised by Ordinance 2021-03

#### **§500.567 Number of accessory buildings on a lot**

(A) **Generally.** Detached residential garages shall be counted and considered as accessory buildings for purposes of the maximum number of accessory buildings allowed on a lot in compliance with the requirements set forth in Appendix C.

(B) **Rural accessory buildings.** Pursuant to the procedures and requirements in Article 6, the town board upon recommendation of the plan commission may allow more accessory buildings than what is specified when one or more of the accessory buildings on a lot are designated as a rural accessory building.

(C) **Distinction between one building and multiple buildings.** In the administration of this section, a person may not claim that two or more buildings should be counted as one building by virtue of any of the following:

- (1) connection by a breezeway of any length;
- (2) connection by a deck;
- (3) connection by a porch;
- (4) any underground connection of any type;
- (5) any connection that is not heated, ventilated, or air conditioned in the same manner of the main building;

- (6) any connection that serves no significant purpose other than a walkway;
- (7) any connection that is significantly smaller in dimension than the connected parts; or
- (8) any connection that allows motor vehicles to drive through the connection.

The above distinction is intended to require each building to have a single, integrated configuration of enclosed space and to prohibit the appearance of multiple buildings in excess of established limitations.

**Amendment(s):** Revised by Ordinance 2021-03  
Revised by Ordinance 2024-01

**§500.568 Land disturbance**

(A) **UC district.** A building envelope may be established within the upland conservancy (UC) district for (1) a principal building and accessory buildings, as may be allowed; (2) an area for an onsite septic system and well, as may be required; (3) an area around the principal building for outdoor living; and (4) an access from a public roadway to the principal and accessory buildings. The size and configuration of the building envelope must conform to the following requirements:

- (1) For lots entirely within a UC district, the area of the building envelope shall be no larger than the amounts specified in the table below.

Lot Size	Maximum Land Disturbance
3.5 acres or larger	25,900 square feet
2 acres or larger, but less than 3.5 acres	18 percent of lot area
Less than 2 acres	19 percent of lot area

- (2) For lots partially within and partially outside of the upland conservancy (UC) district that are vacant as of March 31, 2017 or where the principal building is located outside of the upland conservancy (UC) district, new development shall be limited to the area outside of the upland conservancy (UC) district (except when such land is in the conservancy (C-1) district), unless a building envelope is shown on the face of an approved certified survey map or subdivision plat or on a site map recorded with a deed restriction as approved by the town board. Land within the upland conservancy (UC) district may be disturbed for driveways but only when such location is the only feasible alternative to provide access from the public roadway to the principal and accessory buildings.
- (3) For lots partially within and partially outside of the upland conservancy (UC) district that host a principal use as of March 31, 2017 in the upland conservancy (UC) district, the area of the building envelope shall comply with the amounts specified in the table in this subsection. The building envelope must be shown on the face of an approved certified survey map or subdivision plat or on a site map recorded with a deed restriction as approved by the town board.

**§500.569 through 500.580 Reserved**

**DIVISION 6  
ENVIRONMENTAL AND ENGINEERING REGULATIONS**

**§500.581 Site restrictions**

If the zoning administrator determines that a parcel of land, whether vacant, partially developed, or fully developed, contains one or more development constraints that would preclude the normal use of the parcel for a use that is otherwise permitted in the zoning district in which it is located, he or she shall render a written determination that states the best available facts related to the development constraint and other reasoning as may be appropriate. Examples of development constraints include unfavorable topography,

rock formations, shallow depth to bedrock, unstable or otherwise unsuitable soils, stormwater runoff, inadequate drainage, high groundwater, and any other constraint that is harmful to the public health, safety, and welfare. Once such a determination has been made, the zoning administrator, building inspector, or other governmental official or body shall not issue a development order or other approval authorizing the development in the area subject to the development constraint. The property owner shall have the right to appeal such administrative decision consistent with the procedures and requirements in Article 6. The zoning administrator may reconsider his or her determination at any time and render a new determination if new or additional facts become known or if the facts upon which the determination was made are not accurate.

**§500.582 Establishment of building grades**

Every building hereafter erected, structurally altered, or relocated shall be at a grade approved by the town building inspector as being in satisfactory relationship with the established street grades, or with the existing street grade where none is established, with particular consideration for proper drainage and safe vehicular access.

**§500.583 Drainage**

(A) **Adequate drainage required.** No principal building shall be erected on or moved onto land where the building is subject to periodic flooding or where the land is not adequately drained at all times, or where the first-floor level is less than 2 feet above the highest anticipated floodwater level.

(B) **Obstruction to drainage prohibited.** The damming, filling, relocating, or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural water course shall not be permitted except with approval of the plan commission or town board.

(C) **Building restricted adjacent to drainage channels or water courses.** All buildings or structures shall comply with the Waukesha County Shoreland/Floodland Ordinance.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.584 Groundwater separation**

No principal building shall be erected, structurally altered, or relocated on land where the distance between the lowest floor surface and the seasonal high-water table is less than one foot. To ensure compliance with the above standards, the procedures and requirements in "Basement Wetness and Flooding Prevention Standards" adopted by the Waukesha County Land Resources Division with a revision date of August 2008, and as amended, shall apply. In the administration of the procedures and requirements, the building inspector for the town shall serve the same role as the Land Resource Division (LRD) and the Town of Eagle Board of Adjustment shall serve the same role as the Waukesha County Board of Adjustment.

**§500.585 Sanitation and water supply**

(A) No principal building involving human use or occupancy shall be permitted on a lot unless provision is ensured for safe and adequate facilities for water supply and sewage disposal

(B) Where connection is not to be made to a municipal or other approved communal sewage disposal system, evidence must be submitted that safe sewage disposal is possible based on the proposed use, the type of disposal system, the permeability of the soil, and the size of the lot.

(C) Where connection is not to be made to a municipal or other approved communal water system, no residential use shall be permitted unless provision is made for a safe and adequate supply of drinking water inside the principal building.

**§500.586 Erosion and sedimentation control**

All land-disturbing activities authorized by this chapter shall be subject to the provisions of Town ordinances regarding erosion and sedimentation control.

**§500.587 Stormwater control**

All land-disturbing activities authorized by this chapter shall be subject to the provisions of Town ordinances regarding stormwater management and control.

**§500.588 through 500.600 Reserved**

**DIVISION 7  
GENERAL STANDARDS**

**§500.601 Compliance with building codes**

A building shall comply with all applicable building codes for the intended use.

**§500.602 Licensing with the town and county**

In addition to meeting the requirements contained in this article, all land uses shall also meet any requirements for licensing with the town and the county, which may now exist or may be adopted.

**§500.603 Licensing with state agencies**

If a land use or any related activity requires a license from the state, or its agent, to operate, such license shall be obtained prior to the establishment of such use and maintained for the life of the use or until the state, or its agent, no longer requires such license.

**§500.604 Special provisions for residential land uses**

(A) **Use of a recreational vehicle for occupancy.** No mobile home or recreational vehicle shall be used for habitation herein defined as more than 30 days of occupancy in a 3-month period. However, the building inspector may grant a temporary occupancy permit, during the construction of the property owner's principal residential dwelling on the property, for an additional 6-month habitation, if the building inspector is satisfied that the sanitary conditions for the 6-month period will be satisfactory and the application is approved by the town board. The 6-month period shall start at the end of the 30-day period specified, but no temporary occupancy permit shall be granted for a period longer than 6 months, plus 30 days.

(B) **On-site storage of a recreational vehicle.** A recreational vehicle may be kept on a residential property provided it belongs to the occupant of the dwelling unit. Any such recreational vehicle that is not stored within a building shall be licensed by the state of Wisconsin or any other state.

(C) **Parking of a commercial vehicle as an ancillary use to a residential use.** In all zoning districts, except for business and industrial districts, the occupant of a dwelling unit may park no more than one panel truck or one pickup truck on the premises provided it is used for business purposes and/or personal use.

(D) **Residential parking.** Parking of vehicles accessory to a residential use shall be limited to those actually used by the residents, or for the temporary parking of guests.

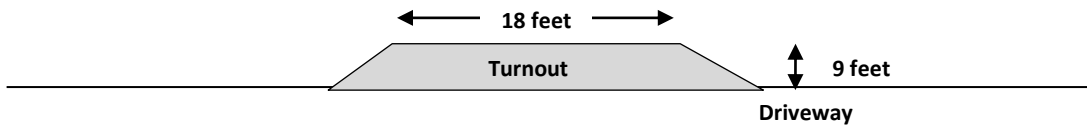
**§500.605 Driveways**

(A) **Generally.** Every new residence, commercial building, or industrial building shall have a driveway that connects the building to a public or private street. The driveway must be suitable for automobile use, and provide adequate slope, width, and overhead clearance to allow uninhibited access by emergency vehicles and equipment.

(B) **Clearance.** Prior to issuance of an occupancy permit, the property owner must establish a minimum unobstructed width of 12 feet and a minimum unobstructed vertical clearance of 15 feet. Thereafter, the property owner is responsible for maintaining such clearances.

- (C) **Grade.** The grade of a driveway shall not exceed 10 percent.
- (D) **Turning radius.** The driveway must accommodate a WB-50 vehicle. If there is a question whether a proposed driveway will satisfy this requirement, the property owner shall supply a turning movement analysis prepared by a qualified professional.
- (E) **Offsets.** The edge of a driveway shall not be closer than 5 feet to the side- or rear-lot lines.
- (F) **Turnaround near building.** If the length of a private driveway is more than 300 feet, a hard-surfaced turnaround must be provided within 50 feet of the building.
- (G) **Turnouts.** If the length of a private driveway is more than 300 feet, hard-surfaced turnouts, as shown below, must be provided at intervals not exceeding 400 feet along the driveway's length.

Figure: Standards for a turnout (not to scale)



- (H) **Number.** No more than one driveway shall access onto a public road. The town board may however allow a second driveway as a special exception consistent with the procedures and requirements in Article 6.

**Amendment(s):** Revised by Ordinance 2021-03; 2023-01

**§500.606 Parking of abandoned or junked motor vehicles**

A motor vehicle that is no longer in use as a mode of transportation, or is no longer licensed shall not be stored anywhere on any premises unless it is completely enclosed in a structure, or located in an authorized salvage yard.

**§500.607 through 500.620 Reserved**

**DIVISION 8  
SITE DESIGN AND ARCHITECTURAL STANDARDS**

**§500.621 Applicability**

Those land uses specified in Exhibit 7-1 (Land-Use Matrix) requiring site plan review shall provide a site plan for new construction and as follows:

- (1) the expansion of an existing building when the floor area of such increase exceeds a cumulative total of 500 square feet; and
- (2) the expansion of an outdoor use area when such increase exceeds a cumulative total of 2,000 square feet.

**§500.622 Site design principles**

- (A) **Legislative findings.** The town board makes the following legislative findings regarding site design requirements:



- (1) The design and layout of a site, including principal and accessory buildings, parking areas and access drives, building service areas, docking and loading areas, and other elements, can have a substantial and long-lasting effect on the utility of the subject property and on surrounding properties and the overall character of a community.
  - (2) The requirements in this section are intended to provide meaningful guidance to applicants, design professionals, and public officials.
  - (3) The requirements in this section are intended to promote the public health, safety, and welfare and are reasonably related to the public purpose of achieving an attractive, functional, and prosperous community.
- (B) **Minimum requirements.** Development subject to review under this division shall adhere to the following design principles along with other requirements that may apply:
- (1) A building shall be arranged on the site so as to not impede traffic accessibility and circulation to or from adjacent streets and adjoining sites.
  - (2) The front of the building shall be generally parallel to the street or a public area, such as a courtyard, plaza, or the like.
  - (3) Cross accesses shall be provided between adjoining commercial parcels whenever it is feasible to do so.
  - (4) A docking or loading area or a service area for a commercial, institutional, or industrial building shall be easily accessible to service vehicles, separated from the on-site parking area, and designed to serve multiple establishments and tenants, when possible. Such docking or loading area shall not be readily visible from a public street, an on-site customer parking area, or an abutting property in a business or residential district or in an agricultural zoning district that is designated for future commercial or residential development in an adopted comprehensive plan. Screening from view may be accomplished by (1) integrating such area into the overall design of the building (e.g., inside of the building or use of architectural extension of a building wall) or (2) using a fence; a berm; landscaping, above what is otherwise required in this chapter; other suitable feature; or any combination thereof.
  - (5) Existing natural resources and topographic features on the site shall be preserved to the greatest extent possible while affording a reasonable use of the property.
  - (6) The project shall not create any hazard.
  - (7) The project shall be designed to avoid existing hazards, whether manmade or natural, and if avoidance is not possible, to mitigate the effects of the hazard to a satisfactory level necessary to protect the public health, safety, and welfare.
  - (8) Parking areas and pedestrian accessways located on the site shall be designed to promote safety and efficient traffic flow.

**§500.623 Architectural standards**

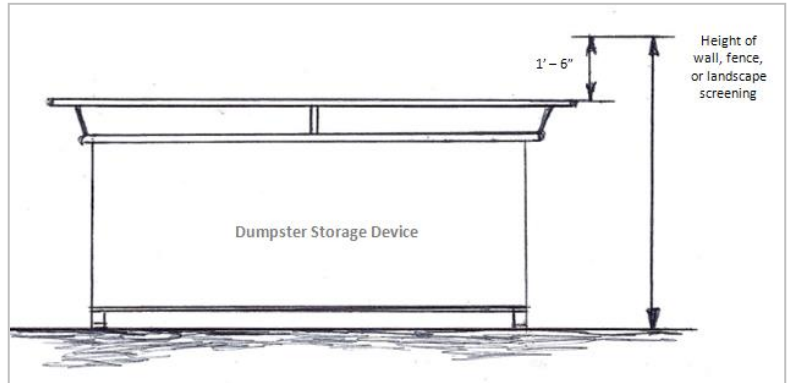
(A) **Legislative findings.** The town board makes the following legislative findings regarding architectural requirements:

- (1) The outward design appearance of a building can have a substantial and long-lasting effect on surrounding properties and the overall character of a community.
- (2) Buildings and especially those within a largely developed area should fit into the context in which they occur.
- (3) Architectural design standards should allow for a variety architectural styles and be flexible to the greatest extent possible.
- (4) The standards in this section are intended to provide meaningful guidance to applicants, design professionals, and public officials.

- (5) This section is not intended to limit or infringe upon reasonable accommodations to afford a person with disabilities equal opportunity to use and enjoy a building.
- (6) The standards in this section are intended to promote the public health, safety, and welfare and are reasonably related to the public purpose of achieving an attractive, functional, and prosperous community.
- (B) **Minimum requirements.** Buildings subject to review under this division shall adhere to the following architectural standards:
  - (1) The scale of the building shall be compatible with the overall massing and the individual parts of adjacent buildings, especially existing and anticipated residential buildings in a residential zoning district or in an agricultural zoning district that is designated for future residential development in an adopted comprehensive plan.
  - (2) Windows, doors, and other openings must form a unified composition in proportion to the building elevation.
  - (3) On any new building constructed for business or manufacturing use, all building exteriors facing a street or approved way shall have 50 percent of the street face constructed with brick, decorative masonry, glass panel, or other appropriate similar finished façade as may be approved by the town board upon recommendation of the plan commission.
  - (4) Except as provided in this subsection, the brick, masonry, glass, or other decorative facing used on the front of the building shall extend for a distance of at least 25 feet along the sides of the structure or at least 25 percent of the that side wall distance, whichever is greater. Consistent with the requirements in Article 6, the town board may approve a lesser distance as a special exception. In modifying this standard, the town board may consider the intended use of the building and require additional landscaping in-lieu of such exterior materials.
  - (5) Principal buildings with a front elevation of more than 750 square feet in area shall be divided into distinct planes of 500 square feet or less. The following design features can be used to meet this provision (1) canopies or awnings; (2) arcades; (3) porches; (4) vertical wall offsets having a minimum depth of 8 inches and a minimum width of 10 feet; (5) horizontal offsets having a minimum depth of 2 feet; (6) pilasters having a minimum depth of 8 inches, a minimum width of 12 inches, and a minimum height of 80 percent of the wall height; (7) recessed areas for entryways and the like having a minimum depth of 8 inches; and (8) other suitable multidimensional design features.
  - (6) Oversized fenestration elements which tend to create a monumental scale shall not be used unless specifically required by the type of building or relationship to its surroundings.
  - (7) Building entrances must be clearly recognizable from parking lots and pedestrian circulation routes.
  - (8) No building regulated by this section shall be permitted where any exposed façade is not constructed or faced with a finished material that is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
  - (9) Rooftop mechanical equipment shall be positioned so it is not readily visible from a public street or an abutting property in a residential zoning district. Rooftop mechanical equipment may be placed in an enclosure or screened from view provided such enclosure or screening is used as an element of the building's architecture.
  - (10) Fencing shall complement the appearance of buildings onsite.
  - (11) The exterior building materials of an accessory building shall be the same as or similar to those used on the principal building.
  - (12) Overhead doors shall not face a public street. Consistent with the requirements in Article 6, the town board may approve a special exception to allow an overhead door to face a public street. In making such decision, the plan commission and town board shall consider (1) whether the overhead door is set back sufficiently from the public street to adequately limit the adverse visual impact of the overhead door; (2) whether the number of overhead doors that are proposed to face the public street, due to their number, would create an adverse visual impact; (3) whether the natural terrain and other existing features of the lot may affect the visual impact of the overhead door; (4) whether

the overhead door will be appropriately screened with landscape berms or other landscaping; and (5) any other factor not listed but deemed appropriate.

- (13) HVAC (heating, ventilating, air conditioning) equipment shall be screened from view by landscaping or decorative screening materials that form an integral part of the design.
- (14) When trash, garbage, and recyclable materials are stored out-of-doors, such materials shall be stored in a container which is concealed or suitably screened from public view. A brick or stone wall, wood fence, chain-link fence with slats, and/or landscaping shall be used to totally obstruct vision into the storage areas. Any wall, fence and gate, and/or vegetative screening shall be installed or erected to a height at least 1'- 6" above the highest point of the dumpster as generally depicted below.



**Amendment(s):** Revised by Ordinance 2021-03

**§500.624 Outdoor storage areas**

- (A) Outdoor storage areas shall be located behind the front face of the building.
- (B) Outdoor storage areas adjoining residential districts shall be screened with a wall, a non-metallic fence, a berm, landscaping, or any combination, as approved by the town board upon recommendation of the plan commission.
- (C) Materials shall not exceed the height of required screening.
- (D) Outdoor storage areas shall consist of concrete, asphaltic concrete, gravel, or other material approved by the plan commission.
- (E) As part of the site plan/operation plan review process, the control of fugitive dust shall be addressed to the satisfaction of the reviewing authority.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.625 through 500.700 Reserved**

**DIVISION 9  
PERFORMANCE STANDARDS**

**§500.701 Generally**

This section describes performance standards for the regulation of uses and to establish an objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or zoning district. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards. All structures, lands, air and water shall hereafter comply with the following performance standards.

**Amendment(s):** Created by Ordinance 2021-03

**§500.702 Control of odors**

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor. The plan commission and/or town board reserves the right to request an odor control plan from the applicant to identify potential odors and implement recommendations from the plan.

**Amendment(s):** Created by Ordinance 2021-03

**§500.703 Control of fire and explosive hazards.**

- (A) All uses involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices as may be required by the Fire Prevention Code.
- (B) All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire extinguishing system.
- (C) The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the Town fire department and in accord with their requirements to minimize fire and explosive hazards.

**Amendment(s):** Created by Ordinance 2021-03

**§500.704 Glare, heat and external lighting**

- (A) No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of the property line. Operations producing light, glare, or heat shall be conducted within an enclosed building.
- (B) External lighting shall be shielded so that light rays do not adversely affect adjacent uses.

**Amendment(s):** Created by Ordinance 2021-03

**§500.705 Water quality standards**

- (C) No activity shall locate, store, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might runoff, 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.
- (D) No activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward exceeding the minimum standards and those other standards and the application of those standards set forth in Wis. Adm. Code NR 102 or in other applicable Chapters which regulate water quality.

**Amendment(s):** Created by Ordinance 2021-03

**§500.706 Noise**

No operation or activity shall transmit any noise beyond the boundaries of the property so that it becomes a nuisance.

**Amendment(s):** Created by Ordinance 2021-03

**§500.707 Vibration**

No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a reasonable person to be aware

of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities are exempt from this standard.

**Amendment(s):** Created by Ordinance 2021-03

**§500.708 Traffic impact**

The plan commission and/or the town board reserves the right to require a traffic impact study in order to identify impacts to adjacent properties and roadways and to identify improvements or actions required to minimize or eliminate impacts. No use shall be approved unless the applicant implements the conclusions and recommendations of the study. The traffic study shall be prepared by a registered professional engineer in accordance with the following standards:

- (1) Manual on Transportation Studies (Institute of Transportation Engineers (ITE))
- (2) Traffic Impact Analysis Guidelines (Wisconsin Department of Transportation)
- (3) Manual on Uniform Traffic Control Devices (Federal Highway Administration)
- (4) Trip Generation Manual (Institute of Transportation Engineers)
- (5) Other local, county or state standards

**Amendment(s):** Created by Ordinance 2021-03

**§500.709 through 500.920 Reserved**

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ARTICLE 8  
OVERLAY DISTRICTS

**Divisions**

1. Wellhead protection (WP) overlay district
2. Hydric soils (HS) overlay district
3. Agricultural land preservation overlay districts

DIVISION 1  
WELLHEAD PROTECTION (WP) OVERLAY DISTRICT

**§500.921 Legislative findings**

The town board makes the following legislative findings relating to wellhead protection:

- (1) The Town of Eagle and the Village of Eagle have agreed to settle their differences with respect to Town of Eagle et. al. v. Village of Eagle, Waukesha County Case No. 02 CV 2954. The settlement includes the town's agreement to adopt an ordinance protecting the wells owned by the village which will be located in the town and protect the ground water quality at that location for the health, safety and welfare of the village residents who will be drinking water from those wells and also for the town residents whose personal wells are served by the same aquifer.
- (2) The engineers for the Village of Eagle completed a "Wellhead Protection Plan for The Village of Eagle Wells 3 and 4," dated January 2004, a copy of which is on file in the clerk's office of the Village of Eagle and the Town of Eagle.
- (3) Residents of the Village of Eagle depend exclusively on ground water for safe drinking water supply, and certain land use practices and activities can seriously threaten or degrade ground water quality.
- (4) This article includes land-use regulations and restrictions to protect the Village of Eagle municipal water supply and well fields, and to promote the public health, safety and general welfare of the residents of the Village of Eagle.
- (5) Statutory authority of the Town of Eagle to enact these regulations was established by the Wisconsin legislature in 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added ground water protection to the statutory authorization for municipal planning and zoning to protect public health, safety and welfare.

**§500.922 Boundary of district**

The boundary of the wellhead protection overlay district extends from the center of public well #3 and also #4 for a distance of 1,200 feet in all directions. Such boundary is based on the wellhead protection plan adopted by the Village of Eagle in 2004.

**§500.923 Permitted land uses and activities**

(A) **Generally.** The land uses/activities listed in Exhibit 7-1 are permitted provided the various restrictions are maintained and the land use/activity is otherwise allowed in the base zoning district under this chapter. All other uses are prohibited.

(B) **Amendment of this section.** Land uses that are prohibited pose a high risk of polluting the groundwater based upon the combined pollution experience of many individual uses, and the technology generally employed. As the technology of these prohibited uses change to low or non-risk materials or methods, Exhibit 8-1 may be amended consistent with the procedures and requirements in Article 6. It is the intention to continue a prohibition on such uses until the technology of the use removes reliance upon the pollutant materials or processes deemed to be a groundwater hazard.

**Exhibit 8-1. Permitted land uses and activities** (if otherwise allowed in the base zoning district)

Minimum separation between well and land use /activity [1]	Permitted land use/activity [2]
none	Biking, hiking, skiing, nature, equestrian, and fitness trails
none	Public and private parks, playgrounds, beaches, provided such use is connected to a municipal sanitary sewer service if sanitary service is provided (holding tanks and on-site systems are not permitted)
none	Wildlife management, open space, and similar uses
none	Routine tillage, planting, and field management operations related to crop production provided animal waste is not applied to the ground surface, and the combination of all other nutrient sources applied or available do not exceed those thresholds established or recommended by the Waukesha County Department of Parks and Land Use, or alternatively the Natural Resources Conservation Service (NRCS).
none	Multi-family dwelling units provided such use is connected to a municipal sanitary sewer service
none	Single-family dwelling on a lot consisting of 3 acres or more and is connected to a private on-site sewage treatment system
none	Above-ground liquid propane gas tanks for heating with a maximum capacity of 1,000 gallons
200 feet	Single-family residential fuel oil tank
50 feet	Storm sewer main
200 feet	Sanitary sewer main, sanitary sewer manhole, and sanitary lift station. A lesser separation distance may be allowed for sanitary sewer mains if the sanitary sewer main is constructed of water main materials and joints and pressure tested in place to meet current American Waterworks Association (AWWA) C600 specifications. In no case may the separation distance between a well and sanitary sewer main be less than 50 feet.
400 feet	Septic tank or soil adsorption unit receiving less than 8,000 gallons per day provides such system complies with all local and state requirements for on-site sewage treatment systems
1,000 feet	Septic tank or soil adsorption unit receiving more than 8,000 gallons per day provides such system complies with all local and state requirements for on-site sewage treatment systems
400 feet	Storm water drainage pond or conveyance facility
600 feet	Gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Safety & Professional Services or its designated agent under s. Comm 10.10, Wis. Admin. Code.
none	Institutional, commercial, and industrial land uses provided such use is connected to a municipal sanitary sewer service, except that the following are strictly prohibited: motor vehicle fuel stations, vehicle repair establishments, auto body repair, printing and duplicating businesses, facilities involving manufacturing or industrial processes, bus or truck terminals, repair shops of all types, solid waste disposal or handling facilities, wastewater treatment facilities, spray wastewater facilities, junk yards or auto salvage yards, bulk fertilizer and/or pesticide facilities, asphalt products manufacturing, dry cleaning businesses, salt storage, electroplating facilities, exterminating businesses, paint and coating manufacturing, hazardous and/or toxic materials storage, hazardous and/or toxic waste facilities, radioactive waste facilities, recycling facilities, cemeteries, underground storage tanks of any size, and any other use determined by the zoning administrator to pose a high-risk of polluting the groundwater.

Notes:

1. See s. NR 811.12, Wis. Admin. Code
2. A land use that is not listed in this exhibit is prohibited within the wellhead protection overlay district.

**§500.924 Nonconforming uses**

Land uses that were legally established, but do not comply with the regulations in this article are nonconforming and are subject to the requirements set forth in Article 12. In addition, the operator of a nonconforming use shall (1) provide copies of all current, revised or new federal, state and local facility operation approvals, permits or certificates; operational safety plans; and on-going environmental monitoring results to the Town of Eagle and the Village of Eagle; (2) provide additional environmental or safety structures/monitoring as deemed necessary by the town board, which may include but is not limited to stormwater runoff management and monitoring; replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence; and (4) prepare and submit a contingency plan satisfactory to the zoning administrator for the immediate notification of town and village officials in the event of an emergency.

**§500.925 Responsibility for contamination cleanup**

An individual and/or facility that releases a contaminant in the wellhead protection overlay district that has the potential of endangering the municipal water supply shall immediately stop the release and clean up the



contaminant to the satisfaction of the Village Board and other state and federal regulatory agencies. The individual/facility shall be responsible for all costs of cleanup, including those incurred by the Town of Eagle and the Village of Eagle, which may include:

- (1) consultant fees at the invoice amount plus administrative costs for oversight, review, and documentation;
- (2) the cost of employees' time associated in any way with cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the Town of Eagle and the Village of Eagle representing the municipality's cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits;
- (3) the cost of equipment used in the response and cleanup; and
- (4) the cost of mileage reimbursed to employees attributed to the cleanup.

The town board may require the responsible party to establish a monitoring program based on the nature of the contamination and the risk posed to the municipal water supply. In addition, the town board may require the responsible party to provide a financial security in such amount and type it deems necessary to safeguard the municipal water supply.

**§500.926 through 500.930      Reserved**

## DIVISION 2

### HYDRIC SOILS (HS) OVERLAY DISTRICT

#### Sections

500.931	Generally
500.932	Use regulations

#### **§500.931      Generally**

This overlay district includes those lands that are mapped as having hydric soil conditions (i.e., depth to groundwater of one foot or less) according to the Soil Survey of Milwaukee and Waukesha Counties published by the USDA Soil Conservation Service (now known as the Natural Resources Conservation Service (NRCS)).

#### **§500.932      Use regulations**

(C) **Within A-P or RR zoning district.** When located in the AP or RR districts, land may be cultivated subject to the regulations associated with the underlying zoning district, provided such lands have been historically cultivated. It is not the intent of this provision to promote or permit the conversion of wetlands. Farm buildings, including farm dwellings, are deemed consistent with the purpose of this section where the location of buildings associated with the permitted agricultural operation is found to conform with health, sanitation, and safety provisions of this and any other state regulation or local ordinance.

Other zoning districts. In all other zoning districts, buildings are prohibited.

**§500.933 through 500.940      Reserved**

DIVISION 3  
**AGRICULTURAL LAND PRESERVATION OVERLAY DISTRICTS**

**§500.941      Generally**

As described in s. 500.522, the agricultural land preservation (A-P) zoning district was established to meet the requirements of a farmland preservation zoning ordinance as certified by the Wisconsin Department of Trade and Consumer Protection (DATCP). Under DATCP rules, the AP district cannot contain any other zoning districts. The Town of Eagle uses the conservancy (C-1) and upland conservancy (UC) districts to limit development given the unique constraints in each district. Given the desire to address those development constraints and comply with DATCP rules, two overlay districts as described in this division are established, but only over the AP district.

**§500.942      Use regulations for the conservancy overlay (AP/C-1) district**

No buildings may be constructed within the AP/C-1 overlay district.

**§500.943      Use regulations for the upland conservancy overlay (AP/UC) district**

The construction of buildings in the AP/UC overlay district is subject to the review and approval of the town board upon recommendation of the plan commission.

**§500.944 through 500.950      Reserved**

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## **ARTICLE 9 LANDSCAPING**

### **§500.951 Legislative findings**

The town board makes the following legislative findings:

- (1) A healthy environment is an indication of a healthy community.
- (2) Landscaping helps to maintain and increase property values, which helps to protect public and private investment in a community.
- (3) Landscaping provides lasting social, economic, environmental, and aesthetic benefits to the community.
- (4) Landscaping helps to reduce the “heat-island” effect by shading parking lots, streets, and other hard-surfaced areas.
- (5) Flexible standards allow alternative design options that may better fit the needs of the landowner and that may be needed to address unique site characteristics.
- (6) Xeriscape planting techniques help promote water and energy conservation.
- (7) A variety of landscape plants is needed to ensure that the effect of a single disease (e.g., Dutch elm disease) or pest (e.g., emerald ash borer) on landscape plants is minimized.

### **§500.952 Purpose**

This article is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

- (1) make the developed areas of the town more attractive and aesthetically pleasing;
- (2) provide flexible standards where possible, rather than overly prescriptive requirements;
- (3) promote and improve public health and safety through the abatement of noise, the glare of lights, dust, and air pollution;
- (4) improve the aesthetic appearance of the built environment;
- (5) promote economic development by providing a high quality of life;
- (6) enhance ambient environmental conditions by providing shade, air purification, oxygen regeneration, groundwater recharge, storm water runoff retardation, and noise, glare, and heat abatement; and
- (7) encourage the preservation, expansion, protection, and proper maintenance of the community forest.

### **§500.953 General applicability**

The requirements and guidelines contained in this article apply to the (1) construction of a new institutional, commercial, and industrial building, (2) expansion of an existing institutional, commercial, or industrial building when such improvement costs exceed 25 percent of the assessed value of the building, and (3) construction or expansion of a parking lot for an institutional, commercial, or industrial use.

### **§500.954 Landscape plan**

A landscape plan shall consist of a completed worksheet as may be used by the zoning administrator and a plan view drawing that shows where the required plants will generally be planted. Such drawing shall be drawn at the same scale as the site plan drawing. A landscape plan should be prepared or reviewed by a landscape professional to ensure compliance with this article.

**§500.955 Description of landscape points and classification of plant species**

(A) **Generally.** The required level of landscape plants is stated in terms of landscape points. As shown in Exhibit 9-1, a different number of points are assigned to each of the plant categories depending upon its typical growth rate, its mature height, and whether it is a deciduous or evergreen species. Species generally suitable for use in southern Wisconsin are listed and those native to the state are denoted.

(B) **Plants not listed.** The species list in Exhibit 9-1 is not meant to be exhaustive. Therefore, the zoning administrator shall review proposals for, and the applicability of, species not contained in this list, and is authorized to approve appropriate similar species using the most current edition of "A Guide to Selecting Landscape Plants for Wisconsin" as a guide.

(C) **Prohibited plants.** Plants specifically designated as invasive by the Wisconsin Department of Natural Resources or other state agency shall not be planted and shall not be used to meet the requirements of this article. The Town reserves the right to prohibit any plant listed in Exhibit 9-1 upon a determination that it is susceptible to infection (e.g., emerald ash borer).

(D) **Plant hardiness.** Selected plants should be hardy in the area where they are planted (Zone 4).

**Exhibit 9-1. Classification of plants**

Type and point value	Botanical name	Common name
<b>Tall deciduous trees</b> (30 points) (40-100 feet)	<i>Acer</i> spp.	maple: Norway, red [1], sugar [1] (Note: Silver maple is not recommended)
	<i>Celtis occidentalis</i>	hackberry [1]
	<i>Ginkgo biloba</i>	ginkgo
	<i>Gleditsia triacanthos</i>	honey locust [1]
	<i>Gymnocladus dioicus</i>	espresso Kentucky coffeetree
	<i>Quercus</i> spp.	oak: red [1], white [1], pin, bur [1]
	<i>Tilia</i> spp.	linden: basswood [1], littleleaf, redmond
<b>Medium deciduous trees</b> (15 points) (30-40 feet)	<i>Ulmus</i> spp.	accolade, cathedral, new horizon (hybrids only)
	<i>Aesculus glabra</i>	Ohio buckeye
	<i>Betula</i> spp.	birch: river [1], paper [1]
	<i>Phellodendron amurense</i> "Macho"	Macho amur corktree
	<i>Prunus</i> spp.	cherry: choke [1], pin [1]
<b>Low deciduous trees</b> (10 points) (15-30 feet)	<i>Prunus Mackii</i>	amur chokecherry
	<i>Acer ginnala</i>	amur maple
	<i>Amelanchier</i> spp.	serviceberry
	<i>Crataegus</i> spp.	hawthorn: cockspur [1], dotted [1], downy [1], Washington
	<i>Malus</i> spp.	crabapple spp.
	<i>Sorbus</i> spp.	mountain ash: European, showy [1]
	<i>Prunus americana</i>	American plum
<b>Tall evergreen trees</b> (40 points)	<i>Ostrya virginiana</i>	Ironwood
	<i>Abies concolor</i>	white fir
	<i>Picea</i> spp	Spruce: Norway, white
	<i>Pinus</i> spp.	pine: red [1], white [1], Scots
<b>Medium evergreen trees</b> (20 points)	<i>Tsuga canadensis</i>	Canada hemlock
	<i>Thuja occidentalis</i>	American arborvitae
<b>Low evergreen trees</b> (12 points)	<i>Juniperus</i> spp.	juniper: mountbatten, redcedar [1]
	<i>Thuja</i> spp.	arborvitae: pyramidal, techny
<b>Tall deciduous shrubs</b> (5 points)	<i>Cornus</i> spp.	dogwood: gray [1], pagoda, red [1]
	<i>Rhus</i> spp.	sumac: smooth [1], staghorn [1]
	<i>Syringa</i> spp.	lilac: Chinese, hyacinth
	<i>Viburnum</i> spp.	viburnum: arrowwood, wayfaringtree, nannyberry [1]
<b>Medium deciduous shrubs</b> (3 points)	<i>Corylus americana</i>	American filbert, hazelnut
	<i>Cotoneaster</i> spp.	cotoneaster
	<i>Forsythia</i> spp.	forsythia: border, early, weeping
	<i>Rosa</i> spp.	rose: Virginia, rugosa
<b>Low deciduous shrubs</b> (1 point)	<i>Berberis thunbergii</i>	Japanese barberry
	<i>Spiraea</i> spp.	spirea: froebel, snowmound
<b>Medium evergreen shrubs</b> (5 points)	<i>Juniperus chinensis</i>	juniper: Pfitzer
	<i>Taxus</i> spp.	yew: Japanese
<b>Low evergreen shrubs</b> (3 points)	<i>Juniperus</i> spp.	juniper: sargent, creeping, andorra

Notes:

1. Native to Wisconsin
2. Only those species that are not susceptible to the emerald ash borer may be used
3. See "A Guide to Selecting Landscape Plants for Wisconsin," E.R. Hasselkus, University of Wisconsin-Extension, Publication A2865 for more plants.
4. The above table may include plants that are not suitable for Zone 4.

**§500.956 Specifications for landscaping materials**

(A) **Generally.** All plant material shall be healthy, vigorous, and free of disease and insects.

(B) **Minimum planting size.** Trees and shrubs shall meet the minimum planting size established in Exhibit 9-2. Further, trees and shrubs shall meet the specifications contained in the most current edition of "American Standard for Nursery Stock" for the corresponding planting size.<sup>[1]</sup>

(C) **Turf.** Turf areas may be sodded or seeded. In areas subject to erosion, sod shall be used. Sod shall be commercially grown and clean and free of weeds, noxious pests, and diseases.

(D) **Mulch.** Where mulch is used as a ground treatment, it shall be applied to a maximum depth of 4 inches. A landscape fabric may be placed between the soil and mulch to impede weed growth.

**Editorial notes:**

[1] This publication is published by the American Nursery & Landscape Association and is an approved American national standard (ANSI Z60.1-2004).

**Exhibit 9-2. Minimum planting size**

Plant category	Minimum planting size
Tree	
Tall deciduous tree	2 " caliper
Medium deciduous tree	2" caliper
Low deciduous tree	1" caliper
Tall evergreen tree	5' tall
Medium evergreen tree	4' tall
Low evergreen tree	3' tall
Shrub	
Tall deciduous shrub	36" tall
Medium deciduous shrub	24" tall
Low deciduous shrub	18" tall
Tall evergreen shrub	24" tall
Medium evergreen shrub	18" tall
Low evergreen shrub	12" tall

**§500.957 Credit for preserving trees and shrubs**

(A) **Generally.** Landscape plantings as required by this article may be satisfied in whole, or in part, by preserving existing trees and shrubs on the subject property.

(B) **Allocation of credits.** An existing tree shall be credited based on its size as shown in Exhibit 9-3. An existing shrub shall be credited on a one-for-one basis regardless of size.

(C) **Location of trees and shrubs.** A tree eligible for credit shall be located within 10 feet of the location where the tree credit is to be applied. A shrub eligible for credit shall be located within the area to which the credit is to be applied.

(D) **Condition of trees to be used as credit.** In order to use an existing tree or shrub as credit, the following conditions shall be satisfied:

- (1) The area within the drip line or 6 feet away from the tree trunk, whichever is greater, shall be preserved in its natural state or covered with pervious landscape material and shall be retained at original grade with no trenching, cutting of any roots, or compaction of soil.
- (2) During construction, a temporary barrier shall be placed around the tree at the drip line or 6 feet away from the tree trunk, whichever is greater.
- (3) The existing stock shall not be damaged from skinning, barking, and the like.
- (4) The existing stock shall be healthy and free from disease, damage, and active insect infestation potentially lethal to the tree.

**Exhibit 9-3. Allowable tree credits**

Caliper of existing tree	Number of trees credited
2 inches up to 6 inches	1
6 inches up to 12 inches	2
12 inches up to 16 inches	3
16 inches and greater	4

**§500.958 Design and placement guidelines**

(A) **Public safety.** Landscaping shall not result in the creation of a safety or visibility hazard.

(B) **Random placement.** To the extent possible, plants shall be randomly placed so as to give a natural appearance.

(C) **Planting beds.** Where required, shrubs shall be placed in planting beds with mulch.

(D) **Proximity to overhead utility lines and the like.** Trees and shrubs shall not be placed where they will require frequent pruning in order to avoid interference with overhead utility lines, buildings, or other structures.

(E) **Integration with natural amenities.** When a site abuts a natural amenity such as a stream, park, or other open space, the landscape plan shall integrate with, and respect the natural integrity of the amenity.

(F) **Integration with stormwater facilities.** Detention and retention ponds shall be designed to be physically, functionally, and visually integrated into adjacent landscape areas.

(G) **Landscaping in relation to berms and fences.** Where plant materials are used in conjunction with a berm or a fence to meet the requirements or guidelines of this article, the fence or berm shall be located toward the interior of the subject property and the plant material shall be located toward the exterior of the subject property.

(H) **Utility easements.** Landscaping materials, fences, and berms that are located within a duly-recorded utility easement and/or a pedestrian easement shall not count toward meeting a landscape requirement.

(I) All disturbed areas shall be seeded with lawn or native ground cover unless such vegetation is already fully established.

(J) **Storage of landscape materials.** Landscape debris and topsoil and gravel piles shall be removed from the site 60 days after occupancy, unless it was reviewed and approved by the plan commission as part of a site plan and plan of operations review. This includes, but is not limited to piles of topsoil, gravel, stone, sand, dead vegetation, branches, stumps, leaves, brush and similar materials.

**§500.959 Plant diversity**

(A) **Tree species.** The maximum number of required trees in the same genus shall comply with the proportions established in Exhibit 9-4. For example, if three tree species are required, a species in three different genres must be used (e.g., *Quercus* - oaks, *Acer* - maples, *Pinus* - pines).

(B) **Shrub species.** It is recommended that the proportion of required shrubs and ground cover follow the standards established in Exhibit 9-4, except that different species within the same genus may be used.

**Exhibit 9-4. Plant diversity requirements and recommendations**

Required number of plants	Maximum proportion of tree species in same genus	Recommended proportion of same species for shrubs
11 to 20	30%	25%
21 to 30	25%	20%
31 to 40	20%	15%
41 to 50	15%	10%
51 and more	10%	10%

**§500.960 Maintenance**

(A) **Generally.** All landscaping shall be maintained in good condition so as to present a healthy, neat, and orderly appearance, free from refuse, weeds, and debris.

(B) **Responsibilities.** The current landowner shall be responsible for maintaining the vegetation and other landscape components as may be required by this article.

(C) **Maintenance practices.** Maintenance shall consist of regular and normal maintenance practices of landscaping including weeding, irrigation, fertilizing, pruning, and mowing. Plant materials that exhibit significant levels of insects, pests, diseases, or damage shall be treated as appropriate.

(D) **Replacement, generally.** Plant materials which were planted as required by this article or which were used as a credit and which die or are irreparably damaged shall be removed and replaced with living plant materials consistent with the approved landscape plan or as required by this article.

(E) **Replacement following a natural disaster.** Plant materials that were planted as required by this article or which were used as a credit and which die or are irreparably damaged due to a natural disaster, such as area-wide flooding or high wind, shall, within 2 years of such event, be removed and replaced with plant materials consistent with the approved landscape plan or as required by this article. With just cause,

the plan commission may on a case-by-case basis grant an extension of 2 additional years upon written request, or pass a resolution granting a blanket extension to all affected properties in the town.

(F) **Staking.** It is recommended that stakes and cables used to support a tree be removed within 24 months of planting.

**§500.961 Timing for installation of landscape materials**

All required landscaping materials shall be installed prior to issuance of a permanent occupancy permit for any building on the subject property. However, if the subject property is to be occupied prior to the installation of all required landscaping material, the property owner shall only receive a temporary occupancy permit from the building inspector for up to 6 months provided the property owner provides a financial guarantee subject to the requirements in Division 4 of Article 5 in an amount acceptable to the building inspector to ensure the installation of the landscaping materials.

**§500.962 Reserved**

Amendment(s): Revised by Ordinance 2021-03

**§500.963 Landscape standards for street frontage**

(A) **Minimum amount required.** A minimum of 60 landscape points shall be provided along a public street right-of-way on a prorated basis for every 100 linear feet of frontage.

(B) **Placement on lot.** Plants required by this section shall be located within 10 feet of the public right-of-way. In no instance shall such landscaping be located within a public right-of-way.

(C) **Use of various plant types.** Only tall trees may be used for street frontage plantings. The following trees shall not be used as street trees because of undesirable traits (e.g., weak wood, form, fruit/nut litter):

- (1) silver maple,
- (2) box elder,
- (3) butternut,
- (4) black walnut,
- (5) any other tree so designated by the zoning administrator.

**Exhibit 9-5. An example of a foundation planting**



**§500.964 Landscape standards for building foundation**

(A) **Minimum amount required.** A minimum of 25 landscape points shall be provided on a prorated basis for every 100 feet of building foundation perimeter. For example, a building with a perimeter of 180 feet must provide a minimum of 45 landscape points  $((180 / 100) \times 25) = 45$ .

(B) **Placement on lot.** Plants required by this section shall be placed so that, at maturity, the dripline of each plant is generally located within 10 feet of the building foundation. As a general rule, plants shall be distributed around the entire perimeter of the building. Such landscaping shall not be located in those areas required for landscaping as street frontages or parking areas.

(C) **Use of various plant types.** Tall and medium trees shall not be used to meet building foundation landscape requirements. The intent of this section is to require a visual break in the mass of buildings and to require a visual screen of a minimum of 5 feet in height for all exterior perimeter appurtenances, such as ground-mounted HVAC units and utility boxes.

(D) **Anticipated future development.** Where an approved site plan depicts a future building extension, the foundation landscaping requirement shall be calculated by measuring the length of the total perimeter. However, foundation plantings need only be installed based on the landscape points calculated from the



portions of the building perimeter that will not be affected by building extension. If this results in point requirements which are not met through the initial planting, then such requirement shall be met within 5 years of building permit issuance, or as extended in writing by the zoning administrator.

**§500.965 Landscape standards for parking lot**

(A) **Minimum amount required.** A minimum of 120 landscape points shall be provided on a prorated basis for every 10,000 square feet of paved area. For example, a minimum of 264 landscape points are required within a parking area consisting of 22,000 square feet (approximately 64 stalls) as follows:  $((22,000 / 10,000) \times 120) = 264$ .

(B) **Use of various plant types.** A minimum of 60 percent of all landscape points shall be devoted to tall trees and a minimum of 20 percent of all points shall be devoted to shrubs.

(C) **Placement within a landscaped area.** A minimum of 325 square feet of landscaped area shall be located within 10 feet of the perimeter of the paved area for the placement of every 100 landscape points, or fraction thereof. A landscape island consisting of a minimum of 380 square feet shall be located at the end of a parking isle (i.e., two rows of stalls). In addition, an intermediate island consisting of a minimum of 180 square feet per row of stalls shall be used to separate a continuous run of 20 parking stalls in a single row.

(D) **Bioretention areas.** Bioretention areas that are used to treat stormwater runoff from parking areas should be integrated into landscape areas as may be required in this section.

**§500.966 Landscape standards for interior of lot**

(A) **Minimum amount required.** A minimum of 10 landscape points shall be provided within the interior of the lot on a prorated basis for every 1,000 square feet of building floor area. For example, a minimum of 23 landscape points are required on the interior of a lot having a building floor area of 2,300 square feet  $((2,300 / 1,000) \times 10) = 23$ .

(B) **Placement on lot.** Plants required by this section shall be located away from required landscaping for building foundations, street frontages, and parking lot areas.

**§500.967 Landscaping around exterior features**

Exterior perimeter appurtenances, such as HVAC/utility boxes, standpipes, storm water discharge pipes and other pipes, shall be screened from sight by landscape plantings of a minimum of 5 feet in height.

**§500.968 Landscaping for outdoor storage areas**

When a permitted land use includes an outdoor storage area, such area shall be screened from view from public streets and public use areas on adjoining properties. Such screening may consist of a berm, non-metallic fencing, a decorative wall, landscaping, or any combination, as determined by the plan commission.

**§500.969 Grading and stockpile of topsoil**

(A) Prior to occupancy of a building, the lot must be graded as set forth in the approved zoning permit or master grading plan. With cause, the building inspector may allow up to 6 months to complete such work accounting for weather or other practical consideration.

(B) An earth materials stockpile may be allowed consistent with the requirements in Appendix A and B

**Amendment(s):** Revised by Ordinance 2021-03

**§500.970 Landscape guarantee**

The property owner must provide a financial guarantee consistent with Article 5 to ensure the required landscaping survives the first two growing seasons. The amount of the guarantee must be 50 percent of the cost of the required plant materials.

**Amendment(s):** Created by Ordinance 2023-01

**§500.971 through 500.980 Reserved**

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**ARTICLE 10**  
**Reserved**

**§500.981 through 500.1000    Reserved**

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## ARTICLE 11 PARKING

### §500.1001 General standards for parking lots

(A) **Parking design.** Any building erected or placed on a lot shall be provided with off-street vehicle parking space, not greater than 500 feet from the principal use.

(B) **Dimensional requirements of a parking space.** A standard parking space shall be 9 feet in width by 18 feet in length for 30°, 60°, or 90° (angled) parking. A standard parking space shall be 10 feet in width by 24 feet in length for 0° (parallel) parking. There shall be an ingress and egress aisle at least 24 feet in width if there is parking on both sides of the aisle, and at least 16 feet in width if there is parking on only one side of the aisle.

(C) **Surfacing.** Any off-street parking area, other than that provided for a residence or agricultural use, which has a capacity of 4 or more vehicles, shall be hard surfaced if it is within 500 feet of a residential dwelling.

(D) **Screening.** Any off-street parking area, other than that provided for a residence or agricultural use, which abuts or faces a property containing a residential dwelling, shall provide a planting screen, landscaped fence, or wall, at least 4 feet in height along the side abutting or fronting on a residential dwelling. Plans for such screen shall be submitted to the plan commission for approval before installation.

(E) **Landscaping.** Landscaping for a parking area must be provided consistent with Article 9.

(F) **Setback.** In any parking area, which abuts a lot with a residential dwelling, other than the parking provided for a residence, no vehicle shall be parked closer than 10 feet to the base setback line.

(G) **Offset.** In any parking area, which abuts a lot with a residential dwelling, other than the parking provided for a residence, no vehicle shall be allowed to park closer than 10 feet to the abutting residential lot line.

(H) **Lighting.** Lights provided in any parking area, other than that provided for a residence or agricultural use, shall be designed as full cut-off fixtures, so that the luminaire is totally shielded from view at the centerline of the street, and located so that the cut-off line is at least 10 feet within the lot line.

(I) **Accessibility.** Parking spaces shall be accessible at all times from a street, alley, or driveway intended to serve such parking.

(J) **Use of required parking spaces.** The required off-street parking shall be for occupants, employees, visitors, and patrons. The storage of merchandise, supplies, motor vehicles for sale, or the repair of vehicles on such parking area is prohibited. In addition, the use of a parking lot for overnight camping, including recreational vehicle camping, is prohibited.

(K) **Drainage.** Parking areas shall be properly graded for drainage.

### §500.1002 Number of required parking spaces

(A) **Specified uses.** Off-street parking spaces shall be provided in the number specified in Appendix B.

(B) **Mixed-uses.** The town board upon recommendation of the plan commission shall determine the parking requirements for developments that include more than one type of use. In its determination, the plan commission and town board shall blend together the requirements for parking spaces for each use listed in Appendix B.

**Amendment(s):** Revised by Ordinance 2021-03

**§500.1003 Accessible parking**

(A) **Generally.** When required by the Americans with Disability Act, as may be amended, accessible parking spaces shall be provided.

(B) **Number required.** If parking spaces are required, then accessible spaces shall be provided in addition to the required number of regular spaces in the quantity as shown in Exhibit 11-1. One of 8 accessible parking spaces, but always at least one, must be van-accessible.

(C) **Location.** Accessible spaces serving a particular building shall be located on the shortest accessible route of travel between the parking and the accessible entrance. When there are multiple entrances to a building of similar prominence (e.g., shopping mall) with near-by parking, accessible spaces shall be dispersed and provided at each location. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.

(D) **Dimensions.** Accessible parking spaces shall be at least 96 inches wide.

(E) **Vertical clearance.** For van-accessible parking spaces, a 98-inch high clearance shall be maintained above the space, access aisle, and on the route to and from the van-accessible space.

(F) **Maximum slope.** Accessible spaces and adjoining access aisles shall have a maximum slope of 1:50 in all directions. When accessible spaces are provided in an existing parking lot, the spaces shall be located on the most level surface close to the accessible building entrance.

(G) **Signage.** Each accessible space shall be so designated with a sign identified by the international symbol of accessibility mounted on a vertical pole. In addition, van-accessible spaces shall be so designated with a sign indicating "Van Accessible." Such signs shall be located so they cannot be obscured by a vehicle parked in the space (at least 6 feet in height).

(H) **Pavement striping and markings.** The boundary of the access aisle must be marked and the end of which may be squared or a semicircle. Additional pavement markings denoting the space are optional.

(I) **Accessible route.** An accessible route must be provided from the accessible parking space to the accessible entrance of the building. It shall be at least 36 inches wide, without steps or curbs. It shall be paved and not contain any feature that would restrict, inhibit, or unreasonably impeded the movement of a physically disabled individual.

(J) **Access aisle.** An access aisle for an accessible space shall be the same length as the adjacent parking space it serves and be at least 60 inches wide for car access and 96 inches wide for van-accessibility. Two adjoining accessible parking spaces may share a common access aisle. An access aisle for a passenger loading zone shall be 60 inches wide and 20 feet long and adjacent and parallel to the space.

**Exhibit 11-1. Minimum number of required accessible parking spaces**

Number of required parking spaces	Minimum number of accessible spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1,001 and over	20; plus 1 for each 100 over 1,000

**Amendment(s):** Revised by Ordinance 2021-03

**§500.1004 through 500.1030 Reserved**

**ARTICLE 12**  
**NONCONFORMITIES**

**§500.1031 Legislative findings**

The Town Board makes the following legislative findings relating to nonconformities:

- (1) There may exist lots, structures, and uses in the Town of Eagle that were lawfully established but that do not now comply with one or more provisions of the district in which they are located.
- (2) It is reasonable to generally allow, but not encourage, legal nonconforming uses to continue until such time as they are removed or discontinued.
- (3) State law permits the reconstruction of legal nonconforming structures under certain circumstances.

**§500.1032 Official registry of legal nonconforming lots, structures, signs, and uses**

(A) **Content of registry.** The zoning administrator is authorized to develop and maintain a registry of (1) lots known by him or her to be considered nonconforming, (2) structures known by him or her to be considered nonconforming, (3) signs known by him or her to be considered nonconforming, and (4) land uses registered as a nonconforming use consistent with the requirements in Article 6.

(B) **Form of registry.** At the discretion of the zoning administrator, the registry may consist of either a written list or digital records.

(C) **Disclaimer.** Given the nature of the registry, the town does not warrant that such information is complete and/or accurate in all respects.

**§500.1033 Legal nonconforming lots**

(A) **Generally.** A legal nonconforming lot may be used for an allowable use, provided such use complies with all other development standards of the zoning district in which the lot is located.

(B) **Alteration of property boundary lines.** The location of a property boundary line of a legal nonconforming lot shall not be modified by any means, except as follows. When the new property boundary line location will make the legal nonconforming lot to be conforming or lessen the nonconformity any such change in a property boundary location may be approved upon application of the property owner to the town board, if the town board finds the change to be consistent with the intent of this chapter after first having received a recommendation of the plan commission. All requirements of the Town's land division regulations shall also be followed, which may be more restrictive. If the boundary change is made and the resulting lot still does not conform to the requirements of this chapter, the lot shall continue to be legal nonconforming.

**§500.1034 Legal nonconforming structures**

(A) **Generally.** A nonconforming structure may be used for any conforming use or a legal nonconforming use.

(B) **Enlargement.** A nonconforming structure that is used for a conforming use may be enlarged consistent with the requirements in Division 21 of Article 6, provided the expansion complies with all other requirements of this chapter.

(C) **Reconstruction following damage.** A nonconforming structure that is damaged by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation on or after March 2, 2006, may be restored to its condition (size, location, and use) prior to the damage, except the structure may be larger when necessary to comply with state or federal requirements.<sup>[1]</sup>

(D) **Unsafe conditions, ordinary maintenance, and remodeling.** Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, ordinary repair and maintenance, or remodeling provided that the work conforms to the provisions in this chapter.

**Editorial notes:**

[1] See s. 62.23(7)(hc), Wis. Stats.

**§500.1035 Legal nonconforming uses**

(A) **Generally.** A legal nonconforming use may continue to exist so long as it remains otherwise lawful, subject to the provisions in this section.

(B) **Conditional use.** Any conditional use approval granted pursuant to conditional use authority that has since been repealed and that was in effect, and the use was in operation on the date of such repeal, that is no longer an allowed use of the property, shall be allowed to continue as a conditional use subject to all conditions stated in the conditional use approval. Any such conditional use approval that requires compliance with a section of the town's zoning regulations that has since been repealed, shall continue to require compliance with the referenced code section as it existed immediately prior to such repeal and the repeal of such provision is stayed solely for such existing conditional use permit(s). These continuation provisions are intended to preserve the status quo for all rights and responsibilities incurred or accrued prior to the adoption of any ordinance that changes a conditional use to a prohibited use. Nothing herein shall be interpreted to prevent existing conditional use permit holders from applying to amend their conditional use pursuant to all laws in effect at the time of the application, or as set forth in the conditional use permit including those amendments requiring a public hearing.

(C) **Cessation of use.** If a legal nonconforming use ceases for any reason, whether intentional or otherwise, for more than 12 continuous months, or 36 cumulative months, such use shall not be reestablished.<sup>[1]</sup> A business of a seasonal nature shall not be deemed to be discontinued during periods in which it is normally inactive (e.g., marinas, summer camps). If the zoning administrator determines that a legal nonconforming use has ceased to operate for more than the aforementioned time period, he or she shall initiate the process established under Article 6 to terminate the nonconforming use. However, if a temporary structure houses a nonconforming use, such use shall terminate when the temporary structure is removed.

(D) **Change in extent.** Except as may be provided in this article or in state law, a legal nonconforming use shall not be enlarged, increased, or expanded and shall not occupy a greater area than what existed on the effective date of this chapter or any amendment thereto that created the nonconforming use.

(E) **Limitation on structural alterations.** Structural alterations to a structure housing a legal nonconforming use shall not exceed, on an accumulative percentage basis, 50 percent of the equalized assessed value of such structure.<sup>[2]</sup> For example, if a property owner makes structural alterations, the cost of which equals 40 percent of the current equalized assessed value of the structure, any additional structural alterations are limited to 10 percent of the equalized assessed value at the time of the work.

(F) **Damage to structure housing nonconforming use.** If a structure housing a legal nonconforming use is damaged beyond 50 percent of its present equalized assessed value, such nonconforming use shall not be reestablished.

(G) **Change of location.** A legal nonconforming use shall not be moved in whole or in part to any other portion of the lot or to another structure than what was occupied on the effective date of this chapter or any amendment thereto that created the nonconforming use.

(H) **Casual, occasional, accessory, or incidental use.** Casual, occasional, accessory, or incidental use after the primary nonconforming use has terminated, shall not be deemed to perpetuate a legal nonconforming use.<sup>[3]</sup>

(I) **Change of production.** A change in the method or quantity of production and the incorporation of new technology into a legal nonconforming use is permitted provided the original character of the use remains the same.<sup>[4]</sup>

(J) **Termination due to effects on public health, safety and welfare.** In the event the zoning administrator determines that a legal nonconforming use, regardless of its duration, is harmful to the public



health, safety, or welfare, he or she shall follow the procedure outlined in Article 6 relating to termination of a use.<sup>[5]</sup>

(K) **Unsafe conditions.** Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, provided that such work conforms to the provisions in this chapter.

(L) **Licensing.** The operator of a legal nonconforming use shall obtain such licenses as may be required by the state of Wisconsin, or its designated agent; Waukesha County; or the Town of Eagle, and maintain such licenses for the life of the use or until the entity no longer requires such license.

(M) **Other limitations.** If a property has a legal nonconforming use, no new land uses are allowed, including those that are otherwise permitted by right in the zoning district, except with the approval of the town board.

**Amendment(s):** Revised by Ordinance 2021-03

**Editorial notes:**

[1] Commentary: See s. 62.23(7)(h), Wis. Stats.

[2] Commentary: See s. 62.23(7)(h), Wis. Stats.

[3] Commentary: See Village of Menominee Falls v. Veirstahler, 183 Wis. 2d 96, 515 N.W.2d 290 (Ct. App. 1994)

[4] Commentary: See Racine County v. Cape, 2002 WI App 19, 250 Wis. 2d 44, 639 N.W.2d 782, 01-0740

[5] Commentary: See Town of Delafield v. Sharpley, 212 Wis. 2d 332, 568 N.W.2d 779 (Ct. App. 1997, 96-2458)

**§500.1036 Conversion of a legal nonconforming use**

(A) **Generally.** Subject to the requirements in Division 8 of Article 6, a legal nonconforming use may be converted to a different nonconforming use.

(B) **Effect of conversion approval.** Any nonconforming use that has been converted shall continue to be subject to all applicable provisions related to nonconforming uses and to the conversion order as approved by the town board.

**§500.1037 Reserved**

**Amendment(s):** Revised by Ordinance 2021-03

**§500.1038 through 500.1050 Reserved**

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## **ARTICLE 13 ENFORCEMENT**

### **§500.1051      Actions constituting a violation**

Each action that is not in full compliance with this chapter and/or with a condition or requirement of an approval issued pursuant to this chapter shall constitute a separate and distinct violation. Each day that a violation continues is considered a separate offense.

### **§500.1052      Other remedies**

The Town or any aggrieved person may seek an injunction, restraining order, or other equitable relief in court to stop any violation of this chapter and/or an order requiring the property owner to restore the property to the condition that existed prior to the violation. This remedy shall be in addition to, and not to exclusion or prejudice of any other penalty or remedy that may be available, and specifically it shall not be necessary to prosecute for a fine or imprisonment before resorting to these other remedies.

### **§500.1053      Continuation**

Nothing in this chapter shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to previous and valid ordinances and laws.

### **§500.1054      Release of contaminants in the wellhead protection overlay district**

An individual and/or facility that releases a contaminant in the wellhead protection overlay district is subject to the requirements in s. 500.925.

### **§500.1055      Penalties**

Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of, any of the provisions of this chapter, shall be subject to a forfeiture of not less than \$10.00 and not to exceed the sum of \$2,000.00 for each offense, together with the costs of the action, and in default of the payment thereof, shall be imprisoned in the county jail, for a period of not to exceed 6 months, or until such forfeiture and the subsequent costs have been paid.

### **§500.1056      Declared nuisances**

Any building erected, structurally altered, or placed on a lot, or any use carried on in violation of the provisions of this chapter, is declared to be a nuisance per se.

**Appendix A  
Land-Use Matrix**

		Type of Review	Base Zoning District												
			P-1	Q-1	C-1	UC	AP	RR	R-1	B-1	B-2	B-4	M-1	M-2	T-1
<b>1</b>	<b>Agriculture</b>														
1.01	Agriculture (35 acres or less)	-	-	-	P	-	P	-	-	-	-	-	-	-	-
1.02	Agriculture (more than 35 acres)	-	-	-	P	-	P	-	-	-	-	-	-	-	-
1.03	Agriculture related use	ZP	-	-	-	C	-	-	-	-	-	P	C	-	
1.04	Agriculture, crop [14]	-	-	P	-	P	P	P	-	-	P	P	P	-	
1.05	Agriculture, general	-	-	-	-	P	-	-	-	-	-	-	-	-	
1.06	Agriculture, intensive	SP,PO,ZP	-	-	-	C	-	-	-	-	-	-	-	-	
1.07	Greenhouse	SP,POZP	-	-	-	C	C	-	-	-	P	P	P	-	
<b>2</b>	<b>Agri-Tourism</b>														
2.01	Agro-ecology center	BP,SP,PO,ZP	-	-	-	-	C	-	-	-	-	-	-	-	
2.02	Bird hunting preserve	BP,SP,PO,ZP	-	C	C	-	C	-	-	-	-	-	-	-	
2.03	Farm education	BP,SP,PO,ZP	-	-	-	-	C	C	-	-	-	-	-	-	
2.04	Farm recreation	BP,SP,PO,ZP	-	-	-	-	C	C	-	-	-	-	-	-	
2.05	Farm restaurant	BP,SP,PO,ZP	-	-	-	-	C	C	-	-	-	-	-	-	
2.06	Farm store	BP,SP,PO,ZP	-	-	-	-	C	C	-	-	-	-	-	-	
2.07	Fee fishing	SP,PO,ZP	-	C	-	-	C	C	-	-	-	-	-	-	
2.08	Petting farm	BP,SP,PO,ZP	-	-	-	-	C	C	-	-	-	-	-	-	
2.09	U-Cut Christmas tree operation	SP,PO,ZP	-	-	-	-	C	C	-	-	-	-	-	-	
2.10	U-Pick operation	SP,PO,ZP	-	-	-	-	C	C	-	-	-	-	-	-	
<b>3</b>	<b>Resource-Based Uses</b>														
3.01	Dam [15]	SP,PO,ZP	C	-	-	-	-	-	-	-	-	-	-	-	
3.02	Forestry	-	P	P	P	P	P	P	P	P	P	P	P	P	
3.03	Nonmetallic mine [15]	SP,PO,ZP	-	C	-	-	C	-	-	-	-	-	-	-	
<b>4</b>	<b>Residential [4]</b>														
4.01	Mixed-use housing	BP,SP,ZP	-	-	-	-	-	-	-	C	P	-	-	-	
4.02	Multi-family, 2 units	ZP	-	-	-	-	-	C	C	-	-	-	-	-	
4.03	Multi-family, 3 to 5 units	ZP	-	-	-	-	-	-	C	-	-	-	-	-	
4.04	Single-family dwelling [15]	ZP[13]	-	-	-	P	P	P	P	-	-	-	-	-	
<b>5</b>	<b>Special Care Facilities</b>														
5.01	Adult family home	ZP[13]	-	-	-	P	P	P	P	-	-	-	-	-	
5.02	Community living arrangement, 8 or fewer residents [1]	ZP[13]	-	-	-	P	P	P	P	-	-	-	-	-	
5.03	Community living arrangement, 9–15 residents [1]	BP,SP,PO,ZP	-	-	-	-	-	-	P	-	-	-	-	-	
5.04	Foster home and treatment foster home [2]	ZP[13]	-	-	-	P	P	P	P	-	-	-	-	-	
5.05	Group day care center [3]	BP,SP,PO,ZP	P	-	-	-	-	-	-	C	C	P	C	-	
5.06	Hospice care center	BP,SP,ZP	P	-	-	-	-	-	-	C	C	P	C	-	
5.07	Nursing home	BP,SP,ZP	P	-	-	-	-	-	-	C	C	P	C	-	
5.08	Retirement home	BP,SP,ZP	P	-	-	-	-	-	-	C	C	P	C	-	
<b>6</b>	<b>Group Accommodations [5]</b>														
6.01	Campground	BP,SP,PO,ZP	P	-	-	-	-	-	-	-	-	-	-	-	
6.02	Group recreation camp	BP,SP,PO,ZP	P	-	-	-	-	-	-	-	-	-	-	-	
6.03	Overnight lodging	BP,SP,ZP	-	-	-	-	-	-	-	-	-	P	-	-	
<b>7</b>	<b>Food and Beverage Sales</b>														
7.01	Brewpub	BP,SP,PO,ZP	-	-	-	-	-	-	-	C	P	P	C	-	
7.02	Restaurant	BP,SP,PO,ZP	-	-	-	-	-	-	-	C	P	P	C	-	
7.03	Tavern	BP,SP,PO,ZP	-	-	-	-	-	-	-	C	P	P	C	-	
<b>8</b>	<b>Vehicle Rental, Sales, and Service</b>														
8.01	Vehicle fuel station	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	C	C	C	C	
8.02	Vehicle repair shop	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	C	P	P	P	
8.03	Vehicle sales and rental	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	-	P	P	-	

		Type of Review	Base Zoning District												
			P-1	Q-1	C-1	UC	AP	RR	R-1	B-1	B-2	B-4	M-1	M-2	T-1
8.04	Vehicle service shop	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	C	P	P	P	-
<b>9</b>	<b>General Sales</b>														
9.01	Convenience retail sales	BP,SP,PO,ZP	-	-	-	-	-	-	-	P	P	P	C	-	-
9.02	General retail sales	BP,SP,PO,ZP	-	-	-	-	-	-	-	P	P	P	C	-	-
9.03	General retail sales, large format	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	-	C	C	-	-
9.04	Outdoor sales	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	-	P	C	-	-
<b>10</b>	<b>General Services</b>														
10.01	Administrative services	BP,SP,PO,ZP	-	-	-	-	-	-	-	C	P	P	P	-	-
10.02	Adult-oriented establishment	BP,SP,PO,ZP	-	P	-	-	-	-	-	-	-	-	P	P	-
10.03	Body-piercing establishment	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	C	C	C	-	-
10.04	Commercial kennel	BP,SP,PO,ZP	-	-	-	-	C	-	-	-	-	-	-	-	-
10.05	Commercial stable	BP,SP,PO,ZP	-	-	-	-	C	C	-	-	-	-	-	-	-
10.06	Equipment rental	BP,SP,PO,ZP	-	-	-	-	-	-	-	C	P	P	P	-	-
10.07	Financial services	BP,SP,PO,ZP	-	-	-	-	-	-	-	P	P	P	P	-	-
10.08	Funeral home	BP,SP,PO,ZP	-	-	-	-	-	-	-	C	C	P	C	-	-
10.09	General repair	BP,SP,PO,ZP	-	-	-	-	-	-	-	P	P	P	P	-	-
10.10	General services	BP,SP,PO,ZP	-	-	-	-	-	-	-	C	P	P	P	-	-
10.11	Health care center	BP,SP,PO,ZP	P	-	-	-	-	-	-	-	-	P	C	-	-
10.12	Health care clinic	BP,SP,PO,ZP	-	-	-	-	-	-	-	C	P	P	C	-	-
10.13	Instructional services	BP,SP,PO,ZP	-	-	-	-	-	-	-	C	P	P	P	-	-
10.14	Landscape business	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	C	P	P	-	-
10.15	Professional services	BP,SP,PO,ZP	-	-	-	-	-	-	-	P	P	P	P	-	-
10.16	Tattoo establishment	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	C	C	C	-	-
10.17	Veterinary clinic	BP,SP,PO,ZP	-	-	-	-	C	-	-	C	C	P	P	P	-
<b>11</b>	<b>Recreation and Entertainment</b>														
11.01	Driving range	BP,SP,PO,ZP	C	C	-	-	-	-	-	-	C	C	C	-	-
11.02	Golf course	BP,SP,PO,ZP	C	-	-	-	-	-	-	-	C	C	C	-	-
11.03	Indoor entertainment	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	P	P	P	-	-
11.04	Indoor recreation	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	P	P	P	-	-
11.05	Outdoor entertainment	BP,SP,PO,ZP	C	-	-	-	-	-	-	-	-	-	-	-	-
11.06	Outdoor recreation	BP,SP,PO,ZP	C	-	-	-	-	-	-	-	-	-	-	-	-
11.07	Outdoor shooting range	BP,SP,PO,ZP	P	-	-	-	-	-	-	-	-	-	-	-	-
<b>12</b>	<b>Government and Community Services</b>														
12.01	Administrative government center	BP,SP,PO,ZP	P	-	-	-	C	-	-	C	P	P	C	-	-
12.02	Cemetery	BP,SP,PO,ZP	P	-	-	-	-	-	-	-	-	-	-	-	-
12.03	Civic use facility	BP,SP,PO,ZP	P	-	-	-	-	-	-	-	-	C	C	-	-
12.04	Community center	BP,SP,PO,ZP	P	-	-	-	C	-	-	C	P	P	P	-	-
12.05	Community cultural facility	BP,SP,PO,ZP	P	-	-	-	-	-	-	C	P	P	P	-	-
12.06	Educational facility, post-secondary	BP,SP,PO,ZP	P	-	-	-	-	-	-	-	C	C	C	-	-
12.07	Educational facility, pre-K through 12	BP,SP,PO,ZP	P	-	-	-	-	-	-	-	C	C	C	-	-
12.08	Maintenance garage	BP,SP,PO,ZP	P	-	-	-	-	-	-	-	-	C	P	-	-
12.09	Park	BP,SP,PO,ZP	P	-	-	-	-	-	-	-	-	-	-	-	-
12.10	Public safety facility	BP,SP,PO,ZP	P	-	-	-	-	-	-	-	P	P	P	C	-
12.11	Recreation trail	-	P	-	C	C	C	C	C	C	C	C	-	-	-
12.12	Worship facility	BP,SP,PO,ZP	P	-	-	-	C	C	-	C	C	P	P	-	-
<b>13</b>	<b>Telecommunications and Utilities [6]</b>														
13.01	Solar power plant	SP,PO,ZP	C	C	-	-	C	-	-	-	C	C	C	C	-
13.02	Stormwater management facility	-	P	P	C	C	C	P	P	P	P	P	P	P	-
13.03	Telecommunication collocation, class 1	ZP	WT	WT	WT	WT	WT	WT	WT	WT	WT	WT	WT	WT	WT
13.04	Telecommunication collocation, class 2	ZP	P	P	P	P	P	P	P	P	P	P	P	P	P
13.05	Telecommunication tower	ZP	WT	WT	WT	WT	WT	WT	WT	WT	WT	WT	WT	WT	WT
13.06	Utility installation, major	SP,PO,ZP	C	C	-	-	C	-	-	-	C	C	P	P	-
13.07	Utility installation, minor	ZP	P	P	C	C	P	P	P	P	P	P	P	P	-

			Base Zoning District													
			Type of Review	P-1	Q-1	C-1	UC	AP	RR	R-1	B-1	B-2	B-4	M-1	M-2	T-1
13.08	Utility maintenance yard	BP,SP,PO,ZP	P	C	-	-	-	-	-	-	-	-	C	P	P	-
<b>14 Transportation</b>																
14.01	Bus storage facility	BP,SP,PO,ZP	C	-	-	-	-	-	-	-	-	C	C	P	P	-
14.02	Park-and-ride lot	SP,PO,ZP	P	-	-	-	-	-	-	C	P	P	P	P	-	-
14.03	Railroad line	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
14.04	Street	-	P	P	P	P	P	P	P	P	P	P	P	P	P	-
<b>15 General Storage</b>																
15.01	Bulk fuel storage	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	-	C	P	P	-	-
15.02	Truck terminal	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	-	C	P	P	-	-
15.03	Warehouse	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	-	C	P	P	-	-
<b>16 Industrial and Manufacturing</b>																
16.01	Artisan shop	BP,SP,PO,ZP	-	-	-	-	-	-	-	P	P	P	P	C	-	-
16.02	Construction equipment repair	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	-	C	P	P	-	-
16.03	Construction equipment sales and service	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	-	C	P	P	-	-
16.04	Contractor yard	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	-	C	P	P	-	-
16.05	Industrial, heavy	SP,PO,ZP	-	-	-	-	-	-	-	-	-	-	-	C	-	-
16.06	Industrial, light	BP,SP,PO,ZP	-	-	-	-	-	-	-	-	-	C	P	P	-	-
<b>17 Solid Waste</b>																
17.01	Composting facility	BP,SP,PO,ZP	C	C	-	-	-	-	-	-	-	C	C	P	-	-
17.02	Recycling center	BP,SP,PO,ZP	C	-	-	-	-	-	-	-	-	-	C	P	-	-
17.03	Solid waste transfer station	BP,SP,PO,ZP	C	-	-	-	-	-	-	-	-	-	C	P	-	-
<b>18 Accessory Uses</b>																
18.01	Accessory building, non-residential [10]	ZP	P	-	-	-	-	-	-	P	P	P	P	P	-	-
18.02	Accessory building, residential [7]	ZP	-	-	-	P	P	P	P	-	-	-	-	-	-	-
18.03	Adult family home [7]	ZP	-	-	-	P	P	P	P	P	P	-	-	-	-	-
18.04	Amateur radio and/or citizens band antenna [7]	ZP	-	-	-	P	P	P	P	P	P	P	P	P	-	-
18.05	Backyard chickens	-	-	-	-	P	P	P	P	-	-	-	P	P	-	-
18.06	Bed and breakfast [7,13]	SP,PO,ZP	-	-	-	-	C	C	C	-	-	-	-	-	-	-
18.07	Bus parking	-	-	-	-	-	C	C	-	-	-	-	-	-	-	-
18.08	Commercial truck parking	SP	-	-	-	-	C	C	-	-	-	-	-	-	-	-
18.09	Exterior communication device	-	P	P	-	P	P	P	P	P	P	P	P	P	-	-
18.10	Family day care home [7,13]	ZP	-	-	-	P	P	P	P	P	P	-	-	-	-	-
18.11	Farm building for non-farm storage	BP,SP,PO,ZP	-	-	-	-	C	C	-	-	-	-	-	-	-	-
18.12	Farm residence	ZP	-	-	-	-	P	P	-	-	-	-	-	-	-	-
18.13	Fence	-	P	P	P	P	P	P	P	P	P	P	P	P	-	-
18.14	Foster home and treatment foster home [7]	ZP	-	-	-	P	P	P	P	P	P	-	-	-	-	-
18.15	Home occupation, Type 1 [7]	-	-	-	-	P	P	P	P	P	P	-	-	-	-	-
18.16	Home occupation, Type 2 [7]	SP,PO	-	-	-	C	C	C	C	C	C	-	-	-	-	-
18.17	Hot tub [7]	ZP	-	-	-	P	P	P	P	P	P	-	-	-	-	-
18.18	Household livestock [7,13]	ZP	-	-	-	P	P	P	P	-	-	-	-	-	-	-
18.19	In-law dwelling unit [7,13]	BP,SP,ZP	-	-	-	P	P	P	P	-	-	-	-	-	-	-
18.20	Kennel, hobby [7,13]	SP,PO,ZP	-	-	-	C	C	C	-	-	-	-	-	-	-	-
18.21	Kennel, private [7]	-	-	-	-	P	P	P	P	P	P	-	-	-	-	-
18.22	Light industrial use incidental to sales/service	SP,PO,ZP	-	-	-	-	-	-	-	-	C	P	P	-	-	-
18.23	Outdoor food and beverage service	SP,PO,ZP	-	-	-	-	-	-	-	C	C	P	C	-	-	-
18.24	Play structure [8]	-	-	-	-	P	P	P	P	P	P	P	P	-	-	-
18.25	Pond	ZP	TC	TC	TC	TC	TC	TC	TC	TC	TC	TC	TC	TC	-	-
18.26	Retaining wall, major	ZP	TC	TC	TC	TC	TC	TC	TC	TC	TC	TC	TC	TC	-	-
18.27	Retaining wall, minor	-	P	P	P	P	P	P	P	P	P	P	P	P	-	-
18.28	Rural accessory building [7]	-	P	-	-	-	-	P	P	-	-	-	-	-	-	-
18.29	Sales incidental to industrial use	SP,PO,ZP	-	-	-	-	-	-	-	-	-	P	P	C	-	-
18.30	Service window, drive-up	SP,PO,ZP	-	-	-	-	-	-	-	C	C	P	C	-	-	-

		Type of Review	Base Zoning District												
			P-1	Q-1	C-1	UC	AP	RR	R-1	B-1	B-2	B-4	M-1	M-2	T-1
18.31	Service window, walk-up	SP,PO,ZP	-	-	-	-	-	-	-	C	C	P	C	-	-
18.32	Solar energy system, building-mounted	ZP	P	P	-	P	P	P	P	P	P	P	P	P	-
18.33	Solar energy system, free-standing	SP	P	P	-	P	P	P	P	P	P	P	P	P	-
18.34	Storage container	SP	-	-	-	-	-	-	-	C	C	C	C	C	-
18.35	Swimming pool [7,13]	ZP	-	-	-	P	P	P	P	P	P	-	-	-	-
18.36	Utility cabinet	ZP	P	P	P	P	P	P	P	P	P	P	P	P	-
18.37	Work/live dwelling unit	SP	-	-	-	-	-	-	-	C	C	C	-	-	-
<b>19 Temporary Uses</b>															
19.01	Earth materials stockpile	SP,PO,ZP	P	P	-	-	C	-	-	-	-	C	C	C	-
19.02	Farmers market	SP,PO,ZP	P	-	-	-	C	-	-	-	C	C	C	-	-
19.03	Farmstand, off-site	ZP	-	-	-	-	C	-	-	P	P	P	P	P	-
19.04	Farmstand, on-site [13]	ZP	-	-	-	P	P	P	C	C	-	-	-	-	-
19.05	Livestock for vegetation management	ZP	P	P	P	P	P	P	P	P	P	P	P	P	P
19.06	Model home	ZP	-	-	-	P	-	P	P	-	-	-	-	-	-
19.07	Off-site construction yard	SP,PO,ZP	C	C	-	-	-	-	-	-	-	C	C	C	-
19.08	On-site construction office	SP,PO,ZP	-	-	-	-	-	P	P	P	P	P	P	P	-
19.09	On-site construction yard	SP,PO,ZP	-	-	-	-	-	P	P	P	P	P	P	P	-
19.10	Party tent	-	-	-	-	P	P	P	P	-	-	-	-	-	-
19.11	Portable storage container	-	P	-	-	P	P	P	P	P	P	P	P	P	-
19.12	Relocatable building	BP,SP,PO,ZP	C	-	-	-	-	-	-	C	C	C	-	-	-
19.13	Seasonal product sales	ZP	C	-	-	-	C	-	-	C	P	P	C	-	-
19.14	Special event	SP,PO	C	-	-	-	-	-	-	-	-	-	-	-	-
19.15	Wind test tower	ZP	P	P	P	P	P	P	P	P	P	P	P	P	-
19.16	Yard sale	-	P	-	-	P	P	P	P	P	P	P	-	-	-
<b>20 Other</b>															
20.01	Berm	ZP	P	P	-	P	P	P	P	P	P	P	P	P	P

**Zoning Districts:**

P-1 Public; Q-1 Quarry; C-1 Conservancy; UC Upland Conservancy; AP Agricultural Land Preservation; RR Rural Residential; R-1 Residential; B-1 Neighborhood Business; B-2 Local Business; B-4 Mixed Business; M-1 Limited Industrial; M-2 General Industrial; T-1 Railroad

**Key for Land Uses:**

"P" indicates that the use is permitted in the zoning district by right, provided that all other provisions of this chapter are met. These uses generally do not undergo public review, but are reviewed at the administrative level to ensure compliance.

"C" indicates that the use is permitted in the zoning district as a conditional use provided that all other provisions of this chapter are met.

"WT" indicates that the use is subject to the special review standards and procedures for wireless telecommunication facilities,

"TC" indicates that the use is subject to the special review procedures for a change in topography.

"-" indicates that the use is not permitted in the zoning district.

**Key for Type of Review:**

"ZP" indicates a zoning permit is required.

"BP" indicates a building plan is required.

"SP" indicates a site plan is required.

"PO" indicates a plan of operation is required.

When a use is allowed as a conditional use, the reviewing authority may require submission and approval of a building plan, site plan, and/or plan of operation.

**Notes:**

- See s. 500.537 for special provisions that may apply.
- See s. 500.538 for special provisions that may apply.
- A family day care home (4-8 children) is an accessory use and is therefore listed in Series 18 (Accessory Uses).
- Also see Series 18 for work/live dwelling units and in-law dwelling units which are accessory to a principal use.
- A bed and breakfast is an accessory use and is therefore listed in Series 18 (Accessory Uses).
- An amateur radio and/or citizen band antenna is an accessory use and is therefore listed in Series 18 (Accessory Uses).
- This use may only occur with a principal residential use.
- This use may only occur with a principal residential use or with a group day care center.
- Reserved
- In addition to the zoning districts listed, this use may occur with a governmental or institutional use (e.g., school or church) as a permitted use.
- A zoning permit is not required if the floor area of the building is 150 square feet or less.
- In addition to the zoning districts listed, this use may occur with a public park as a permitted use or with a governmental or institutional use (e.g., church, library or school) as a conditional use.
- When located in the UC district, this use is subject to the site plan procedures and requirements in article 6.
- When located in the C-1 district, this use may only occur on previously farmed land.
- When located in the AP district, this use must comply with s. 500.552(G)

**Note:** Planned unit development (PUD) districts are regulated in Article 6 of the zoning code.

**Amendment(s):** Ordinance 2018-05; Ordinance 2018-06; Ordinance 2018-18; Ordinance 2020-07; and Ordinance 2021-03; Ordinance 2023-01

## Appendix B. Land Use Summary

Series	Land Use
1	Agriculture

### 1.01 Agriculture (35 acres or less)

**Description:** A place where nursery stock, trees, sod, fruit, vegetables, flowers, agricultural crops and forage, and other plants are primarily grown for commercial purposes and/or livestock is raised primarily for commercial purposes. Buildings and other structures necessary for the operation are allowed. The term does not include commercial stables, household livestock, and backyard chickens.

**Vehicle Parking:** 1 space for each employee on the largest work shift

**Supplemental Standards:**

- (a) **Number of animals.** The number of animals shall not exceed one grazing animal for each full acre plus 10 fowl for each acre.
- (b) **Location of new buildings.** A building that houses domestic livestock, poultry, or horses shall not be located within a floodplain or closer than 50 feet to any existing dwelling unit or any lot line.
- (c) **Animals not allowed.** The keeping of hogs, intact male goats, roosters, or fur-bearing animals, other than rabbits, is prohibited.
- (d) **Fencing.** Any area where poultry, domestic livestock, or horses are allowed to pasture or run shall be adequately fenced to keep them confined to such area.

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### 1.02 Agriculture (more than 35 acres)

**Description:** A place where nursery stock, trees, sod, fruit, vegetables, flowers, agricultural crops and forage, and other plants are primarily grown for commercial purposes and/or livestock is raised primarily for commercial purposes. Buildings and other structures necessary for the operation are allowed. The term does not include commercial stables.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

- (a) **Number of animals.** The number of livestock shall not exceed 499.
- (b) **Location of new buildings.** A building that houses domestic livestock, poultry, or horses shall not be located within a floodplain or closer than 50 feet to any existing dwelling unit or any lot line.
- (c) **Fencing.** Any area where poultry, domestic livestock, or horses are allowed to pasture or run shall be adequately fenced to keep them confined to such area.

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### 1.03 Agriculture related use

**Description:** A place primarily involved in (1) providing agricultural supplies, agricultural equipment, agricultural inputs, or agricultural services; (2) storing, processing, or handling raw agricultural commodities; (3) slaughtering livestock; (4) marketing livestock; and/or (5) processing agricultural byproducts or wastes. Examples include (1) a grain warehouse, potato warehouse, or other warehouse that stores raw agricultural commodities received from farms; (2) a dairy plant that processes or handles milk from farms; (3) a meat slaughter establishment; (4) a food processing plant that processes raw agricultural commodities received from farms; (5) a feed mill or rendering plant that processes raw agricultural commodities or agricultural by-products received directly from farms, or supplies animal feed directly to farms; (6) a communal manure digester, pelletizing plant, or other facility that processes raw agricultural commodities, agricultural by-products or agricultural wastes (received directly from farms) to produce fuel or other products; (7) a sawmill or other facility that processes wood or other forest products received directly from farms; (8) a facility that provides farm inputs such as fertilizer, pesticides, seed, or feed directly to farms; and (9) a facility that is primarily engaged in providing agronomic or veterinary services to farms. The term also includes any other use that the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) has identified by rule as an agriculture related use. The term does not include a sawmill, an ethanol plant, or a bio-diesel plant.



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**Vehicle Parking:** 1 space for each employee on the largest work shift

**Supplemental Standards:**

- (a) **Generally.** Such use shall not be located in, or adjacent to, an existing or platted residential subdivision. If such use is established prior to March 28, 2017, the adjoining lands may be platted for residential subdivisions after that date.



### 1.03 Agriculture related use

**(b) Long-term use.** This use shall be located in an area that is anticipated to remain commercially viable for agricultural land uses over the long term.

**(c) Offsets.** All buildings, structures, and outdoor storage areas shall be located at least 100 feet from all side and rear lot lines.

**(d) Special provisions in AP district.** when located in the AP zoning district, an agriculture related use shall also comply with the requirements set forth in s. 500.226.

**(e) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

### 1.04 Agriculture, crop

**Description:** A place where nursery stock, trees, sod, fruit, vegetables, flowers, agricultural crops and forage, and other plants typically grown by agricultural operations in the region are grown.

**Vehicle Parking:** 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Use of setback and offsets.** The raising of crops may occur within setbacks and/or offsets.



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### 1.05 Agriculture, general

**Description:** A place where nursery stock, trees, sod, fruit, vegetables, flowers, agricultural crops and forage, and other plants are primarily grown for commercial purposes and/or animals, but not exceeding 500 animal units, are raised primarily for commercial purposes. Buildings and other structures necessary for the operation are allowed. The term does not include commercial stables.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Limitation on number of livestock.** The number of livestock shall not exceed 499.

### 1.06 Agriculture, intensive

**Description:** An agricultural operation where animals (500 animal units or more) are kept for commercial purposes and where agricultural crops and forage may be raised as well.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Legislative findings.** The town board makes the following legislative findings regarding livestock facilities:

(1) The state legislature adopted s. 93.90, Wis. Stats., (Livestock Facility Siting Law) to govern livestock facilities, which is implemented by administrative rule under ch. ATCP 51, Wis. Admin. Code.

(2) The Livestock Siting Law gives local jurisdictions the authority to review livestock facilities with 500 animal units or more as a conditional use.

**(b) Minimum lot area.** The facility shall only occur on a parcel of land that is 40 acres or larger. Once this use is established, the parcel shall not be made smaller through a lot line relocation or other means, except as may be approved by the Town Board as a special exception consistent with the procedures and requirements in article 6.

**(c) Road access.** The primary access to the facility shall be off of a road classified as a major road as depicted on the adopted zoning map.

**(d) Location of livestock structures, except livestock waste storage structures.** A livestock structure approved after March 28, 2017, except livestock waste storage structures, shall comply with the standards in the following table based on the number of animal units associated with the facility.



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General siting standards		
Facility Size	Minimum Distance to a Lot Line, Other Than a Public Road Right-of-Way	Minimum Distance to a Public Road Right-of-Way
Less than 1,000 animal units	100 feet	100 feet
1,000 animal units or more	200 feet	150 feet

## 1.06 Agriculture, intensive

**(e) Location of livestock waste storage structures.** A livestock waste storage structure approved after March 28, 2017, shall be located at least 350 feet from a property boundary. If any portion of an existing structure is closer than 350 feet from a lot line, such structure may be expanded, provided the expansion is not located any closer to the lot line than the existing structure. A single new livestock waste storage structure may be constructed closer than 350 feet if such structure (1) is located on the same tax parcel as a livestock waste storage structure in existence before May 1, 2006, (2) is not larger than the existing structure, (3) is no further than 50 feet from the existing structure, and (4) is no closer to the lot line than the existing structure. An existing structure that does not meet the setback standards in this part may be expanded provided such expansion is not located any closer to the lot line than the existing structure.

**(f) Wells.** All water wells located within a livestock facility shall comply with chs. NR 811 and 812, Wis. Admin. Code. New or substantially altered livestock structures shall be separated from existing wells by the distances required in chs. NR 811 and 812, Wis. Admin. Code, regardless of whether the livestock facility operator owns the land on 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.

(Note: The above-mentioned administrative rules include standards for water well construction and placement.)

**(g) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

## 1.07 Greenhouse

**Description:** A place where fruit, vegetables, flowers, and other types of plants are grown within an enclosed building for commercial purposes, whether using sunlight and/or artificial lighting.

Note: A greenhouse on a residential lot is considered an accessory building. See Series 18.

**Vehicle Parking:** 1 space for each employee on the largest work shift; plus parking for customers determined on a case-by-case basis

### Supplemental Standards:

**(a) Minimum lot area.** The minimum lot area for a greenhouse is 5 acres.

**(b) Construction.** A greenhouse shall have 50 percent or more of transparent surfaces.

**(c) Number.** A greenhouse that has an overall height of more than 9 feet counts as a building and is subject to the limitation on the number of accessory buildings allowed under the base zoning standards.

**(d) Floor area.** The floor area of all greenhouses shall not exceed 2.5 percent of the lot area, provided the floor area complies with the building coverage standards referenced in Section 500.558.

**(e) Retail sales.** Plants grown on site in a greenhouse may be sold on site at retail along with other related merchandise provided the sale of such merchandise is clearly subordinate to the sale of plants. The type of merchandise shall be enumerated in the Town's approval.

**(f) Use of artificial lighting.** If artificial lighting is used in the growing operation, the operator shall ensure such lighting does not cause a negative impact on surrounding properties.

**(g) Maintenance.** A greenhouse shall be kept in a good condition.

**(h) Storage.** A greenhouse may be used to store tools and equipment specifically related to the greenhouse operation. Other storage of any kind is strictly prohibited.

**(i) Periodic review.** If the greenhouse is covered with a non-durable material, such as plastic sheeting, the Town's approval shall expire 12 months after issuance of the approval. Prior to such expiration, the Town Board, upon recommendation of the Plan Commission, may grant an extension of a specified period, but not more than 3 years. In reviewing a renewal request, the Plan Commission and Town Board should consider the extent to which the greenhouse complies with the Town's approval and this part.

**(j) Not in a subdivision.** This use may not be located within a platted residential subdivision.

**(k) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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Amendment(s): Ordinance 2023-01

## 2 Agri-Tourism

### 2.01 Agro-ecology center

**Description:** A facility designed for the purpose of providing training in the techniques of agro-ecology, sustainable agricultural systems, and similar disciplines. An agro-ecology center generally conducts (theoretical and applied) research and community outreach while offering academic education, practical experience/training, and public service/instruction opportunities for audiences

### 2.01 Agro-ecology center

ranging from local school children to international agencies. Such a facility may provide meals and overnight lodging facilities for faculty, staff, and/or students/apprentices.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

- (a) **Minimum lot size.** The minimum lot size for an agro-ecology center is 40 acres.
- (b) **Limitation on guest rooms.** An agro-ecology center is limited to a maximum of 20 guest rooms.
- (c) **Limitations on other uses.** A property with an agro-ecology center shall not include any other type of overnight accommodation.
- (d) **Proximity.** A building housing guest rooms shall not be located closer than 150 feet to any perimeter boundary line and in no case located closer than 300 feet to an existing dwelling on an adjoining parcel of land.
- (e) **Parking areas.** Parking areas shall be located and configured so as to minimize potential conflicts with surrounding properties.
- (f) **Buildings.** Any building associated with an agro-ecology center shall not be located in a C-1 district.
- (g) **Special provisions in AP district.** When located in the AP zoning district, an agro-ecology center must also comply with the requirements set forth in s. 500.226.
- (h) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

### 2.02 Bird hunting preserve

**Description:** A place where game birds are released into the wild for commercial hunting purposes.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

- (a) **Minimum lot area.** The minimum lot area for bird hunting preserve is 60 acres. The acreage of adjoining parcels, which are part of a single farm entity as determined by the Town Board, may be combined for the purpose of meeting the minimum lot size requirements.
- (b) **Other approvals.** The operator shall obtain and maintain all approvals as may be required by the state of Wisconsin.
- (c) **Location of hunting areas.** Areas open to hunting shall be located and configured so as to minimize potential conflicts with surrounding properties
- (d) **Parking.** Parking areas shall be located and configured so as to minimize potential conflicts with surrounding properties.
- (e) **Buildings.** Any building associated with a bird hunting preserve shall not be located in a C-1 district.
- (f) **Special provisions in AP district.** When located in the AP zoning district, a bird-hunting preserve must also comply with the requirements set forth in s. 500.226.
- (g) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



### 2.03 Farm education

**Description:** Farm tours and how-to clinics or classes related to farming, farm life, or food (e.g., gardening, cooking, canning produce, jam-making, candle making, soap making, flower arranging, quilting).

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

- (a) **Validity of use.** Farm education must be operated as an ancillary use in conjunction with an active farm operation.
- (b) **Subordinate to other farm uses.** Any building that is constructed to house clinics or classes shall be clearly subordinate to the other farm buildings on the property
- (c) **Parking.** Parking areas shall be located and configured so as to minimize potential conflicts with surrounding properties.
- (d) **Group limitations.** For any parcel that is 10 acres or smaller, the maximum number of people coming to the property is 25 at any point in time. For any parcel larger than 10 acres, the maximum number of people coming to the property is 50 at any point in time, except the Town Board may allow a larger number, but not more than 100, as part of the conditional use review process.
- (e) **Frequency of events.** For any parcel that is 10 acres or smaller, the maximum number of events in a calendar week is 1. For any parcel larger than 10 acres, the maximum number of events in a calendar week is 2. For the purpose of this subsection, an event shall not exceed a 12-hour period of time.
- (f) **Special provisions in AP district.** When located in the AP zoning district, farm education must also comply with the requirements set forth in s. 505.226.
- (f) **Application fee.** This use is classified as a Type 1 conditional use in the fee schedule when the property is 10 acres or smaller.

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## 2.03 Farm education

This use is classified as a Type 2 conditional use in the fee schedule when the property is larger than 10 acres.

Amendment(s): Ordinance 2023-01

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## 2.04 Farm recreation

**Description:** One or more of the following or similar activities: sleigh/hay rides, corn maze, haunted house, ropes course, pumpkin cannons, zip lines, paint ball courses, and obstacle courses.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

**(a) Validity of use.** Farm recreation must be operated as an ancillary use in conjunction with an active farm operation.

**(b) Minimum lot area.** The minimum lot area for farm recreation is 20 acres when located in the AP zoning district and 35 acres when located in the RR zoning district. The acreage of adjoining parcels, which are part of a single farm entity as determined by the Town Board, may be combined for the purpose of meeting the minimum lot size requirements.

**(c) Activity areas.** Activity areas shall be located and configured so as to minimize potential conflicts with surrounding properties.

**(d) Parking.** Parking areas shall be located and configured so as to minimize potential conflicts with surrounding properties.

**(e) Hours of operation.** When allowed as a conditional use, the business may be only operated from 8:00 am to 30 minutes past sunset. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(f) Not in a subdivision.** This use may not be located within a platted residential subdivision.

**(g) Special provisions in AP district.** When located in the AP zoning district, farm recreation must also comply with the requirements set forth in s. 500.226.

**(h) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

Amendment(s): Ordinance 2023-01

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## 2.05 Farm restaurant

**Description:** A place where food and beverages are offered for retail sale primarily for on-site consumption, and where the on-site consumption of fermented malt beverages, wine, or liquor, if any, is clearly secondary and subordinate to the sale of food and nonalcoholic beverages. A farm restaurant may also prepare food as part of a catering business.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

**(a) Validity of use.** A farm restaurant must be operated as an ancillary use in conjunction with an active farm operation.

**(b) Minimum lot area.** The minimum lot area for a farm restaurant is 35 acres. The acreage of adjoining parcels, which are part of a single farm entity as determined by the Town Board, may be combined for the purpose of meeting the minimum lot size requirements.

**(c) Subordinate to other farm uses.** Any building that is constructed for a farm restaurant shall be clearly subordinate to the other farm buildings on the property.

**(d) Road access.** The property with a farm restaurant shall front on and have access to a major road as depicted on the adopted zoning map.

**(e) Parking areas.** Parking areas shall be located and configured so as to minimize potential conflicts with surrounding properties.

**(f) Hours of operation.** When allowed as a conditional use, the business may be only operated from 5:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(g) Special provisions in AP district.** When located in the AP zoning district, a farm restaurant must also comply with the requirements set forth in s. 500.226.

**(h) Seating capacity.** Seating capacity is limited to 24, except the Town Board may establish a larger number through the conditional use review process.

**(i) Licensing and other approvals.** Prior to establishing this use, the property owner shall obtain any licenses and other approvals as may be established by Waukesha County and the state of Wisconsin

**(j) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

Amendment(s): Ordinance 2023-01

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## 2.06 Farm store

**Description:** A retail outlet that features agricultural products and goods derived from the farm on which the farm store is located and other farms in the region. Non-agriculturally related products such as T-shirts, other clothing, and knick-knacks, may be offered so long as such products are clearly subordinate in number and scale to the featured agricultural products and goods.

**Vehicle Parking:** Determined on a case-by-case basis

### Supplemental Standards:

- (a) **Validity of use.** A farm store must be operated as an ancillary use in conjunction with an active farm operation.
- (b) **Minimum lot area.** The minimum lot area for a farm store is 20 acres. The acreage of adjoining parcels, which are part of a single farm entity as determined by the Town Board, may be combined for the purpose of meeting the minimum lot size requirements.
- (c) **Subordinate to other farm uses.** Any building that is constructed for a farm store shall be clearly subordinate to the other farm buildings on the property.
- (d) **Road access.** The property with a farm store shall front on and have access to a major road as depicted on the adopted zoning map.
- (e) **Parking areas.** Parking areas shall be located and configured so as to minimize potential conflicts with surrounding properties.
- (f) **Hours of operation.** When allowed as a conditional use, the business may be only operated from 8:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.
- (g) **Special provisions in AP district.** When located in the AP zoning district, a farm store must also comply with the requirements set forth in s. 500.226.
- (h) **Not in a subdivision.** This use may not be located within a platted residential subdivision.
- (i) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

Amendment(s): Ordinance 2023-01

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## 2.07 Fee fishing

**Description:** An operation that provides the opportunity for anglers to pay a fee for the right to fish on a farm.

**Vehicle Parking:** Determined on a case-by-case basis

### Supplemental Standards:

- (a) **Minimum lot area.** The minimum lot area for fee fishing is 10 acres.
- (b) **Licensing and other approvals.** Prior to establishing this use, the property owner shall obtain any licenses and other approvals as may be established by Waukesha County and the state of Wisconsin.
- (c) **Activity areas.** Activity areas shall be located and configured so as to minimize potential conflicts with surrounding properties.
- (d) **Parking areas.** Parking areas shall be located and configured so as to minimize potential conflicts with surrounding properties.
- (e) **Hours of operation.** When allowed as a conditional use, the business may be only operated from 30 minutes before sunrise to 30 minutes past sunset. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.
- (f) **Special provisions in AP district.** When located in the AP zoning district, fee fishing must also comply with the requirements set forth in s. 500.226.
- (g) **Not in a subdivision.** This use may not be located within a platted residential subdivision.
- (h) **Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

Amendment(s): Ordinance 2023-01



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## 2.08 Petting farm

**Description:** An operation where the public is invited to pet and touch farm animals, but not exotic animals.

**Vehicle Parking:** Determined on a case-by-case basis

### Supplemental Standards:

- (a) **Validity of use.** A petting farm must be operated as an ancillary use in conjunction with an active farm operation.
- (b) **Minimum lot size.** The minimum lot size for a petting farm is 10 acres.



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## 2.08 Petting farm

**(c) Limitation on guests.** The number of guests at any point in time shall not exceed 1 guest for each livestock allowed on the property, except the Town Board may allow a larger number as part of the conditional use review process, but not more than 5 per livestock.

**(d) Number of livestock.** The number of livestock shall not exceed the number otherwise allowed on the subject property.

**(e) Road access.** The property with a petting farm shall front on and have access to a major road as depicted on the adopted zoning map.

**(f) Location of buildings.** A building that houses animals shall be located at least 50 feet from any lot line.

**(g) Parking areas.** Parking areas shall be located and configured so as to minimize potential conflicts with surrounding properties.

**(h) Special provisions in AP district.** When located in the AP zoning district, a petting farm must also comply with the requirements set forth in s. 500.226.

**(i) Hours of operation.** The use may only operate from 9:00 am to 30 minutes past sunset. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(j) Not in a subdivision.** This use may not be located within a platted residential subdivision.

**(k) Licensing and other approvals.** Prior to establishing this use, the property owner shall obtain any licenses and other approvals as may be established by Waukesha County and the state of Wisconsin

**(l) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

Amendment(s): Ordinance 2023-01

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## 2.09 U-Cut Christmas tree operation

**Description:** A place where customers can harvest their own Christmas tree.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

**(a) Minimum lot size.** The minimum lot size for a U-cut Christmas tree operation is 10 acres.

**(b) Ancillary retail sales.** Aside from the sale of Christmas trees and wreaths, no other retail sales are allowed.

**(c) Parking areas.** Parking areas shall be located and configured so as to minimize potential conflicts with surrounding properties.

**(d) Special provisions in AP district.** When located in the AP zoning district, a U-cut Christmas tree operation must also comply with the requirements set forth in s. 500.226.

**(e) Hours of operation.** The use may only operate from 9:00 am to 30 minutes past sunset.

**(f) Not in a subdivision.** This use may not be located within a platted residential subdivision.

**(g) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

Amendment(s): Ordinance 2023-01

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## 2.10 U-Pick operation

**Description:** A farm operation where customers can pick or harvest fruits and vegetables directly from the plants grown on the premises.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

**(a) Minimum lot area.** The minimum lot area for a u-pick operation is 10 acres.

**(b) Ancillary retail sales.** Aside from the sale of products grown on site, no other retail sales are allowed.

**(c) Parking areas.** Parking areas shall be located and configured so as to minimize potential conflicts with surrounding properties.

**(d) Special provisions in AP district.** When located in the AP zoning district, a U-pick operation must also comply with the requirements set forth in s. 500.226.

**(e) Hours of operation.** The use may only operate from 9:00 am to 30 minutes past sunset. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(f) Not in a subdivision.** This use may not be located within a platted residential subdivision.

**(g) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.



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## 2.10 U-Pick operation

Amendment(s): Ordinance 2023-01

### 3 Resource-based Uses

#### 3.01 Dam

**Description:** An artificial barrier in or across a navigable watercourse which has the primary purpose of impounding or diverting water. A dam includes all appurtenant works, such as a dike, canal, or powerhouse.

**Vehicle Parking:** 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) State and federal compliance.** A dam shall comply with all state and federal rules and regulations.

**(b) Removal.** A dam may be removed, provided the standards and requirements of ch. 31, Wis. Stats., are met.

**(c) Safety.** The owner of the dam shall comply with the safety measures required in s. NR 33.07(3), Wis. Admin. Code.

**(d) Unsafe conditions.** If it is determined that a dam is unsafe or otherwise defective, the administrator shall follow the procedure outlined in article 6 relating to unsafe conditions.

**(e) Termination of use.** If the zoning administrator determines that a dam has not been operational for a continuous period of 12 months, the administrator shall follow the procedure outlined in article 6 relating to the termination of an approval.

**(f) Special provisions in AP district.** when located in the AP zoning district, a dam shall also comply with the requirements set forth in s. 500.226.

**(g) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

Amendment(s): Ordinance 2023-01

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#### 3.02 Forestry

**Description:** The harvesting, thinning, and planting of trees and related forest management activities whether for commercial or noncommercial purposes. The term includes temporary skidding yards necessary to store and sort logs harvested on the premises. The term does not include on-site processing and permanent skidding yards.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Generally.** Forest management operations shall be consistent with generally accepted

forestry management practices as described in the most recent version of "Wisconsin Forest Management Guidelines," published by the Wisconsin Department of Natural Resources and identified as publication number PUB-FR-226.

**(b) Removal of a tree or shrub within a defined open space area in a development project.** Trees and shrubs within an area set aside as open space as part of a development project shall not be removed except as follows:

(1) A dead or dying tree or shrub may be removed when it poses a threat to public health and safety.

(2) The removal of trees and shrubs is done consistent with a landscape management plan as prepared by a registered landscape architect, an arborist, a conservation ecologist, or a forester and as approved by the zoning administrator.

(3) Vegetation listed by the Wisconsin Department of Natural Resources as an invasive species under ch. NR 40, Wis. Admin. Code may be removed without prior approval.

**(c) Removal of a tree or shrub within the UC, C-1, AP/UC, and AP/C-1 district.** Trees and shrubs within the UC, C-1, AP/UC, and AP/C-1 district shall not be removed except as follows:

(1) A dead or dying tree or shrub may be removed when it poses a threat to public health and safety.

(2) The removal of trees and shrubs covering one acre or more is done consistent with a landscape management plan as prepared by a conservation ecologist or a state forester and as approved by the zoning administrator.

(3) Vegetation listed by the Wisconsin Department of Natural Resources as an invasive species under ch. NR 40, Wis. Admin. Code may be removed without prior approval, except that such work covering more than two acres is done consistent with a landscape management plan as prepared by a conservation ecologist or a state forester and as approved by the zoning administrator.



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### 3.03 Nonmetallic mine

**Description:** A place where nonmetallic minerals are removed from the ground by any method for use on-site or off-site. The following activities may be associated with a nonmetallic mine: excavating and transporting nonmetallic minerals, stockpiling of nonmetallic minerals, blending of nonmetallic minerals, blasting, grading, crushing, screening, scalping, and dewatering.

**Vehicle Parking:** 1 space for each employee on the largest work shift



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**Supplemental Standards:**

**(a) Exemptions.** The following activities shall not be considered a nonmetallic mine:

- (1) operations affecting less than 5 acres and for the exclusive on-site use of the property owner;
- (2) premining activities, such as site surveying, coring, mapping and other functions necessary solely for proper preparation of the permit application;
- (3) excavation in conjunction with a utility installation, which is to be backfilled;
- (4) excavation within the limits of a public right-of-way in conjunction with road construction or reconstruction, when construction plans have been approved by the Wisconsin Department of Transportation or other governmental authority;
- (5) excavation which by nature is of limited duration, such as graves, septic tanks, and swimming pools;
- (6) agricultural drainage work incidental to agricultural operations and irrigation/stock watering ponds, if no material is removed from the property;
- (7) excavation for structures and parking areas;
- (8) stripping of up to 1.5 feet of topsoil for the development of subdivisions, following subdivision approval;
- (9) regrading of property for aesthetic purposes that does not affect existing drainage, if no material is removed from the property;
- (10) dredging operations under the jurisdiction of the U.S. Army Corps of Engineers or other governmental authority;
- (11) ponds developed for wildlife purposes in conjunction with the Natural Resources Conservation Service or the Waukesha County Land and Water Conservation Department;
- (12) excavation related to sod farming;
- (13) any mining operation, the reclamation of which is required in a permit obtained under ss. 144.80—144.94, Wis. Stats., pertaining to metallic mining; activities conducted at a solid or hazardous waste disposal site required to prepare, operate, or close a solid waste disposal facility under ss. 144.435—144.445, Wis. Stats., or a hazardous waste disposal facility under ss. 144.60—144.74, Wis. Stats., for the exception of mineral extraction operations conducted for the purpose of lining, capping, or covering such disposal site; and
- (14) any other use determined to be exempt by the Town Board.

**(b) Air quality.** The operator of a nonmetallic mine shall comply with ch. NR 415, Wis. Admin. Code, with regard to particulate emissions.

**(c) Blasting.** The operator of a nonmetallic mine shall comply with ch. Comm 7, Wis. Admin. Code, when explosives are used for blasting.

**(d) Reclamation.** The operator of a nonmetallic mine shall comply with chapter 20 of the general code of Waukesha County (Non-metallic mining reclamation).

**(e) Minimization of noise, dust, and vibrations.** Roads, machinery, and equipment shall be located, constructed, and used in such a manner as to minimize noise, dust, and vibrations.

**(f) Hours of operation.** A nonmetallic mine shall not be operated on Sunday and may be operated Monday through Saturday during the standard hours of operation specified in the table below based on the proximity of the site to a residence or commercial establishment open to the public. Upon written request, the Town Board may authorize specific activities past the standard hours of operation but no later than the hour specified in the table below for limited or temporary periods taking into account the proximity and nature of adjoining uses and the extent of noise, dust, and vibration associated with the activity. Such approval shall be in writing and shall specify the time period the extended hours of operation are in effect, the activities that are permitted, and conditions, if any, the board may impose to address off-site effects.

Permissible hours of operation for a nonmetallic mine

Proximity of Site to Specified Uses	Day	Standard Hours of Operation	Extended Hours of Operation With Approval of Town Board
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### 3.03 Nonmetallic mine

Lot line of the site is located within 500 feet of a residence or commercial establishment open to the public	Monday through Friday	From 6:00 am to 6:00 pm	From 6:00 pm to 10:00 pm
	Saturday	From 6:00 am to 2:00 pm	From 2:00 pm to 7:00 pm
Lot line of the site is not located within 500 feet of a residence or commercial establishment open to the public	Monday through Friday	From 6:00 am to 6:00 pm	From 6:00 pm to 10:00 pm
	Saturday	From 6:00 am to 6:00 pm	From 6:00 pm to 10:00 pm

**(g) Locational requirements.** A nonmetallic mine shall comply with the following distance requirements:

- (1) 1,000 feet minimum from any dwelling
- (2) 500 feet minimum from a residential zoning district
- (3) 200 feet minimum from all other zoning districts
- (4) 100 feet minimum from all access roads, parking, and office buildings
- (5) 200 feet from all property boundary lines
- (6) 50 feet minimum from all on-site access roads, parking areas, and office buildings

**(h) Plan of operation.** A nonmetallic mine, including those that existed before March 28, 2018, shall prepare a plan of operation for the site that includes the following:

- (1) A statement of ownership of the parcel and control of the operations.
- (2) A site plan, drawn to scale, showing the lateral extent of existing and proposed excavations; the location and width of all easements and right of way on or abutting the site; existing water bodies, water courses and drainageways and proposed modifications; estimated direction of flow or groundwater; the location of existing and proposed buildings, structures, machinery and equipment; and the location of all existing and proposed storage and stockpiling areas.
- (3) Cross sections of the site, drawn to scale, that show the vertical extent of existing and proposed excavations.

**(i) Term of permit.** A permit shall be issued for a term of 6 years, renewable for terms of 6 years. Any activity conducted in compliance with a lawfully issued permit which subsequently becomes noncompliant during the term of the permit by reason of surrounding development may continue for the remainder of the term of the permit.

**(j) Transfer of permit.** When an operator succeeds to the interest of another in an uncompleted site, the town board shall release the present operator of the responsibilities imposed by the permit only if:

- (1) both operators are in compliance with the requirements and standards of this part, and
- (2) the new operator assumes the responsibility of the former operator's permit requirements.

**(k) Financial guarantee.** Prior to the establishment of a nonmetallic mine, the property owner shall submit a financial guarantee to the town pursuant to the requirements in article 5 of this chapter in an amount equal to 110 percent of the estimated cost of site restoration identified in the restoration plan that is approved for the project.

**(l) Special provisions in AP district.** When located in the AP zoning district, a non-metallic mine shall also comply with the requirements set forth in s. 500.226.

**(m) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

## 4 Residential

### 4.01 Mixed-use housing

**Description:** One or more dwelling units located in a building, commonly on the second floor, that also houses a commercial land use, such as retail use or a professional office.

**Vehicle Parking:** 2 spaces for each residential unit

**Supplemental Standards:**

**(a) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

### 4.02 Multi-family with 2 units

**Description:** A building containing two dwelling units that is situated on one lot.

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## 4.02 Multi-family with 2 units

**Vehicle Parking:** 2 spaces for each residential unit

**Supplemental Standards:**

(a) **Density.** The density of dwelling units shall comply with the density standards for the zoning district in which this use is located, except that any land designated as UC or C-1 shall not be counted in the calculation.

(b) **Design and construction.** A multi-family with 2 units shall comply with the design and construction standards for a single-family residence set forth in this appendix.

(c) **Not in subdivision.** This use may not be located within a platted residential subdivision.

(d) **Additional offset.** The minimum offset is twice the offset requirement for the zoning district in which this use is located.

(e) **Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.



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## 4.03 Multi-family with 3 to 5 units

**Description:** A building containing three, four, or five dwelling units that is situated on one lot.

**Vehicle Parking:** 2 spaces for each residential unit

**Supplemental Standards:**

(a) **Density.** The density of dwelling units shall comply with the density standards for the zoning district in which this use is located, except that any land designated as UC or C-1 shall not be counted in the calculation.

(b) **Design and construction.** A multi-family with 3 to 5 units shall comply with the design and construction standards for a single-family residence set forth in this appendix.

(c) **Not in subdivision.** This use may not be located within a platted residential subdivision.

(d) **Additional offset.** The minimum offset is twice the offset requirement for the zoning district in which this use is located.

(e) **Indoor parking required.** This use shall provide for 2 indoor parking spaces for each dwelling unit.

(f) **Two-lane road.** The developer shall provide a two-lane road, built to town road standards, from the public road to the multi-family building.

(g) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 4.04 Single-family dwelling

**Description:** A building containing one dwelling unit that is situated on one lot and is not attached to any other dwelling unit by any means. The term includes manufactured homes, modular homes, panelized homes, pre-cut homes, and site-built homes, but excludes mobile homes.

**Vehicle Parking:** 2 spaces

**Supplemental Standards:**

(a) **Number of principal dwellings per parcel.** No more than one principal residential building shall occupy any single parcel of land.

(b) **Occupancy.** A dwelling unit shall be occupied by no more than one family.

(c) **Design and construction.** A single-family dwelling shall meet the following standards:

- (1) The roof shall have a minimum pitch of 4 to 12, except when a flat roof is integral to the architectural style of the dwelling.
- (2) Suitable roof coverings include slate, concrete, clay, or ceramic tiles; wood shingles or shakes; or metal, fiberglass, or asphalt shingles; or standing seam panels.
- (3) Exterior wall surfaces shall be covered with stucco, wood siding, cement-fiber siding, vinyl siding, metal horizontal lap siding, wood shingles, or a masonry veneer.
- (4) An overhang shall extend at least 12 inches beyond the face of the exterior wall, except when integral to the architectural style of the dwelling (e.g., saltbox).
- (5) The building shall be set on and anchored to a continuous permanent foundation that extends around its perimeter.

Consistent with the requirements in article 6 of this chapter, the Town Board may approve a special exception authorizing the use of an exterior material not specifically allowed in this part.

(d) **Garage required.** A two-car garage containing at least 400 square feet shall be built at the same time the single-family dwelling is being constructed. Such garage may be attached or detached.



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### 5.01 Adult family home

**Description:** A place licensed by the state under s. 50.033(1m), Wis. Stats.

Commentary: An adult family home can either be a principal use or an accessory use. If the operator does not live in the residence with the adults, it is considered a principal use. If the operator lives with the residents, it is an accessory use (Series 18).

**Vehicle Parking:** 1 space for each 2 adults the facility is licensed by the state to accommodate; plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

(a) An adult family home described in s. 50.01(l)(b), Wis. Stats., shall not be established within 2,500 feet of another such facility or any community living arrangement. An agent of a proposed adult family home may apply for an exception to this requirement, and the town board at its discretion may grant the exception. <sup>[1]</sup> An adult family home certified under s. 50.032(1m)(b), Wis. Stats., is exempt from this provision. <sup>[2]</sup>

(b) **Special provisions in AP district.** when located in the AP zoning district, an adult family home with more than 8 residents must also comply with the requirements set forth in s. 60.63(5), Wis. Stats.

[1] See s. 56.69(15)(br)(1), Wis. Stats.

[2] See s. 56.69(15)(br)(1), Wis. Stats.

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### 5.02 Community living arrangement, 8 or fewer residents

**Description:** Any one of the following facilities with 8 or fewer residents (1) residential care centers for children and youth, as defined in s. 48.02(15d), Wis. Stats., operated by a child welfare agency licensed under s. 48.60, Wis. Stats.; (2) group homes for children, as defined in s. 48.02(7), Wis. Stats.; and (3) community-based residential facilities, as defined in s. 50.01(lg), Wis. Stats. The term does not include adult family homes, as defined in s. 50.01, Wis. Stats.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

(a) **Proximity to another.** A community living arrangement shall not be established within 2,500 feet of another such facility. An agent of a facility may apply for an exception to this requirement, and the town board at its discretion may grant the exception. Two community living arrangements may be adjacent if allowed by the town board and if both facilities comprise essential components of a single program. A foster home and a foster treatment home that is the primary domicile of a foster parent or foster treatment parent and that is licensed under s. 48.62, Wis. Stats., are exempt from this provision.

(b) **Special provisions for the AP district.** When located in the AP zoning district, a community living arrangement with more than 8 residents must also comply with the requirements set forth in s. 60.63(5), Wis. Stats.

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### 5.03 Community living arrangement, 9-15 residents

**Description:** Any one of the following facilities with 9 to 15 residents (1) residential care centers for children and youth, as defined in s. 48.02(15d), Wis. Stats., operated by a child welfare agency licensed under s. 48.60, Wis. Stats.; (2) group homes for children, as defined in s. 48.02(7), Wis. Stats.; and (3) community-based residential facilities, as defined in s. 50.01(lg), Wis. Stats. The term does not include adult family homes, as defined in s. 50.01, Wis. Stats.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

(a) **Proximity to another.** A community living arrangement shall not be established within 2,500 feet of another such facility. An agent of a facility may apply for an exception to this requirement, and the town board at its discretion may grant the exception. Two community living arrangements may be adjacent if allowed by the town board and if both facilities comprise essential components of a single program. A foster home and a foster treatment home that is the primary domicile of a foster parent or foster treatment parent and that is licensed under s. 48.62, Wis. Stats., are exempt from this provision.

(b) **Special provisions for the AP district.** When located in the AP zoning district, a community living arrangement with more than 8 residents must also comply with the requirements set forth in s. 60.63(5), Wis. Stats.

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## 5.04 Foster home / treatment foster home

**Description:** A place licensed by the state for the care of foster children and which is operated by a corporation, child welfare agency, church, or other such entity.

Commentary: See s. 48.62, Wis. Stats. A foster home and treatment foster home can either be a principal use or an accessory use. If the operator lives in the residence with the children, it is considered an accessory use which is included in Series 18.

**Vehicle Parking:** 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Proximity to other such facility.** A foster home or treatment foster home that is operated by a corporation, a child welfare agency, a religious association, as defined in s. 157.061(15), Wis. Stats., an association, or a public agency, shall not be established within 2,500 feet of another such facility. An agent may apply for an exception to this requirement, and the Town Board at its discretion may grant the exception.

**(b) State license.** Prior to the establishment of a foster home or treatment foster home, the operator shall obtain a license from the state as provided for in s. 48.75 Wis. Stats., and maintain such license for the life of the use or until the state no longer requires such license.

**(c) Special provisions in AP district.** when located in the AP zoning district, a foster home must also comply with the requirements set forth in s. 91.46(5), Wis. Stats., or s. 60.63(5), Wis. Stats., if owned by a corporation and have more than 8 residents.

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## 5.05 Group day care center

**Description:** A place licensed as a day care by the state where care is provided for 9 or more children. This use may include outdoor play areas, playhouses, and related recreational equipment, such as swings, slides, basketball hoops, and jungle gyms.

Commentary: A family day care home (4-8 children) is considered an accessory use and is therefore listed in the 18 Series.

**Vehicle Parking:** 1 space for each 2 children the facility is licensed by the state to accommodate; plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Outdoor activity area.** An outdoor activity area associated with a group day care center shall not be located within 20 feet of an adjoining property in a residential zoning district.

**(b) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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## 5.06 Hospice care center

**Description:** A place licensed by the state that provides palliative and supportive care and a place of residence to individuals with terminal illness and provides or arranges for short-term inpatient care as needed.

**Vehicle Parking:** 1 space for each 2 residents at capacity; plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) License.** Prior to the establishment of a hospice care center, the operator shall obtain a license from the state as provided for in s. 50.92 Wis. Stats., and maintain such license for the life of the use or until the state no longer requires such license.

**(b) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 5.07 Nursing home

**Description:** A place where 5 or more persons who are not related to the operator or administrator reside, receive care or treatment and, because of their mental or physical condition, require 24-hour nursing services, including limited nursing care, intermediate level nursing care, and skilled nursing services. The term does not include (1) a convent or facility owned or operated exclusively by and for members of a religious order that provides reception and care or treatment of an individual, (2) a hospice as defined in state law, or (3) a residential care apartment complex as defined in state law.

**Vehicle Parking:** 1 space for each 3 beds; plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Required green space.** If a nursing home is not located in business zoning district, a minimum of 30 percent of the parcel shall remain undeveloped (i.e., landscaped).

**(b) Parking lot screening.** When an off-street parking lot is located within 20 feet of a parcel in a residential zoning district landscaping, fencing, a berm, or any combination thereof shall be used to effectively screen the parking area from the residential

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## 5.07 Nursing home

property.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 5.08 Retirement home

**Description:** A place where individuals, generally 62 years of age or older, may occupy independent dwelling units. The units may be rented or owned as in a condominium. This use may include limited on-site commercial and medical facilities for the exclusive use of residents.

**Vehicle Parking:** 1 space for each unit; plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Required green space.** If a nursing home is not located in business zoning district, a minimum of 30 percent of the parcel shall remain undeveloped (i.e., landscaped).

**(b) Parking lot screening.** When an off-street parking lot is located within 20 feet of a parcel in a residential zoning district landscaping, fencing, a berm, or any combination thereof shall be used to effectively screen the parking area from the residential property.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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# 6 Group Accommodations

## 6.01 Campground

**Description:** A place where members of the general public may set up tents, campers and trailers of all types, and recreational vehicles for camping and sleeping purposes. Accessory uses may include individual cabins, a dwelling unit for the manager of the campground, and one or more buildings to house a laundromat and retail sales for the convenience of campground guests, an office, maintenance equipment, supplies, and related materials.

**Vehicle Parking:** 1 space at each camping space; plus 1 space at the office, if one is provided, for each 15 camping spaces

**Supplemental Standards:**

**(a) Minimum lot size.** The minimum lot size for a campground is 20 acres.

**(b) Continuing maintenance.** The owner of the campground shall maintain the campground in a clean and sanitary manner.

**(c) Accessory facilities.** Accessory facilities (e.g., laundry and food sales) may be allowed as a service to the occupants of the campground but shall be designed, operated, and located to inhibit use by nonoccupants.

**(d) Density.** The density shall not exceed 2.5 campground spaces per acre (gross).

**(e) Access.** Campground spaces shall be arranged to permit the safe and practical placement and removal of vehicles from a private roadway internal to the development.

**(f) Setbacks from lot line.** A campground space shall be no closer than 40 feet to the perimeter lot line of the site.

**(g) Solid waste collection.** An off-street area for the collection of solid waste (trash) shall be provided within a campground.

**(h) Sanitation.** Onsite wastewater treatment facilities must be shown on the approved site plan and must be located to minimize the impact to surrounding properties.

**(i) Limitation on addition of features.** Storage sheds, decks, patios, and similar structures, whether permanent or temporary, shall not be permitted within a camping space. Structural additions to a recreational vehicle, whether permanent or temporary, shall not be permitted.

**(j) Emergency shelter.** A campground with 8 or more camping spaces shall provide an on-site emergency shelter of sufficient size and construction for campers during a severe weather event.

**(k) State license.** Prior to the establishment of a campground, the operator shall obtain a license from the Wisconsin Department of Health and Family Services as required by state law and maintain such license for the life of the use or until the state no longer requires such license.



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Amendment(s): Ordinance 2023-01

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## 6.02 Group recreation camp

**Description:** A place where members of an association or other similar group, which operates the premises, and their invited guests may set up tents, campers and trailers of all types, and recreational vehicles for camping and sleeping purposes or stay overnight in

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## 6.02 Group recreation camp

a lodge, cabin, or other similar accommodation. Accessory uses may include a dwelling unit for the manager of the camp, sleeping accommodations for resident staff, and one or more buildings to house guest services, administrative offices, recreational facilities, maintenance equipment, supplies, and related materials. The term includes youth camps and church camps.

**Vehicle Parking:** 1 space at each camping space; plus 1 space at the office, if one is provided, for each 15 camping spaces

### Supplemental Standards:

(a) **Minimum lot size.** The minimum lot size for a group recreation camp is 20 acres.

(b) **Continuing maintenance.** The owner of the group recreation camp shall maintain the group camp in a clean and sanitary manner.

(c) **Accessory facilities.** Accessory facilities (e.g., laundry and food sales) may be allowed as a service to the occupants of the group recreation camp but they shall be designed, operated, and located to inhibit use by nonoccupants.

(d) **Density.** If campground spaces are provided, the density shall not exceed 2.5 campground spaces per acre (gross).

(e) **Access.** If campground spaces are provided, they shall be arranged to permit the safe and practical placement and removal of vehicles from a private roadway internal to the development.

(f) **Setbacks from lot line.** If campground spaces are provided, they shall be no closer than 40 feet to the perimeter lot line of the site.

(g) **Solid waste collection.** An off-street area for the collection of solid waste (trash) shall be provided within a group recreation camp.

(h) **Sanitation.** Onsite wastewater treatment facilities must be shown on the approved site plan and must be located to minimize the impact to surrounding properties.

(i) **Limitation on addition of features.** Storage sheds, decks, patios, and similar structures, whether permanent or temporary, shall not be permitted within a camping space. Structural additions to a recreational vehicle, whether permanent or temporary, shall not be permitted. Tent platforms are permitted.

(j) **State license.** Prior to the establishment of a group recreation camp, the operator shall obtain a license from the Wisconsin Department of Health and Family Services as required by state law and maintain such license for the life of the use or until the state no longer requires such license.

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## 6.03 Overnight lodging

**Description:** A place where individual guest rooms with private bathrooms are offered to transient guests for rent. This use may also include (1) recreational/fitness rooms and a food service area for the exclusive use of guests and (2) banquet facilities for meetings and other gatherings. The term includes hotels and motels but does not include bed and breakfasts.

**Vehicle Parking:** 1.5 space for each guest room; plus 1 space for each employee on the largest work shift

### Supplemental Standards:

(a) **Local license.** Prior to the establishment of overnight lodging, the operator shall obtain a license from the Waukesha County Health Department and maintain such license for the life of the use or until the department no longer requires such license.

(b) **Location of customer entrance.** No customer entrance to the building shall be located within 75 feet of a parcel in a residential zoning district.

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# 7 Food and Beverage Sales

## 7.01 Brewpub

**Description:** A place where fermented malt beverages are manufactured and those beverages, along with other beverages and food, are offered for retail sale and on-site consumption.

**Vehicle Parking:** 1 space for each 3 patron seats or 1 space for each 300 square feet of gross floor area devoted to patron service, whichever is greater, plus 1 for each employee on largest work shift

### Supplemental Standards:

(a) **Lot requirements.** The minimum lot area shall be one acre with at least 150 feet in minimum average width.

(b) **Special dimensional standards.** The building housing this principal use shall be no closer than 50 feet to an agricultural or residential zoning district.

(c) **On-site parking.** On-site parking shall be provided within 200 feet of the building housing this principal use. No portion of the parking area shall be located closer than 20 feet to a parcel in any agricultural or residential zoning district.

(d) **Local license.** Prior to the establishment of a brewpub, the operator shall obtain a license from the county, as may be required, and maintain such license for the life of the use or until the county no longer requires such license.

### 7.01 Brewpub

**(e) State license.** Prior to the establishment of a brewpub, the operator shall obtain a license from the state, as may be required, and maintain such license for the life of the use or until the state no longer requires such license.

**(f) Limitation on floor area devoted to production.** No more than 40 percent of the floor area shall be devoted to the production of fermented malt beverages, including storage of raw materials and finished products.

**(g) Limitation on production.** Not more than 10,000 barrels (310,000 gallons) of fermented malt beverages may be manufactured in a calendar year.

**(h) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

### 7.02 Restaurant

**Description:** A place where food and beverages are offered for retail sale for on-site or off-site consumption, and where the on-site consumption of fermented malt beverages, wine, or liquor, if any, is clearly secondary and subordinate to the sale of food and nonalcoholic beverages. A restaurant may also prepare food as part of a catering business. The term does not include a grocery store with a food service section.

**Vehicle Parking:** 1 space for each 3 patron seats or 1 space for each 300 square feet of gross floor area devoted to patron service, whichever is greater, plus 1 for each employee on largest work shift

**Supplemental Standards:**

**(a) Lot requirements.** The minimum lot area shall be one acre with at least 150 feet in minimum average width.

**(b) Special dimensional standards.** The building housing this principal use shall be no closer than 50 feet to an agricultural or residential zoning district.

**(c) On-site parking.** On-site parking shall be provided within 200 feet of the building housing this principal use. No portion of the parking area shall be located closer than 20 feet to a parcel in an agricultural or residential zoning district.

**(d) Local license.** Prior to the establishment of a restaurant, the operator shall obtain a license from the Waukesha County Health Department and maintain such license for the life of the use or until the department no longer requires such license.

**(e) Hours of operation.** When allowed as a conditional use, the business may be only operated from 5:00 am to 12:00 am (midnight). The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(f) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

### 7.03 Tavern

**Description:** A place where fermented malt beverages, wine, or liquor are offered for retail sale for on-site consumption and where food consumption, if any, is clearly secondary and subordinate to the sale of alcoholic beverages. The term includes bars, drinking establishments, sports bar, and lounges.

**Vehicle Parking:** 1 space for each 3 patron seats or 1 space for each 300 square feet of gross floor area devoted to patron service, whichever is greater, plus 1 for each employee on largest work shift

**Supplemental Standards:**

**(a) Lot requirements.** The minimum lot area shall be one acre with at least 150 feet in minimum average width.

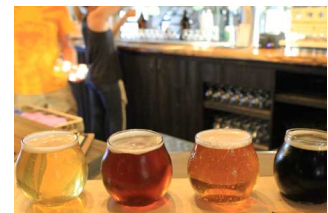
**(b) Special dimensional standards.** The building housing this principal use shall be no closer than 50 feet to an agricultural or residential zoning district.

**(c) On-site parking.** On-site parking shall be provided within 200 feet of the building housing this principal use. No portion of the parking area shall be located closer than 20 feet to a parcel in an agricultural or residential zoning district.

**(d) Local license.** Prior to the establishment of a tavern, the operator shall obtain a license from the town in which the use is located and maintain such license for the life of the use or until the license is no longer required.

**(e) Compliance with state requirements.** A tavern shall comply with requirements as may be adopted by the state of Wisconsin.

**(f) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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### 8.01 Vehicle fuel station

**Description:** A place where fuels for cars, motorcycles, and light trucks are offered for retail sale. Ancillary uses are limited to the retail sale of food and beverages and light maintenance activities, such as engine tune-ups, lubrication, and minor repairs. The term does not include truck stops or similar uses.

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

(a) **Restroom facilities.** If a vehicle fuel station provides restroom facilities, the door to each restroom shall be accessed from within the interior of the building in which they are located.

(b) **Pump island canopies.** Pump island canopies shall not exceed 22 feet in height.

(c) **Special setbacks.** The following setbacks shall apply to a vehicle fuel station:

- (1) A fuel pump shall be located at least 50 feet from a parcel in a residential zoning district and at least 30 feet from a parcel in a nonresidential zoning district.
- (2) A fuel pump shall be located at least 15 feet from the base setback line.
- (3) A pump island canopy shall be located at least 18 feet from all lot lines.
- (4) Outdoor lighting shall not create a hazard to traffic or be a nuisance to surrounding property.

(d) **Hours of operation.** When allowed as a conditional use, the business may be only operated from 8:00 am to 12:00 am (midnight). The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

(e) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



### 8.02 Vehicle repair shop

**Description:** A place where motor vehicles, such as cars, motorcycles, and light trucks, are typically left overnight for maintenance, service, or repair. Typical services include transmission repair, body work and painting, vehicle upholstery, engine repair and overhauls, and similar activities. (in contrast see vehicle service shop)

**Vehicle Parking:** 1 space for each service bay; plus 1 for each employee on the largest work shift

**Supplemental Standards:**

(a) **Work area.** Motor vehicles shall not be serviced or repaired outside of the principal structure intended for such use, except when this use is located in a manufacturing zoning district.

(b) **Vehicle storage.** When a vehicle repair shop is located in a business zoning district, no more than 10 motor vehicles shall be stored out-of-doors overnight. When located in a manufacturing zoning district, there is no limitation on the number of motor vehicles that can be stored overnight. Storage of unlicensed vehicles is prohibited.

(c) **Hours of operation.** When allowed as a conditional use, the business may be only operated from 8:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

(d) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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### 8.03 Vehicle sales and rental

**Description:** A place where new and used cars, light trucks, motorcycles, mopeds, snowmobiles, recreational vehicles, and all-terrain vehicles (ATVs) are offered for rent, sale, lease, or exchange, or are taken on consignment. This use may include the repair of such vehicles as a subordinate use.

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

(a) **Show room.** An indoor vehicle display area shall be provided that is at least 12 feet by 20 feet. If only motorcycles are sold, the indoor vehicle display area shall be large enough to display at least 3 motorcycles.

(b) **State license.** Prior to the establishment of this use, the operator shall obtain a license from the state as required by state law and maintain such license for the life of the use or until the state no longer requires such license.



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### 8.03 Vehicle sales and rental

**(c) Setback for display area.** Display areas and other activity areas shall be located at least 30 feet from a parcel in a residential zoning district and 10 feet from a parcel in a business zoning district.

**(d) Hours of operation.** When located in any zoning district other than the B-4 district, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

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### 8.04 Vehicle service shop

**Description:** A place where motor vehicles, such as cars, motorcycles, and light trucks, are serviced while the owner waits and typically are not left overnight. Examples include quick lube/oil change facilities, tire stores, car washes, and vehicle detailing. (In contrast see vehicle repair shop)



**Vehicle Parking:** 1 space for each service bay; plus 1 for each employee on the largest work shift

**Supplemental Standards:**

**(a) Limitations.** Motor vehicles shall not be serviced or repaired outside of the principal structure intended for such use, except when this use is located in an industrial zoning district.

**(b) Hours of operation.** When allowed as a conditional use, the business may be only operated from 8:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 9 General Sales

### 9.01 Convenience retail sales

**Description:** A place where a limited product line of frequently needed personal items is offered for retail sale. The term includes convenience stores and small grocery stores.

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

**(a) Hours of operation.** When allowed as a conditional use, the business may be only operated from 5:00 am to 12:00 am (midnight). The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(b) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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### 9.02 General retail sales

**Description:** A place where a diverse product line is offered for retail sale. The term includes grocery stores, retail outlets, comparison shopping stores, full-line department stores, and dollar stores.

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

**(a) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(b) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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### 9.03 General retail sales, large format

**Description:** (1) A single building that contains more than 20,000 gross square feet on a single parcel where the primary tenant occupies 65 percent or more of the gross floor area, (2) two or more buildings with a total of 20,000 gross square feet on a single parcel where the primary tenant occupies 65 percent or more of the gross floor area, or (3) a group of buildings on adjoining lots with more than 20,000 gross square feet of floor where the primary tenant owns the lots and occupies 65 percent or more of the gross floor area. The term does not include a retail store that is part of an industrial building or warehouse when the floor area of such store is less than 20,000 gross square feet.

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### 9.03 General retail sales, large format

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

**(a) Legislative findings.** The town board makes the following legislative finding relating to large-format retail sales: Abandoned buildings are a blighting influence on the community and large vacant stores are especially detrimental.

**(b) Purpose.** The provisions of this part are intended to prevent urban blight due to large vacant stores.

**(c) Development agreement.** Prior to issuance of a building permit for a large-format retail store, the property owner shall enter into a development agreement with the town, to run with the land, that includes all of the following:

- (1) a provision that prevents the owner from prohibiting or otherwise limiting, through contract or other legal device, the reuse of the building for retail or other legitimate purpose;
- (2) a provision requiring long-term maintenance of the property including landscaping if the building is vacated;
- (3) a provision requiring the preparation of an adaptive reuse plan or a demolition plan by the property owner acceptable to the Town Board within 12 months of vacation;
- (4) a provision stating that the property owner within 24 months of vacation shall either begin demolishing the building and restoring the site consistent with the approved demolition plan and continue in good faith to completion or begin implementing the approved adaptive reuse plan and continue in good faith to completion;
- (5) other provisions deemed necessary by the board to address the particular circumstances related to the project.

**(d) Vacation of existing buildings.** When a large-format store is proposed as a replacement for another retail store already located in the town, the applicant shall not prohibit or otherwise limit, through contract or other legal device, the reuse of its former building.

**(e) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(f) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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### 9.04 Outdoor sales

**Description:** A place where the merchandise offered for sale is primarily displayed outside of a building or other structure. This term does not include those land uses otherwise defined in this appendix.

**Vehicle Parking:** 1 space for each 5,000 square feet of outdoor display area; plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 30 minutes past sunset. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(b) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 10 General Services

### 10.01 Administrative services

**Description:** A place where employees primarily perform administrative functions and where customers are infrequent. The term includes data processing centers, customer service centers via telecommunications, architectural firms, and engineering firms.

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

**(a) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(b) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

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### 10.02 Adult-oriented establishment

**Description:** A place where no more than one of the following are located: adult arcade, adult bath house, adult body painting studio, adult book/video store, adult cabaret, adult massage parlor, adult modeling studio, or adult theater.

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

## 10.02 Adult-oriented establishment

### Supplemental Standards:

**(a) Legislative findings.** The town board makes the following legislative findings regarding adult-oriented establishments:

- (1) Negative secondary effects associated with adult, sexually-oriented establishments have been confirmed by the United States Supreme Court in its decisions in, for example, *City of Renton v. Playtime Theatres, Inc.* (475 U.S. 41 (1986)) and by the United States Court of Appeals in its decisions in, for example, *Hang On, Inc. v. City of Arlington* (65 F.3d 1248 (5th Cir., 1995)), *Fantasy Ranch v. City of Arlington Texas* (459 F.3d 546 (5th Circuit, 2006)), and *Andy's Restaurant & Lounge, Inc. v. City of Gary* (466 F.3d 550 (7th Cir., 2006)) and such negative secondary effects include, for example, personal and property crimes, prostitution, lewd behavior, assault, public indecency, obscenity, illicit drug use and drug trafficking, potential spread of disease, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
- (2) The decisions issued by the appellate courts constitute reliable sources of information that may be reasonably relied upon by the Town Board.
- (3) Each of the foregoing negative secondary effects constitutes a harm that the Town has a substantial governmental interest in preventing and/or abating.
- (4) Continued regulation of adult-oriented establishments is necessary to limit the aforementioned negative secondary effects associated with adult-oriented establishments and thereby promote the health, safety, and welfare of the Town of Eagle.
- (5) The Town Board intends, via this chapter, to establish reasonable regulations on adult-oriented establishments, while preserving free speech pursuant to the First Amendment to the United States Constitution and Article I, Section 3 of the Wisconsin Constitution.

**(b) Purpose.** This part is intended to regulate adult-oriented establishments in order to promote the health, safety, and general welfare of citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult-oriented establishments within the town. The provisions of this part have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is neither the intent nor effect of this part to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of this part to condone or legitimize the distribution of obscene material.

**(c) Applicability.** Upon any of the following events, an adult-oriented establishment shall comply with the provisions of this part:

- (1) the opening or commencement of an adult-oriented establishment;
- (2) the conversion of an existing business, whether or not a adult-oriented establishment, to an adult-oriented establishment;
- (3) the addition of a new adult-oriented establishment to an existing adult-oriented establishment;
- (4) the relocation of an adult-oriented establishment;
- (5) the sale, lease, or sublease of an adult-oriented establishment;
- (6) the transfer of securities which constitute a controlling interest in an adult-oriented establishment, whether by sale, exchange, or similar means; or
- (7) the establishment of a trust, gift, or other similar legal device that transfers the ownership or control of an adult-oriented establishment, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

**(d) Exclusions.** This part relating to adult-oriented establishments does not apply to the following:

- (1) Any business operated by or employing a licensed psychologist, licensed physical therapist, licensed masseuse, licensed vocational nurse, registered nurse, licensed athletic trainer, licensed cosmetologist, or licensed barber provided such licensed individual is only engaged in performing the normal and customary functions authorized under the license held.
- (2) Any business operated by, or employing a licensed physician or licensed chiropractor while engaged in practicing the healing arts.
- (3) Any retail establishment whose principal business is the offering of wearing apparel for sale to customers and that does not exhibit merchandise on live model(s).
- (4) An activity sponsored by a school licensed by the State of Wisconsin or a college, junior college or university supported entirely or partly by taxation; or a private college or university that maintains or operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

Any activity conducted or sponsored by an entity identified in subsection (d)(4) above must meet all of the following requirements:

- (1) the activity must be situated in a structure that has no sign or other advertising visible from the exterior of the structure indicating a nude person is available for viewing; and
- (2) all students participating in the class must be enrolled at least 3 days in advance of the class; and
- (3) no more than one (1) nude model is on the premises at any one time.

**(e) Licensing.** Adult-oriented establishments shall comply with any licensing requirements established by the Town of Eagle.

**(f) Proximity to another adult-oriented establishment.** An adult-oriented establishment shall not be located within 1,000 feet of

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## 10.02 Adult-oriented establishment

another adult-oriented establishment.

**(g) Proximity to specified zoning districts.** An adult-oriented establishment shall not be located within 1,000 feet of a P-1 zoning district, a residential zoning district, or a planned development district that allows residential uses.

**(h) Proximity to other specified land uses.** An adult-oriented establishment shall not be located within 1,000 feet of any of the following:

- (1) public library;
- (2) public playground or park, including nature trails, pedestrian/bicycle paths, wilderness areas, or other public lands open for recreational activities;
- (3) educational facility, including K-12 and post-secondary, but not including facilities used primarily for another purpose and used only incidentally by a school;
- (4) state licensed family day care home, group day care home, or day care center;
- (5) worship facility;
- (6) any youth-oriented establishment; or
- (7) any structure housing an establishment that holds a valid alcohol beverage license.

If one of these specified uses locates within this area of separation after the adult-oriented establishment has been granted a building permit or occupancy permit, the adult-oriented establishment shall not be required to relocate. This provision only applies to a renewal of a valid permit or other license. It does not apply when a license or permit expires or when the town terminates this use due to a violation of this code.

**(i) Measurement of distances.** For the purpose of this part, specified distances are measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure containing the adult-oriented establishment, to the nearest lot line of the parcel with the specified use or to the specified zoning district. If an adult-oriented establishment is located on the first floor of a multi-tenant building (e.g., shopping center), the measurement shall be taken from the outer boundary of such space (i.e. from the outer edge of the party wall or the outer wall). If an adult-oriented establishment is located above the first floor of a multi-tenant building (e.g., shopping center), the measurement shall be taken from the exterior door on the first floor that is nearest to the adult-oriented establishment, excluding emergency exists. The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this part.

**(j) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 12:00 am (midnight). The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(k) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 10.03 Body-piercing establishment

**Description:** A place where a body piercer performs body piercing.

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

**(a) Locational standards.** A body-piercing establishment shall not be located within 600 feet of another body-piercing establishment or a tattoo establishment. For the purpose of this part, such distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the exterior wall of the building containing the body-piercing establishment to the outer wall of the building containing the other specified land use. If one or both of the specified land uses are located in a multi-tenant building (e.g., shopping center), the measurement shall be taken from the outer boundary of such space (i.e. from the outer edge of the party wall or the exterior wall). The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this part.

**(b) Sale of alcohol.** A body-piercing establishment shall not also sell, distribute, or allow consumption of alcoholic beverages on the premises.

**(c) Building standards.** A patron who is being pierced shall not be visible from the exterior of the building through a window or entrance to the building.

**(d) State license.** Prior to the establishment of a body-piercing establishment, the operator shall obtain a license from the state as required by state law and maintain such license for the life of the use or until the state no longer requires such license. In addition, each practitioner shall obtain a license from the state as required by state law and maintain such license while at the establishment or until the state no longer requires such license.

**(e) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property

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### 10.03 Body-piercing establishment

and/or proximity to other existing and potential land uses.

(f) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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### 10.04 Commercial kennel

**Description:** A place not qualifying as a private kennel or a hobby kennel where dogs, cats, or other domesticated animals are housed for the purpose of boarding, breeding, training, or sale. The term includes boarding kennels, dog motels, and dog training centers. The term does not include animal hospitals, animal grooming parlors, or pet shops.

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

(a) **Locational standards.** Any building, other than one used specifically for residential purposes, that is used to house animals shall be at least 50 feet from a residential zoning district. Any outdoor area where animals may be kept shall be at least 100 feet from a residential zoning district.

(b) **Special events.** Special events related to a commercial kennel, such as dog shows, exhibitions, field trials, and contests may be held, provided such events are specifically allowed by town ordinance.

(c) **Special provisions in AP district.** When located in the AP zoning district, a commercial kennel shall also comply with the requirements set forth in s. 91.01(1), Wis. Stats.

(d) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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### 10.05 Commercial stable

**Description:** A place where horses, donkeys, and other similar domesticated animals are kept for boarding, instructional purposes, or hire on trail rides.

**Vehicle Parking:** 1 space for every 4 stable stalls

**Supplemental Standards:**

(a) **Minimum lot area.** The minimum lot size for a commercial stable is 5 acres.

(b) **Buildings.** Nonresidential buildings and other structures, such as barns, stables, riding arenas, and sheds, necessary for the operation are allowed subject to all other requirements of this chapter.

(c) **Location of new buildings.** A building that houses livestock, shall not be located within a floodplain or closer than 50 feet to any lot line.

(d) **Manure management.** As part of the building, site, and operation plan review process, the handling and disposal of animal waste generated by a commercial stable shall be addressed.

(e) **Number of animals.** The number of animals shall not exceed one head of livestock for each acre.

(f) **Special events.** Special events related to a commercial stable, such as horse shows, exhibitions, and contests may be held, provided such events are specifically allowed by town ordinance.

(g) **Special provisions in AP district.** When located in the AP zoning district, a commercial stable shall also comply with the requirements set forth in s. 91.01(1), Wis. Stats.

(h) **Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

(i) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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### 10.06 Equipment rental

**Description:** A place where equipment is offered for rent and related supplies are offered for retail sale or rent. Items for rent or sale are predominantly stored indoors and may include hand tools, party equipment, and lawn and yard equipment.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

(a) **Outdoor display and storage areas.** Outdoor display and storage areas and other activity areas shall be located at least 50 feet from a residential zoning district and 10 feet from a business zoning district.

(b) **Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town

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### 10.06 Equipment rental

Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

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### 10.07 Financial services

**Description:** A place where financial and banking services are offered. The term includes banks, savings and loan institutions, other lending institutions, auto title loan businesses, and payday loan businesses.



**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

**(a) Location.** A payday loan business or auto title loan business shall not be located within 5,000 feet of another payday loan business or auto title loan business or within 150 feet of a residential zoning district. For the purpose of this part, such distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the exterior wall of the building containing the payday loan business or auto title loan business to the outer wall of the building containing the other specified land use or, as appropriate, to the nearest lot line of a parcel in the specified zoning district. The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this part. If a payday loan business or auto title loan business is operating on January 1, 2011 and does not comply with the locational standards in this part, such business may continue to operate at that location.

**(b) Hours of operation.** When located in any zoning district other than the B-4 district, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

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### 10.08 Funeral home

**Description:** A place where the deceased may be prepared for burial or cremation and people may gather for visitation or funeral ceremonies. The indoor display of funeral equipment may also occur. The term includes mortuaries.

**Vehicle Parking:** 1 space for each 3 patron seats at the maximum capacity; plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(b) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

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### 10.09 General repair

**Description:** A place where consumer goods such as shoes, bicycles, appliances, and business equipment are repaired. The term does not include repair of motor vehicles or industrial equipment.

**Vehicle Parking:** 1 space for each 450 square feet of gross floor area

**Supplemental Standards:**

**(a) Location of work.** All activities related to this use shall occur within a building, except when the parcel of land is located in an industrial zoning district.

**(b) Hours of operation.** When located in any zoning district other than the B-4 district, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

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### 10.10 General services

**Description:** A place where services not otherwise included in any other service type category are offered. The term includes photography studios, weight loss centers, commercial postal services, beauty shops, pet grooming shops, photocopying and printing services, linen services, dry cleaning services, and diaper services.

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

**(a) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town

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### 10.10 General services

Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(b) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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### 10.11 Health care center

**Description:** A place where medical treatment, or nursing, rehabilitative, or preventative care is offered. The term includes ambulatory surgical facilities, hospitals, kidney treatment centers, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, and rehabilitation facilities.

**Vehicle Parking:** 1 space for each 1.5 patient beds; plus 1 space for each employee on the largest work shift; plus 1 space for each doctor on the largest work shift

**Supplemental Standards:**

**(a) Road access.** The primary access to a health care center shall be off of a road classified as a major road as depicted on the adopted zoning map-

**(b) Transition when allowed as a conditional use.** When a health care center is allowed as a conditional use, an appropriate transition shall be required between this use and an adjoining use.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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### 10.12 Health care clinic

**Description:** A place where medical services are offered and patients do not stay overnight. The term includes dental clinics, medical offices, chiropractic offices, acupuncture centers, and sports medicine facilities. The term does not include those uses as classified as a health care center.

**Vehicle Parking:** 1 space for each examination room or equivalent; plus 1 space for each 300 square feet off gross floor area not devoted to examinations

**Supplemental Standards:**

**(a) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(b) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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### 10.13 Instructional services

**Description:** A place where instruction, training, or tutelage is offered in such areas as gymnastics, dance, art, music, and martial arts.

**Vehicle Parking:** 1 space for each student during the largest period of attendance; plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(b) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

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### 10.14 Landscape business

**Description:** A place where a landscape contractor may establish a base of operation, which may include one or more of the following: retail sale of plant and landscape materials; office space; indoor and outdoor storage of materials, equipment, and machinery, such as trucks and heavy equipment; and shops for the repair of machinery and equipment owned by the operator.

**Vehicle Parking:** 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site

**Supplemental Standards:**

**(a) Outdoor areas.** Outdoor work areas, parking areas, and storage of equipment and materials related to a landscape business shall not be located within the setbacks and offsets established for the zoning district in which the use is located.

**(b) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town

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### 10.14 Landscape business

Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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### 10.15 Professional services

**Description:** A place where services involving predominantly professional, clerical, or similar operations are preformed and where customers may or could come on a regular basis. The term includes law offices, real estate offices, insurance offices, and travel agencies.

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

**(a) Hours of operation.** When located in any zoning district other than the B-4 district, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

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### 10.16 Tattoo establishment

**Description:** A place where a tattooist applies a tattoo to another individual.

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

**(a) Locational standards.** A tattoo establishment shall not be located within 600 feet of another tattoo establishment or a body-piercing establishment. For the purpose of this part, such distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the exterior wall of the building containing the tattoo establishment to the outer wall of the building containing the other specified land use. If one or both of the specified land uses are located in a multi-tenant building (e.g., shopping center), the measurement shall be taken from the outer boundary of such space (i.e. from the outer edge of the party wall or the outer wall). The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this part.

**(b) Sale of alcohol.** A tattoo establishment shall not also sell, distribute, or allow consumption of alcoholic beverages on the premises.

**(c) Building standards.** A patron who is being tattooed shall not be visible from the exterior of the building through any window or entrance to the building.

**(d) State license.** Prior to the establishment of a tattoo establishment, the operator shall obtain a license from the state as required by state law and maintain such license for the life of the use or until the state no longer requires such license. In addition, each practitioner shall obtain a license from the state as required by state law and maintain such license while at the establishment or until the state no longer requires such license.

**(e) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(f) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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### 10.17 Veterinary clinic

**Description:** A place where medical services for small and large animals are offered. This use may include office space, medical labs, appurtenant facilities, and indoor and outdoor enclosures for animals under the immediate medical care of a veterinarian.

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

**(a) Minimum lot size.** When a veterinary clinic keeps large animals on-site for treatment the minimum lot size is 5 acres.

**(b) Placement of features.** Any building used to house animals shall be at least 50 feet from a residential zoning district. Any outdoor area where animals may be kept shall be at least 100 feet from a residential zoning district.

**(c) Special provisions in AP district.** When located in the AP zoning district, a veterinary clinic shall also comply with the requirements set forth in s. 91.01(1), Wis. Stats.





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### 10.17 Veterinary clinic

**(d) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(e) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 11 Recreation and Entertainment

### 11.01 Driving range

**Description:** A place where golfers practice driving golf balls from a fixed central location. This use may include one or more buildings and other structures directly related to the operation of this use, such as an office, snack bar, and buildings for housing maintenance equipment, supplies, and related materials.

**Vehicle Parking:** 1 space for each driving station

**Supplemental Standards:**

**(a) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 30 minutes past sunset. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(b) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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### 11.02 Golf course

**Description:** A place where individuals, for a fee or other consideration, play golf outdoors. This use may include one or more buildings and other structures directly related to the operation of this use, such as an office, game room with snack bar, and buildings for housing maintenance equipment, supplies, and related materials.

**Vehicle Parking:** 36 spaces for each 9 holes of golf; plus 1 space for each employee on the largest work shift. If a tavern or restaurant is also part of the golf course facility, the parking requirements for such tavern or restaurant is 50 percent of what is normally required (in addition to what is otherwise required for the golf course). For example, if a restaurant would normally require 40 spaces, 20 spaces are needed when part of a golf course facility (in addition to what is otherwise required for the golf course).

**Supplemental Standards:**

**(a) Locational standards.** Club houses and maintenance buildings with a floor area exceeding 1,200 square feet shall be located at least 300 feet from a parcel in a residential zoning district.

**(b) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 30 minutes past sunset. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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### 11.03 Indoor entertainment

**Description:** A place where indoor entertainment is offered. The term includes theaters, movie theaters, dance halls, and theaters for performing arts. The term does not include adult-oriented establishments.

**Vehicle Parking:** 1 space for each 3 patron seats; plus 1 for each employee on the largest work shift

**Supplemental Standards:**

**(a) Hours of operation.** When located in any zoning district other than the B-4 district, the business may be only operated from 6:00 am to 12:00 am (midnight). The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

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### 11.04 Indoor recreation

**Description:** A place where indoor recreational activities are offered. The term includes bowling alleys, skating rinks, billiard and pool halls, and arcades.

**Vehicle Parking:** 1 space for each 3 patron seats; plus 1 space for each employee on the largest work shift

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## 11.04 Indoor recreation

### Supplemental Standards:

(a) **Hours of operation.** When located in any zoning district other than the B-4 district, the business may be only operated from 6:00 am to 12:00 am (midnight). The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

(b) Reserved

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## 11.05 Outdoor entertainment

**Description:** A place where outdoor, spectator-type uses or events are offered. The term includes race tracks, motocross courses, tractor-pulling events, and sports arenas.

**Vehicle Parking:** 1 space for each 3 patron seats at the maximum capacity; plus 1 space for each employee on the largest work shift

### Supplemental Standards:

(a) **Hours of operation.** The plan commission may recommend and the town board may establish hours of operation for this use when the operation may negatively affect surrounding properties.

(b) **Site design considerations.** The site shall be designed to minimize the effects of outdoor lighting and noise on surrounding properties.

(c) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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## 11.06 Outdoor recreation

**Description:** A place where outdoor recreational activities are offered. The term includes miniature golf, batting cages, water parks, and amusement parks. The term does not include driving ranges and golf courses, parks, shooting ranges, and recreational trails.

**Vehicle Parking:** 1 space for each 3 patrons at maximum capacity, plus 1 for each employee on largest work shift

### Supplemental Standards:

(a) **Hours of operation.** The plan commission may recommend and the town board may establish hours of operation for this use when the operation may negatively affect surrounding properties.

(b) **Site design considerations.** The site shall be designed to minimize the effects of outdoor lighting and noise on surrounding properties.

(c) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 11.07 Outdoor shooting range

**Description:** An outdoor area where patrons shoot guns, such as pistols, rifles, and shotguns, and bow and arrows for target practice. The term includes archery ranges, trap and skeet clubs, and target ranges.

**Vehicle Parking:** Determined on a case-by-case basis

### Supplemental Standards:

(a) **Hours of operation.** An existing or new outdoor shooting range shall only operate between the hours of 9:00 am and 5:00 pm, except that this use restriction shall not apply to (1) a law enforcement officer as defined in s. 165.85(2), Wis. Stats.; (2) a member of the U.S. armed forces; or (3) a private security person as defined in s. 440.26(1m), Wis. Stats., who meets all of the requirements under s. 167.31(4)(a)4, Wis. Stats.

(b) **Incidental sales.** An outdoor shooting range may offer items for sale or rental as listed in this part provided the totality of such sales and/or rental activity is clearly incidental to the overall operation of the shooting range. The following may be offered for retail sale:

- (1) targets,
- (2) ammunition,
- (3) devices for hearing and eye protection,
- (4) other items directly related to the shooting of firearms on the premises, and
- (5) pre-packaged food and drink items.

The following may be offered for rental for use on the premises:

- (1) devices for hearing and eye protection,
- (2) guns, and
- (3) other items directly related to the shooting of firearms on the premises as determined by the Town Board.

**12.01 Administrative government center**

**Description:** A place where government employees perform administrative functions on behalf of the public. The term includes administrative offices, post offices, and courthouses.

**Vehicle Parking:** 1 space for each 300 square feet of gross floor area

**Supplemental Standards:**

**(a) Special provisions in AP district.** When located in the AP zoning district, an administrative government center shall also comply with the requirements set forth in s. 500.226.

**(b) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

**12.02 Cemetery**

**Description:** A place where human remains may be buried or interred. Accessory uses may include columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such area.

**Vehicle Parking:** 1 space for each 250 square feet of gross floor area or 1 space for each 4 seats at maximum capacity, whichever is greater; plus 1 space for each employee on the largest work shift



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**Supplemental Standards:**

**(a) Minimum size.** A cemetery shall be at least 3 acres.

**(b) Location of burial plots.** Burial plots shall not be located within 20 feet of a public street right-of-way or a proposed right-of-way so designated on an adopted highway width map, in a designated floodplain, or in a wetland area, nor shall interment occur below the groundwater table.

**(c) Marker required.** A permanent marker stating the name of the deceased and the birth and death dates, if known, shall identify the location of each occupied burial plot unless the zoning administrator allows an unmarked grave due to exceptional circumstances.

**(d) Casket required.** The deceased shall be enclosed in a casket or other durable container or buried at a depth below the ground surface to prevent scavenging.

**(e) Name required.** The cemetery shall have a formal name, which shall be placed on a permanent sign located by the main entrance to the cemetery.

**(f) Financial guarantee.** Prior to the establishment of this use, the property owner shall submit a financial guarantee to the town, consistent with any requirement the town board may adopt. This financial guarantee shall relate to the long-term upkeep of the cemetery.

**12.03 Civic use facility**

**Description:** A place where large gatherings of people may assemble for public purposes. The term includes zoos, arenas, stadiums, and fairgrounds.

**Vehicle Parking:** 1 space for each 250 square feet of gross floor area or 1 space for each 4 seats at maximum capacity, whichever is greater; plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Road access.** The primary access to a civic use facility with 600 seats or more shall be off of a road classified as a major road as depicted on the adopted zoning map.

**(b) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 12.04 Community center

**Description:** A place where short-term and intermittent meetings or gatherings of individuals are held for purposes of sharing information, entertainment, social service, or similar activities. The term includes senior centers; neighborhood recreational centers; fraternal, social, or civic clubs; lodges; and union halls.

**Vehicle Parking:** 1 space for each 250 square feet of gross floor area or 1 space for each 4 seats at maximum capacity, whichever is greater; plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Road access.** The primary access to a community center with 600 seats or more shall be off of a road classified as a major road as depicted on the adopted zoning map.

**(b) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 12:00 am (midnight) . The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(c) Special provisions in AP district.** When located in the AP zoning district, a community center shall also comply with the requirements set forth in s. 500.226.

**(d) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 12.05 Community cultural facility

**Description:** A place where people may gather for studying, reading, personal education, or viewing the visual arts. The term includes libraries, museums, art galleries, and observatories. The term does not include performing arts.

**Vehicle Parking:** 1 space for each 250 square feet of gross floor area or 1 space for each 4 seats at maximum capacity, whichever is greater; plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Road access.** The primary access to a community cultural facility with 600 seats or more shall be off of a road classified as a major road as depicted on the adopted zoning map.

**(b) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 12:00 am (midnight). The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 12.06 Educational facility, post-secondary

**Description:** A place where post-secondary educational opportunities are offered. The term includes colleges, universities, community colleges, and vocational schools.

**Vehicle Parking:** 0.5 space for each student during the largest class attendance period; plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Road access.** The primary access to a post-secondary educational facility shall be off of a road classified as a major road as depicted on the adopted zoning map.

**(b) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 12.07 Educational facility, pre-K through 12

**Description:** A place where primary and secondary educational opportunities are offered. The term includes preschools, elementary schools, junior high schools, and high schools.

**Vehicle Parking:** 0.5 space for each (K-8) classroom; 1 space for each 8 students (grades 9-12) at design capacity, whichever is greater; plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Road access.** The primary access to a pre-K through 12 educational facility shall be off of a road classified as a major road as depicted on the adopted zoning map.

**(b) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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## 12.08 Maintenance garage

**Description:** A place where a municipal government maintains administrative offices, equipment, and supplies necessary for maintaining public roadways, parks, and other types of public facilities.

**Vehicle Parking:** 1 space for each employee on the largest work shift

**Supplemental Standards:**

(a) **Outdoor storage.** Outdoor storage areas and other activity areas shall be located at least 50 feet from a parcel in a residential zoning district and 25 feet from a parcel in a business zoning district.

(b) **Special provisions in AP district.** When located in the AP zoning district, a maintenance garage shall also comply with the requirements set forth in s. 500.226.

(c) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 12.09 Park

**Description:** A place where primarily outdoor recreational activities may occur. A park may be operated by a public entity for the benefit of the general public or by a homeowners association for the benefit of its members. A park may be developed with recreational facilities or undeveloped. The term includes dog parks and neighborhood recreation centers.

**Vehicle Parking:** 1 space for each 3 patrons at the peak use period

**Supplemental Standards:**

Aside from generally applicable standards, no special standards apply to parks.

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## 12.10 Public safety facility

**Description:** A place where public safety services are offered. The term includes ambulance services, fire stations, police stations, and jails. The term does not include correctional facilities.

**Vehicle Parking:** 1 space for each 500 square feet of gross office area; 1 space for each employee on the largest work shift; plus 1 space for each vehicle normally parked on the premises

**Supplemental Standards:**

(a) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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## 12.11 Recreation trail

**Description:** A place where a linear path may be dedicated to a single recreational use or multiple uses. Examples include hiking trails, bike trails, cross-country ski trails, and horse trails.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

(a) **Special provisions in AP district.** When located in the AP zoning district, a recreation trail shall also comply with the requirements set forth in s. 500.226.

(b) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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## 12.12 Worship facility

**Description:** A place where people can regularly assemble for religious worship and associated activities and which is operated by an entity with tax-exempt status. The term includes sanctuaries, chapels, cathedrals, churches, synagogues, and temples and other onsite accessory buildings such as parsonages, friaries, convents, fellowship halls, and rectories. The term does not include day care centers, community recreation facilities, dormitories, private educational facilities, emergency shelters, and health care facilities.

**Vehicle Parking:** 1 space for each 4 seats at maximum capacity, plus 1 space for each employee on the largest work shift

**Supplemental Standards:**

(a) **Required green space.** If a worship facility is not located in business zoning district, a minimum of 50 percent of the parcel shall remain undeveloped (i.e., landscaped).

(b) **Road access.** The primary access to a worship facility with 600 seats or more shall be off of a road classified as a major road as



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## 12.12 Worship facility

depicted on the adopted zoning map.

(c) **Offset.** The offset for any buildings shall be two times the standard offset for the zoning district in which this use is located.

(d) **Special provisions in AP district.** When located in the AP zoning district, a worship facility shall also comply with the requirements set forth in s. 500.226.

(e) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

## 13 Telecommunications and Utilities

### 13.01 Solar power plant

**Description:** A free-standing solar energy system that constitutes the principal use of the property or that exceeds the limitations established for a free-standing solar energy system as an accessory use.

Commentary: See the 18 series for accessory uses.

**Vehicle Parking:** 1 space for each employee on the largest work shift

#### Supplemental Standards:

(a) **Minimum lot area.** A minimum lot area of 3 acres is required for a solar power plant.

(b) **Setbacks.** Solar panels and other related structures shall not be located within the building setback area. Additional setbacks may be required to mitigate noise and glare impacts, as identified through the site plan review process.

(c) **Security fencing.** With approval of the Town Board, a security fence (height and material to be established through the site plan review process) may be placed around the perimeter of the solar power plant. If a security fence is installed, Knox boxes and keys shall be provided at locked entrances for emergency personnel access.

(d) **Identification sign.** An identification sign no larger than 18 inches by 24 inches shall be placed in a visible location near the primary entrance of the site that lists (1) the name of the facility owner/operator, (2) a telephone number to contact in case of an emergency, and (3) information relating to potential voltage hazards.

(e) **Warning signs.** Appropriate warning signs may be placed at the entrance and around the perimeter of the solar power plant project as approved through the site plan review process.

(f) **Electric power lines.** Power lines within a solar power plant shall be placed underground, except that power lines that leave the project site may be overhead.

(g) **Approval by electric utility company.** The owner/operator shall submit documentation acceptable to the zoning administrator indicating that the system meets all applicable regulations and requirements of the affected electric utility company.

(h) **Landscaping.** As part of the site plan review process the Town Board may require appropriate landscaping and/or other screening materials to help screen the solar power plant from public right-of-ways and neighboring residences. After reviewing the location of the facility and the visibility of the facility from public right-of-ways and adjoining properties, the Town Board may waive this landscape requirement or defer the requirement to a later date.

(i) **Outdoor lighting.** Lighting of the solar power plant and accessory structures shall be limited to the minimum necessary for site security.

(j) **Lease agreement.** If the operator of the solar power plant does not own the land where the facility is to be located, the property owner and the operator shall execute a lease agreement prior to any land-disturbing activity. Such agreement shall be binding on future property owners and future operators and shall address the rights and responsibilities of each party with respect to subsections (l) and (m) of this part.

(k) **Ongoing maintenance.** The subject property shall be maintained and kept in a good condition, so as not to become a nuisance as determined by the Town Board. Proper maintenance includes regular lawn and landscaping care, and painting and regular care of building(s), fences, and other improvements. Additionally, the site shall be kept clear of junk and debris.

(l) **Termination of approval.** If the zoning administrator determines that the solar power plant is unsafe or otherwise defective or that the site has not produced any electricity for a continuous period of 12 months, the administrator shall follow the procedure outlined in article 6 relating to termination of the approval. Within 90 days after the date of termination, the property owner shall remove the solar power plant and all related equipment and improvements and restore the site to the satisfaction of the zoning administrator. In the event such work is not done within the specified period, the town shall have the right to use the financial guarantee as required by this part to pay for such work.

(m) **Financial guarantee.** Prior to issuance of a building permit authorizing construction of a solar power plant, the applicant shall submit a financial guarantee in the amount of \$20,000.00 to the town subject to the requirements in division 4 of article 5. <sup>[1]</sup> The financial guarantee shall be held until the solar power plant and related improvements are removed and the site restored to the satisfaction of the zoning administrator.

(n) **Special provisions in AP district.** When located in the AP zoning district, a solar power plant shall also comply with the



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**13.01 Solar power plant**

requirements set forth in s. 500.226.

**(o) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

[1] Commentary: See s. 66.0404(4)(i), Wis. Stats.

**13.02 Stormwater management facility**

**Description:** A natural or manmade feature that collects, conveys, channels, holds, inhibits, or diverts the movement of stormwater.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Special provisions in AP district.** When located in the AP zoning district, a stormwater facility shall also comply with the requirements set forth in s. 500.226.

**(b) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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**13.03 Telecommunication collocation (class 1)**

**Description:** The placement of a new mobile service facility on an existing support system which constitutes a substantial modification.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

Aside from generally applicable standards, no special standards apply to a Class 1 telecommunication collocation.

**13.04 Telecommunication collocation (class 2)**

**Description:** The placement of a new mobile service facility on an existing support system which does not constitute a substantial modification.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

Aside from generally applicable standards, no special standards apply to a Class 2 telecommunication collocation.



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**13.05 Telecommunication tower**

**Description:** A free-standing tower with or without an equipment compound that is intended for the placement of one or more mobile service facilities.

**Vehicle Parking:** 1 space

**Supplemental Standards:**

**(a) Legislative findings.** The town board makes the following legislative findings with regard to telecommunication towers providing mobile telecommunication services:

- (1) The state legislature passed 2013 Wisconsin Act 20 (Section 1269(I)) that imposed limits on local municipalities with respect to regulating telecommunication facilities within their jurisdictions.
- (2) The federal government adopted the Telecommunications Act of 1996 which established various requirements relating to telecommunication facilities.
- (3) The regulations in this part are intended to promote the public health, safety, and welfare, while at the same time not unduly restricting the development of needed telecommunications facilities.
- (4) The regulations in this part are intended to accomplish the following purposes, to the fullest extent permitted by law:
  - (i) protect the visual character of the town from the potential adverse effects of telecommunication facilities;
  - (ii) ensure that a competitive and broad range of telecommunications services and high-quality telecommunications infrastructure are provided;
  - (iii) create and preserve telecommunication facilities that will serve as an important and effective part of the town's emergency response network;

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### 13.05 Telecommunication tower

(iv) minimize the number of towers by requiring collocation; and

(v) avoid damage to adjoining properties by establishing setback standards.

**(b) Federal requirements.** A telecommunication tower shall comply with all applicable requirements of the Federal Communications Commission, the Federal Aviation Administration, and any other federal agency with authority to regulate telecommunication facilities. In the event of a conflict between federal law and this part, federal law shall prevail.

**(c) Single parcel.** The fall zone and all structures related to the telecommunication facility shall be located on a single parcel, including the tower, equipment compound, and anchor points for a guyed tower.

**(d) Setbacks.** The center of the tower shall not be located closer to a property boundary line than the height of the tower. If the lot hosting the proposed tower is not located adjacent to a parcel where a single-family residence may be located and the applicant submits an engineering certification with the application that show the fall zone is smaller than this distance, the fall zone shall be the smaller calculated area, unless the town provides the applicant with substantial evidence that the engineering certification is flawed. The fence around anchor points for a guyed tower shall be located at least 25 feet from a property boundary line.

**(e) Security fencing.** A tower and related equipment compound consisting of equipment buildings, shelters, and cabinets, shall be enclosed by a security fence (height and material to be established through the site plan review process). If the tower is a guyed tower, each of the anchor points shall be enclosed by a security fence.

**(f) Lighting.** A tower or any attachment shall not be artificially lighted, except when specifically required by a state agency, the Federal Aviation Administration, or another federal authority. Such required lighting shall be the least obtrusive to the surrounding views.

**(g) Aesthetic requirements.** All users of the town right-of-way shall comply with the following aesthetic standards:

(1) In areas where facilities are currently nonexistent or underground, undergrounding is required.

(2) No new above ground structures, including co-locations on existing structures, shall be placed within 500 feet of historic structures or historic districts designated by the National Register of Historic Places in Wisconsin or listed on the State Register of Historic Places. The 500-foot separation is waived for installations that are completely concealed from view, or are not visible from locations where the historic structure can be observed.

(3) Attachments to existing structures shall be designed to be flush with the existing structure as much as can reasonably be done, shall be a color that matches the existing structure and shall be the smallest size possible to reasonably accommodate the intended purpose. If the structure to which the attachment is made changes color due to repainting, resurfacing or other means, the attachment shall be modified to match the new color.

(4) Any party objecting to the requirements of this subsection shall have an opportunity to demonstrate that the requirement constitutes an effective prohibition in violation of State or Federal law as set forth in s. 500.331.

**(h) Equipment buildings.** The exterior of equipment buildings, shelters, and cabinets exceeding 1,500 cubic feet shall be covered with building materials typically used on buildings found in the area.

**(i) Emergency power system.** A backup generator may be placed within the equipment compound.

**(j) Identification sign.** An identification sign no larger than 18 inches by 24 inches shall be placed in a visible location near the base of the tower that lists (1) the name of the tower owner, (2) the Federal Communications Commission identification number, and (3) a telephone number to contact in case of an emergency.

**(k) Accommodation of other users on new towers (co-location).** A tower over 150 feet in height, along with the tower site and all support facilities and appurtenances, shall accommodate at least two additional users, unless the zoning administrator determines that evidence presented by the tower operator demonstrates it is not technically feasible to do so. Further, the tower operator and their successors in interest shall allow other users to use the tower, the tower site, support facilities, and appurtenances at fair market rates as negotiated by those parties. If the Town Board determines the tower operator has made access to the tower and tower site unfeasible, the zoning administrator shall notify the tower operator via registered mail of such determination. If the tower operator does not take corrective action within 45 days of such determination, the permit for that tower shall become null and void and the tower shall be removed and the site restored within 90 days of such determination.

**(l) Requirement for collocation.** A new tower shall only be permitted if the applicant demonstrates with a sworn statement that collocation on an existing or planned tower 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. If the applicant does not provide such analysis and sworn statement, the application for a new tower shall be denied.

**(m) Collocation review.** The collocation of an antenna or antenna array on an existing tower is permitted subject to site plan, building plan, and plan of operation review.

**(n) Landscaping.** Landscaping shall be placed around the equipment enclosure and anchor points for guyed towers consistent with a landscaping plan as approved by the Town Board. After reviewing the location of the facility and the visibility of the facility from public right-of-ways and adjoining properties, the Town Board may waive this landscape requirement or defer the requirement to a later date.



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### 13.05 Telecommunication tower

**(o) Lease agreement.** If the operator of the telecommunication tower does not own the land where the facility is to be located, the property owner and the operator shall execute a lease agreement prior to any land-disturbing activity. Such agreement shall be binding on future property owners and future operators and shall address the rights and responsibilities of each party with respect to subs. (p) and (q) of this part.

**(p) Ongoing maintenance.** The subject property shall be maintained and kept in a good condition, so as not to become a nuisance as determined by the Town Board. Proper maintenance includes regular lawn and landscaping care, and painting and regular care of building(s), fences, towers, and other improvements. Additionally, the site shall be kept clear of junk and debris.

**(q) Termination of approval.** If the zoning administrator determines that the tower is unsafe or otherwise defective or that the tower has not hosted an operational antenna for a continuous period of 12 months, the administrator shall follow the procedure outlined in article 6 relating to termination of the approval. Within 90 days after the date of termination, the property owner shall remove the tower, equipment cabinets, and all related equipment and improvements that are part of its communication facilities and restore the site to the satisfaction of the zoning administrator. In the event such work is not done within the specified period, the town shall have the right to use the financial guarantee as required by this part to pay for such work.

**(r) Financial guarantee.** Prior to issuance of a building permit authorizing construction of a tower, the applicant shall submit a financial guarantee in the amount of \$20,000.00 to the town subject to the requirements in division 4 of article 5. The financial guarantee shall be held until the tower and related improvements are removed and the site restored to the satisfaction of the zoning administrator.

**(s) Third-party consultant.** The zoning administrator may, at the applicant's expense, hire a third-party consultant to conduct an objective analysis of the submitted materials including the application, calculation of the fall zone, and certification that collocation is not possible. The third-party consultant may not charge the applicant for any travel expenses incurred in such review.

**(t) Duration of approval.** The approval authorizing a telecommunication tower shall run with the land and shall be binding on successors in interest.

**(u) Special provisions in AP district.** When located in the AP zoning district, a telecommunication tower shall also comply with the requirements set forth in s. 500.226.

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### 13.06 Utility installation, major

**Description:** A place, building and/or structure, or portion thereof, whether public or private, used or is intended for providing basic infrastructure or utility services and which could potentially have a moderate to high impact on neighboring property. The term includes pipeline pumping stations, sewage treatment plants, electric substations, water towers, electric transmission lines with a design capacity of 110 kilowatts or more, and underground pipelines.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

**(a) Setbacks.** A free-standing tower (e.g., water tower) or other similar structure shall not be located closer to a property boundary line than the height of the structure. If an applicant submits an engineering certification with the application that show the fall zone is smaller than this distance, the fall zone shall be the smaller calculated area, unless the town provides the applicant with substantial evidence that the engineering certification is flawed.

**(b) Special provisions in AP district.** When located in the AP zoning district, a major utility installation shall also comply with the requirements set forth in s. 500.226.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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### 13.07 Utility installation, minor

**Description:** A utility installation generally having low impact on neighboring property. The term includes public water system wells, without a tower; below ground sewer lift stations; and stormwater pumping stations. The term does not include utility cabinets, which are classified as an accessory use (Series 18).

**Vehicle Parking:** 1 space, although the zoning administrator may grant a waiver

**Supplemental Standards:**

**(a) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

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### 13.08 Utility maintenance yard

**Description:** A place where a public or private entity maintains administrative offices, equipment, and supplies necessary for maintaining the infrastructure it provides.

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### 13.08 Utility maintenance yard

**Vehicle Parking:** 1 space for each employee on the largest work shift

**Supplemental Standards:**

- (a) **Outdoor storage.** Outdoor storage areas and other activity areas shall be located at least 100 feet from a parcel in a residential zoning district and 20 feet from a parcel in a business zoning district.
- (b) **Control of fugitive dust.** As part of the site plan/operation plan review process, the control of fugitive dust generated by this use, if any, shall be addressed to the satisfaction of the reviewing authority.
- (c) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 14 Transportation

### 14.01 Bus storage facility

**Description:** A place where buses are parked when not in use and may include administrative offices and a building for the storage, care, and maintenance of buses in the fleet.

**Vehicle Parking:** 1 space for each employee on the largest work shift

**Supplemental Standards:**

- (a) **Outdoor storage.** Outdoor storage areas and other activity areas shall be located at least 50 feet from a parcel in a residential zoning district and 20 feet from a parcel in a business zoning district.
- (b) **Control of fugitive dust.** As part of the site plan/operation plan review process, the control of fugitive dust generated by this use, if any, shall be addressed to the satisfaction of the reviewing authority.
- (c) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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### 14.02 Park-and-ride lot

**Description:** A designated place where people can park their motor vehicles for a short duration to board public transportation or to carpool or vanpool.

**Supplemental Standards:**

- (a) **Road access.** The primary access to a park-and-ride lot shall be located in close proximity to a road classified as a major road as depicted on the adopted zoning map.
- (b) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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### 14.03 Railroad line

**Description:** A linear strip of land with rail tracks and auxiliary facilities for track operation such as signal bungalows. The term does not include passenger stations, freight terminals, loading platforms, train sheds, warehouses, car or locomotive maintenance shops, and switchyards. The term further does not include properties owned by a railroad company that are leased for use by others.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

Reserved

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### 14.04 Street

**Description:** A surfaced travelway for motor vehicles that is located within an easement or right-of-way.

**Supplemental Standards:**

There are no supplemental standards for this use.

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## 15 General Storage

### 15.01 Bulk fuel storage

**Description:** A place where liquid or compressed fuel products may be stored in bulk.

**Vehicle Parking:** 1 space for each employee on the largest work shift

**Supplemental Standards:**

- (a) **Additional standards.** The town may impose standards relating to the placement of storage tanks on the subject property so as

## 15 General Storage

### 15.01 Bulk fuel storage

**Description:** to safeguard the public health, safety, and welfare.

**(b) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.



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### 15.02 Truck terminal

**Description:** A place where goods carried by motor transport are received and temporarily stored until transferred to another truck for delivery.

**Vehicle Parking:** 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site

**Supplemental Standards:**

**(a) Setback of outdoor storage area.** Outdoor storage areas and other activity areas shall be located at least 100 feet from a parcel in a residential zoning district.

**(b) Control of fugitive dust.** As part of the site plan/operation plan review process, the control of fugitive dust generated by this use, if any, shall be addressed to the satisfaction of the reviewing authority.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

### 15.03 Warehouse

**Description:** A place where goods, merchandise, and other materials are temporarily stored for eventual shipment. The term includes moving and storage facilities. The term does not include bulk fuel storage.

**Vehicle Parking:** 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site



**Supplemental Standards:**

**(a) Setback of outdoor storage area.** Outdoor storage areas and other activity areas shall be located at least 100 feet from a parcel in a residential zoning district.

**(b) Control of fugitive dust.** As part of the site plan/operation plan review process, the control of fugitive dust generated by this use, if any, shall be addressed to the satisfaction of the reviewing authority.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

## 16 Industrial and Manufacturing

### 16.01 Artisan shop

**Description:** A place where handmade craft items or works of art are made on a small-scale and offered for retail sale. Examples of such items include paintings, textiles, photography, sculptures, pottery, leather products, handmade paper, jewelry, hand-blown glass, small wooden items, candles, soaps, and lotions.

**Vehicle Parking:** 1 space for each 300 square feet of display area; plus 1 space for each employee on the largest work shift



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**Supplemental Standards:**

**(a) Outdoor storage and activities.** When an artisan shop is located in a business zoning district, all materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.

**(b) Hours of operation.** When allowed as a conditional use, the retail part of the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 16.02 Construction equipment repair

**Description:** A place where construction equipment, such as dump trucks, excavators, graders, and scrapers, are typically left overnight for maintenance, service, or repair.

**Vehicle Parking:** 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site

**Supplemental Standards:**

**(a) Outdoor storage and activities.** Outdoor storage areas and other activity areas related to this use shall be located at least 30 feet from a parcel in a residential zoning district and 10 feet from a parcel in a business zoning district.

**(b) Location of work.** When allowed in a business zoning district, all repair work shall occur within an enclosed building. When allowed in an industrial zoning district, repair work may be conducted out-of-doors.

**(c) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(d) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 16.03 Construction equipment sales and service

**Description:** A place where new and used construction equipment, such as dump trucks, excavators, graders, and scrapers, are offered for rent, sale, lease, or exchange, or are taken on consignment. This use may include the repair of such equipment.

**Vehicle Parking:** 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site

**Supplemental Standards:**

**(a) Outdoor storage and activities.** Display areas and other activity areas related to this use shall be located at least 30 feet from a parcel in a residential zoning district and 10 feet from a parcel in a business zoning district.

**(b) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 16.04 Contractor yard

**Description:** A place where a contractor or builder may establish a base of operation, which may include one or more of the following: office space; indoor and outdoor storage of construction materials, equipment, and machinery, such as trucks and heavy equipment; and shops for the repair of machinery and equipment owned by the operator.

**Vehicle Parking:** 1 space for each employee working on site; plus 1 space for each fleet vehicle parked on site

**Supplemental Standards:**

**(a) Limitations on equipment.** There are no limitations on the number of trucks, trailers, or other heavy equipment.

**(b) Storage of material.** When a contractor yard is located next to a parcel in a residential or business zoning district, exterior storage of construction materials, wastes, and the like shall be screened with a solid, 6-foot fence and such materials shall not be placed higher than the height of the fence.

**(c) Control of fugitive dust.** As part of the site plan/operation plan review process, the control of fugitive dust generated by this use, if any, shall be addressed to the satisfaction of the reviewing authority.

**(d) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(e) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 16.05 Industrial, heavy

**Description:** A place where raw materials are processed or refined. The term includes batching plants, sawmills, foundries, and power plants. The term does not include a biofuels production plant which is listed as a separate land use in this series.

**Vehicle Parking:** 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site

**Supplemental Standards:**

**(a) Distance to specified features.** Outdoor storage areas and other activity areas related to this use shall be located at least 50 feet from a parcel in a residential zoning district and 25 feet from a parcel in a business zoning district.

**(b) Material storage.** No materials shall be stacked or otherwise stored so as to be visible over buffer yard screening elements from

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**16.05 Industrial, heavy**

a parcel in a residential zoning district.

**(c) Control of fugitive dust.** As part of the site plan/operation plan review process, the control of fugitive dust generated by this use, if any, shall be addressed to the satisfaction of the reviewing authority.

**(d) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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**16.06 Industrial, light**

**Description:** A place where finished products or parts from previously prepared materials are manufactured, including processing, fabrication, assembly, treatment, packaging, incidental storage, and administrative offices. The term includes furniture production, metal fabrication, apparel manufacturing, printing, and publishing.

**Vehicle Parking:** 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site

**Supplemental Standards:**

**(a) Location of materials and activities.** All materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.

**(b) Material storage.** No materials shall be stacked or otherwise stored so as to be visible over buffer yard screening elements from a parcel in a residential zoning district.

**(c) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(d) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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**17 Solid Waste****17.01 Composting facility**

**Description:** A place where vegetation (but not food wastes) may be collected and composted. The term includes the storage and manipulation of materials prior to, during, and following composting.

**Vehicle Parking:** 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Licensing.** A composting facility shall comply with all county, state, and federal regulations.

**(b) Distance to specified features.** A composting facility shall not be located within 600 feet of a residential zoning district, an educational facility, a worship facility, or any other place where the public congregates.

**(c) Setbacks.** All buildings, structures, and activity areas shall be located at least 100 feet from the perimeter of the site.

**(d) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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**17.02 Recycling center**

**Description:** A place where recoverable materials, which have been previously removed from the waste stream, may be stored prior to shipment to others who use those materials to manufacture new products. Typical recoverable materials include glass, paper, metal, and plastic. The term does not include salvage yard.

**Vehicle Parking:** 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Special provisions in M-1 district.** When a recycling center is located in an M-1 zoning district, all materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.

**(b) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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**17.03 Solid waste transfer station**

**Description:** A place where solid waste may be temporarily stored prior to transport to a processing plant or to final disposal.

**Vehicle Parking:** 1 space for each employee on the largest work shift

**Supplemental Standards:**

**(a) Location of materials and activities.** All materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.

**(b) Distance to specified features.** A solid waste transfer station shall not be located within 600 feet of a residential zoning district,

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### 17.03 Solid waste transfer station

an educational facility, a worship facility, or any other place where the public congregates.

**(c) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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## 18 Accessory Uses

### 18.01 Accessory building, nonresidential

**Description:** A detached building intended to house motor vehicles, yard equipment, and/or items directly related to the principal use of the premises.

**Supplemental Standards:**

**(a) Type of construction.** The detached building shall be of conventional wood-frame, metal-frame, or masonry construction. Soft-sided structures and canopies are specifically prohibited.

**(b) Exterior materials.** Exterior materials shall be the same as, or substantially the same as, those used on the principal building.

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### 18.02 Accessory building, residential

**Description:** A detached building customarily found with a residential use as an accessory use. The term includes greenhouses (noncommercial), detached garages, sheds, gazebos, pool cabanas, and the like.

**Supplemental Standards:**

**(a) Number and floor area.** The number of residential accessory buildings and the floor area must comply with standards set forth in Appendix C.

**(b) Exterior materials.** Exterior materials for a residential accessory building with a floor area of more than 192 square feet (but not greenhouses) shall be the same as, substantially the same as, or complement those materials used on the principal building.

**(c) Prohibition on specific materials.** Soft-sided structures and canopies are specifically prohibited, except a greenhouse may be covered with exterior materials typically used for greenhouses.

**(d) Rooflines.** The roof lines of a residential accessory building with a floor area of more than 192 square feet (but not greenhouses) shall match the roof lines of the principal building to the greatest practical extent.

**(e) Plumbing fixtures.** A residential accessory building may include a single compartment bar sink and a half bath (e.g., sink and toilet). A pool house may include a stand-up shower provided access to the shower is via an exterior door.

**(f) Use.** The property owner or the occupant of the dwelling unit may rent or lease no more than 300 feet of a residential garage to a person not residing on the property, provided such area is not needed to satisfy on-site parking requirements.

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### 18.03 Adult family home (accessory)

**Description:** A private residence licensed by the state under s. 50.032 (1m), Wis. Stats.

Commentary: An adult family home can either be a principal use or an accessory use. If the operator does not live in the residence with the adults, it is considered a principal use (Series 5). If the operator lives with the residents, it is an accessory use.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Licensing.** Prior to the establishment of an adult family home, the operator shall obtain a license from the state as required by state law and maintain such license for the life of the use or until the state no longer requires such license.

**(b) Special provisions for the A-P district.** when located in the A-P zoning district, an adult family home with more than 8 residents must also comply with the requirements set forth in s. 60.63(5), Wis. Stats.

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### 18.04 Amateur radio and/or citizens band antenna

**Description:** An antenna and related support structure used to send and receive telecommunications for noncommercial purposes.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Legislative findings.** The town board makes the following legislative findings regarding amateur radio antennas:

(1) The placement of amateur radio antennas and support structure of unregulated height and type could have a negative impact on surrounding properties and especially on the smallest of lots allowed in the town.

(2) Pursuant to s. 59.69(4f), Wis. Stats., the regulations in this part constitute the least restrictive measures needed to promote community aesthetics, public health, and safety while allowing amateur radio communications.

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### 18.04 Amateur radio and/or citizens band antenna

**(b) Number.** Antennas shall be placed on no more than 2 support structures, such as a tower or on top of a building.

**(c) Type of tower.** An antenna may be placed on a monopole or lattice tower.

**(d) Anti-climbing measures required.** If a tower is used to support the antenna, the tower shall have anti-climbing measures to prevent unauthorized climbing.

**(e) Setback.** An antenna shall not be located in a front yard.

**(f) Setback requirements.** The center of the antenna shall be no closer than 110 percent of the total height of the antenna to a lot line and overhead electric lines.

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### 18.05 Backyard chickens

**Description:** A place where chickens are kept for the use and enjoyment of those living on the premises, but not for commercial purposes. The sale of a chicken as part of a 4-H or similar educational project shall not be considered a commercial purpose.

Note: Also see household livestock in this Series, allowed on parcels that are 3 acres and larger.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Number.** No more than 4 chickens may be kept.

**(b) Roosters.** The keeping of roosters is prohibited.

**(c) Enclosure requirements.** Chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.

**(d) Setback requirements.** The enclosure housing chickens shall be located at least 25 feet from any residential structure on an adjacent lot.

**(e) Registration required.** The owner, operator, or tenant shall register the premise where chickens are kept with the Wisconsin Department of Agriculture, Trade and Consumer Protection as required by state law and maintain such registration for so long as may be required.

**(f) Status as a building.** One free-standing chicken coop with a roof not exceeding 48 square feet shall not be counted as an accessory building.



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### 18.06 Bed and breakfast

**Description:** A single-family residence that offers overnight accommodations for a daily charge and that also serves as a primary residence of the operator or owner.

**Vehicle Parking:** 1 space for each guest room

**Supplemental Standards:**

**(a) State license.** Prior to the establishment of a bed and breakfast, the operator shall obtain a license from the state as may be required by state law and maintain such license for the life of the use or until the state no longer requires such license.

**(b) Type of dwelling.** A bed and breakfast shall only occur within a single-family dwelling.

**(c) Number of allowable guest rooms.** No more than 5 guest rooms shall be offered.

**(d) Residency requirement.** The operator of a bed and breakfast shall reside within the single-family dwelling during the time period when rooms are offered.

**(e) Exterior character of the dwelling unit.** The exterior appearance of the building shall not be altered from its single-family appearance.

**(f) Food preparation.** No food preparation or cooking shall be allowed in guest rooms.

**(g) Meals.** Meals shall only be offered to overnight guests.

**(h) Maximum stay.** The maximum stay for any occupants shall be 14 consecutive days.

**(i) Record of guests.** The operator shall keep a listing showing the names of all guests. This list shall be kept on file for a period of one year. Such list shall be available for inspection by town officials at any time upon request.

**(j) Signage.** One exterior advertising sign may be placed on the premises. The sign location, type, and size must be approved as part of the site plan review process.

**(k) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.



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## 18.07 Bus parking

**Description:** The parking of a school bus on a residential parcel overnight as an accessory use.

**Vehicle Parking:** On-site parking not required

### Supplemental Standards:

**(a) Ownership.** The school bus shall be operated by an occupant of the premises. The school bus may be owned or leased by the occupant of the premises or owned or leased by a business for which the occupant of the premises is an employee or is otherwise contracted to provide such services.

**(b) Vehicle requirements.** The school bus shall be licensed by the state of Wisconsin and fully operational.

**(c) Road access.** The parcel shall front on and have access to a major road as depicted on the adopted zoning map.

**(d) On-site movement.** The school bus operator must be able to turn the school bus around on the premises so that it is not backed into the road or backed into the driveway. This standard does not obligate the jurisdiction with access control over the roadway to permit more than one access point to meet this requirement.

**(e) Number.** No more than one (1) school bus shall be allowed to be parked or stored on the occupant's property.

**(f) Location.** A school bus shall not be parked or stored in the front yard or closer than 50 feet to any adjacent lot line nor closer than 100 feet to the base setback line.

**(g) Limitations when not in use.** The bus shall not be parked or stored on the occupant's property when school is not in session for 4 or more consecutive days (e.g., over Christmas vacation or summer break).

**(h) Periodic review.** The conditional use permit shall be reviewed every 2 years by the Town Board in order to determine conformance with the terms of the permit and its compatibility with the adjacent land uses. Failure to conduct such review shall not invalidate any subsequent review or any enforcement proceeding. If it is determined that the conditional use permit is no longer compatible, or that the provisions of the permit have not been complied with, the conditional use permit may be revoked or amended in accordance with the procedures set forth in this chapter.

**(i) Special provisions in AP district.** When located in the AP zoning district, bus parking must also comply with the requirements set forth in s. 91.01(1), Wis. Stats.

**(j) Not in a subdivision.** This use may not be located within a platted residential subdivision.

**(k) Single use.** If an owner is approved for this use, the owner may not also obtain approval for commercial truck parking as may be allowed under this code.

**(l) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.



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## 18.08 Commercial truck parking

**Description:** The parking and the storage of commercial type vehicles such as dump trucks, construction vehicles, and semi-trailers and tractors, and related equipment on a residential parcel as an accessory use.

**Vehicle Parking:** On-site parking not required

### Supplemental Standards:

**(a) Minimum lot size.** The minimum lot size for commercial truck parking is 5 acres in the AP zoning district and 35 acres in the RR zoning district.

**(b) Ownership requirements.** All commercial motor vehicles and related equipment authorized under this part shall be owned and/or leased, and operated by the owner or occupant of the premises.

**(c) Vehicle and equipment requirements.** All commercial motor vehicles and related equipment authorized under this part shall be (1) licensed, if required by the state of Wisconsin or federal government; (2) fully operational; and (3) in active use.

**(d) Road access.** The parcel used for commercial truck parking shall front on and have direct access to a state highway or a county trunk highway.

**(e) Number.** In the AP zoning district, no more than one commercial motor vehicle shall be parked or stored on the premises and no more than two additional construction vehicles, such as backhoes, front end loaders, and grading equipment, shall be allowed. Where considered appropriate due to trailer height, length, or parking location, two trailers may be allowed, but in no case may there be more than one semi-tractor or "cab" unit. In the RR zoning district, no more than one commercial motor vehicle shall be parked or stored on the premises.

**(f) Special dimensional standards.** No such vehicle shall be allowed to be parked or stored closer than 50 feet to any adjacent lot line, and not closer than 100 feet from the base setback line. In the case of refrigerator trucks, the refrigeration unit may not be operated in the open if said truck is parked closer than 500 feet to the nearest neighboring residential property line.

**(g) Periodic review.** The conditional use permit should be reviewed by the Town Board at least every 2 years to determine whether the terms of the approval are being met and whether the use is still compatible with the adjacent land uses. The failure of the Town



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## 18.08 Commercial truck parking

Board to review the conditional use as specified in this part shall not limit the authority of the Town Board to act as authorized. If the Town Board determines that the terms of the approval are not being met, the Town Board shall initiate enforcement proceedings to ensure compliance. If it is determined that the use is no longer compatible with adjacent land uses, the conditional use permit may be revoked in accordance with the revocation procedures in this code.

**(h) Indoor storage.** When allowed in the RR district, the commercial vehicle allowed under this part shall be kept inside of an enclosed building indoors from 10:00 pm to 6:00 am. Pursuant to the procedures and requirements in Article 6, the town board may approve a special exception to allow outdoor parking. The plan commission in making its recommendation and the town board in making its decision shall consider (1) the size of the subject property, (2) the location where the commercial vehicle would be kept, (3) the type of commercial vehicle being kept, (4) the extent to which the commercial vehicle would be visible from public and private streets and other properties in the area, (5) the character of the area, and (6) other factors related to relevant circumstances.

**(i) Special provisions in AP district.** When located in the AP zoning district, commercial truck parking must also comply with the requirements set forth in s. 91.01(1), Wis. Stats.

**(j) Not in a subdivision.** This use may not be located within a platted residential subdivision.

**(k) Single use.** If an owner is approved for this use, the owner may not also obtain approval for bus parking as may be allowed under this code.

**(l) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

Amendment(s): Ordinance 2023-01

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## 18.09 Exterior communication device

**Description:** An antenna used to capture wireless telecommunication signals.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

A ground-mounted radio/television antenna shall not exceed a height of 25 feet as measured from the ground surface. A building-mounted radio/television antenna shall not extend more than 15 feet above the roofline.

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## 18.10 Family day care home

**Description:** A private residence licensed as a day care center by the state where care is provided for 4 to 8 children.

Commentary: See s. 66.1017, Wis. Stats. A group day care (9 or more children) is considered a principal use and is therefore listed as a special care facility (5.0 series).

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) License.** Prior to the establishment of a family day care home, the operator shall obtain a license from the state as may be required by state law and maintain such license for the life of the use or until the state no longer requires such license.

**(b) Special provisions in AP district.** When located in the AP district, a family day care home must also comply with the requirements set forth in s. 91.01(1), Wis. Stats.

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## 18.11 Farm building for non-farm storage

**Description:** A building once used for agricultural purposes in which motor vehicles, construction equipment and vehicles, recreational vehicles, boats, and other related items not owned by the property owner may be stored, with or without a fee. Minor repair and maintenance of those objects in storage is permitted, provided such activity is for noncommercial purposes.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Buildings.** This use is limited to those buildings that were existing on January 1, 1980 and which were previously used for agricultural purposes (e.g., barns).

**(b) Expansion.** The building housing this use may not be enlarged to increase the storage area.

**(c) Alteration of building.** The building may not be altered to accommodate this use, except as may be specifically permitted by the reviewing authority as part of the review process.

**(d) Exterior storage prohibited.** All storage shall occur within the farm building (i.e., no outside storage).

**(e) Special provisions in AP district.** When located in the AP zoning district, this use must also comply with the requirements set



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### 18.11 Farm building for non-farm storage

forth in s. 91.01(1), Wis. Stats.

(f) **Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

### 18.12 Farm residence

**Description:** A dwelling unit occupied by an owner or operator of the farm, a parent or child of an owner or operator of the farm, or an individual who earns more than 50 percent of his or her gross income from the farm.

**Vehicle Parking:** 2 spaces

**Supplemental Standards:**

(a) **General requirements.** A farm residence shall comply with the standards for single-family dwellings as set forth in this appendix.

(b) **Number.** No more than one farm residence may be located on land under common ownership that is primarily devoted to agricultural use. For the purpose of this part, land is deemed to be primarily devoted to agricultural use if (1) the land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether a majority of the land area is in agricultural use; or (2) a majority of the land area is in agricultural use based on how the land is classified for tax purposes under ch. TAX 18, Wis. Admin. Code. For the purpose of this part, land is deemed to be under common ownership if (1) such parcels are owned by the same individual, a married couple, joint tenants, tenants in common, a corporation, a limited liability corporation, a partnership, an estate, or a trust; or (2) such parcels are owned by separate legal entities, but those legal entities are all wholly owned by exactly the same person or persons.

### 18.13 Fence

**Description:** A linear structure constructed for aesthetics, as a visual barrier, and/or to control entry or exit into an area. Typical materials include wood, metal, wire, masonry, stacked rocks, or logs.



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**Supplemental Standards:**

(a) **Applicability.** The requirements of this part apply to fences more than 30 inches in height.

(b) **Measurement of fence height.** The height of a fence shall be measured from the adjoining ground surface to the top of the fence material (i.e., not the fence post, pole, or column). The surrounding grade around a fence shall not be altered so as to raise the overall height of a fence (i.e., above the natural grade).

(c) **Construction specifications.** A fence shall meet the following construction specifications:

(1) **Width.** With the exception of vertical supports, the width of a fence shall not exceed 14 inches.

(2) **Height.** The top of a fence shall not exceed the height listed in the table below.

(3) **Orientation.** All non-decorative posts, horizontal supports, cross-members, and the like shall be oriented inward to the lot on which the fence is located, except for livestock fencing.

(4) **Materials.** A fence shall be constructed of building materials commonly used for fence construction in the region, except for those specifically prohibited in this part. A fence located in a front yard shall have a maximum opacity of 50 percent. All other fences may be solid from the ground to the maximum height. Snow fences constructed of wood or plastic shall be permitted only as temporary fences.

(5) **Vertical supports.** A vertical support, such as a post or column, shall not exceed 24 inches in width or extend more than 24 inches above the top of the highest point of the adjoining fence.

(6) **Arbors.** An arbor may extend above a pedestrian walkway provided it is not taller than 9 feet, wider than 5 feet, or deeper than 3 feet.

(7) **Trellises.** A trellis may be incorporated into the overall design of a fence provided no part is taller than 8 feet and does not extend for more than 10 percent of the length of the side on which it is located.

Maximum fence height			
Location	Residential and Agricultural Zoning Districts	Business Zoning Districts	Industrial Zoning Districts
Front yard	4.5 feet [1,2]	4.5 feet [3]	10 feet
Side yard	6 feet [2]	8 feet [3]	10 feet

## 18.13 Fence

Rear yard	6 feet [2]	8 feet [3]	10 feet
<ol style="list-style-type: none"><li>1. On parcels of 3 acres or more, a fence may be 5.5 feet in the front yard when the fence is used to contain livestock.</li><li>2. Pursuant to the procedures and requirements in article 6 of this chapter, the town board may approve a special exception to allow a fence that is higher than the height specified when such fence is needed to prevent certain livestock from escaping.</li><li>3. Pursuant to the procedures and requirements in article 6 of this chapter, the town board may approve a special exception to allow a fence that is higher than the height specified, but no more than 10 feet.</li></ol>			

**(d) Location specifications.** A fence shall meet the following locational specifications:

- (1) A fence may be placed up to a lot line, except that a fence shall not be closer than 2 feet to a public road right-of-way or other lot line when adjoining a public pedestrian walkway or the like.
- (2) A fence may be placed within a utility easement, unless prohibited by the easement holder, with the understanding that the utility authority may remove such fence at the property owner's expense, is not liable for any damage to the fence, and is not responsible for the reconstruction of the fence.
- (3) A fence shall not be located within a drainage easement. Upon written petition, the zoning administrator may allow a fence in a drainage easement when it can be shown that the fence will not restrict the flow of stormwater and the easement holder does not object.

**(e) Special standards for fencing around a swimming pool.** A fence that is located around a swimming pool must meet the standards in the most current edition of ANSI/IAF-8 as promulgated by the American National Standards Institute and Association of Pool and Spa Professionals that relate to barriers and fencing.

**(f) Special standards for fencing around a sport court.** A fence may be located around a sport court, provided it meets the following standards:

- (1) The fence shall not exceed 12 feet in height.
- (2) The fence shall not be located within a setback line.
- (3) Any portion of the fence above 6 feet in height shall be an open woven wire.

**(g) Special standards for temporary fencing.** A temporary fence may be used for the duration of a construction project with a valid building permit.

**(h) Modification of stormwater flow.** A solid masonry fence shall not impede the natural flow of stormwater.

**(i) Barbed wire fencing.** Barbed wire fencing is prohibited except as follows:

- (1) Three or fewer courses of barbed wire may be installed above the top line of a 6-foot high chain link fence when located in a manufacturing zoning district.
- (2) Barbed wire may be used to contain livestock as may be allowed in the zoning district.

**(j) Electric fencing.** Electrically-charged fencing is prohibited except when used to contain livestock as may be allowed in the zoning district.

**(k) Maintenance.** A fence shall be maintained in a structurally sound manner.

**(l) Fencing as a private nuisance.** In no event shall any provision in this part be construed to permit a fence that constitutes a private nuisance under s. 844.10, Wis. Stats.

## 18.14 Foster home and treatment foster home

**Description:** A facility licensed by the state for the care of foster children and which is operated by a foster parent who lives with the children.

Commentary: See s. 48.62, Wis. Stats. A foster home and treatment foster home can either be a principal use or an accessory use. If the operator does not live in the residence with the children, it is considered a principal use which is listed in Series 5.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) License.** Prior to the establishment of a foster home or treatment foster home, the operator shall obtain a license from the state as provided for in s. 48.75, Wis. Stats., and maintain such license for the life of the use or until the state no longer requires such license.

**(b) Special provisions in AP district.** When located in the AP zoning district, a foster home and treatment foster home must also comply with the requirements set forth in s. 91.01(1), Wis. Stats.

## 18.15 Home occupation, Type 1

**Description:** An occupation, profession, enterprise, or similar commercial activity that is conducted by a person residing on the residential premises as an accessory use, but excludes any activity that creates, transfers, or produces physical products for sale or

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## 18.15 Home occupation, Type 1

resale. The term does not include hobbies or similar noncommercial activities.

**Vehicle Parking:** additional parking is not required

**Supplemental Standards:**

**(a) Validity of use.** The individual primarily responsible for operation of the home occupation shall reside in a dwelling unit on the parcel.

**(b) Location and space limitation.** The home occupation must occur within the dwelling unit.

The space specifically designated for use of the home occupation shall occupy no more than 25 percent of the total floor area of the dwelling unit.

**(c) Exterior character of building.** The exterior character of the building housing the home occupation shall not be altered to accommodate such use.

**(d) Storage of materials.** Exterior storage of materials or equipment is prohibited.

**(e) Limitation on number of on-site workers.** The number of individuals working on-site shall be limited to those individuals living in the dwelling unit.

**(f) Retail sales.** On-site retail sale of merchandise is prohibited.

**(g) Nuisance.** A home occupation shall not create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference, or any other nuisance not normally associated with the typical residential use in the zoning district.

**(h) Prohibited uses.** The following uses do not qualify as a home occupation: veterinary services, medical offices, animal boarding or grooming, barber or hair care with 3 or more chairs, restaurant, vehicle repair, motor vehicle body work, or other similar activities.

**(i) Special exception for an operator with a disability.** Consistent with the procedures and requirements of article 6 of this chapter, the plan commission may approve a special exception to any of the requirements in this section when the operator has a temporary or permanent disability and the home occupation is or would be his or her primary livelihood and such deviation is needed to facilitate the operation of the home occupation in a reasonable manner.

**(j) Multiple home occupations.** Multiple home occupations may be permitted on a single lot provided all of the general requirements set forth in this section can be met based on an accumulation of activities.

**(k) Special provisions in AP district.** When located in the AP zoning district, a home occupation must comply with the requirements set forth in s. 91.01(1), Wis. Stats.



Amendment(s): Ordinance 2023-01

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## 18.16 Home occupation, Type 2

**Description:** An occupation, profession, enterprise, or similar commercial activity that is conducted by a person residing on the residential premises as an accessory use. The term does not include hobbies or similar noncommercial activities.

**Vehicle Parking:** 1 space for each company vehicle, if any

**Supplemental Standards:**

**(a) Validity of use.** The individual primarily responsible for operation of the home occupation shall reside in a dwelling unit on the parcel.

**(b) Location and space limitation.** The home occupation may occur within the dwelling unit or within an accessory building located on the lot, or both. The space specifically designated for use of the home occupation shall occupy no more than 25 percent of the total floor area of the dwelling unit.

**(c) Exterior character of building.** The exterior character of the building housing the home occupation shall not be altered to accommodate such use.

**(d) Limitation on number of on-site workers.** The number of individuals working on-site shall be limited to those individuals living in the dwelling unit and one individual not living in the dwelling unit.

**(e) Retail sales.** On-site retail sale of merchandise is prohibited.

**(f) Limitations on business vehicles.** The use shall not involve the use of a commercial vehicle for more than occasional delivery of materials to or from the premises.

**(g) Nuisance.** A home occupation shall not create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference, or any other nuisance not normally associated with the typical residential use in the zoning district.

**(h) Prohibited uses.** The following uses do not qualify as a home occupation: veterinary services, medical offices, animal boarding or grooming, barber or hair care with 3 or more chairs, restaurant, vehicle repair, motor vehicle body work, or other similar activities.

**(j) Special exception for an operator with a disability.** Consistent with the procedures and requirements of article 6 of this chapter, the plan commission may approve a special exception to any of the requirements in this section when the operator has a temporary or permanent disability and the home occupation is or would be his or her primary livelihood and such deviation is needed to facilitate

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## 18.16 Home occupation, Type 2

the operation of the home occupation in a reasonable manner.

**(k) Multiple home occupations.** Multiple home occupations may be permitted on a single lot provided all of the general requirements set forth in this section can be met based on an accumulation of activities.

**(l) Special provisions in AP district.** When located in the AP zoning district, a home occupation must comply with the requirements set forth in s. 91.01(1), Wis. Stats.

Amendment(s): Ordinance 2023-01

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## 18.17 Hot tub

**Description:** An outdoor warm water reservoir usually with hydromassage jets. A hot tub may be built in or portable.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Location.** A hot tub shall not be located in a front yard or in an offset of a side or rear yard.

**(b) Decking.** Decking is considered an integral part of a hot tub.

**(c) Draining of water.** Water that is drained out of a hot tub shall not flow onto adjoining property or into a wetland.

**(d) Design specifications.** A hot tub shall meet the most current standards published by the National Spa and Pool Institute (NSPI) and the American National Standards Institute (ANSI) including those for plumbing, electrical service, sanitation, fencing, security, and safety.

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## 18.18 Household livestock

**Description:** A place where livestock are kept primarily for the use and enjoyment of those living on the premises and occasional commercial purposes.

Note: Also see backyard chickens in this Series, which are allowed on parcels that are 3 acres or smaller.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Minimum lot size.** The minimum lot size for household livestock is 3 acres.

**(b) Number of animals.** The number of animals shall not exceed one grazing animal for each full acre plus 10 fowl for each full acre.

**(c) Prohibited animals.** The following are not permitted on parcels smaller than 35 acres: hogs; intact male goats; roosters; or fur-bearing animals, other than rabbits.

**(d) Location of new buildings.** A building that houses household livestock shall not be located within a floodplain or closer than 100 feet to the ordinary high-water mark of a navigable body of water.

**(e) Special standards for hogs.** Hogs are allowed provided the number does not exceed one-third of the total number of livestock allowed on the property. For example, if 3 livestock are allowed on a property, 1 may be a hog. Hogs shall be kept at least 75 feet from all lot lines.

**(f) Fencing.** Any area where poultry, domestic livestock, or horses are allowed to pasture or run shall be adequately fenced to keep them confined to such area.

**(g) Buildings not a structure.** A loafing shed is not counted as an accessory building, provided (1) the floor area is not more than 240 square feet, (2) it is located within a fenced enclosure, (3) it is constructed so it can be easily moved to another location (i.e., its moveable), (4) it is constructed of exterior building materials similar to the horse barn/stable, and (5) the number of loafing sheds is limited to the following: 3 to 5 acres - 1; 5.1 to 10 acres - 2; 10.1 to 20 acres - 3; and 20.1 to 35 acres - 4. A loafing shed shall not be used for storage of any kind.



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Amendment(s): Ordinance 2023-01

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## 18.19 In-law dwelling unit

**Description:** A room or suite of rooms having a separate kitchen facility, located in a single-family dwelling, occupied by not more than two persons related by blood or marriage to the family occupying the primary portion of the dwelling.

**Vehicle Parking:** 1 space

**Supplemental Standards:**

**(a) Limitation on occupancy.** An in-law dwelling unit shall only be occupied by people who are related by blood or marriage to the

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### 18.19 In-law dwelling unit

family occupying the primary portion of the single-family dwelling. Not more than 2 such persons shall occupy an in-law dwelling unit.

**(b) Limitation on floor area and bedrooms.** The floor area of an in-law dwelling unit shall not exceed 1,000 square feet. An in-law dwelling unit shall not contain more than 2 bedrooms.

**(c) Exterior appearance.** The architecture of the in-law dwelling unit shall be compatible with the existing single-family dwelling and adjacent residences. The building shall appear to be a single-family residence.

**(d) Doorways.** An in-law dwelling unit shall not have a primary exterior door. A patio-type door is allowed as a secondary exterior door if it opens onto a deck or patio and does not face the front of the lot. There shall be an interior door or opening between the in-law dwelling unit and the primary portion of the single-family dwelling.

**(e) Compliance with building codes.** Prior to establishment of an in-law dwelling unit, the town building inspector shall certify that the single-family dwelling meets all applicable building codes.

**(f) Compliance with sanitation requirements.** Prior to the establishment of an in-law dwelling unit, the Waukesha County Health Environmental Resource Department shall certify that the existing on-site sewage disposal system can accommodate the proposed use in accordance with county sanitation requirements.

**(g) Required actions following termination of use.** At such time as the in-law dwelling unit is no longer occupied by a person that is related by blood or marriage to the family occupying the primary portion of the single-family dwelling, the property owner shall remove the stove and/or oven in the in-law dwelling unit or in the other dwelling unit and the interior door separating the two units shall be removed.

**(h) Deed restriction.** Prior to the establishment of an in-law dwelling unit, the property owner shall file a deed restriction in the Waukesha County register of deeds office, acceptable to the town planner, that includes the following provisions: the in-law dwelling unit is to be occupied by not more than 2 people who are related by blood or marriage to the family occupying the primary portion of the single-family dwelling, the approval of an in-law dwelling unit is not transferable to another property owner without formal approval of the Town Board, and other provisions deemed appropriate by the reviewing authority.

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### 18.20 Kennel, hobby

**Description:** A place where 4 or more, but less than 11 adult dogs or other pet animals are kept for the occupant's private, non-commercial purposes. The term also includes the sale and training of up to 2 litters per year.

Commentary: A commercial kennel is considered a principal use and is therefore listed in Series 10.

**Vehicle Parking:** On-site parking not required

#### Supplemental Standards:

**(a) Nuisances.** If the keeping of animals allowed as a hobby kennel becomes a nuisance to the neighborhood, as determined by the plan commission or the town board, the town board may take appropriate steps to terminate the use consistent with division 7 of article 6.

**(b) Special provisions in AP district.** When located in the AP zoning district, a hobby kennel must also comply with the requirements set forth in s. 91.01(1), Wis. Stats.

**(c) Status as a building.** One free-standing dog enclosure with a roof not exceeding 48 square feet shall not be counted as an accessory building.

**(d) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.



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### 18.21 Kennel, private

**Description:** A place where no more than 3 adult dogs or other pets are kept for the occupant's private, non-commercial purposes. The term also includes the sale and training of up to 2 litters per year.

**Vehicle Parking:** On-site parking not required

#### Supplemental Standards:

One free-standing dog enclosure with a roof not exceeding 48 square feet shall not be counted as an accessory building.



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### 18.22 Light industrial use incidental to sales/service

**Description:** A place where light repairs are made to products that are offered for retail or wholesale sale.

**Vehicle Parking:** On-site parking not required

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## 18.22 Light industrial use incidental to sales/service

### Supplemental Standards:

- (a) **Maximum floor area.** The total floor area devoted to the light industrial activity shall not exceed 15 percent of the total floor area of the building, or 5,000 square feet, whichever is less.
- (b) **Required separation.** The area devoted to the light industrial activity shall be physically separated by a wall or partition from other activity areas.
- (c) **Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.
- (d) **Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

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## 18.23 Outdoor food and beverage service

**Description:** An outdoor area with tables and chairs located on the same lot as a brewpub, restaurant, or tavern where customers can consume food and drink.

**Vehicle Parking:** 1 space for each 3 patron seats or 1 space for each 300 square feet of area devoted to patron service, whichever is greater

### Supplemental Standards:

- (a) **Maximum size of service area.** The size of the outdoor service area shall not be more than 50 percent of the floor area of the brewpub, restaurant, or tavern.
- (b) **Location of service area.** The outdoor service area shall be located on the same parcel of land as the brewpub, restaurant, or tavern or on an adjoining parcel. The outdoor service area shall not be located in a public right-of-way, a required landscape area, a buffer yard, or the setback of a front yard, side yard, shore yard, or rear yard.
- (c) **Consistency with state liquor license.** No alcoholic beverages shall be served or consumed within the outdoor service area unless the liquor, beer, or wine license, whichever is applicable, as issued by the town, explicitly states that consumption is permitted within the outdoor service area.
- (d) **Entrance to service area if alcoholic beverages are served.** If alcoholic beverages are served, the entrance or entrances to the outdoor service area shall be exclusively through the brewpub, restaurant, or tavern, and a barrier such as a rope or fence shall be erected to prevent entry to the outdoor service area by any other means.
- (e) **Restroom requirements.** The restroom facilities in the brewpub, restaurant, or tavern shall be of sufficient capacity to serve both the indoor and outdoor patrons. Temporary toilet facilities are not permitted.
- (f) **Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

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## 18.24 Play structure

**Description:** A playhouse and recreational equipment, such as swings, slides, basketball hoops, and jungle gyms, normally found in a residential setting or with a group day care center.

**Vehicle Parking:** On-site parking not required

### Supplemental Standards:

- (a) **Location.** A play structure shall not be located in a front yard.
- (b) **Status as a building.** One play structure with a roofed area not exceeding 64 square feet shall not be counted as an accessory building.



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## 18.25 Pond

**Description:** A manmade body of water with a surface area observed or recorded within the last ten years of at least 5,000 square feet that is not otherwise required to meet stormwater requirements of a development project.

**Vehicle Parking:** On-site parking not required

### Supplemental Standards:

- (a) **Minimum lot size.** The minimum lot size for a pond is 3 acres.
- (b) **County review authority.** A pond may also be subject to the Waukesha County Shoreland and Floodland Protection Ordinance.
- (c) **Pond design.** A pond shall not create flooding, concentrated runoff, inadequate drainage, or unfavorable topography, or restrict navigation in navigable waters.
- (d) **Technical design standards.** A pond must comply with applicable technical design standards published by the Wisconsin Department of Natural Resources and the Natural Resources Conservation Service, including soil investigations, safety shelf, berm

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### 18.25 Pond

design, compaction specifications, inlet/outlet design, and erosion control.

**(e) Proximity to property boundary.** The water surface of a pond must be at least 50 feet from any lot line.

**(f) Proximity to wetlands.** The water surface of a pond must be at least 25 feet from any wetland, unless otherwise approved by the Wisconsin Department of Natural Resources as a wetland enhancement.

**(g) 100-Year Floodplain.** The water surface of a pond must be at least 25 feet from any 100-year floodplain and no land altering activity is allowed within the floodplain. The finished grade around the entire pond must be at least 2 feet above the 100-year flood elevation when any portion of the pond is within 50 feet of a 100-year floodplain.

**(h) Groundwater pumping.** Groundwater pumping is a prohibited water source for a pond, unless the Town Board determines there is a broad public benefit.

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### 18.26 Retaining wall, major

**Description:** A single retaining wall that is more than 4 feet in height above finished grade, or a series of retaining walls more than 6 feet in total height where the distance between the top of first wall and the base of the second wall is less than twice the height of the second wall.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Offset.** The base of a major retaining wall must be setback from the side or rear lot line a distance that is equal to or greater than twice the height of the retaining wall. For example, if a retaining wall is 3 feet in height, it must be at least 6 feet from the lot line. If an existing retaining wall does not comply with this setback requirement, it may be reconstructed provided it is not enlarged.

**(b) Setback.** A major retaining wall located in the front yard must be setback from the front lot line at least 6 inches. If an existing retaining wall does not comply with this offset requirement, it may be reconstructed provided it is not enlarged.

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### 18.27 Retaining wall, minor

**Description:** A single retaining wall, less than 4 feet above finished grade, that is constructed to resist the lateral pressure of soil, loose rock, and the like creating a step in the grade of a site.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

A minor retaining wall must comply with the standards for a major retaining wall.



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### 18.28 Rural accessory building

**Description:** A structure so designated consistent with division 15 of article 6 of this chapter.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

The property owner shall comply with those requirements in division 15 of article 6 of this chapter and each of the conditions of approval as may be imposed.

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### 18.29 Sales incidental to industrial use

**Description:** A place where items manufactured on site are offered for sale as a subordinate use to the manufacturing operation.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Maximum floor area.** The total floor area devoted to indoor sales shall not exceed 25 percent of the total floor area of the building.

**(b) Required separation.** The area devoted to wholesale/retail sales shall be physically separated from those areas used for industrial purposes by an interior wall.

**(c) Hours of operation.** When allowed as a conditional use, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(d) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.



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### 18.30 Service window, drive-up

**Description:** An opening in a building through which patrons are served while remaining in a motor vehicle.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Crosswalks.** A pedestrian crosswalk shall be marked on the pavement when the lane for a drive-up service window is situated between on-site parking and a building entrance.

**(b) Length of queue lane.** The lane leading up to a drive-up service window shall be of sufficient length so that at the anticipated customer peak, all motor vehicles waiting in queue will be entirely on the premises.

**(c) Location.** A drive-up service window shall only be located to the side or rear of the building in which it is located and at least 60 feet from a parcel in a residential zoning district.

**(d) Hours of operation.** When located in any zoning district other than the B-4 district, the business may be only operated from 6:00 am to 12:00 am (midnight). The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(e) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.



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### 18.31 Service window, walk-up

**Description:** An opening in a building through which patrons are served while standing outside of the building.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Location.** A walk-up service window shall not be located within 8 feet of a setback of a front yard, side yard, or rear yard.

**(b) Hours of operation.** When located in any zoning district other than the B-4 district, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(c) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

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### 18.32 Solar energy system, building-mounted

**Description:** An installation that uses sunlight to produce electricity or provide heat or hot water to a building. For the purposes of this code, a solar energy system may be classified as a free-standing system or a building-mounted system.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Maximum surface area.** No portion of a panel used to collect solar energy may extend beyond the roof perimeter or the wall perimeter to which it is attached.

**(b) Maximum height.** A building-mounted solar energy system shall comply with the maximum height requirements of the zoning district in which the building is located.

**(c) Placement on a flat roof.** The panels of a solar energy system that are mounted on a flat roof may be either fixed or movable and may be placed at an angle to optimize efficiency of the system.

**(d) Placement on a pitched roof.** A solar energy system mounted on a pitched roof shall be designed and installed to match the shape, proportion, and slope of the roof.

**(e) Placement on a façade.** A solar energy system may be mounted on the façade of a commercial building if integrated into the overall design of the building. Such installations shall not project more than 4 feet from the face of the wall.

**(f) Certification.** A solar panel shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the zoning administrator. The building inspector may approve the use of a homemade panel.

**(g) Approval by electric utility company.** If the solar energy system is designed to produce electricity, the property owner shall submit documentation acceptable to the building inspector indicating that the system meets all applicable regulations and requirements of the affected electric utility company.

**(h) Termination of use.** If the zoning administrator determines that more than 50 percent of the panels (measured by total area) have not been operational for a continuous period of 12 months, the administrator shall follow the procedure outlined in article 6 of this chapter relating to the termination of an approval.

**(i) Compliance with state law.** The provisions in this part are intended to satisfy the requirements of s. 66.0401(1m), Wis. Stats. On



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### 18.32 Solar energy system, building-mounted

a case-by-case basis, if the restrictions of this part are found not to comply with the authority of s. 66.0401(1m), Wis. Stats., they shall not be required. The Town Board shall have the ability to add additional restrictions on a case-by-case basis, provided they are within the authority of the town pursuant to s. 66.0401(1m), Wis. Stats., and in particular the restriction must satisfy one of the following conditions:

- (1) Serves to preserve or protect the public health or safety.
- (2) Does not significantly increase the cost of the system or significantly decrease its efficiency.
- (3) Allows for alternative system of comparable cost and efficiency.

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### 18.33 Solar energy system, free-standing

**Description:** An installation that uses sunlight to produce electricity or provide heat or hot water to a building. For the purposes of this code, a solar energy system may be classified as a free-standing system or a building-mounted system.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Surface area.** The surface area of a free-standing solar energy system must not exceed the area needed to accommodate 120 percent of the site's anticipated power demand.

**(b) Maximum height.** A free-standing solar energy system shall not exceed 15 feet in height as measured from the surrounding grade.

**(c) Setback.** A free-standing solar energy system in any position shall not extend into the setback of a front yard, side yard, shore yard, or rear yard as established for the zoning district in which the parcel is located. Pursuant to the procedures and requirements in article 6, the Town Board may approve a special exception to allow a free-standing solar energy system to extend into a setback, offset, or buffer yard when no other location on the parcel is acceptable and the encroachment is the least necessary to allow the system to operate.

**(d) Placement in yards.** A free-standing solar energy system located in a residential or business zoning district shall only be located in the rear or side yard. Pursuant to the procedures and requirements in article 6 of this chapter, the Town Board may approve a special exception to allow a free-standing solar energy system in the front yard when no other location on the parcel is acceptable and the encroachment is the least necessary to allow the system to operate. A solar panel in an agricultural or manufacturing zoning may be located in any yard area.

**(e) Certification.** A free-standing solar energy system shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the zoning administrator. The building inspector may approve the use of a homemade panel.

**(f) Approval by electric utility company.** If the solar energy system is designed to produce electricity, the property owner shall submit documentation acceptable to the building inspector indicating that the system meets all applicable regulations and requirements of the affected electric utility company.

**(g) Termination of use.** If the zoning administrator determines that a free-standing solar energy system has not been operational for a continuous period of 12 months, the administrator shall follow the procedure outlined in article 6 of this code relating to the termination of an approval.

**(h) Compliance with state law.** The provisions in this part are intended to satisfy the requirements of s. 66.0401(1m), Wis. Stats. On a case-by-case basis, if the restrictions of this part are found not to comply with the authority of s. 66.0401(1m), Wis. Stats., they shall not be required. The Town Board shall have the ability to add additional restrictions on a case-by-case basis, provided they are within the authority of the town pursuant to s. 66.0401(1m), Wis. Stats., and in particular the restriction must satisfy one of the following conditions:

- (1) Serves to preserve or protect the public health or safety.
- (2) Does not significantly increase the cost of the system or significantly decrease its efficiency.
- (3) Allows for alternative system of comparable cost and efficiency.

Amendment(s): Ordinance 2023-01

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### 18.34 Storage container

**Description:** An enclosed metal container exceeding 900 cubic feet typically used to temporarily store merchandise.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Location.** A storage container in a business zoning district shall be located behind the back of the principal building but not within

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### 18.34 Storage container

offsets or in a parking area required by this code.

**(b) Stacking prohibited.** Storage containers shall not be stacked one on top of another.

**(c) Character.** A storage container shall be structurally sound and in good repair.

**(d) Signage.** A storage container shall not be used for signage.

**(e) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.



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### 18.35 Swimming pool

**Description:** A structure placed on the ground surface or below-ground that is filled with water for swimming. The term does not include those pools that are less than 15 feet in diameter and which are taken down and stored in the off-season.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Location.** A swimming pool shall not be located closer than 10 feet to the principal structure, shall not be located in a front yard, and must follow setback and offset regulations. A swimming pool shall have a horizontal separation distance of at least 15 feet from any septic tank or soil absorption field. The inside wall of the pool shall be located at least 10 feet from the vertical plane formed by the electrical wire perpendicular to the ground surface. Pumps and filter equipment shall be located at least 20 feet from a lot line.

**(b) Decking.** Surfaced terraces, sun decks, and walks that are accessory to a private residential pool shall be at least 5 feet from a lot line.

**(c) Draining of water.** Water that is drained out of a swimming pool shall not flow onto adjoining property, into a wetland, or into a sanitary sewer without the approval of the public works director or equivalent.

**(d) Area.** The area occupied by a swimming pool and hot tub shall not exceed 30 percent of the area of the parcel of land.

**(e) Design specifications.** A swimming pool shall meet the most current standards published by the National Spa and Pool Institute (NSPI) and the American National Standards Institute (ANSI) including those for plumbing, electrical service, sanitation, fencing, security, and safety.

**(f) Fencing.** Pools, not higher than 3.5 feet above the ground, shall be completely fenced to prevent the unregulated entrance to the pool area. The secure fence shall be constructed of chain link, wood, or other similar material acceptable to the Town Board and shall be at least 3.5 feet in height. If the pool is partially less than 3.5 feet in height, the area less than 3.5 feet must be fenced as described in this part. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate.

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### 18.36 Utility cabinet

**Description:** A ground-mounted pedestal, junction box, cabinet, or similar feature that a service provider uses to provide telephone, electric, natural gas, cable television, cable Internet, or similar public service. A utility cabinet may be located within a public right-of-way or on private property.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Number limited.** No more than 4 utility cabinets shall be located on a parcel of land. Five or more utility cabinets on a parcel of land shall be considered a minor utility installation. A utility cabinet is considered an accessory use in all situations and may be placed on private property and public property, such as a public right-of-way.

**(b) Setbacks.** A utility cabinet is exempt from yard setback standards as may be established for the zoning district in which this use is located.

**(c) Placement on public property.** Prior to establishing a utility cabinet on public property under the jurisdiction of the town, county, or state, the operator shall obtain all approvals as may be required by the governmental entity having jurisdiction.

**(d) Placement on private property.** Prior to establishing a utility cabinet on private property, the operator and property owner shall establish a proper lease or easement governing the use of the property for this purpose and submit the same to the zoning administrator for his or her approval.

**(e) Placement in a stormwater easement.** Prior to establishing a utility cabinet within a stormwater management easement under the jurisdiction of the town, county, or state, the operator shall obtain all approvals as may be required by the governmental entity having jurisdiction.

**(f) Screening.** The reviewing authority may require landscaping or other screening as deemed appropriate.



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## 18.37 Work/live dwelling unit

**Description:** A dwelling unit located in a building also housing a business. The work/live dwelling unit is an accessory use to the business and its use is limited to the business operator or a household that includes the business operator.

**Vehicle Parking:** 2 spaces for each residential unit

### Supplemental Standards:

**(a) Number.** No more than one work/live dwelling unit shall be located on the subject property.

**(b) Occupancy.** A work/live dwelling unit shall be occupied and used only by the operator of the business, or a household of which at least one member shall be the business operator. If the business operator ceases to occupy the work/live dwelling unit for more than 12 months, the floor area of the work/live dwelling unit shall be converted to business purposes. If both the business area and the work/live dwelling unit are unoccupied, the work/live dwelling unit may remain during the vacancy.

**(c) Sale or rental of portions of unit.** No portion of a building with a work/live dwelling unit may be rented, leased, sold, or otherwise conveyed to any person not living in the work/live dwelling unit.

**(d) Prohibited uses.** A work/live dwelling unit shall not be established or used in conjunction with any of the following activities even if otherwise permitted in the zoning district:

- (1) adult-oriented establishment;
- (2) motor vehicle or heavy equipment maintenance or repair;
- (3) any use that stores or uses flammable liquids or hazardous materials beyond that normally associated with a residential use; and
- (4) any use, as determined by the reviewing authority, that is likely to not be compatible with residential activities because of the type of materials or processes used in the business operation or the presence of dust, glare, heat, noise, gasses or other emissions, odor, smoke, vibration or any other similar or related condition created by the business operation.

**(e) Floor area.** The floor area of a work/live dwelling unit shall not exceed 30 percent of the floor area of the entire building in which the unit is located, or 1,200 square feet, whichever is less. The remaining floor area shall be reserved and regularly used for business purposes.

**(f) Exterior door.** There shall be an exterior entrance door to the work/live dwelling unit that is clearly separated from the entrance to the business.

**(g) Restriction on future land division changes to lot lines.** The subject property shall not be subdivided or otherwise divided by any means so long as the live/work dwelling unit is being occupied for residential purposes. Further, the location of the lot lines shall not be altered by any means without the written approval of the town board upon a recommendation of the plan commission.

**(h) Imposition of conditions.** The reviewing authority may establish conditions of approval that in the opinion of the reviewing authority, are needed to ensure the work/live dwelling unit is compatible with the business on the subject property and the commercial or industrial use of other properties in the vicinity.

**(i) Deed restriction.** Prior to the establishment of a work/live dwelling unit, the property owner shall file a deed restriction in the Waukesha County register of deeds office, acceptable to the zoning administrator, that includes one or more of the use or operational requirements contained in this part and other provisions deemed appropriate by the zoning administrator or other reviewing authority.

**(j) Required findings.** As part of the review process, the reviewing authority shall only approve a work/live dwelling unit after making a positive finding for all of the following requirements:

- (1) The building containing the work/live dwelling unit contains a bona fide business that is otherwise permitted in the district in which it is located.
- (2) The establishment of the work/live unit dwelling unit will not conflict with or inhibit permitted business uses in the area.

**(k) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

## 19 Temporary Uses

### 19.01 Earth materials stockpile

**Description:** A place where an earth material, such as topsoil and gravel, is piled and temporarily stored. The earth material must be derived from an on-site land development project and/or be used on site.

**Vehicle Parking:** On-site parking not required

### Supplemental Standards:

**(a) Hours of operation.** When the earth materials stockpile is located in a residential zoning district, equipment used to load, move, or process materials shall only be used between the hours of 7:00 am and 7:00 pm.

**(b) Term of use.** As part of the building, site, and operation plan review, the reviewing authority may establish the maximum length of



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**19.01 Earth materials stockpile**

time this use may operate.

(c) **Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

**19.02 Farmers market**

**Description:** A place where agricultural producers gather on a regular basis to offer their agricultural products directly to retail consumers.

**Vehicle Parking:** 1.5 space for each vendor space when sufficient on street parking is not available

**Supplemental Standards:**

(a) **Hours of operation.** The display of products and sales shall only occur from 8:00 am to 30 minutes past sunset. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

(b) **Removal and clean up.** Within 24 hours following the close of the farmers market, all features solely associated with the farmers market shall be removed and all trash and debris shall be removed.

(c) **Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.



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**19.03 Farmstand, off-site**

**Description:** A place where agricultural products not produced on the premises are offered for sale at retail.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

(a) **Size limitation.** If a structure or building is used, the ground area shall not exceed 100 square feet.

(b) **Placement.** This use shall not be located within a vision clearance triangle as set forth in Article 7.

(c) **Duration.** If a structure or building is used, it shall only be used from April 1 through November 30 and must be removed no later than December 10.

(d) **Hours of operation.** The sale of items shall only occur from 9:00 am to 30 minutes past sunset. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

(e) **Number.** No more than one stand is allowed on any one premises.

(f) **Status as a building.** One free-standing building with a roof not exceeding 100 square feet shall not be counted as an accessory building.

(g) **Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.



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**19.04 Farmstand, on-site**

**Description:** A place where agricultural products produced exclusively on the premises are offered for sale at retail.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

(a) **Limitation on sales.** Products offered for sale shall be produced on the premises.

(b) **Use of structure.** A structure may be used to store or display products and for sales, provided the following conditions are met:

(1) **Term of use.** The structure is only used from April 1 through November 30 and is removed no later than December 10.

(2) **Floor area.** The floor area of the structure shall not exceed 500 square feet.

(3) **Structure height.** The height of the structure shall not exceed 12 feet.

(4) **Location.** The structure shall be located at least 100 feet from a parcel in a residential zoning district. The structure may be located within the front yard setback area but no closer than 15 feet to the lot line. The structure shall not be located within a vision clearance triangle as set forth in Article 7.



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### 19.04 Farmstand, on-site

**(c) Hours of operation.** The sale of items shall only occur from 9:00 am to 30 minutes past sunset. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(d) Status as a building.** One free-standing building with a roof not exceeding 100 square feet shall not be counted as an accessory building.

**(e) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

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### 19.05 Livestock for vegetation management

**Description:** Keeping of sheep and/or goats on a temporary basis for controlling undesirable plant species such as buckthorn, honeysuckle, invasive rose, garlic mustard, and reed canary grass.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Vegetation management plan.** A vegetation management plan must be submitted that describes (1) the areas to be treated; (2) the nature and extent of the plant species to be controlled; (3) the number of livestock being used; (4) the time periods when livestock will be used, not to exceed 30 days in a calendar year; (5) the type of fencing used, and (6) other operating characteristics. The Town reserves the right to request a third-party review of the proposed management plan.

**(b) Buildings.** No permanent buildings may be erected or installed on the subject property for housing the livestock.

**(c) Fencing.** Fencing may be temporarily installed while livestock are kept on the subject property.

Amendment(s): Ordinance 2023-01

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### 19.06 Model home

**Description:** A residential dwelling in a residential development temporarily used as a sales office for other on-site and off-site residential dwellings and properties.

**Vehicle Parking:** Determined on a case-by-case basis

**Supplemental Standards:**

**(a) Generally.** A model home may be established when the residential project is developed by a single developer and the project will have more than 25 dwelling units available for sale in the first two phases.

**(b) Appearance.** The building used as a model home shall be of the same type and character as the dwelling units being offered for sale within the development.

**(c) Duration of use.** The model home shall be closed when 80 percent of the dwelling units of the entire development have been sold.

**(d) Limitation on use.** The model home is intended to facilitate the sale of residential housing units in the development in which it occurs and off-site sales activity shall be clearly incidental. The sales staff shall be limited to 2 licensed real estate agents and one support staff. The model home may be furnished but shall not be occupied as a residence.

**(e) Hours of operation.** The use may be only operated from 6:00 am to 8:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.



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### 19.07 Off-site construction yard

**Description:** A place where construction materials and equipment may be stored, prepped, or staged for an off-site construction project (e.g., highway reconstruction project or construction of an electric transmission line or pipeline).

**Vehicle Parking:** 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site

**Supplemental Standards:**

**(a) Setback requirements.** Outdoor storage areas and other activity areas shall be located at least 40 feet from a parcel in a residential zoning district and 20 feet from a parcel in a business zoning district.

**(b) Site restoration.** As part of the review process, the applicant shall prepare and submit a restoration plan and obtain the approval of the same. Such restoration plan shall identify those areas of the parcel that will be disturbed and how those areas will be restored following the cessation of this temporary use.

**(c) Financial guarantee.** Prior to the establishment of an off-site construction yard, the property owner shall submit a financial

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### 19.07 Off-site construction yard

guarantee in a form acceptable to the zoning administrator and in an amount equal to 110 percent of the estimated cost of site restoration identified in the restoration plan that is approved for the project. If the town exercises its right to use the financial guarantee to restore the property and the amount of the financial guarantee does not cover such costs, the difference between the amount of the guarantee and the actual cost shall constitute a lien against the property as authorized by state law.

**(d) Hours of operation.** The use may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(e) Application fee.** This use is classified as a Type 2 conditional use in the fee schedule.

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### 19.08 On-site construction office

**Description:** A portable building or enclosed trailer temporarily placed on a construction site for use by the contractor as a field office.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Generally.** An on-site construction office may be established for commercial and industrial construction projects.

**(b) Duration of use.** An on-site construction office shall be removed within 10 days after the date of issuance of the last occupancy permit for the building under construction.

**(c) Location.** An on-site construction office shall be placed in a location with the least impact to adjoining property owners.

**(d) Limitation on use.** The use of an on-site construction office shall be limited to construction management activities associated with the construction activities occurring on the parcel of land on which it is located.

**(e) Hours of operation.** The use may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.



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### 19.09 On-site construction yard

**Description:** A place where construction materials, equipment, and the like may be stored, prepped, or staged for an on-site construction project.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Generally.** An on-site construction yard may be established for commercial and industrial construction projects.

**(b) Duration of use.** On-site project material storage shall be removed within 10 days after the date of issuance of the last occupancy permit for the building under construction. The use may shall not exist for more than 6 months, unless the Town Board authorizes a one-time extension of no more than 3 months.

**(c) Location.** On-site project material storage shall be placed in a location with the least impact to adjoining property owners.

**(d) Size limitations.** The area dedicated for on-site project material storage shall not exceed 10 percent of the gross area of the parcel.

**(f) Hours of operation.** When located in any zoning district other than the B-4 district, the business may be only operated from 6:00 am to 9:00 pm. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

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### 19.10 Party tent

**Description:** A nonpermanent tent that is associated with a temporary event that is permitted under this chapter.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Duration.** A party tent shall not be erected for more than 7 continuous days or more than a cumulative total of 21 days in a calendar year.

**(b) Status.** One party tent permitted under this chapter does not count as an accessory building.



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## 19.11 Portable storage container

**Description:** An enclosed metal container that is used to temporarily store household items and similar goods.

**Vehicle Parking:** On-site parking not required

**Supplemental Standards:**

**(a) Duration.** A portable storage container shall not be located on a parcel of land for more than 90 days during any 9-month period.

**(b) Location.** A portable storage container shall not be located in the front or side yard setback established for the zoning district in which this use occurs, except when placed in a driveway.

**(c) Maximum floor area.** The cumulative floor area of one or more portable storage containers shall not exceed 250 square feet.

**(d) Limitation on use.** When located in a residential zoning district, a portable storage container shall only be used to store household goods during an on-site construction/remodeling project or when used to move household goods to another location.



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## 19.12 Relocatable building

**Description:** A portable building or enclosed trailer temporarily placed on a parcel that may be used in conjunction with the principal use of the property. For example, relocatable buildings are used to house students during a construction project or accommodate enrollment in excess of the principal building's design capacity. A mobile home or manufactured home is not considered a relocatable building.

**Vehicle Parking:** Based on the standard for the principal use

**Supplemental Standards:**

**(a) Required principal use.** A relocatable building may only occur with a governmental or institutional use, such as worship facility, library, or school.

**(b) Location.** A relocatable building shall conform to all setback requirements for the zoning district in which it is located.

**(c) Building code.** A relocatable building shall conform to all applicable building code requirements.

**(d) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.

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## 19.13 Seasonal product sales

**Description:** An outdoor area where merchandise typically associated with a seasonal holiday or festival is displayed and offered for sale at retail immediately before the event. Examples of such merchandise include Christmas trees and wreaths for Christmas and pumpkins for Halloween.

**Vehicle Parking:** Determined on a case-by-case basis, but not less than 2 when on street parking is not available

**Supplemental Standards:**

**(a) Duration of use.** Merchandise shall not be sold any sooner than 30 days prior to the date of the seasonal event. Cleanup and removal of all related items shall be completed within 2 days following the date of the seasonal event.

**(b) Placement.** This use shall not be located within a vision clearance triangle as set forth in Article 7.

**(c) Removal and clean up.** Within 24 hours following the termination of the sale, all features associated with the sale and trash and debris of all kinds shall be removed from the site.

**(d) Special provisions in AP district.** When located in the AP zoning district, seasonal product sales must also comply with the requirements set forth in s. 91.01(1), Wis. Stats.

**(e) Hours of operation.** The use may be only operated from 6:00 am to 30 minutes past sunset. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.

**(f) Application fee.** This use is classified as a Type 1 conditional use in the fee schedule.



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## 19.14 Special event

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## 19.15 Wind test tower

**Description:** A temporary tower on which equipment is attached that measures parameters needed to assess the site's suitability for a wind energy system.



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## 19.15 Wind test tower

**Vehicle Parking:** On-site parking not required

### Supplemental Standards:

Pursuant to s. 66.0401(3), Wis. Stats., there are no standards or requirements for the establishment of a wind test tower or similar testing facility. If the Plan Commission and/or Town Board determines that the anticipated or actual testing is detrimental to the public health, safety, or welfare, such bodies may, individually or jointly, submit a written petition to the Public Service Commission requesting the imposition of reasonable restrictions on such use.

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## 19.16 Yard sale

**Description:** A temporary event where used household items are offered for sale.

**Vehicle Parking:** On-site parking not required

### Supplemental Standards:

**(a) Required principal use.** A yard sale shall only occur with a principal residential use or with a governmental or institutional use, such as a worship facility, library, or school.

**(b) Duration.** A yard sale shall not be operated for more than 4 consecutive days. There shall be at least 60 days between the last day of a yard sale and the first day of a subsequent yard sale.

**(c) Hours of operation.** The use may be only operated from 6:00 am to 30 minutes past sunset. The Town Board may, however, allow extended hours as a special exception after reviewing the location of the use on the subject property and/or proximity to other existing and potential land uses.



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## 20 Other

### 20.01 Berm

**Description:** A mound or embankment of earth typically installed to provide screening or for aesthetic effect that is more than 3 feet above the surrounding grade.

**Vehicle Parking:** On-site parking not required

### Supplemental Standards:

**(a) Materials.** A berm shall be made of soil. Construction debris, concrete, asphalt, and other such materials are prohibited.

**(b) Form.** A berm shall be graded to appear as a curvilinear naturalistic form.

**(c) Side slope.** In order to facilitate maintenance and efficient irrigation water usage, a berm shall not exceed a slope of 3:1 (i.e., for every 3 feet of horizontal run the vertical height is one foot).

**(d) Crest.** A berm that is more than 4 feet above the surrounding grade shall have a flat top at least 4 feet in width.

**(e) Maximum height.** The maximum height of a berm is 6 feet, except the Town Board, upon a recommendation from the Plan Commission, may allow a height exceeding that standard via a site plan or other development review process.

**(f) Stabilization.** A berm shall be covered with turf or mulch along with landscape plant materials as desired or as may be required in this chapter.

**(g) Effect on stormwater flow.** A berm shall not be designed or placed so as to divert the normal flow of stormwater to the detriment of surrounding properties.

**(h) Placement with respect to existing trees and shrubs.** No portion of a berm shall be placed within the critical root zone (1.5 feet for every diameter inch) of an existing tree.

**(i) Placement within vision triangle.** Placement of a berm within a vision triangle shall be consistent with the standards in s. 500.562.

**(j) Placement by roads.** The edge of the berm shall be at least 10 feet from a road right-of-way.

**(k) Prohibited locations.** Berms shall not be placed in drainageways, floodplains, wetlands, or in the C-1 district.

**(l) Fences.** A fence shall not be installed on any part of a berm.

**(m) Deadline for completion.** An approved berm shall be completed, including any landscaping, within 12 months of the date of the issuance of the approval.

**(n) Change in topography.** Any berm meeting the definition of a change in topography shall be reviewed as such.



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Appendix C. Dimensional standards for lots

Zoning District	Minimum Lot Area	Lot Density	Minimum Lot Width	Minimum Lot Frontage	Minimum Residential Living Area [1]	Maximum Residential Garage Area	Maximum Building Coverage	Building Height Maximum [2]	Minimum Setback [3,11,12]	Minimum Offset [4,5,12]	Maximum Number of Accessory Buildings [6]	Maximum Land Disturbance
Section in Code	s. 500.552	s. 500.554	s. 500.555	s. 500.556	s. 500.557(A)	s. 500.557(B)	s. 500.558	s. 500.559	s. 500.560	s. 500.561	s. 500.566	s. 500.568
Public (P-1) District	40,000 sq. ft.	Not applicable	150 ft.	33 ft.	--	--	30 percent	Principal: 35 ft. Accessory: 20 ft. [7]	50 ft.	50 ft.	Not applicable	Not applicable
Quarry (Q-1) District	10 ac.	Not applicable	200 ft.	33 ft.	--	--	5 percent	Principal: 35 ft. Accessory: 60 ft.	See s. 500.663	See s. 500.663	Not applicable	Not applicable
Conservancy (C-1) District	--	Not applicable	--	33 ft.	--	--	--	--	--	--	Not applicable	Not applicable
Upland Conservancy (UC) District	3 ac.	1 du per 5 acres	Less than 6 acres: 200 ft. 6 acres or more: 300 ft.	33 ft.	Single-family: 1,500 sf with at least 900 sf on first floor	Attached Residential Garage: 60 percent of floor area of residence Detached Residential Garage: Subject to maximum building coverage limits in s. 500.558	10 percent	Principal: 35 ft. Accessory: 18 ft. [7]	50 ft or 35 ft if lots in a residential development established after January 1, 2017 and lots served by a town road	30 ft.	2, plus a minor shed not exceeding 150 sf	See s. 500.568
Agricultural Land Preservation (AP) District	35 ac. subject to s. 500.552(G)	Not applicable	600 ft.	33 ft.	Single-family: 1,500 sf with at least 900 sf on first floor	Attached Residential Garage: 60 percent of floor area of residence Detached Residential Garage: Subject to maximum building coverage limits in s. 500.558	10 percent	Nonfarm Principal: 35 ft. Nonfarm Accessory: 18 ft. Farm Principal & Accessory: 60 ft. [7]	50 ft.	50 ft.	Not applicable	Not applicable
Rural Residential (RR) District	3 ac.	1 du per 3 acres	200 ft.	33 ft.	Single family: 1,500 sf with at least 900 sf on first floor; Duplex: 850 sf per unit	Attached Residential Garage: 60 percent of floor area of residence Detached Residential Garage: Subject to maximum building coverage limits in s. 500.558	15 percent	Principal: 35 ft. Accessory nonfarm: 18 ft. [7] Accessory farm: 60 ft.	50 ft or 35 ft if lots in a residential development established after January 1, 2017 and lots served by a town road	30 ft.	Less than 35 acres: 2, plus a minor shed not exceeding 150 sf [8] 35 acres or more: 2, plus a minor shed not exceeding 150 sf, no restriction on farm buildings	Not applicable
Residential (R-1) District	1 ac.	1 du per acre	Corner lot: 180 ft. Other lots: 150 ft.	33 ft.	Single family: 1,200 sf with at least 720 sf on first floor; Duplex: 850 sf per unit; Multi-family: 600 sf for one bedroom, 700 sf for two-bedroom, 800 sf for three-bedroom, 900 sf for four or more bedrooms, plus 100 sf for each additional bedroom over four	Attached Residential Garage: 60 percent of floor area of residence Detached Residential Garage: Subject to maximum building coverage limits in s. 500.558	10 percent	Principal: 35 ft. Accessory: 18 ft. [7]	50 ft or 35 ft if lots in a residential development established after January 1, 2017 and lots served by a town road	20 ft.	2, plus a minor shed not exceeding 150 sf	Not applicable
Neighborhood Business (B-1) District	20,000 sq. ft.	Not applicable	Corner lot: 160 ft. Other lots: 120 ft.	33 ft.	Multi-family: 600 sf for one bedroom, 700 sf for two-bedroom, 800 sf for three-bedroom, 900 sf for four or more bedrooms, plus 100 sf for each additional bedroom over four	--	30 percent	Principal: 35 ft. Accessory: 20 ft.	50 ft.	10 ft.	Not applicable	Not applicable
Local Business (B-2) District	30,000 sq. ft.	Not applicable	Corner lot: 160 ft. Other lots: 120 ft.	33 ft.	Multi-family: 600 sf for one bedroom, 700 sf for two-bedroom, 800 sf for three-bedroom, 900 sf for four or more bedrooms, plus 100 sf for each additional bedroom over four	--	30 percent	Principal: 35 ft. Accessory: 20 ft.	50 ft.	10 ft.	Not applicable	Not applicable
Mixed business (B-4) District	40,000 sq. ft.	Not applicable	Corner lot: 190 ft. Other lots: 150 ft.	33 ft.	--	--	50 percent	Principal: 35 ft. Accessory: 20 ft.	50 ft.	20 ft.	Not applicable	Not applicable
Limited Industrial (M-1) District	1 ac.	Not applicable	Corner lot: 190 ft. Other lots: 150 ft.	33 ft.	--	--	50 percent	Principal: 45 ft. Accessory: 45 ft.	50 ft.	10 ft.	Not applicable	Not applicable
General Industrial (M-2) District	1 ac.	Not applicable	Corner lot: 190 ft.	33 ft.	--	--	60 percent	Principal: 60 ft.	50 ft. [10]	10 ft.	Not applicable	Not applicable

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Other lots: 150 ft.

Accessory: 60 ft.

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Notes:

1. Both of the required floor areas shall be increased by 200 square feet for any building not having a basement with a floor area of at least 300 square feet.
2. An institutional building (e.g., governmental office, or school) may exceed the height limitation established for the zoning district, up to a maximum height of 50 feet, provided the minimum required setbacks and offsets are increased one foot for each additional foot of height in excess of the permitted maximum of that district.
3. In certain circumstances, the minimum setback may be less than what is stated if setback averaging applies. See s. 550.560(C) for applicable standards.
4. Where a lot abuts a zoning district boundary line, the offset shall be the offset as specified for the district, or the offset of the other district, whichever is greater.
5. If a lot of record has a minimum average width less than that required, the offset from a side lot line may be reduced proportionately to the ratio between the actual minimum average width and the required minimum average width provided. However, no offset shall in any case be less than 10 feet, except offsets for detached accessory buildings on lots of 100 feet in width or less may be reduced to 5 feet.
6. Any boathouse or any accessory building less than 150 square feet in floor area shall not be counted with regard to the maximum number of accessory buildings. Examples of accessory buildings include boathouses, greenhouses, sheds, and detached garages.
7. Pursuant to the procedures and requirements contained in article 6 of this code, the plan commission may grant a special exception to exceed the stated maximum height provided the setback is increased one foot for each additional foot in height up to a maximum of 10 additional feet. The plan commission may require screening to break up the view of the accessory building from adjacent properties or from a public road.
8. Pursuant to the procedures and requirements contained in article 6 of this chapter, the plan commission may allow more accessory buildings than what is specified when one or more of the accessory buildings on a lot are designated as a rural accessory building.
9. Pursuant to the procedures and requirements contained in article 6 of this chapter, the plan commission may allow more than the specified floor area when one or more of the accessory buildings on a lot are designated as a rural accessory building.
10. When property directly across the road of the subject property is in a special, agricultural, or residential zoning district, the setback shall be 100 feet.
11. The minimum setback may be more than what is stated if ch. Trans 233, Wis. Admin. Code applies.
12. In the event a parcel does not front on a public road, the Town Board with a recommendation of the Plan Commission, may upon petition review the nature of the lot to determine if there should be a front yard, and/or how the other yards should be so designated for the purposes of this code. In making such determination, the following factors should be considered: (1) size of the property; (2) the nature of the use to be regulated by the yard designations; (3) proximity of the lot to the road along with the type of road (main, private, Town, etc.); (4) size and zoning of surrounding properties; (5) visibility to the neighbors and the road; (6) preservation of the rural character and natural resources of the Town; and (7) available alternatives for the purpose proposed.

**Amendment(s):** Revised by Ordinance 2024-01, 2021-03, 2023-01

**Appendix D**  
**Dimensional Standards in Planned Development Districts**

<b>District Name (Zoning Map Number)</b>	<b>Special Standards</b>
Eagle Aires (PDD-01)	<p>Lot size, minimum: 2 acres</p> <p>Lot width, minimum: 190 feet, except lots 1-3, 21, 22, 29-30, 46 and 67 is 180 feet</p> <p>Offset, minimum: 30 feet</p> <p>Setback, minimum: 50 feet</p> <p>House floor area, minimum: 2,400 square feet</p> <p>Floor area ratio (FAR), maximum: 10 percent</p> <p>Building height, maximum: 35 feet for principal buildings and 15 feet for accessory buildings</p> <p>Unspecified standards: per RR zoning district</p>
Eagle Aires North (PDD-02)	The standards are as set forth in the original approval of this project.
Jericho Corners (PDD-03)	The standards are as set forth in the original approval of this project.
Jericho Corners, Add. #1 (PDD-04)	The standards are as set forth in the original approval of this project.
Eagles Preserve (PDD-05)	<p>Lot size, minimum: 1.5 acres</p> <p>Lot width, minimum: 150 feet</p> <p>Offset, minimum: 20 feet</p> <p>Setback, minimum: 50 feet</p> <p>Floor area ratio (FAR), maximum: 15 percent</p> <p>Open space per lot, minimum: 1 acre</p> <p>Unspecified standards: per RR zoning district</p> <p>Msc. provision: Building envelopes are depicted on Lot 10, 11, 12, 15, 16, 17, and 18 (50 feet from critical species habitat boundary)</p>
Orchards Grove (PDD-06)	<p>Lot size, minimum: 2.0 acres</p> <p>Lot width, minimum: 150 feet</p> <p>Offset, minimum: 30 feet</p> <p>Floor area ratio (FAR), maximum: 15 percent</p> <p>Open space per lot, minimum: 1 acre</p> <p>Unspecified standards: per RR zoning district</p> <p>Msc. provisions:</p> <ol style="list-style-type: none"> <li>1. Lot 1 can be used to board horses for property owners.</li> <li>2. Existing accessory structure on Lot 17 shall comply to all offset requirements.</li> </ol>
Hidden Knoll (PDD-07)	<p>Lot size, minimum: 1.5 acres</p> <p>Offset, minimum: 20 feet</p> <p>Setback, minimum: 50 feet</p> <p>Accessory buildings: One building associated with an inground swimming pool is allowed, provided the floor area does not exceed 200 square feet. All other detached accessory buildings are prohibited.</p> <p>Unspecified standards: per RR zoning district</p>

**Amendment(s):** Added by Ordinance 2021-03