

# **Town of Cassel**

# **Zoning Ordinance**

Adopted June 2014

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**Town of Cassel Zoning Ordinance**

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## INTRODUCTION

### 17.01 OBJECTIVES.

To achieve the objectives outlined in Wis. Stat. §§60.22, 60.61, 60.62, 61.35, and 62.23, the Town of Cassel adopts the zoning regulations contained in this code.

### 17.02 SHORT TITLE/EFFECTIVE DATE.

This code shall be known and cited as the Town of Cassel Zoning Code. This code of ordinances shall be effective after a public hearing, adoption by the town board, publication, and approval by the Marathon County board of supervisors.

### 17.03 PURPOSE AND INTENT.

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

### 17.04 APPLICATION OF OVERLAPPING REGULATIONS.

This code shall not repeal, impair or modify private covenants or other ordinances, except that it shall apply whenever it imposes stricter regulations.

### 17.05 JURISDICTION.

- (1) The provisions of this code shall apply to all structures, land, air space, and surface and subsurface waters within the Town of Cassel, Marathon County, Wisconsin.
- (2) Lands within 1,000 feet of a lake or within 300 feet of a stream or to the landward side of a floodplain, whichever is greater, are also regulated by Marathon County, related to shorelands and floodlands. Wetlands falling within said shoreland jurisdiction of the County, as well as other wetlands, may also be regulated by the Wisconsin Department of Natural Resources or the U.S. Corps of Engineers or by both agencies.

- (3) The responsibility to finally determine whether such other agencies of §17.05(2) are asserting jurisdiction of their regulations, in addition to this code, to a particular parcel of land rest with the land's owner or agent. The town may require a written declaration from such agencies whether their jurisdiction applies or not. Where both the regulation of this code and those of another such agency apply, the more restrictive individual regulation shall apply.

#### 17.06 SEVERABILITY AND NONLIABILITY.

It is hereby declared to be the intention of the town board of the Town of Cassel that the several provisions of this code are severable, in accordance with the following:

- (1) If any court of competent jurisdiction shall adjudge any provision of this code to be invalid, such judgment shall not affect any other provisions of this code not specifically included in said judgment.
- (2) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this code to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

#### 17.07 GENERAL INTERPRETATIONS.

The following rules of construction shall apply to this code:

- (1) The particular shall control the general; in case of any difference of meaning or implication between the text of this code and any caption or illustration, the text shall control; "shall" is mandatory, "may" is permissive; words used in the present tense shall include the future and words used with singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary; "building" or "structure" includes any part thereof; "used for"; includes "arranged for", "person" includes an individual, corporation, partnership, incorporated association or any other similar entity; unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and","or" or "either/or," the conjunction shall be interpreted as follows: "and" indicates that all the connected items, conditions, provisions or events shall apply; "or" indicates that the connected items, conditions, provisions or events shall apply singly or in any combination; "either/or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination. All measured distances shall be to the nearest integral foot. If a fraction is one-half (1/2) foot or more, the integral foot next above shall be taken. The masculine gender includes the feminine and neuter.
- (2) The provisions of this code shall be held to be minimum requirements and shall be liberally construed in favor of the town and shall not be deemed a limitation or

repeal of any other power granted by the Wisconsin Statutes and related administrative codes.

17.08 DEFINITIONS.

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

**ADMINISTRATOR, TOWN ZONING.** A person appointed by the town board to administer and enforce this ordinance.

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

**ANIMAL UNITS.** As defined in Wis. Admin. Code NR 243, or as amended as follows:

**Combined Animal Unit Calculation Equivalencies**

| # Equivalent to 1,000 Animal Units | Subcategory Of Animal Types                   | Animal Equivalency Factor | # Equivalent to 1,000 Animal Units | Subcategory Of Animal Types                               | Animal Equivalency Factor |
|------------------------------------|---|---------------------------|------------------------------------|---|---------------------------|
|                                    | <b>DAIRY CATTLE</b>                           |                           |                                    | <b>SHEEP</b>  |                           |
| 715                                | Milking & Dry Cows                            | 1.4                       | 10,000                             | Per Animal  | 0.1                       |
| 910                                | Heifers (800-1200 lbs)                        | 1.1                       |                                    |   |                           |
| 1,670                              | Heifers (400-800 lbs)                         | 0.6                       |                                    | <b>HORSES</b>   |                           |
| 5,000                              | Calves (under 400 lbs)                        | 0.2                       | 500                                | Per Animal  | 2.0                       |
|                                    | <b>VEAL CALVES</b>                            |                           |                                    | <b>SWINE</b>  |                           |
| 2,000                              | Per Animal                                    | 0.5                       | 2,500                              | Pigs (55 lbs-Mkt)   | 0.4                       |
|                                    |   |                           | 10,000                             | Pigs (up to 55 lbs)                                       | 0.1                       |
|                                    | <b>BEEF CATTLE</b>                            |                           | 2,500                              | Sows  | 0.4                       |
| 1,000                              | Steers/Cows (400-Mkt)                         | 1.0                       | 2,000                              | Boars   | 0.5                       |
| 5,000                              | Calves (under 400 lbs)                        | 0.2                       |                                    |   |                           |
| 700                                | Bulls   | 1.4                       |                                    |   |                           |
|                                    | <b>TURKEYS</b>                                |                           |                                    | <b>CHICKENS</b>   |                           |
| 55,000                             | Per Bird                                      | 0.018                     | 3,000                              | Per Bird (Liquid poultry manure handling)                 | 0.033                     |
|                                    |   |                           | 10,000                             | Layers (Non-liquid poultry manure handling)               | 0.01                      |
|                                    |   |                           | 200,000                            | Broilers and Pullets (Non-liquid poultry manure handling) | 0.005                     |
|                                    | <b>DUCKS</b>                                  |                           |                                    |   |                           |
| 5,000                              | Per Bird (Liquid poultry manure handling)     | 0.2                       |                                    |   |                           |
| 100,000                            | Per Bird (Non-liquid poultry manure handling) | 0.01                      |                                    |   |                           |

## Individual Animal Unit Calculation Equivalencies

| # Equivalent to 1,000 Animal Units | Subcategory Of Animal Types                   | Animal Equivalency Factor | # Equivalent to 1,000 Animal Units | Subcategory Of Animal Types                               | Animal Equivalency Factor |
|------------------------------------|---|---------------------------|------------------------------------|---|---------------------------|
|                                    | <b>DAIRY CATTLE</b>                           |                           |                                    | <b>SHEEP</b>  |                           |
| 700                                | Milking & Dry Cows                            | 1.43                      | 10,000                             | Per Animal  | 0.1                       |
| 1,000                              | Heifers (400-1200 lbs)                        | 1.0                       |                                    |   |                           |
|                                    | <b>VEAL CALVES</b>                            |                           |                                    | <b>HORSES</b>   |                           |
| 1,000                              | Per Animal                                    | 1.0                       | 500                                | Per Animal  | 2.0                       |
|                                    | <b>BEEF CATTLE</b>                            |                           |                                    | <b>SWINE</b>  |                           |
| 1,000                              | Steers, Bulls or Cows (400 lbs. to Mkt.)      | 1.0                       | 2,500                              | Pigs (55 lbs-Mkt)   | 0.4                       |
|                                    |   |                           | 10,000                             | Pigs (up to 55 lbs)                                       | 0.1                       |
|                                    | <b>TURKEYS</b>                                |                           | 2,500                              | Sows  | 0.4                       |
| 55,000                             | Per Bird                                      | 0.018                     | 2,000                              | Boars   | 0.5                       |
|                                    | <b>DUCKS</b>                                  |                           |                                    | <b>CHICKENS</b>   |                           |
| 5,000                              | Per Bird (Liquid poultry manure handling)     | 0.2                       | 30,000                             | Per Bird (Liquid poultry manure handling)                 | 0.0333                    |
| 30,000                             | Per Bird (Non-liquid poultry manure handling) | 0.0333                    | 82,000                             | Layers (Non-liquid poultry manure handling)               | 0.0123                    |
|                                    |   |                           | 125,000                            | Broilers and Pullets (Non-liquid poultry manure handling) | 0.008                     |

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

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

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

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

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

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

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

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

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

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

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

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

**BUILDING.** A structure which encloses space above or below grade or both. See also Structure.

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

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



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

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

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

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

**CONDITIONAL USE.** Uses which may be permitted in a district through the granting of a conditional use by the town board, upon finding and recommendation by the plan commission.

**CONDOMINIUM.** Any property subject to a condominium declaration established under Wis. Stat. Ch. 703.

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

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

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

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

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

**DISTRIBUTION EQUIPMENT.** Poles, towers, wires, cable, conduits, vaults, laterals, pipes, mains, valves for telephone or other communications and electric power, gas, water and sewer lines, the sole purpose of which is to connect the utility service to retail

customers. Distribution equipment does not include transmission equipment as further defined herein.

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

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

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

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

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

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

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

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

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

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

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

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

shipment to market.

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

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

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

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

**GRADING.** The physical disturbance of the ground by the addition, removal, or redistribution of soil.

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

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

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

**HOME OCCUPATION.** Any occupation for gain or support, when such occupation is incidental to the residential use of the premises and does not involve any external alteration that would effect a substantial change in the residential character of the building; provided further that no article is sold or offered for sale that is not produced by such home occupation, that no stock in trade is kept or sold, that no person other than a member of the resident family is employed on the premises and that no more than twenty-five percent (25%) of the floor area of any floor of the residence or accessory building is used for the home occupation. A home occupation includes uses such as babysitting, millinery, dressmaking, canning, laundering and crafts, but does not include the display of any goods nor such occupations as barbering, beauty shops, non-retail cabinet making, real estate brokerage or photographic studios.

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

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

**HOUSEBOAT.** A water craft intended for temporary occupancy.

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

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

**LAND USE.** Any nonstructural use made of unimproved or improved real estate. Also see Development.

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

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

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

**LOT LINE.** The boundary of a recorded parcel of record or a line established by a recorded survey or a boundary created by recorded metes and bounds, or rectangular description.

**LOT, WATERFRONT.** Any lot where any developments including stairs, grading, tree-cutting, etc. are taking place within one hundred (100) feet of the ordinary high water mark.

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

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

**MOBILE HOME OR MANUFACTURED HOME.** Any vehicle or similar portable structure mounted or designed for mounting on an axle on wheels which are or were an integral part of the structure and used or intended for use for dwelling purposes, including structural additions except parked and unoccupied camping type trailers. This definition is not intended to include a "double wide" unit when this type of structure is placed on a permanent foundation. Any such vehicle or structure shall be deemed a mobile home whether or not the wheels have been removed therefrom and whether or not resting upon a temporary or permanent foundation.

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

**MOBILE RECREATIONAL VEHICLE.** A vehicle which is built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

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

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

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

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

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

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

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

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

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

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

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

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

**POND.** A seasonal or permanent body of water, created by excavation, by dike construction or by a combination of both.

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

**PRIVATE SEWAGE SYSTEM.** For the purpose of this code a private sewage system shall have the same definition as contained in Wis. Stat. §145.01(12).

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

**PUBLIC UTILITIES.** Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

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

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

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

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

**ROADSIDE STAND.** A structure having a ground area of not more than three hundred (300) square feet, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products more than one half of which were produced on the premises or adjacent premises.

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

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

**SHOOTING RANGE, PRIVATE.** Any permanent or semi-permanent target shooting range for the landowner's private occasional use and which may include intermittent use by friends and family.

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

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

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

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

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

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

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

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

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

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



floodproofing.

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

**SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction or improvement of a structure, the value of which equals or exceeds fifty percent (50%) of the present equalized assessed value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure or site documented as deserving preservation by the State Historical Society or listed on the National Register of historic places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and replacement of doors, windows and other nonstructural components.

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

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

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

**USE, NONCONFORMING.** Any building or land lawfully occupied by a use at the effective date of this code or amendment thereto which does not conform after the passage of this code or amendment with the use requirements of the district in which it is situated.

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

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

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

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

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

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

**WELL.** An excavation opening in the ground made by digging, boring, drilling, driving or other methods, for the purpose of obtaining groundwater regardless of its intended use.

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

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

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

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

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

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

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

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

**YARD, FRONT (STREET).** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance equal to the minimum highway setback specified for the existing or proposed class of highway. On corner lots, the street yard is determined by the street which is parallel to the long axis of the principal structure or is the yard fronting on the street for which the address is assigned.

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

## **GENERAL REGULATIONS**

### **17.10 JURISDICTION.**

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

### **17.11 COMPLIANCE.**

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

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

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

- (2) Municipalities and State Agencies Regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this code and obtain all necessary permits.
- (3) Either the Town of Cassel or any owner or owners of property within the district affected by a particular regulation may sue to enforce by injunctive order compliance with this code.
- (4) An application for a permit issued pursuant to this chapter shall authorize access by the zoning administrator or his/her appointed deputies onto the property for the purpose of inspecting the site prior to permit issuance and/or for compliance with the terms of the permit and this chapter.

#### 17.12 PERMITS.

- (1) Zoning Permits.
  - (a) Permits are required for construction, alteration, remodeling or relocation of any structure greater than Five Hundred and no/100 Dollars (\$500.00), and showing compliance with State and County regulations.
  - (b) Applications for a zoning permit shall be made to the zoning administrator or his/her appointed deputies on forms furnished by the zoning administrator and shall include the following where applicable:
    1. Names and addresses of the applicant, agent or owner of the site, architect, professional engineer or contractor.
    2. Description of the subject site by parcel I.D. number from tax rolls, lot and block numbers and recorded subdivision or by metes and bounds, section, township and range, address of the subject site, property boundaries, dimensions, elevations, uses and size of the following:
      - a. Subject site, existing and proposed structures.
      - b. Existing and proposed easements, streets and other public ways.
      - c. Off street parking, loading areas and driveways.

- d. Existing highway access restrictions.
  - e. Existing and proposed street, side and rear yards.
  - f. The use of any abutting lands and their structures within 50 feet of the subject site.
  - g. If applicable, the location of the ordinary high water mark, channel, floodway, floodplain and shoreland boundaries.
  - h. The location of any well(s) and/or septic system(s).
  - i. The zoning district within which the subject site lies.
  - j. Payment of the appropriate fee as prescribed at §17.15 of this code.
- 3. A county sanitary permit.
  - 4. Additional information as required by the zoning administrator.
- (c) A zoning permit shall be obtained when there is a change of any nonconforming use. The zoning permit shall be issued by the town zoning administrator or his duly appointed deputies. Such permit shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this code or with the town board determination where applicable.
  - (d) The zoning permit shall be granted or denied in writing within thirty (30) days of application.

17.13 CONDITIONAL USE PERMITS.

(1) Purpose:

The development and execution of this code is based upon the division of the town into districts, within which districts the use of land and buildings, and the bulk and location of buildings and structures in relation to the land, are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such conditional uses fall into two categories:

- (a) Uses publicly operated or traditionally affected with a public interest.

- (b) Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

(2) **Initiation of Conditional Use:**

Any person having a freehold interest in land, or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest of an exclusive possessory interest, and which is specifically enforceable, may file an application to use such land for one or more of the conditional uses provided for in this Ordinance in the zoning district in which the land is located.

(3) **Application for Conditional Use:**

An application for a conditional use shall be filed with the town clerk on a form prescribed by the town board. The application shall be accompanied by the appropriate fee and such plans and/or data prescribed by the town plan commission, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use will conform to the standards set forth in §17.13(6), hereinafter. Such application shall be forwarded from the town clerk to the town plan commission with a request for a public hearing and report relative thereto.

(4) **Hearing on Application:**

Upon receipt in proper form of the application and statement referred to in §17.13(3) above, the town plan commission shall hold at least one public hearing on the proposed conditional use. At least seven (7) days in advance of such public hearing, Class 2 notice, and place of such hearing shall be in a newspaper of general circulation in the town. In addition thereto, a copy of the said notice shall be mailed to the office of the Marathon County Zoning Administrator and to all adjoining property owners, at least seven (7) days before the hearing.

(5) **Authorization:**

For each application for a conditional use, the town plan commission shall report to the town board its findings and recommendations, including the stipulations of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. If an application for a proposed conditional use is not acted upon finally by the town board within ninety (90) days from the date upon which such application is received by the town board, it shall be deemed to have been denied.

(6) **Standards:**

No conditional use shall be recommended by the town plan commission nor approved by the town board unless such commission and board shall find:

- (a) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
- (b) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
- (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- (d) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
- (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
- (f) That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the town board.

(7) Conditions and Guarantees:

Prior to the granting of any conditional use, the town plan commission may recommend, and the town board shall stipulate, such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the conditional use as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in §17.13(6) above. In all cases in which conditional uses are granted, the town board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

(8) Planned Developments:

Planned developments are of such substantially different character from other conditional uses that specific and additional standards and exceptions are hereby established to govern the recommendations of the town plan commission and the action of the town board.

- (a) Use exceptions: The plan commission may recommend and the town board may authorize that there be in part of the area of such development, and for the duration of such development, specified uses not permitted by the use regulations of the district in which said development is located, provided that the town plan commission shall find:
1. That the uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose of the development;
  2. That the uses permitted by such exception are not of such a nature or so located as to exercise a detrimental influence on the surrounding neighborhood; and
  3. That not more than twenty (20) percent of the ground area or of the gross floor area of such development shall be devoted to the uses permitted by said exception.
- (b) Bulk regulations: In the case of any planned development, the plan commission may recommend and the town board may authorize exceptions to the applicable bulk regulations of this code within the boundaries of such development, provided that the town plan commission shall find:
1. That such exception shall be solely for the purpose of promoting an integrated site plan no less beneficial to the residents or occupants of such development as well as the neighboring property, than would be obtained under the bulk regulations of this code for buildings developed on separate zoning lots;
  2. That the overall floor area ratio for the planned development would not exceed, by more than twenty (20) percent, the maximum floor area ratio which would be determined on the basis of the floor area ratio required for the individual uses in such planned developments, as stipulated in each district;
  3. That the minimum lot area per dwelling unit requirements of this ordinance shall not be decreased by more than twenty (20) percent in any such development containing residential uses, and that permanent open space or land, in an amount equivalent to that by which each residential lot or building site has been diminished under this provision, shall be provided in common recreation area within the development;
  4. That spacing between principal buildings shall be at least equivalent to such spacing as would be required between buildings



similarly developed under the terms of this code on separate zoning lots, due consideration being given to the openness normally afforded by intervening streets and alleys; and

5. That along the periphery of such planned developments, yards shall be provided as required by the regulations of the district in which said development is located.

(9) Effect of Denial of a Conditional Use:

No application for a conditional use which has been denied wholly or in part by the town board, shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the town plan commission and the town board.

(10) Revocation:

A conditional use permit may be terminated after public hearing, a Class II notice is published, and notice is provided to the applicant or holder of the conditional use permit and the owner of the subject property, upon the town board determining any of the following:

- (a) The conditional use has not continued in conformity with the conditions of the permit.
- (b) The conditional use has been discontinued for a period of twelve (12) consecutive or eighteen (18) cumulative months. A business of seasonal nature shall not be deemed discontinued during the periods in which it is normally inactive (i.e. summer camps, ski hills, quarries, marinas, etc.).

17.14 EXPIRATION OR CONFLICT.

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

17.15 FEE SCHEDULE.

- (1) Fees and charges shall be as set forth in the Town Fee Schedule Code and as amended from time to time by the Town Board.
- (2) No public hearing shall be held, no plans reviewed, and no permit shall be granted or issued until all fees required under this code or the Town Fee Schedule Code have been paid.

17.16 RESERVED FOR FUTURE USE.

17.17 EXEMPTIONS.

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

17.18 USE REGULATIONS.

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

17.19 NONCONFORMING STRUCTURES AND USES.

- (1) Pre-existing structures - dimensional non-conformance.

- (a) Structures erected prior to the effective date of this code or amendment thereto which are conforming to this code as to use but do not conform to dimensional rules (setbacks, height, yard spaces, separation, etc.) and which are proposed to be altered are subject to the following requirements:
  1. Repairs and improvements of a maintenance nature are allowed.
  2. Alterations, additions and expansions which change the exterior dimensions of the structure and which conform to the dimensional rules of this code and other applicable regulations are allowed. In addition, roof replacement is allowed on nonconforming structures, including changing the pitch within height limits and provided no overhang exceeds two (2) feet or is no greater than the existing overhang, whichever is greater, and no additional living space is added by the roof pitch change.
  3. Alterations, additions and expansions which change the exterior dimensions of the structure and which do not conform to this code, but which do not increase the dimensional non-conformity beyond what currently exists may be allowed provided that the improvements do not exceed fifty percent (50%) of the floor area of the existing structure on all levels over the life of the structure and a zoning permit is obtained from the town.
  4. No alterations, additions or expansions may occur which will increase the dimensional nonconformity.
- (2) Pre-existing uses and structures - use nonconformance.
  - (a) Land uses or uses of structures which were established prior to the effective date of this code or amendment thereto which are nonconforming as to use may be continued, provided that:
    1. If a nonconforming use is discontinued for a period of twelve (12) months, any future use of the property shall be in conformity with this code.
    2. Nonconforming uses shall be subject to the provisions of §17.19(1) as to any dimensional nonconformity and §17.19(3).
- (3) Pre-existing structures and uses - other standards and requirements.
  - (a) When a structure which is nonconforming as to dimensional standards or a structure containing a nonconforming use is demolished, removed, or

damaged to the extent of more than fifty percent (50%) of its current equalized assessed value it shall not be restored except as a conforming use and at a conforming location.

- (b) Mobile homes and other structures which are legally nonconforming in the zoning district in which they are located may be added to, provided the addition does not exceed fifty (50%) of the equalized value of the original structure at the time of application and a permit is issued by the zoning administrator for residential uses and a conditional use permit is granted by the town board for all non-residential uses.
- (c) The size and shape of a lot shall not be altered so as to increase the degree of nonconformity of a structure or use.
- (d) The effective dates for application of the nonconforming structure or use provisions are the date of county board approval of this code and/or amendments thereto.
- (e) Existing Conditional Uses. All uses existing on the effective date of this code which would be classified as conditional uses in the particular zoning district concerned if they were to be established after the effective date of this code, are hereby declared to be conforming conditional uses to the extent of the existing operation only. Any proposed change in the existing use shall be subject to the conditional use procedures as if such use were being established anew.

#### 17.20 ACCESSORY USES AND STRUCTURES.

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

- (a) has a one hundred fifty (150) square foot footprint or less, and is less than twenty (20) feet high shall be not less than seven (7) feet from any property line.
  - (b) has a larger than one hundred fifty (150) square foot footprint and is less than twenty (20) feet high shall be not less than twenty-five (25) feet from any property line.
  - (c) however, on a corner lot or a through lot, such accessory building shall be subject to the same highway or street setback requirements as the principal building, unless otherwise provided herein for a specific permitted or conditional use.
- (3) In the A-1 and A-3 Districts, no accessory buildings or structures shall be erected or altered or moved to a location within the required area of a front, side or rear yard. An accessory building, structure or use in a rear yard shall be subject to the following additional requirements.
- (a) An accessory building or structure that has a one hundred fifty (150) foot square footprint or less, shall have a height of less than twenty (20) feet from the lowest grade to the highest structural member and shall be set back a minimum of seven (7) feet from any lot line.
  - (b) An accessory building or structure that has a one hundred fifty (150) foot to a one thousand two hundred (1200) foot square footprint or less, shall have a height of less than twenty (20) feet from the lowest grade to the highest structural member and shall be set back a minimum of twenty-five (25) feet from any lot line.
  - (c) An accessory building or structure that has a footprint greater than a one thousand two hundred (1200) square feet and less than two thousand five hundred (2500) square feet, shall have a height not exceeding thirty-five (35) feet from the lowest grade to the highest structural member and shall be set back a minimum of fifty (50) feet from any lot line.
  - (d) An accessory building or structure that has a footprint greater than two thousand five hundred (2500) square feet and less than five thousand (5000) square feet, shall have a height not exceeding thirty-five (35) feet from the lowest grade to the highest structural member and shall be set back a minimum of fifty (50) feet from any lot line and shall not be erected or altered or moved pursuant to this subsection unless the parcel on which said building or structure is erected, altered, or moved has a minimum of ten (10) acres.
  - (e) An accessory building or structure that has a footprint greater than five

thousand (5000) square feet or more shall have a height not exceeding forty-five (45) feet from the lowest grade to the highest structural member and shall be set back a minimum of fifty (50) feet from any lot line and shall not be erected, altered or moved has a minimum of forty (40) acres.

- (f) On a corner lot or through lot, any accessory building or structure subject to the provisions set forth in §17.20(3)(a-e) above shall be subject to the same highway or street setback requirements as the principal building, unless otherwise provided herein for a specific permitted purpose or special use.

#### 17.21 AREA REGULATIONS.

- (1) **LOT REDUCTION.** After adoption of this code, no lot area shall be reduced so that the area, dimensional and yard requirements of this code cannot be met.
- (2) **EXISTING LOT.** Lots existing and of record prior to the adoption of this code or the establishment or change of zoning districts, but of substandard size, may be devoted to uses permitted in the district in which located, providing the requirements of applicable Wisconsin Administrative Codes can be satisfied and further provided all dimensional setback requirements can also be satisfied. No existing lot shall have its boundaries altered in any way without the resulting parcel(s) being in full compliance with this code and the zoning district in which the parcel(s) are located. The board of appeals may waive this requirement where there is not sufficient contiguous ownership to comply but where the parcel(s) to be created will be less nonconforming.
- (3) **YARD AND OPEN SPACE REGULATIONS.**
  - (a) All yards and other open spaces allocated to a building or group of buildings comprising one principal use shall be located on the same lot as such building. No legally required yards, other open space or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yards, other open space or minimum lot area requirements for any other building.
  - (b) The yard requirements stipulated elsewhere in this code may be modified as follows:
    - 1. Within the RS 1/20, RS 1/40, R2 and RM zoning districts uncovered stairs, landings and fire escapes may project into any yard but not to exceed ten (10) feet and not closer than three (3) feet to any lot line. For all other districts, the projection may not exceed twenty-five (25) feet, and not closer than three (3) feet to any lot line.

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

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

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

- (e) Where lot lines are so irregular so as to make it impossible to determine setback requirements, a minimum setback equal to a sideback setback for the zoning district for which the property is located shall be maintained.
- (4) **MINIMUM LOT AREA.** In all districts the minimum lot area shall be calculated without including any road right-of-way or any other easements for streets or utilities which are greater than twenty (20) feet wide.

17.22 HEIGHT REGULATIONS AND EXCEPTIONS.

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

17.23 HIGHWAY AND RAILROAD SETBACKS.

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

- (1) **CLASS A HIGHWAYS.**
  - (a) All state and federal highways are hereby designated as Class A highways.
  - (b) The setback for Class A highways shall be one hundred ten (110) feet from the centerline of the highway or fifty (50) feet from the right-of-way line, whichever is greater, except that for any freeway or divided Class A highway the setback distance shall be fifty (50) feet from the right-of-way line.
- (2) **CLASS B HIGHWAYS.**
  - (a) All county trunk highways are hereby designated as Class B highways. For the purpose of this code any road will be considered as a county trunk after it has been placed on the county trunk system by the county board and approved by the State Department of Transportation.



(b) The setback for Class B highways shall be eighty-three (83) feet from the centerline of such highway or forty-two (42) feet from the right-of-way line, whichever distance is greater. Buildings which were legally built at a setback of seventy-five (75) feet to eighty-three (83) feet from the centerline may be added to or rebuilt on the existing foundation subject to the limitations in §§17.19(1)(a)4 and 17.25.

(3) CLASS C HIGHWAYS.

(a) All town roads, public streets and highways not otherwise classified are hereby designated Class C highways.

(b) The setback from Class C highways shall be eighty-three (83) feet from the centerline of such highway or forty-two (42) feet from the right-of-way line, whichever is greater. Dedicated public accesses to navigable water shall not be considered Class C highways for setback purposes unless they serve a dual purpose of access to navigable water and vehicular access to adjoining parcels of land.

17.24 REDUCED BUILDING SETBACKS.

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

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

(2) Any modification of other highway setbacks may be permitted by the board of appeals according to the variance provisions of this code.

17.25 VISION CLEARANCE TRIANGLE (VCT).

(1) Purpose: The VCT setbacks are intended to provide motorists a safe braking and stopping distance to avoid accidents and to provide motorists turning onto roads, streets, and highways a safe accelerating distance to merge with traffic to reduce

traffic congestion. As essential as they are to the traffic safety, VCT regulations cannot guarantee unobstructed vision due to topography, natural vegetative growth, and development that may encroach. Obstacles to be kept out of VCTs need only be capable of causing a traffic hazard, they need not actually be shown to cause unsafe traffic conditions. Obstacles which may be allowed are ones which a typical motorist in a vehicle can be expected to see over, under or through reasonably enough to see approaching traffic.

- (2) Standards for VCTs:
  - (a) At each uncontrolled road intersection or road-railroad intersection there shall be a vision clearance triangle (VCT) bounded by the road centerlines and a line connecting points on them three hundred (300) feet from a Class A highway intersection, two hundred (200) feet from a Class B highway intersection, and one hundred fifty (150) feet from a Class C highway and private easement road intersections.
  - (b) At controlled intersections vegetation and landscape restrictions shall be as follows:
    1. When one road has a stop or yield sign: The leg of the VCT following the centerline of the road that has no stop or yield sign shall be the length as required in §17.25(2)(a). The VCT line shall extend from the end of that line to a point on the center line of the street which has the stop or yield sign and which is one hundred (100) feet from the intersection of the centerlines of the two streets.
    2. When both roads have stop signs, yield signs or traffic lights, or the intersection is in a non-agricultural zone, vegetation and landscape restrictions shall be as follows: The VCT line shall be bounded by the street centerlines and a line connecting points on them one hundred (100) feet from their intersection.
- (3) Within a VCT, no structure shall be constructed and no vegetative material shall be planted or landscaping done that causes or will cause an obstruction to view between a height of two and one-half (2½) feet and ten (10) feet above the elevation of the road or highway. Vegetation or landscaping occurring in the VCT may be ordered to be pruned, thinned and/or removed if it is capable of causing a traffic hazard and removal of the obstacle to view has been requested by the unit of government having jurisdiction over one or more of the intersecting roads, streets or highways, or by a law enforcement agency having jurisdiction.
- (4) The planting and harvesting of field crops is permitted but not so as to constitute a substantial obstruction to the view of motorists and pedestrians across the vision clearance triangle from one highway or street to another.

17.26 STRUCTURES PERMITTED WITHIN SETBACK LINES.

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

17.27 MOBILE HOME LIMITATION.

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

VISION CLEARANCE AND SETBACK REQUIREMENTS.

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

## DISTRICTS AND MAPS

### 17.40 ZONING DISTRICTS.

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

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

### 17.41 MAPS.

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

### 17.42 BOUNDARIES OF DISTRICTS.

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

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

- (1) **PURPOSE.** The Residential Districts are designed to encourage a suitable environment for family life by permitting, under certain conditions, such neighborhood facilities as churches, schools, playgrounds and appropriate

institutions and by protecting the residential character against incompatible uses. The districts are intended to avoid overcrowding by requiring certain minimum yards, open spaces and site area while making available a variety of dwelling types and densities to serve a wide range of individual requirements.

- (2) **PERMITTED USES.** Only the following uses are permitted in the RS-1/20 and RS-1/40 District:
- (a) Single family dwellings designed for and occupied exclusively by one family, but not including a house trailer or mobile home.
  - (b) Churches, cemeteries subject to Wis. Stat. Ch. 157, public and parochial schools, colleges and universities.
  - (c) Parks and playgrounds, including swimming pools, golf courses, tennis courts, picnic grounds and bathing beaches.
  - (d) Accessory buildings, including private kennels and private garages and buildings clearly incidental to the residential use of the property, provided, however, that no accessory building may be used as a separate dwelling unit. Private garages and other residential accessory storage structures shall be subject to the following standards:
    - 1. Any structure having more than one wall forming an enclosure shall have less floor area than the principal structure and shall not exceed one thousand two hundred (1200) square feet.
    - 2. The length of the structure shall not be more than two times its width.
    - 3. Side walls shall not exceed ten (10) feet in height, from the top plate to the finished floor.
    - 4. The maximum building height, measured from the highest point of the roof to the floor shall not exceed twenty (20) feet.
    - 5. Garage doors shall be of the overhead type with a maximum height of eight (8) feet.
    - 6. Construction and finished appearance shall be compatible with existing neighborhood development. Non-traditional construction for residential structures such as pole or steel or quonset shall generally not be approved.
  - (e) Gardening and farming, including nurseries for the propagation of plants only, but not farms operated for the disposal of sewage, rubbish or offal,

fur farms, stock farms and poultry farms.

- (f) Telephone exchanges, telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures, such as transformers, unit substations and equipment housings, provided there is no service garage or storage yard.
  - (g) Home occupations.
  - (h) Home professional businesses.
  - (i) Railroad right-of-way but not including switching, classification yards or sidings.
  - (j) Vending machines when the use is clearly an indoor accessory use to the primary use.
  - (k) Signs. (See §§17.80 through 17.84.)
  - (l) Ponds subject to the conditions contained in §17.49(2)(d) of this code. In addition, ponds shall maintain a minimum slope of four (4) feet horizontal to one (1) foot vertical to a water depth of six (6) feet and a three (3) foot horizontal to one (1) foot vertical slope below the six (6) foot depth. Disposal and/or stabilization of spoil from pond excavation shall be addressed on the pond plans and a three (3) foot horizontal to one (1) foot vertical slope shall be the minimum.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the town board after a public hearing and recommendation by the plan commission.
- (a) Institutions of a charitable or philanthropic nature, day care or child care facilities, hospitals, clinics and sanatoria, except contagious hospitals and mental institutions.
  - (b) Municipal buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance machinery.
  - (c) Libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business.
  - (d) Bed and Breakfast Establishment and Tourist Rooming House subject to Wis. Stat. §254.61.

- (e) Accessory structures with floor area or components differing from the standards listed in §17.43(2)(d), provided the use of the structure is subordinate to a permitted use, and the parcel equals or exceeds the minimum area for the zoning district. The design shall be compatible with existing neighborhood development and not contrary to any existing restrictive covenants. Nontraditional designs such as quonset roofs shall be subject to this section.

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

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



17.44 RS-2 SINGLE FAMILY RESIDENCE DISTRICT.

- (1) **PURPOSE.** This Residential District is designed to encourage a suitable environment for family life, as in the RS-1/20 and RS-1/40 District and allowing for a higher density of development.
- (2) **PERMITTED USES.** Only the following uses are permitted in the RS-2 District:
  - (a) Any use permitted in the RS-1 Single Family Residence District.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved in writing and a conditional use permit has been granted by the town board after a public hearing and recommendation by the plan commission:
  - (a) Mobile home parks as provided in §17.60-17.66 of this code
  - (b) Day care or childcare facilities.
  - (c) Bed and Breakfast Establishment and Tourist Rooming House subject to Wis. Stat. §254.61.
  - (d) Accessory structures with floor area or components differing from the standards listed in §17.43(2)(d), provided the use of the structure is subordinate to a permitted use, and the parcel equals or exceeds the minimum area for the zoning district. The design shall be compatible with existing neighborhood development and not contrary to any existing restrictive covenants. Nontraditional designs such as quonset roofs shall be subject to this section.
- (4) **HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.**
  - (a) Except as otherwise provided in this code, no building shall exceed a height of thirty-five (35) feet. (Sec §17.22.)
  - (b) Floor Area. Buildings and mobile homes used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a floor area of not less than six hundred (600) square feet.
  - (c) Area: Standard Lots.
    1. For platted or unplatted, the minimum lot width shall be one hundred (100) feet at the building line and the minimum lot area shall be twenty thousand (20,000) square feet.

2. No building, together with its accessory buildings, shall occupy in excess of thirty-five percent (35%) of the area of any lot.
- (d) Side Yards. The minimum width of any side yard shall be twenty-five (25) feet. See §17.20.
- (e) Rear Yard. The minimum depth of any rear yard shall be twenty-five (25) feet, except on waterfront lots.
- (f) Setback Lines. See §§17.23 and 17.25.
- (g) Off Street Parking. See §§17.70 through 17.72.

17.45 RM MULTIPLE FAMILY RESIDENCE DISTRICT.

- (1) **PURPOSE.** The RM district is intended to provide for duplexes and multiple-family dwellings.
- (2) **PERMITTED USES.** Only the following uses are permitted in the RM District:
  - (a) Any use permitted in the RS-1 Single Family Residence District.
  - (b) Duplexes.
  - (c) Retail consumer goods, sales and service conducted solely for the convenience of the resident of a multifamily development.
  - (d) Bed and Breakfast Establishment and Tourist Rooming House subject to Wis. Stat. §254.61.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the town board after a public hearing and recommendation by the plan commission.
  - (a) Boarding house subject to Wis. Stat. §254.61.
  - (b) Day care or child care facilities.
  - (c) Three family and larger multiple family dwellings, and apartment complexes. An application for a conditional use permit for apartment complexes shall include an overall site plan showing location and orientation of all structures, parking and driveway areas, well(s), and all areas designated for private sewage systems and any required replacement areas. For the purpose of determining the setbacks from property lines and

separating distances between units, the board may consider the orientation of the structures toward each other and abutting lots, to achieve in purpose the minimum side yards and rear yards required in §17.45(3)(c) and (d) of this code. When reviewing applications for conditional use the board shall consider the following as minimum guidelines and may increase floor and lot areas but shall not reduce them unless municipal sewer and water is available:

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

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

1. When regulations of other state or local agencies require a larger lot area than any of the above, such regulations shall govern for both platted and unplatted areas and lots.

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

(a) **Height.**

1. For single family dwellings and duplexes the maximum building height shall be thirty-five (35) feet.
2. For apartments the maximum building height shall be four stories.
3. See §17.22

(b) **Lot Area and Floor Area.**

1. The lot area, lot width and floor area requirements in the RM Multiple Family Residence District shall be the same as those required under RS-1/20 and RS-1/40 Single Family Residence District.

(c) **Side Yards.** There shall be a side yard on each side of a building. The width of the side yards shall not be less than twenty-five (25) feet for four (4) family units or smaller. Additional side yard equaling five (5) feet per family shall be added to the twenty-five (25) feet base dimension. See §17.20.

(d) **Rear Yard.** The minimum depth of any rear yard shall be fifty (50) feet for

four (4) family units or smaller, except water front lots. Additional rear yard equaling ten (10) feet per family shall be added to the fifty (50) feet base dimension.

- (e) Setback Lines. See §§17.23 and 17.25.
- (f) Off Street Parking. See §§17.70 through 17.72.

**17.46 RP RESIDENTIAL PLANNED DEVELOPMENT DISTRICT.**

**(1) PURPOSE.**

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

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

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

- (a) Clustered single family lot developments.
- (b) Two family dwellings.
- (c) Multifamily dwellings.
- (d) Any permitted use in the RS-1 Single Family Residence District.
- (e) Accessory uses, structures and amenities in the approved development

plan.

- (f) Retail consumer goods, sales and service.
- (g) Bed and Breakfast Establishment, Tourist Rooming House, and Boarding House, subject to Wis. Stats. §254.61.
- (h) Condominiums.

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

- (a) Height. Except as otherwise provided in this code, no building shall exceed a height of thirty-five (35) feet. See §17.22.
- (b) Floor Area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a floor area as follows:
  - 1. Minimum one thousand two hundred (1200) square feet for single family dwellings.
  - 2. Minimum one thousand (1000) square feet for row houses.
  - 3. Minimum six hundred (600) square feet for each apartment.
- (c) Park Area. The minimum of open space or excess land not used for lots or streets shall be twenty percent (20%) of any platted subdivision and shall be dedicated in perpetuity to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development or to a corporation formed by them, or by dedication to and the acceptance by the county or town. If the land is to be conveyed to owners of lots in the development, a homeowners' association or similar legally constituted body shall be created to maintain the open space land. Any restriction placed on platted land by covenant, grant of easement or any other manner which was required by a public body or which names a public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction.
- (d) Lot Area and Width.
  - 1. The minimum lot size shall be governed by Wis. Admin. Code and the minimum width shall be seventy-five (75) feet for single family residences and one hundred fifty (150) feet for multiple family residences.

2. The minimum lot width shall be:
  - a. Seventy-five (75) feet for single family residences.
  - b. One hundred fifty (150) feet for row house or apartment development.
- (e) Side Yards. There shall be a side yard on each side of a building having a minimum width of ten (10) feet except a corner lot shall have a side yard of thirty (30) feet from the street right-of-way. See §17.20.
- (f) Rear Yard. The minimum depth of any rear yard shall be fifty (50) feet.
- (g) Setback Lines. See §§17.23 and 17.25.

17.47 CV CONSERVANCY DISTRICT.

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

necessary appurtenant structures.

- (i) Wildlife preserves, refuges and habitat development.
- (3) SETBACK LINES. See §§17.23 and 17.25.
- (4) OFF STREET PARKING. See §§17.70 through 17.72.

17.48 RC RECREATION DISTRICT.

- (1) PURPOSE. This District is intended to provide for the orderly and attractive grouping of recreation-oriented establishments, facilities and structures.
- (2) PERMITTED USES. Only the following uses are permitted in the RC District:
  - (a) Agriculture and other open land uses, including beekeeping, field crops, forestry, orchards and wild crop harvesting, truck farming, horticulture or viticulture, but not livestock as defined in Wis. Admin. Code ATCP 51.01.
  - (b) Any use permitted in the Conservancy District.
  - (c) One camping trailer, park unit, mobile camper or houseboat for temporary parking and living purposes for the caretaker or owner and his family only.
  - (d) Fish hatcheries and farm ponds subject to the conditions contained in §17.43 of this code.
  - (e) Community buildings, private clubs and fraternities, except those whose principle activity is a service customarily carried on as a business.
  - (f) Municipal buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance machinery.
  - (g) Parks and playgrounds, including swimming pools, golf courses, tennis courts, picnic grounds and bathing beaches.
  - (h) Railroad right-of-way but not including switching spurs, classification yards or sidings.
  - (i) Signs. See §§17.80 through 17.84.
  - (j) Telephone exchanges, provided there is no service garage or storage yard. Telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures, such as transformers, unit

substations and equipment housings.

- (k) Vending machines when the use is clearly an indoor accessory to the principle use.
  - (l) Buildings and structures and uses of land customarily incidental to the above permitted uses, but only on same premises with the primary permitted uses.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the town board after a public hearing and recommendation by the plan commission.
- (a) Amusement parks, including baseball batting ranges, commercial skating rinks, go-cart tracks, race tracks, golf driving range, miniature golf course or similar establishments.
  - (b) Concession stands.
  - (c) Dwelling, single family, providing it shall be an accessory to a principle use.
  - (d) Institutions of philanthropic or educational nature.
  - (e) Marinas, boat liveries, sale of bait and fishing equipment. The service and repair of boats and motors.
  - (f) Microwave radio relay structures, providing there would be no adverse affect on neighboring properties.
  - (g) Recreation camps, youth camps and campgrounds, provided all buildings shall be more than 100 feet from the side lot line. Recreation camps shall conform to Wis. Admin. Code DHS 175, and campgrounds shall conform to Wis. Admin. Code DHS 178, which shall apply until amended and then apply as amended.
  - (h) Riding stables and riding academies subject to the provisions contained in §17.49, and rodeos, gymkhanas and similar equestrian events.
  - (i) Sanitary landfill, provided no location shall be within one-half (½) mile of the boundary of a Residence District and the operation shall be in full compliance with Wis. Admin. Code NR 500.
  - (j) Shooting ranges.



1. Shooting ranges provided the requirements for such ranges as stated in the Agricultural District are met.
  2. Trap and skeet ranges providing the owner of the trap or skeet range has control by ownership or lease an area no less than one thousand eight hundred (1800) feet wide and nine hundred (900) feet deep and providing further that there shall be no residences within one thousand (1000) feet of the external boundaries of the range, unless occupants of such residences waive this condition in writing.
- (k) Travel trailer parks, RV parks, primitive or developed campgrounds provided:
1. The minimum size of a campground shall be five acres.
  2. The maximum number of camping spaces shall be fifteen (15) per acre.
  3. Minimum dimension of each camping space shall be thirty (30) feet wide by fifty (50) feet long.
  4. Each camping space shall be so located that there shall be at least a 15 feet clearance between spaces.
  5. There shall be one and one-half (1½) automobile parking spaces available for each camping space.
  6. In addition to setback requirements of §17.23 of this code, there shall be a minimum setback of forty (40) feet from all other exterior lot lines.
  7. Travel trailer parks shall conform to the requirements of Wis. Admin. Code DHS 178, which shall apply until amended and then apply as amended.
  8. Park units and all other structures except non-transient camping units on existing camping spaces shall obtain a zoning permit prior to placement and shall meet all shoreland and street setbacks and be provided with a state approved sewage disposal septic system (POWTS) when intended for human habitation.

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

- (a) Height. Except as otherwise provided in this code, no building shall

exceed a height of thirty-five (35) feet.

- (b) Lot Area. One (1) acre minimum, with a minimum width of one hundred fifty (150) feet at building setback line.
- (c) Floor Area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a floor area of no less than six hundred (600) square feet.
- (d) Side Yards. There shall be a minimum side yard of twenty-five (25) feet.
- (e) Rear Yard. The minimum depth of any rear yard shall be fifty (50) feet, except on waterfront lots.
- (f) Setback Lines. See §§17.23 and 17.25.
- (g) Off Street Parking. See §§17.70 through 17.72.

#### 17.49 A-1 GENERAL AGRICULTURAL DISTRICT.

- (1) **PURPOSE.** This Agricultural District is designed to foster the preservation and use of agricultural land related uses and to provide for limited residential uses in a rural environment but not the division of land. It is intended to provide multiple options to guide growth and development in concert with the comprehensive plan.
- (2) **PERMITTED USES.** Only the following uses are permitted in the A-1 District:
  - (a) Any use permitted in the RS-1 Family Residence Districts and 2 family dwellings.
  - (b) Campers or camping trailers may be stored or parked indefinitely, provided the unit is stored in or behind a structure or is screened from the road with natural screening so that it is not visible from the right-of-way. Tents and self-contained campers or camping trailers may be occupied by the owner or their immediate family on a temporary basis, not to exceed sixty (60) days in a calendar year, provided that a permit is secured from the zoning administrator if the use is to exceed thirty (30) days.
  - (c) Ponds which are outside the jurisdiction of the Marathon County shoreland code. Ponds shall maintain a slope from the shoreline no greater than three (3) feet horizontal to one (1) foot vertical to a water depth of six (6) feet when the pond is at its lowest level due either to seasonally fluctuating ground water levels or pumping for irrigation. Ponds exclusively for stock watering within an area fenced for livestock, with a surface area of two thousand five hundred (2500) square feet or less, also with three (3) foot horizontal to one (1) foot vertical slopes (3:1),

and with a maximum depth of six (6) feet may be permitted with a reduced fee. All ponds shall be located at least thirty (30) feet from any property boundary or right-of way line, fifty (50) feet from any septic system drainfield area and twenty-five (25) feet from any septic or holding tank. Applications for ponds with earthen dams or dikes greater than six (6) feet high shall be designed, or the design reviewed, by an engineer to ensure structural integrity. Pond outlets shall be designed so as not to concentrate runoff onto adjacent property or to cause erosion. Permits for ponds shall be granted or denied based on plans submitted. The permit holder shall notify the zoning administrator for an inspection upon completion of the excavation.

- (d) General farming, which complies with other town ordinances, and applicable Wis. Admin. Code and county ordinances, including dairying, livestock and poultry raising. Where five hundred (500) or more animal units are proposed the rules contained in Wis. Admin. Code ATCP 51 shall apply. Other agricultural activities such as nurseries, non-commercial greenhouses, beekeeping, vegetable warehouses, seasonal sale of seed and fertilizer and other similar enterprises or uses, except fur farms and farms operated for the disposal or reduction of garbage, sewage, rubbish or offal. Buildings, pens and structures used for the housing, sheltering or feeding of livestock shall be located no less than one hundred (100) feet from any lake or stream. Where meeting this setback is impossible or impractical due to location of existing agricultural facilities, new buildings and building additions may be constructed at a lesser setback provided the degree of non-conformity is not increased as approved by the town board.
- (e) Forestry and forest products.
- (f) Hunting and fishing shelters. A building, sometimes referred to as a "hunting shack", intended for temporary occupancy for hunting, fishing or other recreational purposes, provided that the building is located no less than six hundred (600) feet from the nearest residence other than that of the owner and complies with the provisions of Wis. Admin. Code SPS 83, and the sanitary requirements of Marathon County. This definition does not include cottages, campers, camping trailers or nonfarm residences.
- (g) Hunting, fishing and trapping.
- (h) Maple syrup processing plant.
- (i) Sawmills. When located 500 feet minimum distance from a residence other than the owner's.
- (j) Signs. See §§17.80 through 17.83.

- (k) Telephone, telegraph and power transmission and distribution towers, poles and lines, including transformers, substations, relay stations, equipment housings and other similar necessary appurtenant facilities.
  - (l) Transient amusements and temporary/intermittent uses such as music festivals, carnivals, rodeos, horse shows and circuses are subject to the Marathon County Assemblies Ordinance and shall require a temporary zoning permit. These activities shall not be permitted for more than three consecutive days nor more than three times in any three hundred sixty-five (365) day period.
  - (m) Uses customarily accessory to a permitted or agricultural use.
  - (n) Governmental uses such as town halls, garages, solid waste transfer stations and recycling collection centers or depots.
  - (o) Land spreading of municipal sewage sludge when done in accordance with and subject to the conditions contained in a permit from the Department of Natural Resources.
  - (p) Private Wind Electrical Generation Towers when the height conforms to §17.22, is located at least three hundred (300) feet from the nearest residential structure other than the owner, is set back from the property line the equivalent of the structure's total height plus twenty (20) feet or if the structure is engineered to collapse on itself, fifty (50) feet from property lines.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the town board after a public hearing and recommendation by the plan commission.
- (a) Aircraft landing fields, basins and hangars providing the site area is not less than twenty (20) acres.
  - (b) Animal hospitals and the boarding of animals.
  - (c) Canneries.
  - (d) Cheese factories.
  - (e) Concrete batching and/or blacktop mix plant (temporary), Processing and recycling of road surface material (temporary).
  - (f) Condenseries.

- (g) Contractor's storage yards, when any such yard shall be so placed, fenced or screened by a planting so as not to be visible from any public highway or residential building other than that of the owner of such yard, his agent or employee.
- (h) Creameries.
- (i) Dog kennels, for training, breeding or boarding, and private dog kennels with more than three (3) dogs that are more than six (6) months old, when located not less than six hundred (600) feet from any residential district or residential building other than that of the owner of such kennels, his agent or employee.
- (j) Pet cemeteries.
- (k) Drive-in theaters, provided there is a distance of not less than one thousand (1,000) feet between the boundary of any Residential District and the drive-in theater site, measured in a straight line.
- (l) Feedlots, provided buildings housing animals or poultry and barnyards or feedlots shall be located not less than one hundred (100) feet from any navigable water.
- (m) Fish hatchery including fishing for a fee (commercial).
- (n) Fur farms, pea viners and charcoal kilns, when located not less than one thousand (1,000) feet from any residential building other than that of the owner of the premises, his agent or employee and not less than one thousand (1,000) feet from the right-of-way line of any federal, state or county trunk highway; provided that this regulation shall not apply to portable pea viners where there is no stacking of the vines.
- (o) Garden or nursery store and commercial greenhouse(s).
- (p) Grain elevators (commercial).
- (q) Housing for migrant workers.
- (r) Game preserves and dog field trial grounds.
- (s) Incinerator (public).
- (t) Medical, correctional or charitable institutions.

- (u) Mini Warehousing. It is generally expected that "Mini Warehousing" as defined will only be allowed in existing farm buildings which would otherwise be vacant due to farm consolidation or for other reasons.
- (v) Mobile Homes.
  - 1. One mobile home used for habitation which is not the primary place of residence shall be permitted as an accessory building on any operating farm providing:
    - a. A determination is made in writing by the plan commission that one or more of the occupants of the mobile home derives a substantial portion of their livelihood from the farm operation and/or substantially participates in the operation of the farm.
    - b. More than one mobile home on the property may be permitted with plan commission approval.
    - c. Continued use shall be subject to annual review by the plan commission.
  - 2. The temporary use of a mobile home, not to exceed one year, unless an extension is authorized in writing by the town board, shall be permitted while a permanent dwelling is under construction, providing the mobile home and the permanent dwelling are located on the same lot or parcel of land and providing a county sanitary permit has been obtained for the permanent dwelling and that an approved private waste disposal system is utilized by the temporary mobile home.
- (w) Mobile home parks, subject to the conditions in §§17.60 through 17.64.
- (x) Commercial radio or TV broadcasting studio and/or tower and microwave relay towers, cellular telephone towers and similar structures which support antennae, dishes or other broadcast, relay, amplification and other transmission devices and their accessory structures when considering the following, which shall be provided by the applicant.
  - 1. Location of all towers used for similar purposes within a three (3) mile radius and co-location possibilities;
  - 2. Method(s) to camouflage, or stealth technology used, to minimize visual impacts;
  - 3. Number of users that tower will support;

4. An inter-modulation study or other documentation which provides a technical evaluation that indicates potential interference problems.

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

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

- (y) Riding stables and riding academics subject to the following:
  1. Lighted equestrian trails shall be no closer than two hundred (200) feet from any property line or three hundred (300) feet from any residence other than that of the owner unless written approval is granted by the adjoining owner(s) for a lesser setback and approval is granted by the plan commission.
  2. Stables, barns, corrals and exercise yards shall be located no closer than three hundred (300) feet from any property line of a residential district or residential use as defined in §17.40.
  3. Except in the RC Recreational District no more than two (2) persons other than a member of the resident family shall be employed on the premises.
  4. Animal unit densities shall be one (1) per three (3) acres or less
- (z) Roadside stand.

- (aa) Land disposal of waste material other than agricultural waste and sanitary landfill, provided no location shall be within one-half (1/2) mile of the boundary of any residence district and the operation shall be in full compliance with applicable Wisconsin Administrative Codes.
- (bb) Slaughterhouses, when located not less than one thousand (1,000) feet from any residential building other than that of the owner of the premises, his agent or employee.
- (cc) Commercial shooting ranges provided:
  - 1. Shooting stands shall be no less than one thousand (1,000) feet from residential buildings, other than that of the owner, his agent or employee unless owners and occupants of such residences waive this condition in writing.
  - 2. No firing shall be toward or over any named navigable water (determined at the time of application) located within one thousand (1,000) feet of the bullet barrier.
  - 3. The range shall be clearly identified from all directions with conspicuous "Danger Shooting Range" signs.
  - 4. There shall be a barrier, impenetrable to any missile fired on the range, which shall extend a distance above and to each side of the targets equal to one (1) foot for each twenty-five (25) yards to the most remote shooting stand, but in no case less than four (4) feet nor shall barriers be required to be more than twenty (20) feet above the target or thirty (30) feet to either side of the target unless land uses down range would require a higher or wider barrier.
  - 5. Trap and skeet ranges providing the owner of the trap or skeet range has under control by ownership or lease an area no less than one thousand eight hundred (1,800) feet wide and nine hundred (900) feet deep and providing further that there shall be no residences within one thousand (1,000) feet of the external boundaries of the range, unless owners and occupants of such residences waive this condition in writing.
- (dd) Travel trailer parks, subject to the provisions for travel trailer parks in the Recreation District. See §17.48(3)(k).
- (ee) Bed and Breakfast Establishment, Tourist Rooming House, or Boarding House, subject to Wis. Stat. §254.61.



- (ff) Dams, power plants and flowages.
  - (gg) Institutions of a charitable or philanthropic nature, day care or child care facilities, hospitals, clinics and sanatoria, except contagious hospitals and mental institutions.
  - (hh) Libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business.
  - (ii) Livestock collection and transfer depots when located not less than three hundred (300) feet from an RS residential district and when accessory to principal agricultural use of the property.
  - (jj) Commercial Wind Electrical Generation Towers provided no tower shall be located within one thousand two hundred (1200) feet of a residence or residential zoning district and the towers shall be set back from any property boundary a distance equivalent to its height to the top of the arc of the rotor plus one hundred (100) feet. No tower shall be located in any floodplain or wetland.
  - (kk) Mining of nonmetallic minerals and the processing for manufacture of materials incidental to such extraction and the erection of buildings and the installation of equipment and machinery may be permitted provided:
    - 1. Nonmetallic mining shall comply with the applicable terms of the Marathon County reclamation ordinances.
    - 2. All operations shall be at least fifty (50) feet from the centerline of any right-of-way and ten (10) feet from any property line of another person or company. All accessory uses such as offices and parking areas shall be at least one hundred (100) feet from any right-of-way or property line. Automobile wrecking yard, junk yard, or salvage yard, and portable tire shredders shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way and shall be at least six hundred (600) feet from the nearest residence except that of the owner, his agent or employee.
- (4) **HABITABLE STRUCTURES.** All new habitable structures other than that of the farm operator shall be located at least three hundred (300) feet from buildings, pens, and structures used for the housing, sheltering or feeding of livestock.

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

- (a) Height. Except as otherwise provided in this code, no building shall exceed a height of thirty-five (35) feet. See §17.22.
- (b) Lot Area. Buildings used in whole or in part for residential dwelling purposes which are hereafter erected or structurally altered shall be located on a lot having an area of not less than three (3) acres with a width of three hundred (300) feet at the building line., and 300 feet at road right-a-way  
  
This requirement shall not apply to mobile homes permitted on farms as an accessory use.  
  
Riding stable/academy hereafter established shall be located on a parcel having a contiguous area of not less than thirty-five (35) acres.
- (c) Floor Area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a minimum floor area of eight hundred forty (840) square feet, provided that this regulation shall not apply to mobile homes permitted on farms.
- (d) Side Yards. There shall be side yards provided between each building and the property line of no less than thirty (30) feet.
- (e) Rear Yard. There shall be a minimum rear yard depth of fifty (50) feet.
- (f) Street Setbacks. See §17.23 for road classifications.
- (g) Off Street Parking. See §§17.70 through 17.72.

17.50 A-3 EXCLUSIVE AGRICULTURAL DISTRICT

- (1) **PURPOSE.** The A-3 Exclusive Agricultural District is intended to preserve productive agricultural land for food and fiber production, preserve productive farms by preventing land use conflicts between incompatible uses, control public service costs, maintain a viable agricultural base to support agricultural processing and service industries, prevent conflicts between incompatible uses, reduce costs of providing services to scattered nonfarm uses, space and shape urban growth, and comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits.
- (2) **LANDS INCLUDED WITHIN THESE DISTRICTS.** These districts are generally intended to apply to lands which are limited to exclusive agricultural use, including lands historically exhibiting good crop yields or capable of such yields, lands which have been demonstrated to be productive for dairying, livestock raising and grazing, other lands which are integral parts of such farm

operations, land used for the production of specialty crops such as cranberries, ginseng, mint, sod, fruit and vegetables, and lands which are capable of productive use through economically feasible improvements such as irrigation.

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

- (a) One single family dwelling or duplex, provided all other conditions of this code and the private sewage system code are met. All new habitable structures other than that of the farm operator shall be located at least three hundred (300) feet from buildings, pens and structures used for the housing, sheltering or feeding of livestock.
- (b) Mobile homes.
  - 1. One mobile home used for habitation which is not the primary place of residence shall be permitted as an accessory building on an operating farm providing:
    - a. A determination is made in writing by the town board, that one or more of the occupants of the mobile home derives a substantial portion of their livelihood from the farm operation and/or substantially participates in the operation of the farm, and provided that each mobile home is provided with proper skirting or a foundation.
    - b. More than one mobile home on the property may be permitted with town board approval.
  - 2. The temporary use of a mobile home, not to exceed one year, unless an extension is authorized in writing by the town board, shall be permitted while a permanent dwelling is under construction, providing the mobile home and the permanent dwelling are located on the same lot or parcel of land and providing a county sanitary permit has been obtained for the permanent dwelling and that an approved private waste disposal system is utilized by the temporary mobile home.
- (c) Single family dwelling, in addition to permitted residences in §17.50 (3)(a), providing one or more of the occupants is a parent or child of the operator of the farm, or when the dwelling is to be the retirement home of the present farm operator.
- (d) Pole buildings, garages, private kennels, and any other buildings necessary to the farm operation or permitted residential uses.

- (e) Campers or camping trailers may be stored or parked indefinitely, provided the unit is stored in or behind a structure or is screened from the road with natural screening so that it is not visible from the right-of-way.
- (f) General farming, which complies with other town ordinances, and applicable state and county laws. Other agricultural activities such as nurseries, non-commercial greenhouses, beekeeping, vegetable warehouses, seasonal sale of seed and fertilizer and other similar enterprises or uses, except fur farms and farms operated for the disposal or reduction of garbage, sewage, rubbish or offal. Buildings, pens and structures used for the housing, sheltering or feeding of livestock shall be located no less than one hundred (100) feet from any lake or stream. Where meeting this setback is impossible or impractical due to location of existing agricultural facilities, new buildings and building additions may be constructed at a lesser setback provided the degree of non-conformity is not increased as approved by the town board.
- (g) One roadside stand per farm, of not more than three hundred (300) square feet, used solely for the sale of products more than fifty percent (50%) of which were produced on the premises.
- (h) Forest and game management.
- (i) Hunting and fishing shelters. A building, sometimes referred to as "hunting shack," intended for temporary occupancy for hunting, fishing or other recreational purposes, provided that the building is located no less than six hundred (600) feet from the nearest residence other than that of the owner and complies with the provision Wis. Admin. Code, and the sanitary requirements of Marathon County. This definition does not include cottages, campers, camping trailers or non-farm residences.
- (j) Hunting, fishing and trapping.
- (k) Maple syrup processing plant.
- (l) Sawmills. When located five hundred (500) feet minimum distance from any residence other than that of the owner.
- (m) Signs. See §§17.80 through 17.84.
- (n) Public utility equipment such as telephone and electric power, transmission and distribution poles, towers and lines, including transformers.
- (o) Ponds. Ponds shall comply with §17.49(2)(c).

- (p) Transient amusements and temporary/intermittent uses such as music festivals, carnivals, rodeos, horse shows and circuses. These activities shall not be permitted for more than three consecutive days nor more than three times in any three hundred sixty-five (365) day period.
  - (q) Home occupations and professions.
  - (r) Land spreading of municipal sewage sludge when done in accordance with and subject to the conditions contained in a permit from the Department of Natural Resources issued pursuant to Wis. Admin. Code.
  - (s) Private Wind Electrical Generation Towers subject to the provisions of §17.49(2)(q).
- (4) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use has been approved and a conditional use permit has been granted by the town board after a public hearing and recommendation by the plan commission. Such approval shall be consistent with the general purpose and intent of this code and shall be based upon such evidence as may be presented at such public hearing. The town, in passing upon applications for these conditional use permits, shall consider the following factors: the statement of purposes of this code and the A-3 District, the potential for conflict with agricultural use, the need of the proposed use for a location in an agricultural area, the availability of alternative locations, compatibility with existing or permitted uses on adjacent lands, the productivity of the lands involved, the location of the proposed use so as to reduce to a minimum the amount of productive agricultural land converted, the need for public services created by the proposed use, the availability of adequate public services and the ability of the town to provide them without an unreasonable burden. These uses are as follows:
- (a) Canneries.
  - (b) Cheese factories.
  - (c) Concrete or blacktop batching plant (temporary only).
  - (d) Condenseries.
  - (e) Commercial feedlots and buildings housing two hundred fifty (250) or more animals.
  - (f) Creameries.
  - (g) Dog kennels, for training, breeding or boarding, and private dog kennels with more than three (3) dogs that are more than six (6) months old, when located not less than six hundred (600) feet from any residential district or

residential building other than that of the owner of such kennels, his agent or employee. Dog field trial grounds.

- (h) Facilities used for the centralized bulk collection, storage and distribution of agricultural products to wholesale and retail markets.
- (i) Facilities used to provide veterinarian services for livestock.
- (j) Facilities used in processing of agricultural products.
- (k) Fish hatchery (commercial).
- (l) Fur farms when located not less than one thousand (1,000) feet from any residential building other than that of the owner of the premises, his agent or employee.
- (m) Governmental uses such as town halls, garages, solid waste transfer stations and recycling collection centers or depots.
- (n) Public utility substations, relay stations and microwave receivers and transmitters, semipublic and private utility towers, receivers, transmitters and other similar necessary appurtenant facilities, commercial radio or TV broadcasting tower(s), cellular telephone towers and similar structures subject to the provisions of §17.49(3)(x).
- (o) The establishment of farms with a total contiguous land area of less than thirty-five (35) acres and/or exceeding one animal unit per acre. Provisions for approval must include a suitable manure disposal plan, controlled barnyard runoff, and must address other management concerns.
- (p) Riding stables and riding academics pursuant to §17.49(3)(y).
- (q) Land disposal of waste material other than agricultural waste and sanitary landfill, provided no location shall be within one-half (½) mile of the boundary of any residence district and the operation shall be in full compliance with NR 214 and 500-524, or other applicable Wis. Admin. Codes.
- (r) Bed and Breakfast Establishment, Tourist Rooming House, or Boarding House subject to Wis. Stats. §254.61.
- (s) Livestock collection and transfer depots when located not less than three hundred (300) feet from an RS residential district and when accessory to the principal agricultural use of the property.

(5) CONDITIONS ATTACHED TO CONDITIONAL USES.

- (a) Upon a consideration of information supplied at the public hearing and a review of the standards contained in §17.50(4), the following conditions may be attached to the granting of a conditional use: increased setbacks and yards, specifications for water supply, liquid waste and solid waste disposal facilities, landscaping and planting screens, sureties, operational controls and time of operation, air pollution controls, erosion prevention measures, location of the use, and similar requirements found necessary to fulfill the purpose and intent of this code.
- (b) The department of agriculture, trade and consumer protection shall be notified of the approval of any conditional uses.

(6) HEIGHT, YARDS, AREA REQUIREMENTS.

(a) Lot Area.

- 1. The minimum lot size to establish a residence or farm operation is thirty-five (35) contiguous acres.
- 2. A lot having an area of more than three acres and less than thirty-five (35) acres may be reduced to a minimum of three acres provided there is no net increase in the number of lots. Minimum lot width shall be three hundred (300) feet. Minimum frontage on a public highway shall be three hundred (300) feet.

(b) Height.

- 1. The maximum height of a farm dwelling shall not exceed thirty-five (35) feet. The maximum height of other structures shall meet the provisions of §17.22 of this code.
- 2. The maximum height of other structures shall meet the provisions of §17.22 of this code.

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

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

(e) Setback Lines. See §§17.23 and 17.26.

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

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

(7) STANDARDS FOR REZONING.

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

17.51 RESERVED FOR FUTURE USE.



17.52 RR RURAL RESIDENTIAL AND RE RURAL ESTATE DISTRICTS.

- (1) **PURPOSE.** The purpose of the RR and RE districts is to provide for and promote small to medium lot residential living with some limited agricultural activities, and as a zoning classification for transition of areas from agriculture to more dense residential development.
- (2) **LANDS INCLUDED IN THESE DISTRICTS.** These districts are for the accommodation of rural parcels generally less than thirty-five (35) acres in size that are not part of larger farm operations.
- (3) **PERMITTED USES.** Only the following uses are permitted in the RR and RE Districts:
  - (a) One single family dwelling provided all other conditions of this code and the private sewage system code can be met.
  - (b) Limited farming including large pet/hobby animals in the RE district only and feed and vegetable crops and other similar enterprises or uses in the RR and RE Districts. There shall be no more than one animal unit per 2.5 acres.
  - (c) "Hobby" farms, forestry, beekeeping, plant nurseries, fish hatcheries and noncommercial greenhouses and ponds subject to the conditions contained in §17.43(2)(l) of this code.
  - (d) One temporary roadside stand per lot, not more than three hundred (300) square feet, used solely for the sale of products at least fifty percent (50%) of which were produced on the premises.
  - (e) Garage and/or usual accessory buildings, private kennels.
  - (f) Public utility equipment such as telephone and electric power, distribution poles, towers and lines, including transformers.
  - (g) Churches, cemeteries subject to Wis. Stat. Ch. §157, public and parochial schools, colleges and universities.
  - (h) Ponds subject to the conditions contained in §17.49(2)(c) of this code. In addition, ponds shall maintain a minimum slope of four (4) feet horizontal to one (1) foot vertical to a water depth of six (6) feet and a three (3) foot horizontal to one (1) foot vertical slope below the six (6) foot depth. Disposal and/or stabilization of spoil from pond excavation shall be addressed on the pond plans and a three (3) feet horizontal to one (1) foot vertical slope shall be the minimum.

- (i) Home occupations and home professions.

(4) **CONDITIONAL USES.**

- (a) Stables and riding schools in the RE District only.
- (b) Fish hatcheries in the RE District only.
- (c) Large pet/hobby animals in the RR Districts, not to exceed one animal unit per 3.0 acres.
- (d) Agriculturally related commercial enterprises, including but not limited to, cheese factories, veterinary hospitals and clinics, seed, fertilizer and chemical sales, feed mills, but not farm machinery sales and service.
- (e) Commercial radio or TV broadcasting studio and/or tower and microwave relay towers, cellular telephone towers and similar structures which support antennae, dishes or other broadcast, relay, amplification and other transmission devices and their accessory structures shall comply with the provisions of §17.49(3)(x).
- (f) Signs, see §§17.80 through 17.84.
- (g) Bed and Breakfast Establishment, Tourist Rooming House, or Boarding House subject to Wis. Stat. §254.61.

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

- (a) Height requirements, front, side, and rear yard requirements, and floor area requirements for the AR and AE districts shall be the same as described in §17.49(4).
- (b) The minimum lot size in the RR district shall be two (2) acres. The maximum lot size in the AR district shall be ten (10) acres. The minimum lot width shall be one hundred fifty (150) feet.
- (c) The minimum lot size in the AE district shall be five (5) acres. The minimum lot width shall be two hundred ten (210) feet.

17.53 RESERVED FOR FUTURE USE.

17.54 C-1 COMMERCIAL DISTRICT.

- (1) **PURPOSE.** This district is designed to provide for a wide range of retail stores and personal service establishments which cater to frequently recurring needs.

The regulations are designed to promote stability of retail development by encouraging continuous retail frontage.

- (2) **PERMITTED USES.** Only the following uses are permitted in the C-1 District:
- (a) Animal hospitals and clinics, but not the boarding of animals.
  - (b) Antique or art shop.
  - (c) Bakery employing not over 8 persons on the premises.
  - (d) Bank, savings and loan or other financial institutions.
  - (e) Barber shop, beauty parlor.
  - (f) Boat and motorcycle sales and service.
  - (g) Book and stationery store.
  - (h) Business, professional offices and clinics.
  - (i) Clothing store, department store, shoe store, shoe repair shop.
  - (j) Clubs and lodges.
  - (k) Commercial entertainment facilities, but not drive-in theater.
  - (l) Dance studios.
  - (m) Drugstore.
  - (n) Dwelling, single family, but only as an accessory to a principle use for the caretaker or owner and his family only.
  - (o) Florist shop, greenhouse.
  - (p) Food products (retail), fruit and vegetable store, grocery store, meat and fish market, supermarket.
  - (q) Funeral homes.
  - (r) Furniture store, appliances, office equipment, upholstery.
  - (s) Hardware, household appliances, plumbing, heating and electrical supplies, auto supplies.

- (t) Health club.
  - (u) Hotel, motel.
  - (v) Insurance firms, real estate firms, stockbrokers.
  - (w) Jewelry store.
  - (x) Laundry, cleaning and dyeing establishment.
  - (y) Libraries, museums.
  - (z) Martial arts schools.
  - (aa) Music, radio and television store, record shop.
  - (bb) Paint store, interior decorator.
  - (cc) Parking lot.
  - (dd) Photographer, photography supply shop.
  - (ee) Printing and duplicating.
  - (ff) Public utility office or substation, telephone exchanges, fire stations, police station, administration buildings and similar uses.
  - (gg) Publishing office.
  - (hh) Radio and television broadcasting studio, tower, mast or aerial, microwave radio relay structures.
  - (ii) Retail stores and shops offering convenience goods and services.
  - (jj) Restaurant, café, but not drive-in restaurant.
  - (kk) Signs/billboards, (see §§17.80 through 17.84).
  - (ll) Manufacturing or storage in connection with any of the above uses, when clearly incidental to the conduct of a retail business on the premises.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit granted by the town board after a public hearing and recommendation by the plan commission.

- (a) Amusement parks including baseball batting ranges, commercial skating rinks, go-cart tracks, golf driving range, miniature golf course or similar establishments.
- (b) Automobile sales, service stations, repair, body shops, car wash.
- (c) Bowling alleys, dance halls, skating rinks.
- (d) Day care or child care facilities.
- (e) Drive-in restaurant.
- (f) Drive-in theater.
- (g) Farm equipment sales and service.
- (h) Farm machinery sales and service.
- (i) Feed and seed stores.
- (j) Fishing bait (live) stores.
- (k) Lumber yards.
- (l) Marinas.
- (m) Mobile homes sales and service.
- (n) Motorcycle sales, repair and service.
- (o) Newspaper office and press rooms.
- (p) Tavern.
- (q) Transportation terminals, taxi, limo and bus terminals.
- (r) Wholesale establishments.
- (s) Outdoor and indoor sports facilities and entertainment facilities which are part of a tavern's operations.
- (t) Commercial radio or TV broadcasting towers, cellular telephone towers and similar structures subject to the provisions of §17.49(3)(x).

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

- (a) Height. Except as otherwise provided in this code, no building shall exceed a height of thirty-five (35) feet. One additional foot of extra height may be permitted provided one additional foot of each side and rear yards for each additional foot of extra height is also established up to a maximum height of sixty (60) feet unless the town board approves a greater height.
- (b) Lot area. The minimum lot area shall be ten thousand (10,000) square feet and the minimum lot width shall be seventy-five (75) feet at the building line.
- (c) Floor Area. Buildings used in whole or part for dwelling purposes, as opposed to accommodations for transients, shall have a floor area as required by the regulations of RM Multiple Family Residence District.
- (d) Side Yards. Side yards shall be not less than 100 feet wide.
- (e) Rear Yard. There shall be a rear yard of not less than one hundred (100) feet in depth.
- (f) Setback Lines. See §§17.23 and 17.25.
- (g) Off Street Parking. See §§17.70 through 17.72.

17.55 M-1 LIGHT INDUSTRIAL DISTRICT.

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

- (f) General or clerical office.
  - (g) Light industrial plants such as required for production of millwork, machine tools, paper containers, patterns, die castings, light metal fabrication and similar small industries which do not require loud presses.
  - (h) Manufacture, fabrication, packing, packaging and assembly of products from furs, glass, leather, metals, paper, plaster, plastic, textiles and wood. Manufacture, fabrication, packing, packaging and assembly of confections, cosmetics, electrical appliances, electronic devices, instruments, jewelry, pharmaceuticals, tobacco, toiletries and foods except cabbage, fish and fish products, meat and meat products and pea vineries.
  - (i) Manufacturing and bottling of nonalcoholic beverages.
  - (j) Painting.
  - (k) Printing.
  - (l) Professional offices.
  - (m) Publishing.
  - (n) Research and testing laboratories.
  - (o) Schools and training centers.
  - (p) Warehousing, inside storage and mini warehousing. Inside storage of contractors' supplies and equipment, and outside storage when screened from the view of any public right-of-way and residences other than the owner's.
  - (q) Wholesalers and distributors. Common and contract hauler parking and structures for the repair and maintenance of the vehicles.
  - (r) Signs. See §§17.80 through 17.84.
  - (s) Transportation terminals, taxi, limo and bus terminals.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the town board after a public hearing and recommendation by the plan commission.

- (a) Airports, air strips and landing fields provided the site area is not less than twenty (20) acres.
  - (b) Automobile, construction, and farm machinery sales or service businesses.
  - (c) Commercial service facilities, such as restaurants and fueling stations provided all such services are physically and sales-wise oriented toward industrial district users and employees and other users are only incidental customers.
  - (d) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelter, parks, playgrounds and museums.
  - (e) Manufacturing, processing and storage of dry ice and building materials, lumber yards.
  - (f) Public passenger transportation terminals, such as heliports, bus and rail depots, provided all principal structures and uses are not less than one hundred (100) feet from any residential district boundary.
  - (g) Commercial wind electrical generation towers subject to the provisions of §17.49(3)(aj).
  - (h) Commercial radio or TV broadcasting towers, cellular telephone towers and similar structures subject to the provisions of §17.49(3)(x).
- (4) HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.
- (a) Height. The maximum height shall be forty-five (45) feet except that this may be increased to sixty (60) feet, provided all yards are increased three (3) feet in width for each five (5) feet of additional height.
  - (b) Lot Area. The minimum lot area shall be twenty thousand (20,000) square feet.
  - (c) Width. The minimum width shall be one hundred fifty (150) feet.
  - (d) Side Yards. The minimum side yard shall be one hundred (100) feet, provided further that any such side yard which abuts a boundary of a Residence District shall be not less than twenty-five (25) feet wide, unless such Residence District boundary lies within a street or alley.
  - (e) Rear Yard. The minimum rear yard shall be not less than one hundred (100) feet in depth.



- (f) Prohibited Uses of Yards. Any yard which abuts a boundary of a non-industrial district shall not have an automobile parking lot, stockpile, waste or salvage pile, equipment storage or other accumulation of material or equipment in the open, placed in such yard, except that loading platforms may be established in a yard if it abuts on a railroad.
- (g) Setback Lines. See §§17.23 and 17.25.
- (h) Off Street Parking. See §§17.70 through 17.72.

17.56 M-2 HEAVY INDUSTRIAL DISTRICT.

- (1) **PURPOSE.** The heavy industrial district is intended to provide for uses which by their nature could exhibit characteristics harmful, noxious or detrimental to surrounding uses of the land.
- (2) **PERMITTED USES.** Only the following uses are permitted in the M-2 District:
  - (a) Any use permitted in the M-1 Light Industrial District.
  - (b) Automobile sales and service stations.
  - (c) Freight yards and depots including livestock collection, transfer and sales.
  - (d) Breweries.
  - (e) Inside storage and outside storage when fenced.
  - (f) Lumber yards.
  - (g) Binderies.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the town board after a public hearing and recommendation by the plan commission. Such approval shall be consistent with the general purpose and intent of this code and shall be based upon evidence presented at such public hearing.
  - (a) Airports, airstrips, and landing fields provided the site area is not less than twenty (20) acres.
  - (b) Commercial service facilities, such as restaurants and bulk fueling stations provided all such services are physically and sales oriented toward industrial district users and employees and other users are only incidental customers.

- (c) Creameries, condenseries.
- (d) Crematories.
- (e) Manufacture and processing of abrasives, acetylene, acid, alkalies, ammonia, asphalt, batteries, bedding, bleach, bone, cabbage, candle, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal tar, coffee, coke, cordage, creosote, dextrine, disinfectant, dye, excelsior, fish, fuel, gelatin, glucose, hair products, ice, ink, insecticide, lampblack, lime, lime products, linoleum, matches, meat, oilcloth, paint, peas, perfume, pickle, plastics, poison, polish, potash, pulp, pyroxylin, rope, rubber, sausage, shoddy, size, starch, textiles and varnish.
- (f) Manufacture and bottling of alcoholic beverages, bag cleaning, canneries, cold storage warehouse, electric and steam generating plants, electro plating, enameling, forges, foundries, garbage incinerators, lacquering, lithographing, offal, rubbish or animal reduction, oil, coal and bone distillation refineries, road test facilities, slaughterhouses, smelting, stockyards and tanneries provided such uses shall be at least six hundred (600) feet from residential districts.
- (g) Manufacturing, processing and storage of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar and yeast.
- (h) Mining of nonmetallic minerals and the processing for manufacture of materials incidental to such extraction and the erection of buildings and the installation of equipment and machinery may be permitted provided:
  - 1. Nonmetallic mining.
  - 2. All operations shall be at least fifty (50) feet from the centerline of any right-of-way and ten (10) feet from any property line of another person or company. All accessory uses such as offices and parking areas shall be at least one hundred (100) feet from any right-of-way or property line. Automobile wrecking yard, junk yard, or salvage yard, and portable tire shredders shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way and shall be at least six hundred (600) feet from the nearest residence except that of the owner, his agent or employee.
- (i) Municipal sewage disposal plants and related facilities.

- (j) Adult entertainment, adult bookstore/adult novelty shop whether or not alcohol is served.
- (k) Solid waste and recycling transfer stations.
- (l) Commercial wind electrical generation towers subject to the provisions of §17.49(3)(aj).
- (m) Commercial radio or TV broadcasting towers, cellular telephonic towers and similar structures subject to the provisions of §17.49(3)(x).

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

- (a) Height. The maximum height of buildings shall be forty-five (45) feet except that this may be increased to sixty (60) feet, provided all yards are increased three (3) feet in width for each five (5) feet of additional height.
- (b) Lot Area. The minimum lot area shall be twenty thousand (20,000) square feet.
- (c) Width. The minimum width shall be one hundred fifty (150) feet.
- (d) Side Yards. The minimum side yard shall be one hundred (100) feet, provided further than any such side yard which abuts a boundary of a Residence District shall not be less than twenty-five (25) feet wide, unless such Residence District boundary lies within a street or alley.
- (e) Rear Yard. The minimum rear yard shall be not less than one hundred (100) feet in depth. Any yard which abuts a boundary of a Residence District shall not have an automobile parking lot, stockpile, waste or salvage pile, equipment storage or other accumulation of material or equipment in the open, placed in such yard, except that loading platforms may be established in a yard if it abuts on a railroad.
- (f) Setback lines. See §§17.23 and 17.25.

17.57 RESERVED FOR FUTURE USE.

17.58 RESERVED FOR FUTURE USE.

17.59 RESERVED FOR FUTURE USE.

## **MOBILE HOME PARKS**

### **17.60 DISTRICTS ALLOWED.**

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

### **17.61 APPLICATION FOR PERMIT.**

- (1) An application for a conditional use permit for a mobile home park shall be filed as outlined in §17.13 and contain the information required by Wis. Admin. Code. Plans shall be prepared showing all features required by this code. Upon receipt of the plans, one set shall be forwarded to the county health department for review and comments.

### **17.62 REQUIREMENTS.**

- (1) The minimum size of a mobile home park shall be ten (10) acres.
- (2) Each park shall provide mobile home lots and each such lot shall be clearly defined or delineated. Each lot shall have an area of not less than five thousand (5,000) square feet and an average width of not less than fifty (50) feet, provided, however, that mobile home parks which existed lawfully at the time of the adoption of this code and have lots that do not comply with any of the foregoing minimum area and width requirements may continue to operate. New site development within or contiguous to an existing park shall conform to the standards of this code.
- (3) Mobile homes shall be so located on each lot that there shall be at least a twenty (20) feet clearance between mobile homes. No mobile home shall be located closer than five (5) feet to any accessory building within the park. Mobile homes and accessory structures shall meet the street, side, and rear yard requirements for the zoning district in which the mobile home park is located.
- (4) Private internal streets shall comply with all applicable laws and regulations. There shall not be more than two (2) entrances from or exits to such street or highway from any one such park. Access shall be approved by the unit of government having jurisdiction over the street or highway.
- (5) Walkways to service buildings shall be not less than thirty-six (36) inches wide and shall be graveled or paved.
- (6) All driveways and walkways within the park shall be well lighted at night.

- (7) Electrical connections shall meet the requirements of Wis. Admin. Code COMM 151.
- (8) Each mobile home lot shall be provided with two (2) parking spaces.
- (9) Each mobile home park shall be completely surrounded, except for permitted entrances and exits, by a yard, in addition to all other required yards and open spaces, which shall be planted to permanent grasses, flowers, shrubs and trees so as to provide a fifty percent (50%) opacity to a height of 8 feet during all seasons of the year. Plantings shall comply with §17.25 and §17.26. Plantings and time frame for achieving the prescribed opacity shall be determined by the plan commission based upon a proposal submitted with the conditional use permit application.
- (10) Mobile home parks shall conform to the requirements of all applicable statutes and Wis. Admin. Code.
- (11) Service buildings housing sanitation facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems.
- (12) Metal garbage cans with tight fitting lids shall be provided in quantities adequate to permit disposal of all garbage and rubbish. The cans shall be kept in sanitary condition with contents disposed of at least twice each week.
- (13) Every park shall be equipped at all times with fire extinguishing equipment in good working order, of such type, size and number and so located within the park as to satisfy applicable regulations of the fire department. No open fires shall be permitted at any place which may endanger life or property.
- (14) Adequate provisions shall be made for the disposal of all sewage from a mobile home park into a municipal sanitary sewer where available, or by properly constructed and maintained sewage system approved by all necessary governmental entities.
- (15) Open space commons and/or play areas shall be included in the design at the ratio of nine thousand (9,000) square feet per each ten (10) lots or fraction thereof, exclusive of setbacks required by §17.62(3).

17.63 MOBILE HOME USE RESTRICTIONS.

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

17.64 REGISTERS.

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

**MOTOR VEHICLE AND PARKING REGULATIONS**

17.70 LOADING REQUIREMENTS.

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

17.71 PARKING REQUIREMENTS.

- (1) In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended or increased, off street parking stalls for all vehicles in accordance with the following:
  - (a) Adequate access or a public street shall be provided for each parking stall and driveways shall be at least twelve (12) feet wide.
  - (b) Each parking stall shall be not less than nine (9) feet in width and not less than one hundred eighty (180) square feet in area exclusive of the space required for ingress and egress. Unpaved and unstriped parking lots for use by the general public shall provide three hundred sixty (360) square feet per parking space, exclusive of ingress/egress lanes.
  - (c) No parking stall or driveway except in residential districts shall be closer than twenty-five (25) feet to a residential district lot line or a street line opposite a residential district.
- (2) Number of parking stalls required:

|  |   |
|--|---|
| Single Family Dwellings<br>and Mobile Homes          | 2 Stalls/Dwelling Unit                      |
| Two Family and<br>Multi-family Dwellings             | 2 Stalls/Dwelling Unit                      |
| Hotels, Motels                                       | 1 Stall/Guest Room<br>+ 1 Stall/3 Employees |
| Hospitals, Clubs, Lodges,<br>Sororities, Dormitories | 1 Stall/2 Beds<br>+ 1 Stall/3 Employees     |

|  |  |
|--|--|
| Lodging and Boarding, houses<br>sanitariums, Institutions,   | 1 Stall/5 Beds   |
| Rest and Nursing Homes<br>Medical and Dental Clinics   | + 1 Stall/3 Employees<br>4 Stalls/Doctor<br>+ 1 Stall/Employee |
| Churches, Theaters, Auditoriums<br>Community Centers, Vocational<br>and night Schools and Other<br>Places of Public Assembly | 1 Stall/5 Seats  |
| Colleges, Secondary and Employees  | 1 Stall/2  |
| Elementary Schools   | A reasonable number of stalls for student<br>and other parking |
| Restaurants, Bars, Places of<br>Entertainment, Repair Shops,   | 1 Stall/150 square feet<br>of Floor Area                       |
| Retail and Service Stores<br>Manufacturing and Processing  | 1 Stall/2 Employees  |
| Plants, Laboratories and<br>Warehouses   | during any 12 hr. period                                       |
| Financial Institutions,<br>Business, Governmental and<br>Professional Offices  | 1 Stall/300 square feet<br>of Floor Area                       |
| Funeral Homes  | 1 Stall/4 Seats  |
| Bowling Alleys   | 3 Stalls/Bowling Lanes   |
| Golf Courses   | 4 spaces/hole  |
| Ball diamonds  | 40 spaces/diamond  |
| Volleyball courts  | 20 spaces/court  |
| Bars w/live music or DJ,<br>banquet halls, dance clubs<br>including outdoor decks and patios                                 | 1 space/50 sq. feet of patron space,                           |

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

#### 17.72 DRIVEWAYS.

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

### SIGNS

#### 17.80 GENERAL.

- (1) No signs or billboards shall be permitted in any district except as specifically permitted herein.
- (2) At no time shall signs be permitted within a vision clearance triangle in such a manner as to restrict vision or impair safety. See §17.25.
- (3) No sign located within one hundred fifty (150) feet of a highway or street right-of-way shall contain, include or be illuminated by a flashing or rotating beam of light.
- (4) No sign shall be illuminated by any source of light that is not shielded to prevent glare of illumination of residential property other than that of the sign owner; nor shall the glare of any light source be so directed as to impair the safety of moving vehicles.



- (5) No signs, except of a public nature normal to public right-of-ways, shall be permitted within any public right-of-way without approval in writing from the jurisdictional governmental unit.
- (6) No sign larger than five (5) square feet shall be located, erected, moved, reconstructed or enlarged until a zoning permit has been issued.
- (7) No permanent sign shall be located closer than seventy-five (75) feet from the ordinary high-water mark of any navigable or perennial body of water, in the floodway of any stream or in any shoreland-wetland.
- (8) Area measurements of signs shall include any border or trim but not the standard or supporting structure.
- (9) Signs placed by or on behalf of individuals or businesses who contributed to the development or maintenance of a community park, recreation area or similar project may be allowed by the zoning administrator and the town board with no permit(s) required. These signs shall not conflict with state or federal sign regulations, shall not exceed thirty-two (32) square feet in area and shall meet all setbacks or be part of an existing legal fence.

17.81 SIGNS IN RESIDENTIAL, CONSERVANCY, AND AGRICULTURAL DISTRICTS.

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

- (1) Customary, professional and home occupation signs not exceeding twenty (20) square feet and "For Rent" or "For Sale" signs, not exceeding 4 square feet in area.
- (2) One on premises announcement sign or bulletin board of an appropriate nature, identifying a hospital, school, church or other similar facility or institution, not exceeding twenty (20) square feet in area.
- (3) Temporary signs of not more than fifty (50) square feet in area for the purpose of advertising an auction, bazaar, festival, political or other special event. Signs shall be removed at the conclusion of the event.
- (4) Temporary signs as defined in §17.81(3) shall not require a permit. Notwithstanding, any temporary sign on display for a period exceeding sixty (60) days in length of duration shall be required to obtain a permit. If issued a permit, the temporary sign shall be removed within thirty (30) days of issuance. No temporary sign permit may be extended or reissued for any said sign location.

- (5) Off premises signs provided they are directional only, the outside dimensions of which do not exceed twenty (20) square feet, are located within a 3 mile radius of the advertised business or activity and are not in conflict with Wisconsin administrative code or statute.
- (6) Signs necessary to the public safety and welfare or for the identification, operation or protection of a public utility installation shall be no larger than three (3) square feet and may be located any distance outside of the public right-of-way.
- (7) In all agricultural districts, signs which advertise agricultural products that are produced on the property where the sign is located shall be permitted provided the following conditions are met:
  - (a) Signs shall not conflict with state or federal sign regulations. (Note: it shall be the responsibility of the person wishing to erect or paint the sign to obtain any and all other permits or approvals.)
  - (b) For signs larger than thirty-two (32) square feet, all conditions set forth in §17.82(2)(a)-(d) shall be met.
  - (c) Signs shall be located on an operating farm and adjacent to the principal building or buildings used in the production of the agricultural product being advertised.
  - (d) Signs shall contain only one message per face, and no more than one double face or two (2) single face signs larger than thirty-two (32) square feet per face shall be permitted.
  - (e) Signs which are thirty-two (32) square feet in area or less shall be permitted as farm identification signs. These signs shall include the farm name and/or surname of the farm operator. Farm identification signs shall be no less than fifteen (15) feet from the right-of-way.
  - (f) No sign other than a farm identification sign as defined in par. (e) above, shall contain a brand name, trade name, organization, co-op, union or bureau name.

17.82 SIGNS IN RECREATIONAL, COMMERCIAL AND INDUSTRIAL DISTRICTS.

The following signs are permitted:

- (1) All signs permitted in §17.81.
- (2) Identifying signs advertising a business or activity conducted on the premises in accordance with the following provisions:

- (a) Wall signs placed against the exterior walls of buildings shall not extend more than 1' from the wall surface and shall not exceed three hundred (300) square feet in area.
  - (b) Projecting signs fastened to, suspended from or supported by attached structures shall not exceed forty (40) square feet in area on a side.
  - (c) Ground signs shall meet all yard requirements for the district in which they are located, shall not exceed two hundred (200) square feet on a side and shall not exceed twenty-five (25) feet in height above the main road grade.
  - (d) Roof signs shall not exceed ten (10) feet in height above the roof or parapet nor may such a sign extend beyond the building upon which it is located and shall not exceed two hundred (200) square feet on a side.
- (3) Off premises signs and billboards:
- (a) Signs and billboards shall meet the requirements of Wisconsin administrative code and state statutes. Signs and billboards shall meet all yard requirements for the district in which they are located and have a minimum separation of one thousand (1,000) feet from all other billboards which exceed 300 square feet in area.
  - (b) Signs and billboards which are not within the jurisdiction of the Wisconsin administrative code or state statutes, shall meet the same size requirements as on premises signs in sub. (2) of this section.

17.83 UNSAFE AND UNLAWFUL SIGNS AND ADVERTISING DEVICES.

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

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

Removal of unsafe signs:

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

17.84 EXISTING SIGNS/SPECIAL PROVISIONS.

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

**ADMINISTRATION**

17.90 PLAN COMMISSION.

- (1) Purpose. The purpose of this ordinance is to establish a town plan commission and set forth its organization, powers and duties, to further the health, safety, welfare and wise use of resources for the benefit of current and future residents of the town and affected neighboring jurisdictions, through the adoption and implementation of comprehensive planning with significant citizen involvement.
- (2) Authority; Establishment (7-Member). The town board, having been authorized by a town meeting under Wis. Stat. §60.10(2)(c), to exercise village powers, hereby exercises village powers under Wis. Stat. §60.22(3), and establishes a seven (7) member plan commission under Wis. Stat. §§61.35 and 62.23. The plan commission shall be considered the "Town Planning Agency" under Wis. Stat. §§236.02(13) and 236.45, which authorize, but do not require, town adoption of a subdivision or other land division ordinance.
- (3) Membership. The plan commission consists of one (1) member of the Town Board, who may be the town board chairperson, and six (6) citizen members, who are not otherwise town officials, and who shall be persons of recognized experience and qualifications.

- (4) **Appointments.** The town board chairperson shall appoint members of the plan commission, subject to confirmation by the town board, during the month of April, to fill any expiring term. The town board chairperson shall also select the chairperson of the plan commission. The town board chairperson may appoint himself or herself or another town board member to the plan commission and may designate himself or herself, the other town board member, or a citizen member as chairperson of the plan commission. In a year in which any town board member is elected at the spring election, any appointment or designation by the town board chairperson shall be made after the election and qualification of the town board members elected. Any citizen appointed to the plan commission shall take and file the oath of office within five (5) days of notice of appointment, as provided under Wis. Stat. §§19.01 and 60.31.
- (5) **Terms of Office (With Citizen Member Terms Not Staggered).** The term of office for the plan commission chairperson and each commission member shall be for a period of three (3) years, ending on April 30, or until a successor is appointed and qualified. However, the plan commission chairperson or member who is a town board chairperson or town board member shall serve on the commission for a period of two (2) years, as allowed under Wis. Stat. §66.0501(2), concurrent with his or her term on the town board. An initial appointment of such town board chairperson or town board member made after April 30 shall be for a term that expires two (2) years from the previous April 30.
- (6) **Vacancies and Removals.** A person who is appointed to fill a vacancy on the plan commission shall serve for the remainder of the term. A member of the plan commission may be removed only by a majority vote of the town board.
- (7) **Compensation; Expenses.** The town board hereby sets a per diem allowance as from time to time set by the town board per meeting for citizen and town board members of the plan commission, as allowed under Wis. Stat. §66.0501(2). In addition, the town board may reimburse reasonable costs and expenses, as allowed under Wis. Stat. §60.321.
- (8) **Experts and Staff.** The plan commission may, under Wis. Stat. §62.23(1), recommend to the town board the employment of experts and staff, and may review and recommend to the approval authority proposed payments under any contract with an expert.
- (9) **Rules; Records.** The plan commission, under Wis. Stat. §62.23(2), may adopt rules for the transaction of its business, subject to town ordinances, and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record under Wis. Stat. §§19.21 through 19.39.

(10) Chairperson and Officers.

(a) Chairperson. The plan commission chairperson shall be appointed and serve a term as provided in §17.90(4) and (5). The chairperson shall, subject to town ordinances and commission rules:

1. Provide leadership to the commission;
2. Set commission meeting and hearing dates;
3. Provide notice of commission meetings and hearings and set their agendas, personally or by his or her designee;
4. Preside at commission meetings and hearings; and
5. Ensure that the laws are followed.

(b) Vice Chairperson. The plan commission may elect, by open vote a vice chairperson to act in the place of the chairperson when the chairperson is absent or incapacitated for any cause.

(c) Secretary. The plan commission shall elect one of its members to serve as Secretary, or, with the approval of the town board, designate the town clerk or other town officer or employee as secretary.

(11) Commission Members as Local Public Officials. All members of the plan commission shall faithfully discharge their official duties to the best of their abilities, as provided in the oath of office, Wis. Stat. §19.01, in accordance with, but not limited to, the provisions of the Wisconsin Statutes.

(12) General and Miscellaneous Powers. The plan commission, under Wis. Stat. §62.23(4), shall have the power:

- (a) Necessary to enable it to perform its functions and promote town planning.
- (b) To make reports and recommendations relating to the plan and development of the town to the town board, other public bodies, citizens, public utilities and organizations.
- (c) To recommend to the town board programs for public improvements and the financing of such improvements.
- (d) To receive from public officials, within a reasonable time, requested available information required for the commission to do its work.
- (e) For itself, its members and employees, in the performance of their duties, to enter upon land, make examinations and surveys, and place and

maintain necessary monuments and marks thereon. However, entry shall not be made upon private land, except to the extent that the private land is held open to the general public, without the permission of the landowner or tenant. If such permission has been refused, entry shall be made under the authority of an inspection warrant issued for cause under Wis. Stat. §66.0119, or other court-issued warrant.

(13) Town Comprehensive Planning: General Authority and Requirements.

- (a) The plan commission shall make and adopt a comprehensive plan under Wis. Stat. §§62.23 and 66.1001, which contains the elements specified in Wis. Stat. §66.1001(2) and follows the procedures in Wis. Stat. §66.1001(4).
- (b) The plan commission shall make and adopt the comprehensive plan within the time period directed by the town board, but not later than a time sufficient to allow the town board to review the plan and pass an ordinance adopting it to take effect on or before January 1, 2010, so that the town comprehensive plan is in effect by the date on which specified town actions must be consistent with the town comprehensive plan under Wis. Stat. §66.1001(3).
- (c) Regardless of whether the town has a master plan under sub. (1) of this section, or is developing one, the plan commission shall make and adopt a comprehensive plan under sub. (2) of this section and the comprehensive planning law, Wis. Stat. §66.1001, within the time period directed by the town board, but not later than a time sufficient to allow the town board to review the plan and pass an ordinance adopting it to take effect on or before January 1, 2010, so that the town comprehensive plan is in effect by the date on which specified town actions must be consistent with the town comprehensive plan under Wis. Stat. 66.1001(3).

(14) Plan Implementation and Administration.

- (a) Ordinance development. If directed by resolution or motion of the town board, the plan commission shall prepare the following:
  - 1. Zoning. A proposed town zoning ordinance under village powers, Wis. Stat. §§60.22(3), 61.35 and 62.23(7), a town construction site erosion control and stormwater management zoning ordinance under Wis. Stat. §60.627(6), a town exclusive agricultural zoning ordinance under subch. V of Wis. Stat. Ch. 91, and any other zoning ordinance within the town's authority.
  - 2. Official map. A proposed official map ordinance under Wis. Stat. §62.23 (6).

3. Subdivisions. A proposed town subdivision or other land division ordinance under Wis. Stat. §236.45.
  4. Other. Any other ordinance specified by the town board (Note: e.g., historic preservation, design review, site plan review).
- (b) Ordinance amendment. The plan commission, on its own motion, or at the direction of the town board by its resolution or motion, may prepare proposed amendments to the town's ordinances relating to comprehensive planning and land use.
  - (c) Non-regulatory programs. The plan commission, on its own motion, or at the direction of the town board by resolution or motion, may propose non-regulatory programs to implement the comprehensive plan, including programs relating to topics such as education, economic development and tourism promotion, preservation of natural resources through the acquisition of land or conservation easements, and capital improvement planning.
  - (d) Program administration. The plan commission shall, pursuant to town ordinances, have the following powers.
    1. Zoning conditional use permits. The zoning administrator shall refer applications for conditional use permits under town zoning to the plan commission for review and recommendation to the town board as provided under §17.13.
  - (e) Consistency. When the plan commission considers any action that is subject to the consistency requirement in Wis. Stat. §66.1001(3), the action of the plan commission shall, as of January 1, 2010, be consistent with the comprehensive plan. If any such plan commission action would not be consistent with the comprehensive plan, the plan commission shall use this as information to consider in updating the comprehensive plan.
- (15) Referrals to the Plan Commission.
- (a) Required referrals under Wis. Stat. §62.23(5). The following shall be referred to the plan commission for report:
    1. The location and architectural design of any public building.
    2. The location of any statue or other memorial.



3. The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any:
  - a. street, alley or other public way;
  - b. park or playground;
  - c. airport;
  - d. area for parking vehicles; or
  - e. other memorial or public grounds.
4. The location, extension, abandonment or authorization for any publicly or privately owned public utility.
5. All plats under the town's jurisdiction under Wis. Stat. Ch. 236, including divisions under a town subdivision or other land division ordinance adopted under Wis. Stat. §236.45.
6. The location, character and extent or acquisition, leasing or sale of lands for:
  - a. public or semi-public housing;
  - b. slum clearance;
  - c. relief of congestion; or
  - d. vacation camps for children.
7. The amendment or repeal of any ordinance adopted under Wis. Stat. §62.23, including ordinances relating to: the town plan commission; the town master plan or the town comprehensive plan under Wis. Stat. §66.1001, a town official map, and town zoning under village powers.

(b) Required referrals under sections of the Wisconsin Statutes other than Wis. Stat. §62.23(5). The following shall be referred to the plan commission for report:

1. An application for initial licensure of a child welfare agency or group home under Wis. Stat. §48.68(3).

2. An application for initial licensure of a community-based residential facility under Wis. Stat. §50.03(4).
3. Proposed designation of a street, road or public way, or any part thereof, wholly within the jurisdiction of the town, as a pedestrian mall under Wis. Stat. §66.0905.
4. Matters relating to the establishment or termination of an architectural conservancy district under Wis. Stat. §66.1007.
5. Matters relating to the establishment of a reinvestment neighborhood required to be referred under Wis. Stat. §66.1107.
6. Matters relating to the establishment or termination of a business improvement district required to be referred under Wis. Stat. §66.1109.
7. A proposed housing project under Wis. Stat. §66.1211(3).
8. Matters relating to urban redevelopment and renewal in the town required to be referred under subch. XIII of Wis. Stat. Ch. 66.
9. The adoption or amendment of a town subdivision or other land division ordinance under Wis. Stat. §236.45(4).
10. Any other matter required by the Wisconsin Statutes to be referred to the plan commission.

(c) Referral period. No final action may be taken by the town board or any other officer or body with final authority on a matter referred to the plan commission until the commission has made its report, or thirty (30) days, or such longer period as stipulated by the town board, has passed since referral. The thirty (30) day period for referrals required by the Wisconsin Statutes may be shortened only if so authorized by statute. The thirty (30) day referral period, for matters subject to required or discretionary referral under the town's ordinances, but not required to be referred under the Wisconsin Statutes, may be made subject by the town board to a referral period shorter or longer than the thirty (30) day referral period if deemed advisable.

17.91 BOARD OF APPEALS.

(1) **ESTABLISHMENT.** There is hereby established a board of appeals for the purpose of hearing certain appeals and applications and granting variances from the provisions of this chapter in harmony with the general purpose and intent of this code.

(2) MEMBERSHIP.

- (a) The board of appeals shall consist of five (5) members and two alternates appointed by the town chairman and confirmed by the town board.
- (b) The members of the board of appeals shall all reside within the town. Terms shall be for staggered three (3) year periods beginning July 1.
- (c) The board of appeals shall choose its own chairman and secretary. Official oaths shall be taken by members in accordance with Wis. Stat. §19.01 within ten (10) days of receiving notice of their appointment.
- (d) Vacancies shall be filled for an unexpired term in the same manner as appointments for a full term.

(3) RULES.

- (a) The board of appeals may adopt such rules as it deems necessary to carry into effect the regulations of the town.
- (b) Meetings shall be held at the call of the chairman or at such other times as the board of appeals may determine and shall be open to the public.
- (c) Minutes of the proceedings and a record of all actions shall be kept by the Secretary, showing the vote of each member upon each question or, if absent or failing to vote indicating such fact, the reasons for the board of appeals determination and its findings of facts. These records shall be filed in the office of the town clerk and shall be a public record.
- (d) The concurring vote of a majority of the board present shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant or appellant on any matter upon which it is required to pass under this code or to effect any variation in this code.

(4) POWERS.

- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by any administrative official in the enforcement or administration of this code.
- (b) To authorize upon appeal, in specific cases, such variance from the dimensional standards of this code as will not be contrary to the public interest, where owing to special conditions, such as terrain, cover or nearby existing buildings, a literal enforcement of the provisions herein

will result in unnecessary hardship, and so that the spirit and intent of this code shall be observed and substantial justice done. The board of appeals must determine that any variance:

1. Shall not have the effect of permitting or expanding any use where prohibited by any district regulation.
  2. Shall not permit standards lower than those required by the Wisconsin statutes or administrative code.
  3. Shall not be granted solely on the basis of economic gain or loss.
  4. Shall not be granted for a self-created hardship.
  5. Shall not damage the rights or property values of other persons in the area.
- (c) To hear and grant applications for substitution of nonconforming uses, provided no structural alterations are to be made and the plan commission has made a review and recommendation. Whenever the board of appeals permits such a substitution, the use may not thereafter be changed without a new application.
- (d) The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken.
- (e) The board of appeals may request assistance from other town officers, departments, commissions, and boards.
- (f) The chairman may administer oaths and compel the attendance of witnesses.
- (g) Any officer from whom an appeal is taken shall transmit to the board all the papers constituting the record upon which the action appealed from was taken.
- (5) HEARING NOTICE. The board of appeals shall fix a reasonable time and place for the hearing of the appeal or application, give public notice thereof by Class II notice, and shall give due notice to the parties in interest, the officer from whom the appeal is taken and the town board. At the hearing, the appellant or applicant may appear in person, by agent or by attorney.

(6) DECISION.

- (a) The board of appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a copy of the board's decision, signed by the clerk and chairman, to the appellant or applicant, the officer from whom the appeal is taken and the town board.

17.92 ORDINANCE AMENDMENT.

- (1) **AUTHORITY.** The regulations imposed and the zoning districts created under authority of this code may be amended from time to time by ordinance in accordance with Wis. Stat. §62.23. An amendment shall be granted or denied by the town board after a public hearing before the plan commission and a report of its findings and recommendations has been submitted to the town board.
- (2) **INITIATION.** A petition for an amendment may be made by any property owner in the area to be affected by the change or amendment, by the town board, by the zoning administrator, by any member of the town board or the planning commission.
- (3) **PETITIONS.** Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the town clerk. The petition shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
- (a) Plot plan drawn to a scale of not less than one (1) inch equals two hundred (200) feet showing the area proposed to be rezoned, its location, dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within three hundred (300) feet of the area proposed to be rezoned.
- (b) Additional information as may be required by the plan commission or town board including but not limited to:
1. Written approval from the department of transportation or county highway department authorizing the construction/use of a driveway in their respective jurisdictions for the use proposed in the zone change request. Failure to provide approval for a driveway or alternate access (i.e. shared access, frontage road, backage road, or other) will cause the petition to be considered incomplete and it will not be advertised or heard.
- (4) **RECOMMENDATIONS.** The plan commission shall review all such proposed changes or amendments and shall recommend that the petition be granted as requested, modified or denied. Recommendation shall be made in a written report to the town board.

- (5) HEARINGS. The plan commission shall hold a public hearing upon each proposed change or amendment, giving notice of the time and place of such hearing by publication of a Class II notice, under Wis. Stat. Ch. 985.
- (6) TOWN BOARD ACTION. Following such hearing and after careful consideration of the plan commission's recommendation, the town board shall vote on the passage of the proposed change or amendment.
- (7) PROTEST. If a protest against a proposed change or amendment is filed with the town clerk at least twenty-four (24) hours prior to the date of the meeting of the town board at which the recommendation of the plan commission is to be considered, duly signed and acknowledged by the owners of fifty percent (50%) or more of the area proposed to be altered, or by abutting owners of over fifty percent (50%) of the total perimeter of the area proposed to be altered included within three hundred (300) feet of the parcel or parcels proposed to be rezoned, action on such ordinance may be deferred until the plan commission has had a reasonable opportunity to ascertain and report to the town board as to the authenticity of such ownership statements. Each signer shall state the amount of area or frontage owned by him and shall include a description of the land owned. If such statements are found to be true, such ordinance shall not be adopted except by the affirmative vote of three-fourths (3/4) of the members of the town board present and voting. If such statements are found to be untrue to the extent that the required frontage or area ownership is not present, such protest may be disregarded.
- (8) EFFECTIVE DATE OF AMENDMENT AND THE ORDINANCE. Upon passage of the amendment by the town board, the amending ordinance shall become effective upon:
  - (a) Publication and posting of the ordinance by the town clerk;
  - (b) Pursuant to Wis. Stat. §60.62, the town clerk shall forward the amendment to the county clerk for consideration by the Marathon County Board of Supervisors.
  - (c) Approval by the county board.

#### 17.93 ADMINISTRATION.

- (1) TOWN ZONING ADMINISTRATOR. There is hereby created the office of town zoning administrator for the administration and enforcement of the provisions of this code. The town board may appoint deputy zoning administrators with the concurrence of the town zoning administrator from the names of qualified applicants. Deputy zoning administrators shall assist the town zoning administrator in carrying out the function of the office. The specific duties of any

deputy zoning administrator shall be determined by the zoning administrator and the town board. Compensation of the zoning administrator and any deputy zoning administrator(s) shall be determined by the town board.

- (2) **POWERS AND DUTIES.** In the administration and enforcement of this code, the town zoning administrator shall have the following powers and duties:
- (a) Advise applicants as to the provisions of this code and assist them in preparing permit applications.
  - (b) Issue permits and inspect properties for compliance with this code and issue certificates of compliance when appropriate.
  - (c) Keep records of all permits issued, inspections made, work approved and other official actions.
  - (d) Report violations of this code or other land use regulations to the town board and town attorney.
  - (e) Have access to any structure or premises for the purpose of performing his duties between 8 a.m. and 8 p.m., by permission of the owner or upon issuance of a special inspection warrant in accordance with Wis. Stat. §66.0119.
  - (f) Make on-site investigations required for administration of this code.
  - (g) Upon reasonable cause or question as to proper compliance, to revoke any zoning or conditional use permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this code or order restoration and/or after-the-fact compliance.
  - (h) Delegate duties and supervise deputy zoning administrators.

#### 17.94 VIOLATIONS AND PENALTIES.

- (1) **VIOLATIONS.** No person shall construct or use any structure, land or premises in violation of any of the provisions of this code. In case of any violation, the zoning administrator, plan commission, town board or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this code. Every structure, fill or development placed or maintained in violation of this code is a public nuisance; and the creation thereof may be enjoined and maintenance thereof may be abated by an action instituted by the town.

(2) PENALTIES:

(a) Violations, Injunctions, Abatement, and Removal.

It shall be unlawful to construct, develop, or use any structure, or develop or use any land, water or air in violation of any of the provisions of this code or order of the town board. In case of any violation, the town board may institute appropriate legal action or proceedings to enjoin a violation of this code, or seek abatement or removal. In addition, those actions commenced by the town may seek a forfeiture or penalty as outlined in this Section.

(b) Any person, firm, or corporation, or agent, employee, or contractor of such, who violates, disobeys, omits, neglects, or refuses to comply with, or who resists enforcement of any provision of this code, shall, upon conviction, forfeit not less than Fifty and no/100 Dollars (\$50.00) nor more than Three Hundred and no/100 Dollars (\$300.00) for each offense, together with the costs of prosecution. Each day that a violation continues to exist shall constitute a separate offense.

(c) Proceedings:

1. Civil Proceedings. Pursuant to the provisions of Wis. Stat. §66.14, an action for violation of this code is deemed a civil action. Accordingly, Wis. Stat. §§801 through 847, shall apply where applicable.
2. Town Attorney. The town attorney may, in the town attorney's discretion, commence legal action or proceedings and may proceed pursuant to the proceedings outlined in Wis. Stat. §§66.0119 or 778.10, or pursuant to the issuance of a summons and complaint.
3. Citations. Requests for necessary citations may be directed by the town board for approval.
4. Special Inspection Warrants. The provisions of Wis. Stat. §66.0119, shall govern the issuance of all special inspection warrants.
5. Statute of limitations. Pursuant to Wis. Stats. §893.93(2)(b), any action to recover a forfeiture or penalty imposed by code or regulation, when no other limitation is prescribed by law, shall be commenced within two years of the violation. In those situations in which there occurs a continuing violation in existence for more than two years prior to the issuance of the complaint and wherein each day of violation occurring more than two years prior to the commencement of the action; a penalty may be imposed, however,



for each day of violation occurring within the two year period prior to the issuance of the complaint.