



# Town of Brothertown Zoning

Approved 3-27-2017.

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**ZONING ORDINANCE**

**TOWN OF BROTHERTOWN**

**CALUMET COUNTY, WISCONSIN**

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**TOWN OF BROTHERTOWN  
CALUMET COUNTY, WISCONSIN  
ZONING ORDINANCE**

**Section 1.0 Introduction.**

**1.1 Town Authority.** The Town Board of the Town of Brothertown, Calumet County, Wisconsin, having been granted village powers pursuant to Section 60.10 does ordain this Zoning Ordinance under the provisions of Section 62.23 (7).

- A) This Ordinance is intended to promote the health, safety, morals and general welfare; to regulate and restrict the height, number of stories and size of buildings and other structures, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for agriculture, trade, industry, residence and other purposes; and for the said purpose to divide the Town of Brothertown, Calumet County, Wisconsin, into districts of such number, shape, and area as are deemed best suited to carry out the said purposes; to provide a method for its administration and enforcement and to provide penalties for its violation.
- B) It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants, or agreements between parties, or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that when this ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this ordinance shall govern.

**1.2 Statutory Authority.** These regulations are adopted under the authority granted by 60.10, 60.62, 61.35, 62.23, 66.0103, 295.14, & 62.23(7)C, Wisconsin Statutes, and amendments thereto, and referred to, or cited as the ZONING ORDINANCE for the Town of Brothertown, Calumet County, Wisconsin.

**1.3 Application.** Unless otherwise provided by this Ordinance, after the effective date of this Ordinance, no structure, land or water shall be developed, and no structure or part thereof shall be relocated, erected, moved, reconstructed, enlarged, extended, converted or structurally altered without a Building Permit and without full compliance with this Ordinance and all other applicable Town, County and State regulations.

**1.4 Compliance.** The Town Board or other owner or owners of property within the Town who are affected by a particular regulation, variance or special use under this ordinance may sue to enforce, by injunction order, compliance with this Ordinance.

**1.5 This Zoning Ordinance shall apply to:**

- A) The regulation and restriction of lot coverage, size and location of all structures, so as to

prevent overcrowding and to provide adequate sunlight, air, sanitation and storm drainage.

- B) The size of yards and other open spaces.
- C) The density of population.
- D) The regulating of non-conforming uses.
- E) The location and use of buildings, structures and land for agriculture, trade, industry, residence or other purposes.
- F) Consistency with the Town of Brothertown Comprehensive Plan, or application of a revision to the Land Use Plan to meet consistency.

**1.6 Purpose.** The purpose of this ordinance is to promote the public health, safety and general welfare of the town through provisions designed to:

- A) Encourage an appropriate use of the land.
- B) Conserve the value of land and buildings.
- C) Prevent the overcrowding of land and the congestion of streets by enforcing regulations that protect the traffic-carrying capacity, safety and efficiency of all existing and future town, county, and state roadways.
- D) Provide for adequate light and air.
- E) Secure safety from fire, flooding, pollution, contamination, panic, and other dangers.
- F) Avoid undue concentration of population.
- G) Stabilize and protect existing and potential property values.
- H) Encourage compatibility between different land uses and protect the scale and character of existing development from the encroachment of incompatible development.
- I) Promote the goals and objectives, consistency of the Land Use Plan, and any other aspects of the Town of Brothertown's Comprehensive Plan, and all amendments thereto.
- J) Further the wise use, conservation, protection, and proper development of the Town's natural resources.
- K) Preserve and protect the beauty and open space of the Town of Brothertown.
- L) Conserve and protect the agricultural lands in the Town.
- M) Protect and maintain safe and ample supply of groundwater.

N) Provide for the timely administration & enforcement of this ordinance.

O) Provide procedure for the appeal of Land Use decisions.

**1.7 Title.** This ordinance shall be known as and may be cited as the “Zoning Ordinance Town of Brothertown, Calumet County, Wisconsin.”

**1.8 Warning and Disclaimer of Liability.** This chapter shall not create a liability on the part of, or a cause of action against, Town of Brothertown or any officer or employee thereof, for any damages that may result from reliance on this chapter.

**1.9 Severability of This Ordinance.** If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to that end, the provisions of this ordinance are severable.

**1.10 Validity and Conflicts.** All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

## **Section 2.0 GENERAL PROVISIONS.**

**2.1 Establishment of Zoning Map.** The location and boundaries of the districts established shall be as shown on the map entitled the Official Zoning Map of the Town of Brothertown, Calumet County, Wisconsin. The Official Zoning Map with all notations, dimensions, designations, references and other data shall accompany and is part of this ordinance, and upon adoption shall be signed and dated by the Town Board Chairman and attested to by the Town Clerk. Amendments to the Official Zoning Map are described in Section 23 of this ordinance. Any amendments to the zoning map will also be dated.

**2.2 Interpretation of District Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- A) Boundaries as indicated as approximately following the center lines of streets, streams, and highways shall be construed to follow such center lines.
- B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C) Where boundaries do not follow property lines and distances are not specified on the Official Zoning Map, boundaries shall be determined by the use of an engineer’s scale on the Official Zoning Map.
- D) Legal descriptions of property, when available, shall be controlling as to the zoning of any property, or the property proposed to be rezoned in accordance with the terms of the ordinance.



**2.3 Application of Regulations.** The regulations set by this ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

- A) No land, building, or structure shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B) No part of a yard, open space, or off-street parking space required about or in connection with any building or land use for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking space similarly required for any other building.
- C) No lot area and building setback existing at the effective date of adoption of this ordinance shall be reduced below the minimum requirements set forth herein. Lot area and building setback created after the effective date of adoption of this ordinance shall meet the minimum requirements established by this ordinance.
- D) When three of the four lot lines abut a public street, front yard setbacks would apply on 2 of the 3 lot sides that abut streets, while the third side would constitute a side yard.
- E) The use and height of building hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which said land or building is located.
- F) No alterations to any building, except uncovered steps or handicap ramps shall project into the front yard established at the time of the original construction of such building beyond a line connecting the nearest points on the setback lines of the adjacent buildings on each side of said building.
- G) Every part of a required yard shall be open to the sky unobstructed, except the accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than 24 inches, and/or up to 48 inches for solar heating systems.
- H) All dwellings shall conform to minimum floor size for the District they are located in. One story 1100 sq. ft. two story 960 sq. ft. living area excluding garages. Square footage may be reduced only if it conflicts with the no more than 30% lot coverage.
- I) No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance.( No property shall have more than 30% of its total square footage covered with structures), nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.
- J) Residential buildings hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one residential building on one lot.

- K) Nothing herein contained shall require any change in the plans, construction, size, or designated use of any building or part thereof the construction of which shall have been started prior to the effective date of this ordinance.
- L) Notwithstanding anything to the contrary in this Ordinance, the Town reserves the right to require applicants who are seeking zoning amendments, variances or conditional uses to reimburse the Town for its reasonable, professional fees incurred in the review or administration of the relevant petition. The Town reserves the right to condition the issuance of the permit, rezoning or other action on the reimbursement of the professional fees incurred by the Town.
- M) No building, structure or use of land shall hereafter be initiated or altered except in conformity with the regulations specified by the district in which it is located. Uses not particularly specified in this Ordinance may, nonetheless, be permitted by the Town Board, only if such uses are substantially similar in character to the principal uses permitted in the district.
- N) At no time shall a recreational vehicle be used for permanent living, sleeping, material storage or other purposes. No recreational vehicle shall be permanently connected to water, gas, and electric or sanitary sewer services.
- O) Any driveway longer than 300 feet measured from its intersection with the public road pavement, must be constructed to a minimum surface width of 10 feet and include passing areas every 300 feet that are a minimum of 20 feet wide and 30 feet long. Permit required.

**2.4 Exceptions.** The regulations contained herein relating to frontage on public roadways, heights of buildings, size of yards, and other open spaces shall be subject to the following exceptions:

- A) All lots shall have a minimum 150 foot frontage upon a public roadway or other officially approved means of access; however, in order to receive a building permit for construction of any principal structure, the lot must comply with the minimum lot dimensional requirements specified for the applicable zoning district.
- B) It is the policy of the Town to discourage flag lots. Therefore flag lots will be reviewed by the Town Board on a case- by-case basis. A flag lot being created on a local road where there are existing building(s) located at least 300 feet from the local road or a proposed lot/building site is at least 660 from the local road, the minimum frontage may be reduced to 33 feet. The minimum lot width past the "pole" of the flag lot must have a minimum width of 150 feet. If a flag lot is authorized, the long strip for a flag lot shall abut the lot or fence line and have a minimum width of 33 feet. Driveways installed on a flag lot must comply with Section 2.3 O).
- C) Chimneys, cooling towers, elevator bulkheads, fire towers, silos, monuments, penthouses, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, microwave radio relay structures, and necessary mechanical appurtenances are hereby

excepted from the height regulations of this ordinance and may be erected in accordance with the other regulations or ordinances of the Town of Brothertown.

- D) Where a lot abuts on 2 or more streets having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.

## 2.5 Nonconformities.

- A) **Applicability and Intent.** Any use of land or structures, or any lot or structure which lawfully existed at the effective date of adoption or amendment of this ordinance which would not be permitted or permissible by the provisions of this ordinance as adopted or amended, shall be deemed a nonconforming use, lot or structure, respectively. It is the intent of this ordinance to permit such nonconformities to continue subject to certain restrictions. No use, lot, or structure will receive nonconforming status under this section unless it lawfully existed at the effective date of adoption or amendment of this ordinance.
- B) **Nonconforming Uses of Land and Structures.** No such nonconforming use of any land or structure shall be extended or enlarged. If such nonconforming use is discontinued for a period of twelve months, any future use of such land or structure shall conform to the ordinance.
- C) **Nonconforming Structures.** No such structure shall be altered in any manner which would increase the degree of nonconformity. A nonconforming structure may be repaired, maintained, renovated, or remodeled without respect to the cost thereof, provided that the degree of nonconformity is not increased as a result. If a nonconforming structure is damaged or destroyed due to violent winds, vandalism, fire, flood, ice, snow, mold, or infestation, the structure may be restored to the size, location, and use that it had immediately before such damage or destruction. The structure may be restored to a larger size if necessary to comply with applicable state or federal requirements.
- D) **Nonconforming Characteristics of Use.** If characteristics of use such as lightning, parking or other matters pertaining to the use of land, structures and premises are made non-conforming by the provisions of this ordinance as adopted or amended, no change shall thereafter be made in such characteristics of use which increases the nonconformity; provided, however, that changes may be made which do not increase, or which decrease, such nonconformity.
- E) **Existing Special Exceptions.** Any use or structure existing at the effective date of adoption or amendment of this ordinance which is classified as a special exception in the district in which it is located shall be deemed to have been granted approval by the Plan Commission, subject to maintaining the character and extent of such use or structure existing on that date. Any extension or enlargement or change in such use or structure shall require approval of the Plan Commission as provided in this ordinance. Plan

Commission approval shall be required for extension or enlargement of resource extraction uses to any properties not devoted to such use at the effective date of adoption or amendment of this ordinance.

**2.6 Calumet County Ordinances.** The following Calumet County ordinances may affect land regulated under this Zoning Ordinance. In a situation where the Town of Brothertown and Calumet County regulations conflict, the more restrictive regulations shall apply.

- A) **Zoning Ordinance** Parcels in a shoreland area are subject to the Calumet County Zoning Ordinance. Any permit required by said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this ordinance.
- B) **Land Division Ordinance Ch 62.** All existing, undeveloped parcels of land of record in the Calumet County Registerer of deeds office, and any new land divisions or subdivisions as defined in the Land Division Ordinance of Calumet County, Wisconsin, shall conform in full with the provisions of that ordinance. No building permit shall be issued for any lot until such compliance is assured.
- C) **Floodplain Ordinance Ch 51.** Parcels may be subject to the floodplain ordinance of Calumet County. Any permit required by said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this ordinance.
- D) **Post Construction Stormwater Management Ordinance. Ch 10-49.** Parcels may be subject to the Post Construction Storm Water Management Ordinance of Calumet County. Any permit required by said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this Ordinance.
- E) **Construction Site Erosion Control Ordinance Ch 10-27.** Parcels may be subject to the Erosion Control Ordinance of Calumet County. Any permit required by said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this Ordinance.
- F) **Environment Ordinance. Ch 18.** Parcels may be subject to the Animal Waste Storage Ordinance of Calumet County. Any permit required by said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this Ordinance.
- G) **Health and Sanitation Ordinance. Ch 30.** No private water supply or sewage disposal system, or part thereof, shall be located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered, or its use changed without full compliance with the Sanitary Ordinance, Calumet County, Wisconsin. No building permit shall be issued until any required installation of a safe and adequate water supply and sewage disposal system is assured and a sanitary permit is issued.
- H) **Wind Energy Facility Ordinance. Ch 79.** Parcels may be subject to the Wind Energy Facility Ordinance of Calumet County. Any permit required by said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this Ordinance.

- 1) **County Trunk Highway Ordinance Ch 32.** Parcels may be subject to the Calumet County Trunk Highway Ordinance of Calumet County. Any permit required by Said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this ordinance.

**2.7 Interpretation of Regulations.** In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements. Where the provisions of this ordinance impose greater restrictions than any statute, other regulation, ordinance or covenant, the provisions of this ordinance shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this ordinance, the provisions of such statute, other regulation, ordinance or covenant shall prevail.

**2.8 Farmland Preservation Program.** Left for future use.

## Section 3.0 Glossary of Terms.

**3.1 General Terms.** For the purposes of this ordinance, certain words and terms are defined as follows:

Words used in the present tense include the future; the singular number includes the plural number, and the plural number includes the singular number; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory; the word "should" is advisory; and the word "may" is permissive. Any words not defined in this section shall be presumed to have their customary dictionary definitions.

**3.2 Definition of Terms.** The definitions of terms throughout this ordinance shall be interpreted to have the following meanings.

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

**"Adult-oriented establishment"** shall include, but is not limited to, "adult bookstores," "adult motion picture theatres," "adult motion picture establishments" or "adult cabarets," and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated, or maintained for profit, direct or indirect. "Adult-orientated establishment" also includes the physical location from which adult entertainment is broadcast.

**Agriculture, Animal** means the use of land for animal feeding operations, including areas for the storage, treatment and disposal of manure and other related waste products.

**Agriculture, Crop** means the use of land for the production of row crops, field crops, tree crops, timber, bees, apiary productions, and fur-bearing mammals.

**Agricultural Use** Any of the following activities conducted for the purpose of producing an income or livelihood:

1. Crop or forage production.
2. Keeping livestock.
3. Beekeeping.
4. Nursery, sod, or Christmas tree production.
5. Floriculture.
6. Aquaculture.
7. Fur farming.
8. Forest management.
9. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

**Automobile Yard** Any premises on which more than two automotive vehicles not in running, operating or licensed condition and not used for salvage purposes, are stored in the open. This use would be intended, as an example, for an auto body shop or auto repair shop where for periods of time more than two vehicles need to be stored outside as a matter of practicability to the business.

**Back Lot Contiguous** Conforming or non-conforming lots, that are under common ownership, shall be considered a single parcel, unless the parcel is re-divided to separate Parcels.

**Bed and Breakfast Establishment** means a use involving lodging in a single-family dwelling that provides for overnight accommodations and a morning meal to transients for compensation.

**Boathouse** Any structure designed for the purpose of protecting or storing boats for noncommercial purposes. Boathouses shall not be used for human habitation nor shall they have a height of more than 3 feet above the grade level established at the 75 foot lake setback. Boathouses must comply with Ch.82 of the Calumet County Zoning Ordinance.

**Board of Appeals** Means a body designated by the legislative body to hear appeals from land-use decisions (see section 18.0 of this ordinance).

**Building** Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind. When separated by division walls without openings, each portion of such building, so separated shall be deemed a separate building.

**Building, Accessory** A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises.

**Building, Height of** The vertical distance from the top of the building roof or structure to the elevation at the finished grade at the building line as measured on the front street side of the structure. (*Calumet County Ordinance Chapter 52 applies if structure is closer than 75 ft. to lake.*)

**Building, Main** A building constituting the principal use of a lot.

**Campgrounds and Camping Resorts** any privately or municipally owned parcel or tract of land, accessible by automobile or other engine-driven vehicle designed, maintained, intended or used for the purpose of supplying accommodations for overnight use by recreational vehicles, open to the public and designated as a developed camp area and set aside for free or paying camping purposes.

**Cemetery** A local community or private church managed site that is set apart for the burial or interment of the human dead or for the burial or interment of small domestic pets.

**Center Line** A line connecting points on highways from which setback lines shall be measured, at any point on the highway.

**Certified Survey Map (CSM)** A map of a lot split prepared in accordance with Wis. Stat. § 236.34.

**Channel** A natural or artificial watercourse of perceptible extent, which contains a definite bed and banks to confine and allow continuous or periodic flow of water. Channel flow is that water which is flowing within the limits of the defined channel.

**Common Ownership** means ownership by the same person or persons, or a legal entity that is wholly owned by the same person or persons. "Common ownership" includes joint tenancy and tenancy in common. Solely for purposes of this definition, a parcel owned by one member of a married couple is deemed to be owned by the married couple.

**Comprehensive Plan** is the adopted Town of Brothertown Comprehensive Plan that was based on 66.1001 (1)(a) of the Wisconsin State Statutes.

**Conditional Use** is the use of special nature as to make impractical their predetermination as a principle use in a district

**Contiguous** means adjacent to or sharing a common boundary. "Contiguous" land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of-way. Parcels are not "contiguous" if they meet only at a single point.

**Daycare** A dwelling unit where supervision and care and/or instruction for more than 4 children under the age of 7 is provided for periods of less than 24 hours per day, and which is licensed by the Wisconsin Department of Children and Families

**Density** A number of housing units in a given land area.

**Dog Kennel** A kennel is any establishment wherein or whereon 4 or more dogs over the age of 5 months are kept for breeding, sale, or sporting purposes, or where boarding care is provided for compensation. A kennel shall be deemed the housing of 4 or more dogs.

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

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

**Dwelling Unit** A building or portion thereof which provides or is intended to provide living quarter's exclusive for one family.

**Family** means one or more individuals, related or unrelated by blood, marriage, adoption, or guardianship (but not exceeding 4 unrelated persons), living together under a common



housekeeping management plan based on an intentionally structured relationship providing organization and stability.

**Farm:** Means all land under common ownership that is primarily devoted to agricultural use.

**Farmland Preservation Plan** means a plan for the preservation of farmland in a county, including an agricultural preservation plan under subchapter. IV of chapter 91, 2007 statutes.

**Fence** A barrier intended to prevent escape or intrusion, or to mark a boundary.

**Fence Closed** A fence whose entire length is more than 50% opaque and whose individual elements or sections are also greater than 50% opaque.

**Fence Open** A fence whose entire length is equal to or not greater than 50% opaque and whose individual elements or sections are also equal to or not greater than 50% opaque.

**Flag Lot,** The shape of a property, where the access to the road is provided along the long narrow "flag pole" (minimum 33 feet in all districts) and the usable land itself is the rectangular flag at the end of the "flag pole". (150 feet in all districts). Setbacks on flag lots shall be 50 feet from the front of the lot at the minimum width.

**Floor Area** The total area bounded by the exterior walls of a building at the floor level usable as living quarters, but not including basement, garages, porches, breezeways, and unfinished attics.

**Frontage** The portion of a lot abutting a street measured along the street line.

**Garage, Private** An accessory building or space for the storage of motor-driven vehicles.

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

**Garage, Storage** Any building or premises used for the storage only of motor-driven vehicles or motor-driven machinery, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold.

**Home Artisan** Means a resident of the premises that grows or creates a product as a hobby, and offers that product to the public for sale. It is the intent of this chapter to classify incidental hobbyists the opportunity to sell garden produce or artisan crafts from their property. Nothing in this Code shall prohibit the home artisan from selling their product off-premise. Examples of home artisans are the person who works full or part time and as a hobby grows and sells flowers, canned goods, or creates and sells arts and crafts. Number of employees, size of the sales area, location of the sales area, and type of product are some of the standards that separate the home artisan from the home occupation.

**Home Business** Means a business conducted on the same lot as, and in conjunction with, the primary residence of the operator. Home businesses shall employ no more than one person not a

resident of the premises. Examples include trade or contractors establishments (such as plumbing, heating and air conditioning, excavating, general carpentry and woodworking and craftsmanship, liquid waste hauling, painting, electrical, and well drilling), veterinary offices, automotive and farm implement repair shops, horse and buggy repair, tack repair, upholstery, and picture framing. The list of examples is not intended to be exhaustive.

**Home Occupation** Means a business, profession, occupation, or trade which is conducted for gain or support, located entirely within a principal dwelling unit, operated by at least one person residing in the dwelling unit, and is accessory, incidental, and secondary to the use of the building as a residence and does not change the essential residential character or appearance of the dwelling unit. Home occupations shall employ no more than one person who is not a resident of the dwelling unit on the property. Examples of home occupations include barber/beauty shops, canning, tailoring, and professional home offices, but a home occupation shall not include auto or farm implement repair facilities, or private schools. Traveling in-home dealerships and other types of traveling in-home sales, which do not result in the public coming to the dealer's home, such as traveling home jewelry, art, plastic dishes, cosmetic, and coffee/tea party sales, shall not be considered home occupations and shall be exempt from this chapter.

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

**Junk or Salvage Yard** An area consisting of buildings, structures, or premises where junk, waste, discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.

**Livestock:** Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, elk, farm raised gamebirds, camelids, ratites, and farm raised fish.

**Livestock Waste** means manure, milking center waste and other organic waste generated by a livestock facility.

**Lot, Area, Net** The square footage of any lot less the square footage of all road right away or easements of roadways.

**Lot, Corner** A lot located at the junction of and abutting 2 or more intersecting streets.

**Lot, Depth** The average distance from the front to the rear lot lines measured in the general direction of the side lot lines.

**Lot, Interior** A lot other than a corner lot.

**Lot Width** The distance between side yard lines of the lot, measured at the minimum road setback lines.

**Lot, Zoning Lot A** single property, parcel, unit, tract, plot or otherwise designated to be used, as a unit under single ownership or control, and which may be occupied by one or more structures and the accessory structures, or uses customarily incidental to it, including such open spaces as are arranged and designed to be used in connection with such structure. A "zoning lot" may or may not coincide with a lot of record.

**Manufactured Home** A dwelling structure or component thereof fabricated in an offsite manufacturing facility for installation or assembly at the building site which is certified and labeled as a manufactured home under 42 USC Sections 5401-5426, which, when placed on the site:

1. Is set on an enclosed continuous foundation in accordance with Sec. 70.43(i), Wis. Stats., and ILHR 21, Subchapters 111, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
2. Is installed in accordance with the manufacturer's instructions;
3. Is properly connected to utilities; and
4. Meets other applicable standards of this Chapter.
- 5) Manufactured Homes are not required to be in a mobile home park.

**Mobile Home** A single-family dwelling unit designed for long term occupancy which is, or was as originally constructed, designed to be transported upon a public highway arriving at the site where it is to be complete and ready for occupancy except for minor and incidental unpacking and hook-up operations, and designed, equipped and used primarily for single family living quarters. A Mobile home shall remain classified as a mobile home regardless of whether its wheels or other rolling devices have been removed, and even if any additions, attachments or foundations or other investments in it that exceed 50% of the value of the Mobile Home it shall still be considered a mobile home.

- 1) Mobile Homes must be located in a Mobile Home Park.
- 2) Mobile homes cannot be more than 10 Years old.
- 3) Manufactured homes shall not be considered Mobile Homes.

**Mobile Home Park** Any plot or plots of land designed, maintained, intended or used for the purpose of supplying a location or accommodations for more than two mobile homes on a year-round basis 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 parks shall not include automobile or mobile home sales lots which unoccupied mobile homes are parked for purposes of inspection and sale.

**Mobile Service** A radio communications service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes ( a) both one-way and two-way radio communication services; (B) A mobile service which provides A regularly interacting group of base, mobile, portable, and associated control and relay stations

(whether licensed on an individual, cooperative, or municipal basis) (C) Any service for which a license is required in a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding. (See 47 USC 153 (33)).

**Manufactured Dwelling** A structure which is partially pre-assembled at a manufacturing plant and placed together on a lot or parcel as a dwelling unit or units. A modular home is also called prefabricated home. For the purpose of this Ordinance, Manufactured Dwellings must meet the requirements of all applicable State and Local Building Codes. A Manufactured Dwelling is subject to DSPS 320.13, Wis. Adm. Code. (UDC).

**Moved Home.** Any one or two family dwelling which was located at another site on a permanent foundation, which is being moved to a new approved lot and will be installed on a permanent foundation. Moved homes require a conditional Use permit. Age, appearance, code compliance and condition of roads used in transporting of the moved home will be considered in granting a conditional use permit. Mobil homes are not considered moved homes.

**Navigable Waters** have the meaning given in Chapter 30 of the Wisconsin Stats.

**Non-Metallic Mining Operations** of activities at a nonmetallic mining site for the extraction from the earth of material consisting principally of naturally occurring, organic or non-organic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to stone, gravel, clay peat, talc or topsoil. Nonmetallic mining may involve the use of mining equipment or techniques to remove materials from the in-place non-metallic mineral deposit, including drilling and blasting, as well as associated activities such as topsoil removal, excavation, grading and dredging. Processing the material may include, but are not limited to stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, crushing, screening, scalping, pulverizing, and de-watering.

**Owner** means a person who has an ownership interest in land.

**Permitted Use** A use which may be lawfully established in a particular district or districts, provided it conforms to all requirements, regulations and performance standards, if any, of such districts.

**Person** means an individual, corporation, partnership, cooperative, Limited Liability Company, trust or other legal entity.

**Property Line** means a line that separates parcels of land.

**Right-of-Way** The width between property lines of a street or highway easement.

**Roadside Stand** A structure not permanently fixed to the ground that is readily removable in its entirety covered or uncovered and not wholly enclosed, and used solely for the sale of farm

products produced on the premises. No such roadside stand shall be more than 300 square feet in ground area and there shall not be more than one roadside stand on any one premise.

**Setback** The depth of the yard, measured horizontally on a lot from and at right angles to the front lot line or the right-of-way line of a street, road, highway or the waterline.

**Sign** Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or any civic, charitable, religious, patriotic, fraternal or similar organization, or any sign indicating address. Each display surface of a sign shall be considered a sign. A sign also includes outdoor advertising attached to, made a part of, or placed in front, rear, sides, or top of any structure or on any land to announce the name or nature of a farm business including a roadside stand.

**Sign, Directional** A sign erected for the purpose of directing persons to a place of business, recreation, public building, school or church.

**Sign, Scrolling.** A sign that does not remain stationary and scrolls at a rate faster than 1 revolution per minute.

**Street** All property dedicated or intended for public or private street purposes or subject to public easements therefore and 24 feet or more in width.

**Structural Alteration** Any change in the bearing walls, columns, beams, girders, or supporting members of a structure; any change or rearrangement in the floor area of a building, any enlargement of a structure whether by extending horizontally or by increasing in height, and/or any movement of a structure from one location or position to another.

**Structure** Anything constructed or erected, the use of which requires a more or less permanent location on or in the ground. Includes but is not limited to objects such as buildings, factories, sheds, cabins, wells, septic tanks, and disposal fields.

**Temporary Structure** A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term and not to be habitable. This includes Hoop type canvas covered structures, shipping storage containers or pods.

**Use** Any clearly identifiable activity conducted, or service performed, on any specific premises, with or without any structures.

**Urban Agriculture** –Small scale agricultural activities which are permitted to occur within the Mixed Use Commercial and the S.F. 20 zoning districts where large tracts of land are not required for management. Examples of Urban Agriculture include vegetable, flower, herb and spice gardens; raising of fruits, nuts and berries; and specifically, the non-commercial raising and keeping of chickens, rabbits, and bees.

**Use, Accessory** Any use of a premises which is clearly subordinate to and customarily incidental to a pre-existing, permitted, principal use, and located upon the same premises as such established principal use.

**Use, Principal** the clearly identifiable dominant (or main) use of a premise.

**Variance** A relaxation of the terms of the ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

**Vision Clearance** An unoccupied triangular space at the intersection of two or more streets or highways, or highways and railways which is bounded by the street lines, highway or railway right-of-way lines and a setback line connecting points specified by measurement from the corner on each street, highway or railway line.

**Wetlands** Areas where groundwater is at or near the surface much of the year. Tamaracks, sphagnum moss, sedges, cattails, reeds and vegetation types.

**Wind Energy Systems** Equipment that converts and then stores or transfers energy from the wind into usable forms of energy on a large, industrial scale for commercial or utility purposes. Small scale wind systems of less than 170 feet in height with a 60-foot rotor diameter and a nameplate capacity of less than 100 kilowatts or less are exempt from this definition and the provisions of this Ordinance. All wind energy systems shall have a minimum setback of 1.1 times the height of the structure from any lot line.

**Yard** An open space, other than a court, on the same lot with a structure, lying between the structure and the nearest lot line, and is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.

**Yard, Front** A yard extending the full width of a lot and situated between the front lot line and the nearest line of a structure located on said lot. Where a lot is located such that its rear and front lot lines each abut a street right-of-way line, both such yards shall be classified as front yards. Every yard of a corner lot facing a street right-of-way line shall be classified as a front yard.

**Yard, Rear** A yard extending the full width of a lot and situated between the rear lot line and the nearest line of a structure located on said lot.

**Yard, Side** A yard situated between the side lot line and the nearest line of a structure located on said lot and extending from the rear line of the front yard to the front line of the rear yard.

**Zoning Administrator** A local governmental official or designated agent which administers and enforces the Zoning Ordinance and land development regulations, including the issuance of zoning permits.

## Section 4.0 Setbacks.-Signs-Fences-Urban Agriculture.

**4.1 Setback Lines Established.** Setback lines are hereby established in the Town of Brothertown along all public highways, private roadways, and at the intersections of highways with highways as hereinafter provided. Where a highway is located on a Town, City or Village boundary, this section shall not be effective on the side of such highway that is within the city or village or the adjoining Town.

**4.2 Setbacks from Highways.** Except as otherwise provided, the distances from the center line or from the right-of-way line to the setback line shall be as provided by the following paragraphs of this subsection.

**4.3 Classification.** Whenever a highway is improved to a classification requiring a greater setback distance than that required by this ordinance prior to such improvement the setback distance of existing buildings shall not be affected by such improvement.

In cases where the provisions of this section may be interpreted to provide for different setback distances, the greater setback distance shall prevail, but this regulation shall not apply to streets in platted subdivisions.

- A) Along Highways Generally. The minimum setback distance from the center line or Right-of-way line, at any point, for the respective classes of highway shall be as follows:

Highway Classification	Setback from Center Line	Setback from Right-of Way Line
Federal & State Trunk Highways	125 feet	75 feet
County Trunk Highways	100 feet	60 feet
Town Roads except in Platted subdivisions	83 feet	50 feet
Streets in platted subdivisions	--	30 feet
Private Roads	45 feet	30 feet from edge of road or easement

- B) In each quadrant of any public street intersection or there shall be a Vision Clearance Triangle bounded by the street (and/or track) centerlines and a line Connecting points on them two hundred fifty (250) feet from the centerline Intersection along Federal and/or State highways, two hundred (200) feet from the centerline intersection along County Trunk highways, and one hundred fifty (150) feet from the centerline intersection along Town Roads. Within a Vision Clearance Triangle, no structure or object of natural growth, except annually Harvested crops (except fruit trees), shall be constructed, maintained or permitted to grow beyond the height of three (3) feet above the elevation of the highway or Railroad grade at the centerline. This provision shall not apply to any private Streets or roads.

- C) **At Highway Intersections with Transitional Widening.** At intersections of highways with other highways provided with transitional widening of pavement or surfacing, such transitional widening shall be considered as additional width, and the setback line on the side which is widened shall be increased by an amount equal to the width of the additional pavement.
- D) **At Highway Intersections with Curve Connections.** At intersections of highways with other highways, where the intersecting highways are connected with pavement or surfacing constructed on a curve, the pavement or surfacing on the curve shall be measured from the centerline of the curved section determined accordingly.

**4.4 Centerlines of Highways.** The centerline of any road or highway is the center of the surfacing or pavement, or if there be none, the center of the graded roadbed, or the center of the directional separator, if the highway is directionally divided.

**4.5 Structures Prohibited within Setback Lines.** No new buildings, new sign, or other new structure, including cemeteries, nor any part thereof, shall be placed between the setback lines established by this ordinance and the highway except as provided by this ordinance and no such building, sign or structure or part thereof existing within such setback lines of the effective date of this ordinance, shall be moved, except outside such setback lines, or altered, enlarged or added to in any way that increases or prolongs the permanency thereof.

**4.6 Structures Permitted within Setback Lines.** The following kinds of structures may be placed between the setback line and the highway:

- A) Open Fences.
- B) Telephone, telegraph and energy transmission poles and lines and micro-wave radio relay structures may be constructed within the setback lines.
- C) Underground structures not capable of being used as foundations for future prohibited overground structures.
- D) Signs permitted within setback lines as provided in Section 4.9 of this ordinance.
- E) Access or service highways constructed according to plans as approved by the County Highway Committee giving such approval, the County Highway Committee shall give due consideration to highway safety and maximum sight distances.
- F) Temporary structures permitted in the commercial and industrial districts.

This subsection shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; provided, however, that no shrubbery or trees shall be so located, maintained or permitted to grow so that the view across the sectors at the intersections, as provided by Section 4.3, paragraphs (b), (c), (d) of this section, shall be obstructed.



## 4.7 Setback and Area Regulations.

Table 4.7. Area Regulations for all Zoning Categories.

Zoning Category	Front-Yard Setback*	Lot Width	Side-Yard Setback	Rear-Yard Setback	Height	Minimum Area Req. Excluding ROW.
GA: General Agricultural Chapter 7.0	SUB-DIV-30FT RW PRIVATE RD 45FT CL. STATE HWY 125 CL 75FT RW.COUNTY TRUNK, 100'CL 60'FT RW.TOWN 83 FT. CL 50FT RW.	150'	RES- 25 FT ACC BLD1.1- MIN 10 FT. AG ANMLS 100 FT.	50 FT	RES 35FT. AG- UNLIMITED. ACC BLD PER ZONNG DISTRICT. CUP.	1 ACRE Density 1in 20
W: Wetlands Chapter 8.0	SUB-DIV-30FT RW PRIVATE RD 45FT CL. STATE HWY 125 CL 75FT RW.COUNTY TRUNK, 100'CL 60'FT RW.TOWN 83 FT. CL 50FT RW.	150'	RES- 25 FT ACC BLD1.1- MIN 10FT. AG ANMLS 100 FT	50 FT	RES 35FT. AG- UNLIMITED. ACC BLD PER ZONNG DISTRICT. CUP.	2 ACRE
HL: Heartland Chapter 9.0	SUB-DIV-30FT RW PRIVATE RD 45FT CL. STATE HWY 125 CL 75FT RW.COUNTY TRUNK ,100'CL 60'FT RW.TOWN 83 FT. CL 50FT RW.	150'	RES- 25 FT ACC BLD1.1- MIN 10 FT. AG ANMLS 100 FT	50 FT	RES 35FT. AG- UNLIMITED. ACC BLD PER ZONNG DISTRICT. CUP.	1 ACRE Density 1in 10
SF 20: Single Family Chapter 10.0 Calumet Co. #52	Calumet Co. SUB-DIV-30FT RW PRIVATE RD 45FT CL. STATE HWY 125 CL 75FT RW. COUNTY TRUNK ,100'CL 60'FT RW.TOWN 83 FT. CL 50FT RW Set back averaging as listed in 4.13.	Sewer 65ft. Un-Sewered 100 ft.	10 ft side-Both sides. ACC BLD. 5 ft -SIDE & REAR.	75 FT High Water Mark. 25 FT Principal Bldg. ACC. Bldg 5 ft	Calumet Co. Within 75 ft. of highwater. 35 ft. Principal 35 ft. ACC. Bldg. Back Lot 18 ft. ACC Bldg. Front lot 16ft.	20,000 sq ft single. Density 2.5 in 1
MC: Mixed Use Commercial Chapter 11.0	SUB-DIV-30FT RW PRIVATE RD 45FT CL. STATE HWY 125 CL 75FT RW.COUNTY TRUNK, 100'CL 60'FT RW.TOWN 83 FT. CL 50FT RW.	150' SINGLE  150' DUPLEX	RES- 15 FT ACC BLD1.1- MIN 10FT. AG ANMLS 100 FT COMM. 15 FT	25 FT	RES 35FT. AG- UNLIMITED. ACC BLD PER ZONNG DISTRICT. CUP.	20,000 sq ft single. 30,000 sq ft R-2 Density 2.5 in 1
RC: Recreational Commercial Chapter 12.0	SUB-DIV-30FT RW PRIVATE RD 45FT CL STATE HWY 125 CL 75FT RW.COUNTY TRUNK, 100'CL 60'FT RW.TOWN 83 FT. CL 50FT RW.	150'	RES- 25 FT ACC BLD1.1- MIN 10FT. AG ANMLS 100 FT COMM. 15 FT	25 FT	RES 35FT. AG- UNLIMITED. ACC BLD PER ZONNG DISTRICT. CUP.	1 ACRE Unsewered. Density 2 in 1
Please check standards in all zoning districts for more information.						

#### 4.8 Off-Street Parking.

##### A) General Requirements.

- 1) In all districts, and in connection with every use, there shall be provided off- road parking stalls at the time any use or structure is erected, moved, or enlarged.
- 2) Adequate access to a public road shall be provided for each parking space.
- 3) The size of each parking space shall not be less than 190 square feet exclusive of the space required for ingress and egress.
- 4) Location of parking stalls or driveway except in residential districts shall not be closer than 25 feet to a residential district lot line. The parking stalls shall be located on the same lot as the principal use but not over 400 feet from such use.
- 5) All recreational vehicles, trailers, campers, fifth wheels & popup campers shall be parked or stored either in a garage or accessory building or in the side or rear yards, subject to the side and rear yard requirements of that district. No more than two such vehicles may be stored outdoors.

##### B) Off-Road Loading and Unloading Space. On every lot on which a business, trade, or industrial use is hereafter established, space with access to a public road or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way.

- 1) Retail Business - One (1) space of at least 10x25 feet for each 3,000 square feet of floor area or part thereof.
- 2) Wholesale and Industrial - One (1) space of at least 10 x 50 feet for each 10,000 square feet of floor area or part thereof.
- 3) Bus and Truck Terminals - Sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loaded or unloaded at the terminal at any one time.

##### C) Number of Parking Spaces Required.

- 1) Dwelling Units -Two (2) spaces for each dwelling unit.
- 2) Hospitals, dormitories, lodging and boarding houses - One (1) space for each two beds plus 1 space for each 3 employees.
- 3) Hotels and Motels - One (1) space for each guest room plus One (1) space for each 3 employees.
- 4) Nursing Homes - One (1) space for each 5 beds plus One (1) space for each 3 employees.
- 5) Medical, Veterinary and Dental Clinics - Ten (10) spaces for each Doctor.
- 6) Churches, community centers, and other places of public assembly - One (1) space for every 5 seats.
- 7) Colleges, Secondary and Elementary Schools - one (1) space for each 2 employees plus one space for each 10 students of 16 years of age or more.
- 8) Restaurants, Bars, Places of Entertainment, Repair Shops, Retail and Service Stores - One (1) space for each 150 square feet of floor area and one (1) space for each 2 employees.
- 9) Manufacturing & Processing Plants & Warehouses - One (1) space for each 2 employees.
- 10) Financial Institutions, Business, Government, & Professional offices - One (1) space for each 300 square feet of floor area and 1 space for each 2 employees.

- 11) Funeral Homes - One (1) space for each 4 seats.
- 12) Lodges & Clubs - One (1) space for each 5 members.
- 13) Automobile Repair Garages - One (1) space for each regular employee plus 1 space for each 250 square feet of floor area used for repair work.
- 14) Gasoline Filling Stations – Three (3) spaces for each grease rack or similar facility plus 1 space for each attendant.

#### 4.9 Signs. Zoning District - Types of Signs Permitted.

Zoning District	Sign Type
Wetland District (W)	Calumet County
General Ag. District (GA)	1, 2, 3,4,5,6
Heartland (HL)	1, 2, 3, 5, 6
Single family Residential (SF 20)	1, 2, 3, 5, 6
Mixed Use Commercial (MC)	1, 2,3,4,5 & 6
Recreational Commercial (RC)	1, 2, 3,4,5,6

##### A) Types of Signs, Maximum Size, Number and Location:

- 1) **Type 1** – Official traffic control signs, and informational or directional notices erected by federal, state or local units of government. Official signs may be placed within the highway right – of – way. No permit required.
- 2) **Type 2** – Directory Signs advertising a business or activity conducted, an area of interest, or a service available, at a specific location. Such signs shall not be more than 24 square feet in gross area. There shall not be more than two such signs relating to any one such use in the approaching direction along any highway. Such signs may be placed at the right-of – way line of the highway and shall be 100 ft. from a lot line and 300 ft. from a residential driveway. A larger number of signs may be permitted by the Town Board if the Town Board shall find it necessary for directing the traveling public. Permit required.
- 3) **Type 3** – Signs advertising a customary home occupation or professional office. Such signs shall not exceed 12 square feet in gross area, shall be located on the premises for which it is advertising, shall be setback a minimum 10 feet from the right-of way, if illuminated shall be indirectly lighted, and such sign is not allowed to be scrolling or a flashing type sign. No Permit required.
- 4) **Type 4** – Signs on or attached to agricultural, commercial and industrial buildings advertising a business conducted or a service available on the premises. Either attached to the building or a free standing pylon type sign. Such signs shall not be more than 200 sq. ft. in total gross area and shall have 10 ft. of vision clearance under those signs. Frames or supports for those signs shall be counted in the square footage if they are more than 12 inches wide. Signs that follow the setback in the district they are located, do not need the vision clearance under them. No sign shall be higher than the maximum height limitation permitted in the district which it is in. Scowling or flashing signs must not be so bright as to cause a public safety hazard. Permit required.
- 5) **Type 5** – Political message signs during an election campaign, charitable or religious events, county fairs, fund raisers for schools, real estate for sale signs, volunteer fire or rescue department’s events, Contractor or construction type signs, platted sub-divisions

up to two per development. Such signs may be a maximum of 32 square feet in size, a maximum of one such sign per property totaling 32 square feet in gross area. Political and event signs may be in place up to 1 month prior to an event or election and must be removed within 7 days of the event or election. Real estate for sale signs may be placed while a property is for sale and must be removed 14 days after the closing sale of a property. Contractor signs may be in place 30 days prior to the start of a project and the completion of a construction project. One sign shall be allowed per contractor working on the project. No permit required.

- 6) **Type 6** – Recreational directory signs indicating the direction to a cottage, resort, residence private beach or similar use. Such signs shall not be more than 12 sq ft in gross area. Where a common posting standard is provided all such signs shall be attached to the standard recreational directory. The resulting composite sign shall not exceed 100 sq. ft. in gross area. Signs may be placed at the right-of-way line of highways. Permit required.

#### 4.10 Fences.

- 1) **Permit Required** No fence shall hereinafter be located, moved, reconstructed, extended, enlarged, converted or structurally altered without being in conformity with all the structural requirements of local and State building codes. All fences, shall present the non-structural (finished) face outward. A permit is required for all fences that are greater than (4) feet in height, or located in a front yard. Ag fences in the General Ag. District and the Heartland District do not require a permit.
- 2) **Fences Permitted.** The following fences are permitted subject to the following restrictions and providing that said fence does not in any way interfere with traffic visibility:
  - a) Fences in all districts are permitted up to the property lines. It is the property owner's responsibility to know where the actual lot line is located.
  - b) Screening erected, placed, maintained or grown in a required front or street yard shall not exceed a height greater than (4) feet above the curb level or its equivalent and shall not exceed a height of (3) feet within the vision clearance areas clearance areas established 4.10 (5).
  - c) A snow fence shall be permitted in all districts when comprised of wooden pickets, including plastic snow fence, bound together by wire and not exceeding 4 feet in height and removed between May 1<sup>st</sup> and November 1<sup>st</sup> of each year. No privately owned snow fence shall extend beyond the Highway right -of -way line.
- 3) **Agricultural Fences** in the General Ag. Heartland and the Mixed Use Commercial districts shall be permitted provided they do not extend into the highway or road right-of way. Barbed wire and or electric type Agricultural fences are only allowed in the S.F.20 district, where the S.F.20 butts up against the General Ag. Or the Heartland district. No permit is required.
- 4) **Residential fences** Are permitted up to the property lines in all districts subject to the following.
  - a) Fences shall not be greater than (6) six feet high in the side yard and the rear yard or greater than (4) four feet high in the street yard, measured from the average

grade of the yard that they are being installed in. Berms or raised flower beds cannot be used in the average height measurement.

- b) Fences or walls within 75 feet of the ordinary high water mark cannot be higher than (4) four feet tall and must be 50% see through.
- c) Fences along, roads, private roads, easement's or the front yard setbacks cannot be higher than (4) four feet high and must be 50% see through.
- d) No fence or wall which incorporates barbed top spikes or razor wire shall be permitted in any district.
- e) All fences, shall present the non-structural (finished) face outward.
- f) Reference of "up to the property line" shall mean adjacent to but not overlapping including not obscuring vision lines to survey markers that mark said property line. It is the responsibility of the property owner who is installing the fence to know where the lot line is.
- g) Fences must be of a material normally used and listed as fence material. Stacked concrete blocks, pole barn metals, razor wire, high voltage electrically charged or similar type material type fences will not be allowed.
- h) A Zoning Permit is required.

**5) Required Vision Clearance.**

- a) In order to provide adequate vehicular vision, no fence structure, screening, vegetation, or embankment shall be erected, placed, maintained or grown between the heights of (3) three feet and (10) ten feet above the curb level or its equivalent within the triangular space formed by the intersection and points a distance along the intersecting lines as follows.
- b) Two (2) street right -of-ways 25 feet.
- c) Street right-of-way and a private road or easement 10 feet.
- d) A fence so designed, constructed and maintained to be at least (90)% percent open for through vision may be constructed in such vision clearance area.

**4.11 Urban Agriculture.**

**1) Chickens.**

- a) No more than 6 chickens are permitted on a property; roosters are prohibited.
- b) Eggs shall not be sold on the premise.
- c) Chickens are not permitted within a front yard area.
- d) Chickens shall be provided a sanitary and adequately-sized, covered enclosure, or coop, and shall be kept in the enclosure or a sanitary and adequately-sized and fenced enclosure, or yard, at all times.
- e) A covered enclosure or coop shall be setback at least 40 feet from any neighboring residence.
- f) A covered enclosure or coop shall be setback at least 15 feet from any side or rear property line.
- g) The covered enclosure or coop shall be constructed in a workmanlike manner and be maintained at all times.

**(2) Rabbits**

- a) No more than 12 adult rabbits are permitted on a property.
- b) Rabbits are not permitted within a front yard area.
- c) Rabbits shall be provided a sanitary and adequately-sized, covered enclosure, and shall be kept in the enclosure or a sanitary and adequately-sized and fenced enclosure, or yard at all times.
- d) A rabbit enclosure shall be setback at least 40 feet from any neighboring residence.
- f) A rabbit enclosure shall be constructed in a workmanlike manner and be maintained at all times.
- g) A rabbit enclosure that consists of a small, movable cage may be placed no closer than 5 feet from any side or rear property line.

**(3) Bees.**

- a) No more than one standard hive (colony) is permitted on a property.
- b) The hive shall not exceed 6 feet in height.
- c) The hive is not permitted within a front yard area.
- d) The hive shall be setback at least 40 feet from any neighboring residence.
- e) The hive shall be setback at least 15 feet from any side or rear property line.

**(4) Conditions.**

- a) The raising and keeping of chickens, rabbits, and bees within a Single Family Residential or Mixed Use Commercial zoning district shall be permitted.
- b) A Zoning Permit is required for the raising and keeping of chickens, rabbits, and bees. A permit may be revoked for failure to comply with provisions of the zoning code and, once revoked, shall not be reissued.
- c) No animal shall cause any nuisance, unhealthy condition, public threat or otherwise interfere with the normal use of property or enjoyment of life by humans or animals.
- d) Animals shall be kept in a sanitary condition, be provided with fresh water, and adequate amounts of food at all times.
- e) Animals raised and kept on the property for food shall not be slaughtered outdoors.
- f) Properties where animals are kept shall be kept in a sanitary condition.

**4.12 Grades.**

- a) When a storm water management plan or drainage plan is nonexistent for a lot, the final grade and maintained grade shall not be higher than the average of the grade on the adjacent properties. The Code Administrator shall require that a grading and drainage plan be prepared by a professional and approved prior to the issuance of a zoning permit for new construction. Dependent on the amount of grading proposed, the Code Administrator shall require the plan include a cross section of the adjacent parcels, and the parcel subject of the grading, to ensure the proposed grading will not result in adverse runoff onto the adjacent parcels. In areas where drainage is not parallel to lot lines, the site plan for the zoning permit application shall address the direction and handling of surface water flow. Water from the driveway shall be diverted to a ditch or swale and not toward the Town road.

**4.13 Setback Averaging, Setback Requirements (S.F. Zoning District only).**

- 1) **Road.**
  - a) **Public Road. Follow 4.7 of this code.**
  - b) **Private Road. Follow 4.7 of this code.**
  
- 2) **A reduced road setback may be permitted for a proposed Primary and Accessory structure and shall be determined as follows.**
  - a) **Where there is an existing Primary or Accessory structures in both directions, the setback shall equal the average of the distances that the two existing Primary or Accessory structures are set back from the road provided that both structures are located on adjacent lots and are located within 250' of the proposed Primary or Accessory structure.**
  - b) **Where there is an existing Primary or Accessory structure in only one direction on an adjacent lot and that structure is within 250' of the proposed accessory structure, the setback shall equal the average of the setback of the existing Primary or Accessory structure and the required setback listed in chart 4.7 of this code.**
  
- 3) **Every effort should be made to follow the setbacks in the district. Where following those setbacks will cause problems due to grades, water drainage issues, general ascetics or line of site problems it shall be up to the Zoning Administrator to allow set back averaging as outlined above. If setback averaging causes any issues due to grades, drainage, ascetics, line of site or other safety issues as he/she see's possible, the standard setbacks shall be followed in the zoning district.**
  
- 4) **Setback Averaging only applies to set back from roads, private roads, or easements. It does not apply to side yard, backyard or fence setbacks.**

**Section 5.0 Districts.**

**5.1 Identification of Districts.** For the purposes of this ordinance, the Town of Brothertown, Calumet County, Wisconsin is hereby divided into 6 districts as follows:

- A) W Wetland
- B) GA General Agricultural
- C) HL Heartland
- D) SF20 Single-Family Residential-20,000
- E) MC Mixed Use Commercial

- F) RC Recreational Commercial

## 5.2 District Boundaries.

- A) The boundaries, of the aforesaid districts are hereby established as shown on the map entitled "Zoning Map for the Town of Brothertown, Calumet County, Wisconsin," which map is made a part of this ordinance and is on file in the office of the Clerk of the Town of Brothertown. All notations and references shown on the District Map are as much a part of this ordinance as though specifically described herein.
- B) The district boundaries, unless otherwise indicated, are street or highway center lines, old railroad right-of-way lines extended, lines parallel or perpendicular to such street, highway or railroad lines, the shore line of lakes or streams, lot or alley lines, section lines, quarter section lines, or quarter-quarter section lines, and when the designation on the district map indicates that the various districts are approximately bounded by any of the above lines, such lines shall be construed to be the district boundary line.
- C) District boundaries, not otherwise designated, shall be determined by the use of the scale shown on the Zoning Map.

## Section 6.0 Left Blank for future use.

## Section 7.0 (GA) General Agricultural District.

**7.1 Purpose.** The intent of the (GA) General Agriculture District is to provide for agriculture and related uses in those areas with adequate soil types, drainage and topography for farming; for residential development subject to the density standards of this district; and for limited commercial and industrial development.

### 7.2 Permitted Uses.

- 1) Aquaculture.
- 2) Beekeeping.
- 3) Crop or forage production.
- 4) Enrolling land in a federal agricultural commodity payment program or federal or state agricultural land conservation payment program.
- 5) Family daycare.
- 6) Floriculture.
- 7) Home businesses and occupations.
- 8) Livestock defined as bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
- 9) Nursery, sod, or Christmas tree production.
- 10) Single-family and two-family dwellings. Manufactured Dwelling, Manufactured Home.
- 11) Riding stables and boarding facilities.
- 12) Forest management.



**7.3 Permitted Accessory Uses.**

- 1) Agricultural buildings and structures.
  - a) No height restrictions.
  - b) No size restrictions.
- 2) Horse stables where the horses are for the owners' private use.
- 3) Private swimming pools located on the same lot as the principal residential structure.
- 4) Roadside stands, one (1) per operating farm, for on-premise sales of farm products produced thereon.
- 5) Unattached private garages and accessory buildings.
  - a) Structure limited to no greater than 2400 square feet, not to exceed 20 feet in height.
  - b) The accumulative square footage of all accessory buildings and accessory structures cannot exceed 2400 square feet on any one property.
  - c) Contractor storage activities, ( 7.3)- 7) a) thru e) shall not count against the square footage of this section but must be requested by an active contractor licensed by the State of Wisconsin Chapter SPS-305.
  - d) The total square footage of all accessory & primary buildings cannot cover more than 30% of the total square footage of that property.
- 6) Greenhouses where products sold are grown on site.
- 7) Contractor storage activities.
  - a) Only one structure permitted.
  - b) All supplies/equipment are housed within an enclosed structure.
  - c) No sales, or other commercial activity of any kind are conducted.
  - d) Such proposed Accessory Use must be clearly interpreted, by an authorized town employee, as being "subordinate to and customarily incidental to" a pre-existing, permitted, principal use on the same premises.
  - e) Structure limited to no greater than 3200 square feet, not to exceed 24 feet in height.

**7.4 Conditional Uses.**

- 1) Private aircraft landing field, hanger, or accessory structures.
- 2) Automobile repair shops on the same lot as the principal residential structure.
- 3) Bed and breakfast.
- 4) Cemeteries.
- 5) Churches and affiliated uses.
- 6) Commercial animal kennels on the same lot as the principal residential structure.
- 7) Construction firms and construction equipment or materials storage.
- 8) Day care licensed by the State of Wisconsin.
- 9) Farm or garden equipment or supply dealers.
- 10) Golf courses, including private golf or country club.
- 11) Junk, salvage and wrecking yards.
- 12) Miniature golf, golf driving range, archery range, and similar facilities.
- 13) Mini-warehousing and nonagricultural related storage facilities.
- 14) Plumbing, electrical, heating and air-conditioning equipment dealers.
- 15) Processing of agricultural products such as but not limited to by specific enumeration,

- canning, dairy processing, livestock butcheries, livestock sales or commercial grain storage facilities.
- 16) Public buildings.
  - 17) Public parks, trails, and recreational areas.
  - 18) Fur farms.
  - 19) Non-metallic mining, including processing and storage, provided it complies with all standards set forth in \*\*\*\*\*Non-Metallic Mining.
  - 20) Sales and servicing facilities for agricultural related machinery or equipment.
  - 21) Small engine repair and sales and welding activities and farm implement repair activities in conjunction with the pre-existing agricultural use.
  - 22) Sporting goods.
  - 23) Sportsmen's club and related activities to include, but not limited to; rifle ranges, field shooting and the authorized raising of small game.
  - 24) Storage and sale of feed, fertilizer and other products essential to agricultural production.
  - 25) Taverns.
  - 26) Telecommunication antennas and towers. (See section 14.0)
  - 27) Temporary storage and mixing of cement, asphalt, or road oils.
  - 28) Utility installations, including public utility buildings and structures for gas, water and electrical service, telephone exchanges, transformer stations, substations, power generating plants including storage of equipment vehicle.
  - 29) Veterinary offices and facilities, and/or boarding facilities for domestic animals.
  - 30) Wind energy facilities that are required to comply with standards set forth by the Town of Brothertown and Calumet County Wind Energy Facility Ch 79 Ordinance.
  - 31) Commercial greenhouse.
  - 32) Art galleries and craft stores in existing building on premise.
  - 33) Wind energy facilities less than 170 feet in height with a 60-foot rotor diameter and nameplate capacity of less than 100 kilowatts or less. (1.1 times height of tower setback from lot line.)
  - 34) Moved Home.
  - 35) Accessory Structures, that will have a bathroom group, ( toilet, sink, or shower),or any other plumbing or running water other than a floor drain.

#### **7.5 Standards.**

- 1) Residential Density - 1 to 20 as per the Town of Brothertown Residential Density Map and Zoning map.
- 2) Minimum Lot Area - One (1) acre.
- 3) Minimum Lot Width - 150 feet.
- 4) Front Yard Setbacks - Follow 4.7. of this code
- 5) Rear Yard Setback - Follow 4.7. of this code.
- 6) Side Yard Setbacks - Follow 4.7. of this code.
- 7) Side Yard Setback - 25 feet. Buildings used for human habitation.
- 8) Buildings housing livestock or animal waste - 100 feet from lot line.
- 9) Height - No building or parts of buildings hereafter erected or altered for human habitation shall be more than two and one half stories and shall not exceed 35 feet in height. Agriculture related structures - No height restrictions.
- 10) Accessory Building Setback - A distance of 1.1 times the height of the wall of the

building that is parallel to the lot line but in no case shall it be less than 10 feet in the side and rear yard.

- 11) No accessory building may be erected before the primary structure is erected on a property.
- 12) Structures used for Agriculture purposes may be considered the primary structure on a property.
- 13) Flag lots - width at road right of way 33 feet. Flag lot setback 50 feet from front of the lot at the minimum lot width.
- 14) Small Wind Towers - 1.1 x height of tower from the property line.
- 15) Signs-As permitted - follow 4.9 of this code.
- 16) Off street parking requirements - follow 4.8 of this code.
- 17) All dwellings shall conform to these minimum square footages. One story 1100 sq.ft. Two story 960 sq. ft. first floor area excluding garages. Square footages may be reduced only if it conflicts with the 30% lot coverage.

## **Section 8.0 (W) Wetland District.**

**8.1 Purpose.** This district is intended to prevent the destruction and depletion of the Town of Brothertown's wetlands; protect watercourses and navigable waters and the public rights therein; to maintain the purity of water and lakes and streams and to prevent pollution thereof; and to protect spawning grounds, fish, and habitat for wild flora and fauna. Furthermore, this district is intended to prevent the changing of the natural character of wetlands.

### **8.2 Permitted Uses.**

- 1) Agricultural use provided no farm buildings are constructed.
- 2) Harvesting of any wild crop such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds.
- 3) Hiking trails, bridle paths, including those built on pilings.
- 4) Hunting preserves and hunting blinds.
- 5) Nonresidential buildings used solely in conjunction with the raising of waterfowl, fish or other wetland or aquatic animals.
- 6) Parks, picnic areas, and similar uses.
- 7) Sustained yield forestry.
- 8) Telephone and electrical power transmission lines.
- 9) Wildlife ponds.

### **8.3 Conditional Uses. (Unless further restricted by 8.5)**

- 1) Greenhouses with on-site retail sales.
- 2) Sportsmen's clubs.
- 3) Farm related residences.
- 4) Single family residences.
- 5) Filling, drainage or dredging.
- 6) Relocation of any watercourse.
- 7) Removal of topsoil or peat.
- 8) Utility buildings or similar structures.
- 9) Other uses described in the Calumet County Zoning Code 82-24.

#### **8.4 Shoreland Zoning in the Wetland District.**

- A) All uses whether Permitted Uses or Conditional Uses could possibly be in a flood plain or Shoreland Zoning area or under the Department of Natural Resources (DNR) jurisdiction.
- B) Zoning Permits may be obtained from the Calumet County Resource Management Department.

#### **8.5 Wetlands in the Wetland Zoning District.**

- A) Land uses in wetlands are regulated by N.R. 151 of the Wisconsin Administrative Code. Wetlands are an overlay in all districts. Check with the DNR for an official determination of a Wetland Overlay.

### **Section 9.0 (HL) Heartland District.**

**9.1 Purpose.** The Heartland District is primarily intended to provide for agricultural uses, for residential development subject to the density standards of this district, and for limited commercial and industrial development. All residential, commercial, and industrial structures shall be connected to municipal or community sewer and water services where available and served by on-site septic and well systems where they are not.

#### **9.2 Permitted Uses.**

- 1) Aquaculture.
- 2) Beekeeping.
- 3) Crop or forage production.
- 4) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- 5) Family day care in home.
- 6) Floriculture.
- 7) Forest management.
- 8) Home businesses and occupations.
- 9) Livestock defined as equine animals, bison, farm-raised deer, fish, captive game birds, ratites, and camelids, and further defined as cattle, swine, poultry, sheep and goats only if they are being raised as pets or as a hobby versus raising them as a primary source of income.
- 10) Nursery, sod, or Christmas tree production.
- 11) Single and two-family dwellings.
- 12) Manufactured Home, Manufactured Dwelling.

#### **9.3 Permitted Accessory Uses.**

- 1) Agricultural buildings and structures.
- 2) Horse stables where the horses are for the owner's private use.
- 3) Private swimming pools located on the same lot as the principal residential structure.
- 4) Roadside stands, one (1) per operating farm, for on-premise sales of farm products produced thereon.

- 5) Unattached private garages.
  - a) Structure limited to no greater than 2400square feet, not to exceed 20 feet in height.
  - b) The accumulative square footage of all accessory buildings and accessory structures cannot exceed 2400 square feet on any one property.
  - c) Contractor storage activities,( 9.3)- 7) a) thru e) shall not count against the square footage of this section but must be requested by an active contractor licensed by the State of Wisconsin Chapter SPS-305.
  - d) The total square footage of all accessory & primary buildings cannot cover more than 30% of the total square footage of that property.
- 6) Greenhouses-where products are sold and grown on-site.
- 7) Contractor storage activities.
  - a) Only one structure permitted.
  - b) All supplies/equipment are housed within an enclosed structure.
  - c) No sales, or other commercial activity of any kind are conducted.
  - d) Such proposed accessory use must be clearly interpreted, by an authorized town employee, as being “subordinate to and customarily incidental to” a pre-existing, permitted, principal use on the same premises.
  - e) Structure limited to no greater than 3200 square feet, not to exceed 24 feet in height.

#### **9.4 Conditional Uses.**

- 1) Automobile repair shops on the same lot as the principal residential structure.
- 2) Bed and Breakfast.
- 3) Cemeteries.
- 4) Churches and their affiliates.
- 5) Commercial animal kennels and/or breeding activities.
- 6) Construction firms and construction equipment or materials storage.
- 7) Day care licensed by the State of Wisconsin.
- 8) Golf courses.
- 9) Hotels and motels.
- 10) Mini-warehousing and nonagricultural related storage facilities.
- 11) Plumbing, electrical, heating and air-conditioning equipment dealers .
- 12) Private golf or country club.
- 13) Public buildings.
- 14) Public parks, trails, and recreation areas.
- 15) Resorts, tourist cottages or cabins, commercial camping, ski lodges, group camps, and similar facilities.
- 16) Restaurants.
- 17) Riding stables and boarding facilities.
- 18) Small engine repair and welding activities and farm implement repair activities in conjunction with pre-existing agricultural use.
- 19) Sporting goods.
- 20) Sportsmen’s clubs and related activities to include, but not limited to; rifle ranges, field shooting and the authorized raising of small game.
- 21) Taverns.
- 22) Telecommunication antennas and towers.
- 23) Telephone buildings, exchanges, lines, and transformer stations, but excepting service

- garages and storage yards.
- 24) Utility installations, including public utility buildings and structures for gas, water, and electrical service, telephone exchanges, transformer stations, substations, power generating plants including storage of equipment vehicles.
  - 25) Veterinary offices and facilities, and/or boarding facilities for domestic animals.
  - 26) Wastewater and/or sewage treatment facilities.
  - 27) Water storage facilities and accessory structures.
  - 28) Commercial greenhouses.
  - 29) Art gallery and craft store in existing building on premise.
  - 30) Moved Home.
  - 31) Accessory Structures, that will have a bathroom group, ( toilet, sink, or shower),or any other plumbing or running water other than a floor drain.

#### **9.5 Standards.**

- 1) Residential Density - 1 to 10 as per the Town of Brothertown Residential Density Map and Zoning map.
- 2) Minimum Lot Area - One (1) acre.
- 3) Minimum Lot Width - 150 feet.
- 4) Front Yard Setbacks - follow 4.7 of this code.
- 5) Rear Yard Setback - follow 4.7 of this code.
- 6) Side Yard Setbacks - follow 4.7 of this code.
- 7) Side Yard Setback - 25 feet. Buildings used for human habitation.
- 8) Buildings housing livestock or animal waste - 100 feet from lot line.
- 9) Height - No building or parts of buildings hereafter erected or altered for human habitation shall be more than two and one half stories and shall not exceed 35 feet in height. Agriculture related structures - No height restrictions.
- 10) Accessory Building Setback - A distance of 1.1 times the height of the wall of the building that is parallel to the lot line but in no case shall it be less than 10 feet in the side and rear yard.
- 11) No accessory building may be erected before the primary structure is erected on a property.
- 12) Structures used for Agriculture purposes may be considered the primary structure on a property.
- 13) Flag lots - width at road right of way 33 feet. Flag lot setback 50 feet from front of the lot at the minimum lot width.
- 14) Small Wind Towers - 1.1 x height of tower from the property line.
- 15) Signs - As permitted under Section 16.
- 16) Off street parking requirements - follow 4.8 of this code.
- 17) All dwellings shall conform to these minimum square footages. One story 1100 sq.ft. Two story 960 sq. ft. first floor area excluding garages. Square footages may be reduced only if it conflicts with the 30% lot coverage.

## **Section 10.0 (SF 20) Single-Family Residential District (20,000 Square Feet).**

**10.1 Purpose.** The Single-Family Residential District is intended to primarily provide for quiet, pleasant residential living areas along the shores of Lake Winnebago subject to the density standards of the district.

### **10.2 Permitted Uses:**

- 1) Boat Houses.
- 2) Crop or forage production
- 3) Home Occupation.
- 4) Parks and Residential Trails.
- 5) Single family dwellings.
- 6) Utility Facilities- Type A. ( 66.06 )
- 7) Home Artisan
- 8) Fences
- 9) Urban Agriculture.
- 10) Manufactured Home, Manufactured Dwelling.

**\*\*\*\* Note any Permitted Use listed above which requires lot coverage or falls under the rules of NR115 will require site plan approval and a sanitary permit as in the Calumet County Ordinance.**

### **10.3 Conditional Uses.**

- 1) Accessory structures that will, have a bathroom group, (toilet, sink, shower), or any other plumbing or running water other than a floor drain. (Building permit and sanitary permit required.)
- 2) Bed and breakfast.
- 3) Cemeteries.
- 4) Churches and affiliated uses.
- 5) Day care licensed by the State of Wisconsin.
- 6) Public buildings.
- 7) Utility installations, type B, including public utility buildings and structures for gas, water and electrical service, telephone exchanges, transformer stations, substations, power generating plants including storage of equipment vehicle.
- 8) Mobile Service Facilities
- 9) Moved Home.

**\*\*\*\* Note any Conditional Use listed above which requires lot coverage or falls under the rules of NR115 will require site plan approval and a sanitary permit as in the Calumet County Ordinances.**

**10.4 Permitted Accessory Uses.**

- 1) Unattached private garages and accessory buildings on the front lot.
  - a) Structures not to exceed 1000 square feet.
  - b) Structures not to exceed 16 feet in total height.
  - c) Total Square footage of all accessory buildings added up proposed and existing not to exceed 1000 square feet. (Excluding boat house.)
- 2) Private swimming pools located on the same lot as the principal residential structure.
- 3) Accessory Buildings on a back lot.
  - a) Only one back lot accessory structure is permitted on a **\*\*vacant back lot**. Contiguous non-conforming lots, that are under common ownership, shall be considered a single parcel, unless the parcel is re-divided to conform to the dimensional requirements to meet the criteria of the zoning district in which the lot is located.
  - b) Location: A back lot accessory structure shall not be erected prior to the principal structure it is intended to serve and shall be located on the same beach road as the principal structure it serves.
  - c) Floor Area. The back lot accessory structures shall not exceed a total of **2400** square feet in size. This includes all existing and proposed back lot accessory structures. 2.4.e lot coverage applies.
  - d) Height: The back lot accessory structure shall not exceed a height of **18 feet**.
  - e) No portion of a back lot accessory structure shall be used for human Habitation.

**\*\***Lot was vacant at the time of the passing of this ordinance.

**10.5 Standards.**

- 1) Residential Density – 2.5 in1 as per Calumet County Land Division Ordinance.
- 2) Minimum Lot Area – 20,000 Sq. Ft. Single family. Follow 4.7
- 3) Minimum Lot Width - 100 feet. Follow 4.7 of this code.
- 4) Front Yard Setbacks - Follow 4.7 of this code.
- 5) Rear Yard Setback - Follow 4.7. of this code.
- 6) Side Yard Setbacks - Follow 4.7.of this code.
- 7) Height - No building or parts of buildings hereafter erected or altered for human habitation shall be more than two and one half stories and shall not exceed 35 feet in height.Follow 4.7 of this code.
- 8) Accessory Building Setback Front Lot- - Follow 4.7 of this code.
- 9) No accessory building on the front lot may be erected before the primary structure is erected on a property.
- 10) Back lot Accessory Structure Setback- Follow 4.7 of this code.
- 11) Flag lots - width at road right of way 33 feet. Flag lot setback 50 feet from front of the lot at the minimum lot width.
- 12) Small Wind Towers - 1.1 x height of tower from the property line.
- 13) Signs-As permitted - follow 4.9 of this code.
- 14) Off street parking requirements - follow 4.8 of this code.
- 15) Plumbing-running water any accessory building per 10.3(1) Conditional Use.
- 16) Lots less 300 ft from high water mark.15% lot coverage new lot, 30% existing lot.
- 17) All dwellings shall conform to minimum floor size, one story 1100 sq. ft. two story 960



sq. ft. living area excluding garages. Square footage may be reduced only if it conflicts with the no more than 30% lot coverage.

**10.6 Prohibited Accessory Structures:** Boats, truck bodies, semi-trailer boxes, mobile homes, buses, railroad car, shipping containers, temporary structures and trailers shall not be used as accessory structures.

**10.7 Relationship to Calumet County Shoreland Zoning.** Lands located in Shoreland areas of the Town of Brothertown, as identified in NR 115 of the Wisconsin Administrative Code, or other related State Shoreland Zoning regulations pertaining to the size, height location, water setback, lot coverage/ impervious surface or similar characteristics of structures shall be regulated by Chapter 52 – Shoreland Zoning of the Calumet County Code as that rule applies. Other dimensional and use characteristics located in the shoreland area such as side yards, road setbacks and use shall be governed by the Town of Brothertown using the regulations herein.

## **Section 11.0 (MC) Mixed-Use Commercial District.**

**11.1 Purpose.** The Mixed Use Commercial District is intended to provide for a mix of residential and commercial subject to the density standards of this district. All residential and commercial structures shall be connected to municipal or community sewer and water services where available and served by the on-site septic and well systems where they are not.

### **11.2 Permitted Uses.**

- 1) Single and two-family dwellings.
- 2) Manufactured Home, Manufactured Dwelling.
- 3) Family Day Care home.
- 4) Home businesses and occupations.
- 5) Cemeteries.
- 6) Churches.
- 7) Libraries.
- 8) Museums.
- 9) Town Hall/Community Centers.
- 10) Parks and recreational trails.
- 11) Adult-oriented establishments. (Reference required license permit)
- 12) Urban Agriculture.

### **11.3 Conditional Uses.**

- 1) Banks and other financial institutions.
- 2) Bed and Breakfast.
- 3) Convenience stores, provided that all gasoline pumps, storage tanks, and accessory equipment be located at least thirty (30) feet from an existing or officially mapped street right-of-way line.
- 4) Doctors and dentist office.
- 5) Funeral homes.

- 6) Personal services including but not limited to barber shops, shoe repair shops, coin-operated laundry and dry cleaning establishments (Laundromats), and tailoring.
- 7) Photographic studios and commercial photography establishments.
- 8) Plumbing, electrical, heating and air-conditioning equipment dealers.
- 9) Restaurants and taverns.
- 10) Retail stores.
- 11) Automobile and truck sales, new and used.
- 12) Automobile passenger trailer, mobile home, or camper sales.
- 13) Automobile repair shops including shops for general mechanical repairs, body repair and Tire repair, and specialized automobile repairs, such as electrical, battery, or radiator repair, glass replacement or repair, carburetor repair, or wheel alignment but not including the rebuilding, retreading, recapping, vulcanizing or manufacturing of tires.
- 14) Automobile washing, cleaning or polishing.
- 15) Billiard and pool establishments.
- 16) Bowling alleys.
- 17) Building materials sale or storage including lumber.
- 18) Commercial sports clubs, athletic fields, arenas, and similar facilities.
- 19) Construction firms and construction equipment or materials storage.
- 20) Day care centers.
- 21) Duplicating, blueprinting, photocopying, addressing, mailing and stenographic services.
- 22) Equipment (construction, industrial, etc.).
- 23) Farm or garden equipment or supply dealers.
- 24) Food storage and/or packaging including rental food lockers.
- 25) Greenhouses or nurseries.
- 26) Hotels and motels.
- 27) Fuel oil/liquid petroleum dealers.
- 28) Mini-warehousing and nonagricultural related storage facilities.
- 29) Miniature golf, golf driving range, archery range, and similar facilities.
- 30) Motorcycle and other small engine or motor sales, service and repair establishments.
- 31) Offices or meeting places of professional, civic, social, business or fraternal organization, labor unions, and political religious, charitable or other non-for-profit organizations.
- 32) Recreational vehicle sale, rental, service, repair, testing, demonstration or other use including motorcycles, motorized bicycles, go-carts, snowmobiles, aircraft, motorboats, other watercraft, or any other motorized vehicles or their components.
- 33) Rooming and boarding houses.
- 34) Veterinary offices and facilities, and/or boarding facilities for domestic animals.
- 35) Wholesale merchandise establishments.
- 36) Utility offices.
- 37) Moved Homes.
- 38) Accessory Structures, that will have a bathroom group, ( toilet, sink, or shower),or any other plumbing or running water other than a floor drain.

#### 11.4 Permitted Accessory Uses.

- 1) Unattached private garages and accessory buildings.
  - a) Structure not to exceed 2400 square feet.
  - b) Structure not to exceed 18 feet in total height.

- 2) Private swimming pools located on the same lot as the principal residential structure.
- 3) Residential quarters for the owner or proprietor, located in the same building as the business.

**11.5 Prohibited Accessory Structures:** Boats, truck bodies, semi-trailer boxes, mobile homes, buses, railroad car, shipping containers, temporary structures and trailers shall not be used as accessory structures.

**11.6 Standards.**

- 1) Residential Density - 2.5 to 1 as per the Town of Brothertown Residential Density Map and Zoning map.
- 2) Minimum Lot Area - 20,000 square feet for single family and 30,000 square feet for a duplex.
- 3) Minimum Lot Width - 150 feet single family-150 feet for duplexes.
- 4) Front Yard Setbacks - follow 4.7 of this code.
- 5) Rear Yard Setback - follow 4.7 of this code.
- 6) Side Yard Setbacks - follow 4.7 of this code.
- 7) Side Yard Setback - 15 feet. Buildings used for human habitation.
- 8) Buildings housing livestock or animal waste - 100 feet from lot line.
- 9) Height - No building or parts of buildings hereafter erected or altered for human habitation shall be more than two and one half stories and shall not exceed 35 feet in height. Agriculture related structures - No height restrictions.
- 10) Accessory Building Setback - A distance of 1.1 times the height of the wall of the building that is parallel to the lot line but in no case shall it be less than 10 feet in the side and rear yard.
- 11) No accessory building may be erected before the primary structure is erected on a property.
- 12) Structures used for Agriculture purposes may be considered the primary structure on a property.
- 13) Flag lots - width at road right of way 33 feet. Flag lot setback 50 feet from front of the lot at the minimum lot width.
- 14) Small Wind Towers - 1.1 x height of tower from the property line.
- 15) Signs - As permitted follow 4.9 of this code.
- 16) Off street parking requirements - follow 4.8 of this code.
- 17) All dwellings shall conform to these minimum square footages. One story 1100 sq.ft. Two story 960 sq. ft. first floor area excluding garages. Square footages may be reduced only if it conflicts with the 30% lot coverage.

## **Section 12.0 (RC) Recreational Commercial District.**

**12.1 Purpose.** The Recreational Commercial district provides for the continuation of some agricultural uses and the development of those recreational uses which are consistent with the maximum recreational uses of the water and its shoreland. The development of some residential uses is permitted providing that adequate sewage disposal facilities can be provided.

**12.2 Permitted Uses.**

- 1) New farm buildings on any existing farm provided that the buildings in which farm animals are kept shall be at least 100 feet from the nearest lot line on a non- farm lot.
- 2) One and two family dwellings.
- 3) Crop farming, grazing.
- 4) Telephone, telegraph and power transmission towers, poles and lines including transformers, sub stations, equipment housings and other necessary appurtenant equipment and structures.
- 5) Accessory uses permitted in the heartland district.
- 6) Woodlots and tree farms.
- 7) Home Occupations.
- 8) Recreational trails, public or private.
- 9) Manufactured Home, Manufactured Dwelling.
- 10) Mobile Home in Mobil Home Park. ( See definition).

**12.3 Conditional Uses.**

- 1) Summer theaters and outdoor music amphitheaters or music festival grounds.
- 2) Hotels, motels, condo's or resorts.
- 3) Golf courses or driving ranges.
- 4) Sale of bait, fish farms, fishing equipment and forest industries.
- 5) Trailer parks, campgrounds or mobile home parks.
- 6) Private clubs or lodges, sportsmen clubs, rifle ranges, game farms, field shooting and the raising of small game for sporting purposes.
- 7) Recreational complexes & public swimming pools.
- 8) Multiple family residential units, town houses and planned development units. (3 or more units)
- 9) Blacksmith shops, machine shops, welding shops, sheet metal shops.
- 10) Wholesale business.
- 11) Contractor storage building.
- 12) Small wind energy systems.
- 13) Moved Homes.
- 14) Accessory Structures, that will have a bathroom group, ( toilet, sink, or shower),or any other plumbing or running water other than a floor drain.

**12.4 Regulations and Standards.**

- 1) Residential Density - 2.5 to 1 as per the Town of Brothertown Residential Density Map and Zoning map.
- 2) Minimum Lot Area - 20,000 square feet for single family and 30,000 square feet for a duplex.
- 3) Minimum Lot Width - 150 feet single family-150 feet for duplexes.
- 4) Front Yard Setbacks - follow 4.7 of this code.
- 5) Rear Yard Setback - follow 4.7 of this code.
- 6) Side Yard Setbacks - 15 feet commercial- follow 4.7 of this code.
- 7) Side Yard Setback - 25 feet. Buildings used for human habitation.
- 8) Buildings housing livestock or animal waste - 100 feet from lot line.
- 9) Height - No building or parts of buildings hereafter erected or altered for human habitation shall be more than two and one half stories and shall not exceed 35 feet in

- height. Agriculture related structures - No height restrictions.
- 10) Accessory Building Setback - A distance of 1.1 times the height of the wall of the building that is parallel to the lot line but in no case shall it be less than 10 feet in the side and rear yard.
  - 11) No accessory building may be erected before the primary structure is erected on a property.
  - 12) Structures used for Agriculture purposes may be considered the primary structure on a property.
  - 13) Flag lots - width at road right of way 33 feet. Flag lot setback 50 feet from front of the lot at the minimum lot width.
  - 14) Small Wind Towers - 1.1 x height of tower from the property line.
  - 15) Signs-As permitted - follow 4.9 of this code.
  - 16) Off street parking requirements - follow 4.8 of this code.
  - 17) All dwellings shall conform to these minimum square footages. One story 1100 sq.ft. Two story 960 sq. ft. first floor area excluding garages. Square footages may be reduced only if it conflicts with the 30% lot coverage.

## **Section 13.0 Section 13.0 Non-Metallic Mining.**

**13.1 Non-Metallic Mining.** The purpose of this section is to regulate non-metallic mining operations in the Town in order to promote the public health, safety and general welfare; protect the demand for and economical extraction of non-metallic minerals; permit the development and utilization of non-metallic mineral resources in a manner compatible with neighboring land uses; and, to preserve environmentally sensitive areas and to minimize potential adverse environmental impacts of non-metallic mining operations through the utilization of best management practices. Nothing in this Ordinance is intended to supersede or interfere with Calumet County's reclamation ordinance. The Town's zoning ordinance and the County's reclamation ordinance are intended to supplement and complement each other and shall, where possible, be thus interpreted. If, however, any provision of the Town's zoning ordinance irreconcilably conflicts with a provision of the County's reclamation ordinance, the provision imposing the greater duty or obligation on the non-metallic owner or operator shall govern.

In addition to the other provisions contained in this Ordinance, the Town shall take into consideration the following issues in determining whether a conditional use permit should be approved:

- A) The appropriateness of the proposed operation in relation to the existing nearby land uses.
- B) Any applicable recommendations of the Natural Resources Conservation Service technical guide.
- C) The effect of the proposed operation upon existing private and public water supplies.
- D) The economic effect(s) of the proposed operation on private enterprises and local government.

- E) The effect of the proposed operation on public health and safety.
- F) The location of the site with respect to floodplains and floodways of rivers or streams.

**13.2 Applicability.** This section is applicable to all operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel and non-metallic minerals such as asbestos, beryl, clay, feldspar, peat and talc. It includes, without limitation, operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and non-metallic minerals. Finally, it includes processes such as crushing, screening, scalping, dewatering and blending. The regulations contained herein apply to all surface areas from which materials are removed together with related storage and processing areas, areas where non-metallic mining refuse is deposited and areas disturbed by the non-metallic mining operation through activities such as the construction or improvement of roads and berms. This section does not apply to the following activities:

- A) Activities on less than 5 acres, for the exclusive use of the property owner, if no material is removed from the property.
- B) Pre-mining activities such as site surveying, coring, test pits for exploratory purposes only, mapping and other functions necessary solely for proper preparation of the permit application.
- C) Excavation in conjunction with utility installation, which is to be backfilled.
- D) Excavation in conjunction with road construction, within the limits of the right-of-way, when construction plans have been approved by the Department of Transportation and all other relevant governmental bodies.
- E) Excavation which by its nature is of limited duration such as graves, septic tanks and swimming pools.
- F) Agricultural drainage work incidental to agricultural operations and irrigation/stock watering ponds, provided no material is removed from the property.
- G) Excavation for structures, parking areas and stripping of up to 1-1/2 feet of topsoil for the development of subdivisions, provided all topsoil is retained on the property.
- H) Regrading of property for aesthetic purposes that does not affect existing drainage, provided no material is removed from the property.
- I) Dredging operations under the jurisdiction of the U.S. Army Corps of Engineers and other governmental bodies.
- J) Ponds developed for wildlife purposes in conjunction with the Soil Conservation Service or Land and Water Conservation Department.
- K) Excavation activities related to sod farming.

- L) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility or a hazardous waste disposal facility, as the same are defined and regulated under the Wisconsin Statutes; provided, however, this section does apply to activities related to solid or hazardous waste disposal that are conducted at a non-metallic mining site separate from the solid or hazardous waste disposal facility, such as activities to obtain non-metallic minerals to be used for lining, capping, covering or construction berms, dikes or roads.
- M) Any other uses determined to be exempt by the Town.

**13.3 Permit Application.** Any application for a conditional use permit to conduct non-metallic mining operations in the Town shall include the following information. The Plan Commission or the Town Board reserves the right to require additional information, as circumstances warrant.

- A) **General Background Information.** All applications for a conditional use permit for non-metallic mining shall include the following general background information:
  - 1) The name, address and phone number of the property owner and the proposed operator if different from the owner.
  - 2) If the applicant is a corporation, partnership, limited liability company or limited liability partnership, the application shall include the exact name of the business entity; the date of incorporation, registration or organization; the state in which the entity was incorporated, registered or organized; the name and address and home phone numbers of the registered agent, if applicable; the names and addresses of all officers and directors, operating or managing partners or general partners; managing members or managers, whichever is applicable for the particular form of business.
  - 3) The name, address and phone number of an individual who is responsible for the day-to-day operation of the site and who will be the contact person for the Town.
  - 4) A statement that the applicant is familiar and in compliance with the provisions of this section, including the responsibility to reimburse the Town its reasonable costs and professional fees associated with the processing, review, issuance, administration and enforcement of this section of the Town's zoning ordinance.
  - 5) A signed copy of the lease or a letter signed by the owner of record authorizing the proposed operator to enter upon the owner's land for the purpose of non-metallic mining.
  - 6) A legal description and general location map of the tracts of land involved. (Note: The Town reserves the right to require a survey either with the application or prior to the issuance of a conditional use permit.)
  - 7) A plan of the site showing proposed and existing roads and drives, including all points of ingress and egress.
  - 8) A plan of the site showing the sources, quantity and disposition of both surface water and groundwater, which plan shall be prepared by a competent and qualified Wisconsin professional engineer, geologist or hydrologist.
- B) **Plan of Operation.** An operation plan that includes the following information:
  - 1) A map drawn to scale of 1 inch equals 200 feet.
  - 2) A written description explaining the mapped information, including, but not limited to,

the existing site and future expansion of the site; boundaries of previous excavations; storage of reclamation topsoil and methods of disposing of material not to be sold or reclaimed; areas for excavation, processing, manufacturing, stock-piling and phasing of these activities across the site over time; location and height of berms, fencing and vegetation to screen the operation from adjacent property owners.

- 3) Unless already included in the general information described above, roads used and to be used for transportation of excavated material, including all points of ingress and egress and an estimate of the maximum and average number of trucks entering and leaving the site on a daily basis; an estimate of the quantity and type of materials removed and to be removed from the site as well as the timetable to complete the excavation; a list of the type and quantity of equipment used or to be used; hours and days of operation; noise and dust control measures; and, a cross-section map showing in detail the estimated final depth of the excavation.
  - 4) Measured or estimated depth to groundwater and general groundwater flow direction at the site. Information from the Calumet County, Wisconsin Watertable and Aquifer Susceptibility Maps shall be used as a part of the reference documentation.
- C) A drainage and erosion control plan that includes the following information:
- 1) A map drawn to scale of 1 inch equals 200 feet.
  - 2) A written description detailing the mapped information; contours shown at no greater than 10 foot intervals, existing drainage ways, subsurface tile drains, pipes and culverts; existing floodplains, wetlands and water bodies; arrows showing the direction of surface water drainage; the impact of the non-metallic mining activity on adjacent property both upstream and downstream from the mining site in order to demonstrate that runoff rates from mining activity will not exceed pre-mining runoff rates of a 10-year 24-hour storm; location and design details of runoff detention facilities planned or constructed; and, temporary and permanent erosion control measures.
  - 3) A copy of the general Wisconsin Department of Natural Resources WPDES permit, if issued, or a copy of the application for the general permit.
- D) The application shall also include documentation confirming the receipt of all necessary local, county, state and federal approvals, if relevant, including Wisconsin Department of Natural Resource permits.
- E) A copy of the Wisconsin Department of Natural Resources NR135 Reclamation Plan filed with Calumet County or East Central Wisconsin Regional Planning Commission. (The applicant shall file a copy of the proposed NR135 Reclamation Plan with the Town at the same time the applicant files the document with Calumet County or East Central Wisconsin Regional Planning Commission in order that the Town may have a meaningful opportunity to provide comments on the proposed document.)

**13.4 Berms and Related Landscaping.** Applicant will construct and landscape the exterior berms as stripped overburden and topsoil become available from the quarry site or from suitable outside sources. Prior to the commencement of construction of such berms, the applicant will submit and obtain approval from the Town for a detailed berm, landscaping and related drainage and erosion control plan. Notwithstanding anything to the contrary, all berms shall be at least 8 feet above the surface of the center of the adjacent public road. Furthermore, berms half the



height of the largest wheel of equipment used in the mining operation will be installed around active mining areas that are not adjacent to public roads, but in no event of a lesser height than that required by the Mine Safety and Health Administration (“MSHA”). Only clean overburden from the mining site or suitable outside sources will be used in constructing the berms. The berms will have an aesthetically pleasing natural appearance and may be maintained in a natural rather than a manicured condition. The exterior of such berms will be kept free of noxious weeds, trash and other debris. The outward-facing slopes of such berms will not be steeper than three horizontal units to one vertical unit. The inner-facing slopes may be steeper, but must remain stable. The berms will be constructed so as not to result in flooding, concentrated runoff, inadequate drainage or excessive erosion or sedimentation.

**13.5 Setbacks.** The following setback standards shall apply:

- A) The setback requirements of this ordinance apply to all non-metallic mining activity including, without limitation, the storage of waste materials, inventory and equipment. The Town reserves the right to require greater setbacks for sand and gravel operations in order to protect the integrity of the sloped perimeters from erosion. The setback requirements below are inapplicable to berms or other forms of landscaping.
- B) All property operations, site and phase boundaries must be staked or otherwise prominently marked and the applicant shall notify the Town of the staking prior to the commencement of operations.
- C) The applicant shall comply with the following specific setback requirements:
  - 1) Setback for Town roads shall be not less than 83 feet from centerline of the right-of-way and for all other roads 100 feet from the centerline of the right-of-way.
  - 2) A minimum setback of 500 feet shall be maintained from all existing residences at the time of initial approval, unless a lesser setback is mutually agreed between the operator and the affected property owner, which lesser setback is reflected in a written easement or comparable document registered with the Calumet County Register of Deeds. A lesser setback may also be agreed upon between adjacent quarry operators.
  - 3) A setback of at least 50 feet along adjacent property lines, but in no event less than 500 feet from any residence unless the affected property owner consents as noted above.
  - 4) A setback of 1,200 feet from the property line of a landfill, unless a hydrogeologic study demonstrates that groundwater contamination will not occur and that groundwater flow patterns will not be disrupted. The hydrogeologic study will be conducted by a registered engineer demonstrating the impact on existing groundwater flow patterns. Unless otherwise determined by the Town, the determination of a landfill location will be based on Wisconsin Department of Natural Resource records of active, inactive and abandoned landfills located in the Town, as updated by the Department from time to time.

**13.6 Reclamation Plan.** The Town acknowledges that the County has an ordinance regulating the reclamation of non-metallic mining operations. Nothing contained herein is intended to interfere with or supersede the County’s ordinance. However, the Town is vested with the legislative discretion over land uses, including post-mining activity land uses. Therefore, the

application shall designate and contain appropriate detailed provisions for one or a combination of the following four major land re-use alternatives based on site specific conditions and location:

- A) A natural site where special attention is given to the preservation and restoration of natural features.
- B) A recreational site that is well-suited for sports and other forms of recreation.
- C) A building site that is well-suited for building facilities to support community growth and development.
- D) An agricultural site that has soils that are comparable to pre-mining soils and/or neighboring fields and adequate drainage to support plant life.

In addition, the applicant shall comply with all material requirements of the Wisconsin Department of Natural Resources NR135 Reclamation Plan, the requirements of which are hereby incorporated as performance standards in the conditional use permit issued to the applicant.

**13.7 Non-metallic Mining Operations** of whatever nature are limited to the hours of 6 a.m. to 6 p.m., Monday through Friday, and 6 a.m. to 2 p.m. Saturday. No non-metallic mining activity may be conducted on Sundays or legal holidays. Maintenance is allowed outside the approved hours of operation. Except as set forth below, hours of operation in existing conditional use permits will not be altered under this ordinance. The above restrictions may be adjusted to address special circumstances or demonstrated problems, but only if the Town provides its written consent to the modification after notice and a hearing.

**13.8 Blasting.** The applicant must comply with all applicable state and federal limits on blasting, including vibration and air blast regulations. The Town may seek independent verification of compliance with the ground vibration and air blast limitations. The applicant will maintain a blasting log for each blast for not less than 5 years. Upon the written request of the Town, the applicant will promptly submit to the Town information regarding any particular blast. A resident call list will be established by the applicant for the purpose of notifying neighbors at home in the vicinity of the site of imminent blasting activity. Residents within 1,000 feet of the boundary of the licensed non-metallic mining operation shall receive advance notice of the blasting, provided the relevant neighbors have requested that the applicant provide prior notice. A pre-blast contact diary will be maintained by the applicant at the on-site office, including the date of blast, neighbors contacted or attempted to be contacted, and any pertinent remarks. The applicant will promptly submit a copy of such diary entries to the Town upon written request. Notwithstanding anything to the contrary, flyrock traveling in the air or in the ground will remain in the controlled blasting site area. Additionally, such flyrock will not be cast from the blasting site. All blasting will be performed by or under the direct supervision of a State-licensed blaster. Blasting may occur only on Monday through Friday, exclusive of holidays, and only between the hours of 9 a.m. and 4 p.m.

**13.9 Complaints.** The applicant will maintain a log of all complaints received, whether received directly from residents or from the Town. The log will include at least the time and date of the complaint, the name and address of the complainant, a summary of the complaint, and a

summary of what, if any, action was taken regarding the complaint. Any written complaints received within 10 days of the activity addressed in the complaint shall be forwarded on to the Town or operator within 10 business days of the complaint. (Oral complainants should be told that their complaints must be reduced to writing.)

**13.10 Dust Controls.** Applicant will comply with all applicable state and federal air quality regulations. In addition, applicant will utilize industry best management practices in its efforts to control and minimize fugitive dust, including one or more of the following: landscaped earthen berms, paved entrance roadways, standard methods of water spray (weather permitting), dust covers on transfer points, and contract sweeping, as needed.

**13.11 Noise Controls.** Applicant will comply with all applicable noise regulations. In the event of any noise problems, the applicant will utilize the latest cost-effective technology proven and demonstrated in the applicant's industry, which will not impose an unreasonable financial burden on the applicant's non-metallic mining operation, in its efforts to control and minimize noise impacts. In addition, the applicant is prohibited from "dumping" stone into tubs between the hours of 8 p.m. and 6 a.m. Finally, the applicant shall take affirmative steps to reduce noise from the operation between the hours of 8 p.m. and 6 a.m.

**13.12 Groundwater Monitoring.**

- A) Applicant shall send a certified letter, return receipt requested, to the owner of each residence located within 1,000 feet of the perimeter of the boundary of the property described in the Conditional Use permit, notifying the owner of the owner's right to have baseline testing performed on the owner's well. The applicant is responsible for testing of all wells, unless the relevant owner has indicated in writing its intentions to be excluded from the baseline testing. Subject to the consent of eligible owners, the applicant shall arrange for and pay the cost of well testing of all wells within 1,000 feet of the perimeter of the boundary of the property described in the Conditional Use permit, of the non-metallic mining site. If the eligible owner is located within 1,000 feet of the applicant and another non-metallic mining operation, the applicant and the other non-metallic mining operation shall conduct a single, split well testing protocol and equally divide the testing expenses. Initial baseline testing shall be for bacteria, turbidity, and drawdown. Testing must be completed prior to the commencement of the operation, and at least annually for bacteria and turbidity thereafter. Drawdown test will be conducted every five years. Tests shall be performed by a qualified and certified independent professional. The result of the tests shall be provided to the Town within 10 business days of receipt by the applicant. If test results indicate any negative impact from the activities authorized by the conditional use permit, the applicant shall take all reasonable steps necessary to alleviate any problems including, but not limited to, immediately providing a temporary water source or well replacement. The applicant is also responsible, at the applicant's option, for either the total costs to re-drill or case any failed residential well existing and in use on the date of the issuance of the conditional use permit or of drilling and casing any required new well to replace an existing well, or for the incremental extra cost of such re-drilled or new replacement well attributable to the well being within the 1,000-foot perimeter of the boundary of the property described in the Conditional Use permit, plus the costs of determining the amount of such incremental extra cost, subject, however, to all of the

following conditions:

- 1) The failed well is an existing residential well in use as of the date of the granting of the conditional use permit.
  - 2) The existing property owner or the owner's predecessor-in-title permitted a well inspection by the applicant and promptly resolved all problems noted in the inspection in accordance with the requirements of applicable statutes, ordinances, rules, regulations and other laws.
  - 3) The well re-drilling or replacement is made in compliance with the requirements of all applicable statutes, ordinances, rules, regulations and other laws, including any necessary licensure of those performing such work.
  - 4) The qualifications of the well driller are mutually satisfactory to the property owner and the applicant, but with neither unreasonably withholding its approval.
- B) The determination as to whether any existing well has "failed" so as to require re-drilling or replacement will be made by a mutually-agreed well specialist in accordance with the requirements of all applicable statutes, ordinances, rules, regulations, orders and other laws. If the parties are unable to agree on a well specialist, each party shall appoint a well specialist and the two appointed well specialists shall thereafter select a well specialist who will then make the determination on whether the relevant existing well has "failed." The applicant shall be responsible for the costs of the selected well specialist.

**13.13 Home Inspections.** Applicant will send a certified letter, return receipt requested, to the owner of each residence within 1,000 feet perimeter of the boundary of the property described in the Conditional Use permit, notifying the owner of the owner's right to have a baseline inspection done of the owner's home to document any existing cracking or other conditions that might be alleged to have resulted from blasting. The applicant is responsible for inspections of all homes for which the owners have not provided written notice of their intentions to be excluded from the home inspection. The home inspections will be conducted by a qualified third-party consultant with substantial expertise and experience in conducting inspections relating to alleged blasting damage. The selection of the consultant will be by the applicant, subject to the Town's approval, which approval will not be unreasonably withheld. Within 30 days after the issuance of a conditional use permit, the applicant will notify each eligible homeowner in writing of the details of the home inspection program. Home inspections will be completed within 180 days after the applicant's acceptance of the conditional use permit. Applicant may, in its sole discretion, update any previously conducted home inspection at intervals of not less than 5 years. Within 60 days after the completion of each home inspection, a copy of the inspection report will be mailed or delivered to the Town and to the relevant homeowner.

**13.14 Spill Prevention Control and Countermeasure Plan.** The applicant will, prior to or simultaneously with acceptance of the conditional use permit file with the Town a spill prevention control and countermeasure plan to be placed into effect if an emergency occurs due to spillage of contaminants. The plan will include provisions for any equipment needed and actions required to contain and remove the spilled materials, and for the appropriate employee training. This plan will be placed on file at the on-site office and a copy shall be submitted to the Town.

**13.15 Wetland Preservation.** The staked wetlands on the non-metallic mining site will not be disturbed by the applicant's mineral extraction and related operations and activities; provided, however, that applicant reserves the right, with appropriate required permits or approvals from the Wisconsin DNR and the U.S. Army Corps of Engineers and Calumet County to modify and mitigate the wetland areas.

**13.16 Well Restriction.** An applicant may install a residential well for use in its non-metallic mining operation. High capacity wells and high capacity well systems, both as defined in Wisconsin Administrative Code NR 812.07, as amended, are prohibited without the Town's written approval.

**13.17 Surface Water and Wastewater Collection and Sedimentation Control.** Applicant will take all reasonable steps required to collect in the quarry site all surface water or wastewater run-off containing significant amounts of suspended solids from stripping and other non-metallic mining-related land disturbing activities and to settle and filter out such solids before discharge in compliance with applicable Wisconsin DNR WPDES permit requirements. Applicant will apply to the Town for appropriate erosion control permits for any earth-disturbing activities that do not drain into the quarry site.

**13.18 Site Access and Improvements.** Access to the non-metallic mining site shall be identified and agreed upon prior to the start-up of operations. Any road or intersection improvements deemed necessary to service the proposed operation (including acceleration and deceleration lanes) will be improved and maintained at the applicant's sole expense in accordance with the standards determined by the Town Board (in consultation with the County Highway Department) to allow for safe truck movements in and out of the site. The improvements will be made prior to the commencement of any hauling from the site, except for the hauling of material necessary to improve the intersection. The entrance road to the site must be paved. Haul roads will be maintained in a dust-free manner in accordance local, state and federal regulations. Restrictions on use of Town roads may be placed on the operation, subject to exceptions authorized by the Town Board for unusual circumstances. A detailed traffic study may be required by the Town. The study shall include, without limitation, the effect of trucking on traffic volume, patterns, safety and road capacity on all affected routes within one-half mile of the non-metallic mining operation. This does not apply to existing operations as of the date of the Ordinance.

**13.19 Site Inspection and Compliance Committee.** The Plan Commission Chairperson shall appoint a four-member inspection committee, consisting of three members of the Plan Commission together with a representative from a non-metallic mining regulatory agency such as East Central Wisconsin Regional Planning Commission or the Wisconsin Department of Natural Resources. The committee's responsibilities shall include, without limitation, the following:

- A) The inspection of each existing non-metallic mining operation on an annual basis in order to determine compliance with this Ordinance.
- B) The submission of a report of the committee's findings of its inspections with a statement describing the degree of compliance or non-compliance of the operations inspected by the committee. The report shall be submitted to the Chairperson of the Plan Commission with

a copy to the Town Clerk for distribution to the Town Board. The report shall also be sent to the operators within 10 days of the inspection. The committee shall provide the applicant with reasonable advance notice of an inspection and, further, shall comply with all reasonable safety policies applicable to non-applicant employees present at the site. However, the applicant shall take all reasonable steps to facilitate the committee's inspection of the site consistent with the purposes of this Ordinance; and

- C) The Town agrees to indemnify and hold harmless applicant, its directors, officers, employees, successors and assigns from and against any and all damages, claims, liabilities, losses, costs and expenses (including reasonable attorneys' fees) (together "Claims") arising out of or relating to or resulting in any way from any actual or alleged death of or injury to a member of the inspection committee that results, or is claimed to result, from the site inspection. The preceding indemnity does not apply to Claims arising out of the applicant's active negligence or willful misconduct.

**13.20 Other Pertinent Information.** Any conditional use permit issued to an applicant for a non-metallic mining operation shall contain provisions regarding the following additional requirements; provided, however, the following requirements must be met regardless whether the conditional use permit specifically mentions the following requirements:

- A) With respect to all new buildings, structures, signs, site improvements or other non-metallic mining extraction-related facilities to be constructed or installed on the site, the applicant will first obtain all necessary building, occupancy, land disturbing, operational and similar permits required by the Town, County, State and Federal government.
- B) A pre-operation inspection funded by the applicant of all relevant Town roads shall be conducted to establish a benchmark. Thereafter, annual inspections shall be conducted to determine the extent of damage, if any. The applicant is financially responsible for all proven road damage to Town roads as a result of the permit holder's operation.
- C) The conditional use permit will be granted for a period of three years, which term shall begin on the commencement of grading and earth movement activities on the site. In light of the fact that the anticipated life of the non-metallic mining operation is likely to substantially exceed 3 years, and because the applicant will be making a substantial investment in the development of the non-metallic mining site during the initial 3-year term, the conditional use permit will be renewed unless the applicant substantially fails to comply with the requirements of the conditional use permit. In the event of a zoning change that eliminates non-metallic mining and related operations and activities as a conditional use on the site, the zoning status of the applicant's operation will be that of a valid non-conforming use, the nature and extent of which will be defined by the conditional use permit.
- D) The applicant will provide to the Town an agreement to defend and hold the Town harmless against any third-party claims whatsoever resulting from or arising out of any negligent or intentional and wrongful act or omission of the applicant, its employees, officers or agents in conducting the operations of the non-metallic mining site that are regulated by the conditional use permit through the date of completion of final

reclamation. The hold harmless agreement shall be subject to approval as to form by the Town Attorney.

- E) Applicant shall submit a certificate of insurance identifying the Town and its elected officials, employees and agents as additional insureds with the following minimum coverage limits:
- 1) Comprehensive General Liability Insurance, including blanket contractual liability insurance, insuring the applicant's obligation to indemnify the Town as provided in this ordinance insuring the Town, its officials, officers, agents and employees against liability for personal injury, including death of persons resulting from injuries occurring on or in any way related to the use or occupancy of the permitted premises in a minimum amount of \$1 million per occurrence and against liability for damage to property occurring on or in or relating in any way due to the permitted premises with the combined aggregate of \$2 million.
  - 2) Comprehensive General Public Liability Insurance against claims for bodily injury, death or property damage, occurring on, in or about the permitted premises or arising out of the operation of the permitted premises. Such insurance shall afford protection of not less than \$1 million with respect to bodily injury or death to any one person with the combined aggregate of \$2 million with respect to any one accident, and not less than \$100,000 with respect to property damage, without deductibles.
- F) The applicant will be responsible to the Town for all reasonable actual costs incurred by the Town in the monitoring of the applicant's operations and in the administration of the conditional use permit and the review of any plans submitted for approval pursuant to or in connection with the conditional use permit. Such costs will be the actual salary and benefit costs incurred for the actual reasonable time spent by Town employees or officials on such monitoring, review or administration activities, and the actual reasonable costs to the Town of any independent contractors or consultants hired by the Town for such monitoring, review or administrative services. However, no unusual monitoring or review projects will be undertaken by the Town, at the applicant's cost, without good cause and without giving the applicant reasonable notice and opportunity to be heard regarding the need for any reasonableness of any such proposals. In addition to the above, the applicant is responsible to reimburse the Town for the Town's reasonable attorneys' fees and costs incurred in the review, administration or enforcement of the conditional use permit or the provisions of the Zoning Ordinance applicable to the non-metallic mining operation.
- G) Any conditional use permit issued to an applicant will be assignable only upon the written approval of the Town, which approval will not be unreasonably withheld or conditioned, subject to acceptance of such permit in writing by the proposed assignee or successor and satisfaction by the proposed assignee or successor of any reasonable financial security requirements imposed by the Town.
- H) No material provision of a conditional use permit may be modified except upon the written application by the applicant and after public notice and hearing. The Town makes no representations regarding the applicant's right to obtain whatever additional authorizations or permits may be necessary for the operation of non-metallic mining.

- I) The Town reserves the right to require such additional general and special conditions in the conditional use permit that the Town reasonably believes is necessary to protect the public health and welfare and to implement the legislative purposes of the Town's zoning ordinance. No waiver or inaction by the Town or its officials shall be deemed to be made unless the same shall be in writing and be signed by a duly authorized Town official. Each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the Town in any other respect at any other time.
- J) The issuance of a conditional use permit shall not be considered as in any manner affecting the title of the premises upon which the permitted activity will occur nor does it release the applicant from any liability for damage to person or property caused by or resulting from the non-metallic mining activity. In no manner does the Town assume any liability, directly or indirectly, for any loss due to damage, installation, maintenance or operation of the non-metallic mining activity authorized by the conditional use permit.
- K) All references in this ordinance referring to the "applicant" include, without limitation, the operator or owner (if other than the operator) of the relevant non-metallic mining operation.
- L) The provisions of this Ordinance shall apply to existing non-metallic mining operations, unless said operations are operating pursuant to the terms of a conditional use permit issued by the Town. Conditional use permits that are renewed by the Town subsequent to the adoption of this Ordinance shall comply with the provisions of this Ordinance, to the extent practicable.
- M) The Town reserves the right to require appropriate security to assure the timely performance of a specifically-required action expressly identified in the final permit.

## **Section 14.0 Regulation of Mobile Tower Siting.**

**Section 14.1. Purpose and Intent.** The purpose of this section is to regulate by a conditional use permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

**Section 14.2. Definitions.** All definitions contained in Wis. Stat. § 66.0404(1) are hereby incorporated by reference.

**Section 14.3. Siting and Construction of Any New Mobile Service Support Structure and Facilities.**

**A) Application Process.**

1) A conditional use permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the Town obtainable with this permit.

2) A written permit application must be completed by any applicant and submitted to the Town. The application must contain the following information:



- a) The name and business address of, and the contact individual for, the applicant.
  - b) The location of the proposed or affected support structure.
  - c) The location of the proposed mobile service facility.
  - d) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
  - e) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
  - f) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- 3) A permit application will be provided by the Town upon request to any applicant.
  - 4) If an applicant submits to the Town an application for a permit to engage in an activity described in this Ordinance, which contains all of the information required under this Ordinance, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
  - 5) Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 90-day period:
    - a) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
    - b) Make a final decision whether to approve or disapprove the application.
    - c) Notify the applicant, in writing, of its final decision.
    - d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
  - 6) The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 15.3126.
  - 7) The fee for the permit is \$3,000.
    - b) Limitations. The Town may impose any conditions on its approval, except that it cannot include any condition prohibited by Wis. Stat. § 66.0404(4).

#### **Section 14.4. Class 1 Collocation.**

- a) Application Process.

1) A conditional use permit is required for a class 1 collocation. A class 1 collocation is a conditional use in the Town obtainable with this permit.

2) A written permit application must be completed by any applicant and submitted to the Town. The application must contain the following information:

a) The name and business address of, and the contact individual for, the applicant.

b) The location of the proposed or affected support structure.

c) The location of the proposed mobile service facility.

d) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

e) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

f) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose class 1 collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

3) A permit application will be provided by the Town upon request to any applicant.

4) If an applicant submits to the Town an application for a permit to engage in an activity described in this Ordinance, which contains all of the information required under this Ordinance, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

5) Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 90-day period:

a) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.

b) Make a final decision whether to approve or disapprove the application.

c) Notify the applicant, in writing, of its final decision.

d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

6) The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation with the applicant's search ring and provide the sworn statement describe under paragraph 15.4126.

7) If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not

apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.

8) The fee for the permit is \$3,000.

a) Limitations. The Town may impose any conditions on its approval, except that it cannot include any condition prohibited by Wis. Stat. § 66.0404(4).

### **Section 14.5. Class 2 Collocation.**

a) Application Process.

1) A conditional use permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the Town but still requires the issuance of the conditional use permit.

2) A written permit application must be completed by any applicant and submitted to the Town. The application must contain the following information.

a) The name and business address of, and the contact individual for, the applicant.

b) The location of the proposed or affected support structure.

c) The location of the proposed mobile service facility.

3) A permit application will be provided by the Town upon request to any applicant.

4) A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.

5) If an applicant submits to the Town an application for a permit to engage in an activity described in this Ordinance, which contains all of the information required under this Ordinance, the Town shall consider the application complete. If any of the required information is not in the application, the Town shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

6) Within 45 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 45-day period.

a) Make a final decision whether to approve or disapprove the application.

b) Notify the applicant, in writing, of its final decision.

c) If the application is approved, issue the applicant the relevant permit.

d) If the decision is to disapprove the application, include in the written notification substantial evidence which support the decision.

e) The fee for the permit is \$500.

b). Limitations. The Town may impose any conditions on its approval, except that it cannot include any condition prohibited by Wis. Stat. § 66.0404(4).

## **Section 15.0 Conditional Uses.**

**15.1 Authority.** The Town Board, by a majority vote of the entire Board, may approve the issuance of a Conditional Use permit for uses listed as Conditional Uses in this ordinance.

**15.2 Purpose.** Conditional Uses are those uses having some uniqueness or unusual impact which requires a careful review of their location, design and configuration to determine against fixed standards, the desirability of permitting their establishment on any given site. The Conditional Use permit is a flexible means of permitting certain exceptions to the districts

established and the rules and regulations adopted herein, in cases where the public benefit of such uses outweighs the potential harm, and under such conditions imposed as are necessary to protect the public health, safety and welfare and individual property rights.

**15.3 Conditional Use Procedure.** The following procedure shall be followed to obtain a Conditional Use permit:

- A) **Application.** An owner or owner's designated agent shall complete and file a Conditional Use application form with the Zoning Administrator accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Town Board by resolution, to cover costs of public notice and administrative review. Ten copies of a scaleable development plan will be required with the written application.
- B) **Public hearing.** After receiving the request, the Zoning Administrator shall refer the matter to the Plan Commission, which shall hold a public hearing advertised by a Class 2 notice.
- C) **Action by Plan Commission.** The Plan Commission shall, within thirty (30) days of the public hearing, make a report and recommendation of approval or denial of the Conditional Use permit with any conditions it may deem appropriate to the Town Board. In making its decision, the Commission shall keep a written record of findings relative to the standards for considering the Conditional Use application, as listed in 15.7.
- D) **Action by Town Board.** The Town Board shall, within thirty (30) days of Plan Commission action, act to approve or deny the Conditional Use permit by resolution. No Conditional Use Permit shall be issued unless the Town Board shall find that the conditional use is consistent with the spirit, purpose and intent of this ordinance, will not substantially and permanently injure the appropriate use of neighboring property, and will serve the public convenience and welfare and that such building or use shall comply with all other regulations in the district in which it is proposed to be located.

**15.4 Application Requirements.** The applicant shall provide the following information on the Conditional Use application form, which is available from the Town Zoning Administrator:

- A) Applicant and property owner's name, address, and telephone number.
- B) Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use designations.
- C) Description of Conditional Use being requested.
- D) Written justification for the Conditional Use being requested and supporting documentation describing how the applicant believes that the request conforms to the standards for Conditional Uses listed in subsection 15.7.
- E) Filing fee

**15.5 Development Plan Requirements.** Submission of a Conditional Use permit request will need to include a development plan that has the following information:

- A) North arrows, date of preparation, and scale on 8½" x 11" size paper.
- B) Name(s) of all adjacent or surrounding streets and right-of-way width(s).
- C) Recorded property lines and their dimensions.
- D) All existing and proposed buildings and structures accessory to the principal use, including the use of each building or structure, dimensions and their locations on the parcel.
- E) Dimensions of existing and proposed yard setbacks for buildings and structures.
- F) Dimensions of existing and proposed parking, loading, and unloading areas, and size of existing and proposed driveways.
- G) The location of proposed and existing signage.
- H) The location, height and materials of all proposed and existing fences or retaining walls.
- I) Preliminary storm water and erosion control plan.
- J) Other additional information that may be deemed appropriate by the Zoning Administrator.

**15.6 Conditions, Guarantees and Validity Period.** The following conditions, guarantees and validity period may be imposed upon the granting of a Conditional Use permit:

- A) Prior to the granting of any Conditional Use permit, the Plan Commission may recommend and the Town Board may place such conditions and restrictions upon the establishment, location, lot dimensions, construction, maintenance and method or hours of operation as deemed necessary for the protection of the public interest and to secure compliance with the standards specified in 15-7. In all cases in which Conditional Uses are subject to conditions, the Plan Commission may recommend and the Town Board may require evidence and guarantees as it may deem necessary (as proof that the stipulated conditions are being and will be complied with).
- B) Conditional Use permits shall be issued permanently or for a specified period of time as may be specified by the Town Board upon recommendation of the Plan Commission and shall be an obligation of any party to whom a property may be transferred or assigned.
- C) A Conditional Use permit shall expire if the use is discontinued for a period of twelve (12) consecutive months. If a building permit has not been obtained or the Special Use has not been established within twelve (12) months of the issuance of the Conditional Use permit, the Conditional Use permit expires.

- D) Any party who has been issued a Conditional Use Permit by the Town shall notify the Town, in writing, that they are seeking a continuance or extension of any Special Use Permit that has an expiration date as established by Town Board. Such notification shall be submitted to the Zoning Administer thirty (30) days prior to the Conditional Use Permit expiration date.
- E) A Conditional Use permit shall become effective upon approval by the Town Board, unless a later effective date is established by the Board. A record of the Conditional Use permit shall be maintained in the Town Hall.
- F) A Conditional Use permit may be revoked by the Town Board for failure to comply with all provisions of such permit, provided that thirty (30) days notice has been given by first class mail to the operator or owner of such use of the intent to revoke.

**15.7 Standards.** No application for a conditional use shall be recommended by the Plan Commission and granted by the Town Board unless the following conditions are present:

- 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 uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the uses of adjacent land.
- 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 other necessary site improvements 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.
- F) That the conditional use shall conform to all applicable regulations of the district in which it is located.
- G) That the proposed use does not violate floodplain or shoreland regulations governing the site. (Refer to County Zoning)
- H) That adequate measures have been or will be taken to prevent or control water pollution, including sedimentation, erosion and runoff. (Refer to County Zoning)
- I) That the proposed use is reasonably necessary for the public convenience at that location.
- J) That in the case of an existing non-conforming use, the proposed use will make the existing non-conforming use more compatible with its surroundings.

**15.8 Optional Standards for Granting Conditional Use Permits.** The Plan Commission and Town Board may require the following additional standards when approving a Conditional Use permit:

- A) Increased setbacks and yard.
- B) Specifications for water supply, liquid waste, and solid waste disposal facilities.
- C) Sureties, operational controls, erosion prevention measures.
- D) Location of the use.
- E) Other requirements found necessary to fulfill the purpose and intent of this ordinance.
- F) A performance bond may be required to insure compliance with such requirements.
- G) Violation of these conditions shall constitute a violation of this ordinance.

## **Section 16.0 Left Blank for Future Use.**

## **Section 17.0 Plan Commission.**

**17.1 Plan Commission.** The Plan Commission has the responsibility for recommending land use changes consistent with the regulations in this ordinance and correctly interpreting the goals, objectives and intent of the Town of Brothertown Comprehensive Plan.

**17.2 Membership and Terms of Office.** The Plan Commission consists of seven (7) members consisting of Town elected or appointed officials, except that at least five (5) must be citizen members who are not otherwise Town officials. The Town Board Chairperson shall appoint the members of the Plan Commission and designate a Plan Commission Chairperson during the month of April to fill any expiring term (All appointments are subject to the approval of the Town Board.) In a year in which any Town Board member is elected at the spring election, any appointment or designation by the Town Chairperson shall be made after the election of the Town Board. 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 Secs. 19.01 and 60.31, WI Stats. The Plan Commission Secretary shall be designated by the Plan Commission.

**17.3 Term of Office.** The term of office for the Plan Commission Chairperson and each Commission member shall be for a period of three years, ending on April 30th, or until a successor is appointed.

**17.4 General and Miscellaneous Powers.** The Plan Commission shall:

- A) Be governed by the provisions of Section 62.23(7) of the Wisconsin Statutes, the Zoning

Ordinance of the Town of Brothertown and function and duty as set forth herein; The Plan Commission's function and duty herein established shall not be changed or waived without the affirmative vote of the Town Board.

- B) Initiate, hear, review and offer its recommendations to the Town Board on applications for amendments to this Zoning Ordinance.
- C) Prepare and recommend to the Town Board for adoption of a Comprehensive Plan for the Town, and from time to time to recommend amendments as it may deem appropriate.
- D) Be enabled to promote Town planning.
- E) Hear, review and offer its recommendations to the Town Board on applications for Conditional Use permits, subdivisions, street vacations and name changes, and other matters.
- F) Make reports and recommendations (per sec. 62.23(4)) relating to the plan and development of the town to the Town Board other public bodies, citizens, public utilities and organizations.
- G) Recommend to the Town Board programs for public improvements and the financing of such improvements.
- H) Receive from public officials, within reasonable time, requested available information required for the Commission to do its work.
- I) For itself, its members and employees, in the performance of their duties, enter upon land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. 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 sec. 66.0119, Wis. Stats., or other court-issued warrant.

#### **17.5 Town Comprehensive Planning Authority and Requirements.**

- A) The Plan Commission, under sec. 62.23(2), recommended adoption of the Town of Brothertown Comprehensive Plan. On July 21, 2008, the Town Board adopted said Plan, along with accompanying maps, tables and descriptive and explanatory matter, which includes the nine (9) elements specified under the comprehensive planning law, sec. 66.1001 (2), Wis. Stats.
- B) The Plan Commission will be responsible for reviewing and updating the Comprehensive Plan on a periodic basis to maintain relevancy to land use issues that may occur over time.
- C) The Plan Commission will determine if every petitioned land use change applied for through the provisions of this ordinance is consistent with the adopted Comprehensive Plan.



## **Section 18.0 Zoning Board of Appeals.**

**18.1 Establishment.** There is hereby established a Board of Appeals for the Town of Brothertown. The Board of Appeals shall consist of five (5) members appointed by the Town Chairman and confirmed by the Town Board.

- A) **Terms:** Terms shall be for three (3) years, except that of those first appointed; one (1) shall serve one (1) year, two (2) shall serve two (2) years and two (2) for three (3) years.
- B) **Chairman:** Chairman shall be designated by the Town Chairman.
- C) **Alternate:** Two (2) alternate members shall be appointed by the Town Chairman for a term of three (3) years. The Town Chairman shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates.
- D) **Secretary:** Secretary shall be as designated by the Board of Appeals.
- E) **Vacancies:** Vacancies shall be filled for the unexpired terms of members whose terms become vacant.

**18.2 Organization.** The Board of Appeals shall organize and adopt rules of procedure in conformance to Section 62.23(7)(e) 1-15 of Wisconsin Statutes.

### **18.3 Rules.**

- A) The Board of Appeals shall meet at the call of the chairperson and at such other times as the Board of Appeals may determine, at a fixed time and place.
- B) All meetings of the Board of Appeals shall be open to the public.
- C) Any public hearings which the Board of Appeals is required to hold shall be held in the Brothertown Town Hall or other place convenient to the location or locations to be considered at such public hearing, and a full description of the location of such place of hearing by name, address or other commonly known means of identification, shall be included in the notice given of such hearing. Other matters upon which the Board of Appeals is required to act may also be heard to any such hearing provided that no undue hardship is created for any appellant by reason of the location of such hearing, and provided further that such matters are included in the notice given of such hearing.
- D) The Board of Appeals shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the Secretary of the Board of Appeals and shall be a public record.

The Board of Appeals may adopt such other rules as are necessary to carry into effect the regulations of the Town Board. In the case of all appeals, the Board of Appeals may call upon the Town Board or Zoning Administrator for all information pertinent to the decision appealed from.

**18.4 Powers.** The Board of Appeals shall have the following powers:

- A) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by administrative official in the enforcement of this Ordinance.
- B) To authorize upon appeal in specific cases, a variance from the standards of the Ordinance as will not be contrary to the public interest. Variations for uses shall not be granted by the Board. A variance for the purpose for the purpose of this ordinance shall not be granted unless:
  - 1) A written application for a variance is submitted demonstrating the following:
    - a) That special condition exist which are peculiar to the land or structure involved which are not applicable to other lands or structures in the same district.
    - b) That literal enforcement or the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other lands or structures in the same district under the terms of this ordinance.
    - c) That the special conditions and circumstances do not result from the actions of the applicant.
  - 2) That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or structures in the same district.
    - a) No non-conforming use of neighboring lands or structures in the same district, and no permitted use of land or structures in other districts shall be considered grounds for the issuance of a variance.
    - b) The application is in proper form and fee as specified in 18.5 D) has been paid. The Board shall hold a public hearing on such matter in accordance with the provisions with the provisions of Section 18.6 of this ordinance. Reasonable special conditions and safeguards for the protection of the public health, safety, and welfare may be imposed by the Board if it grants the application for variance,
- C) The Board may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the Ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
- D) Assistance - the Board may request assistance from other town or county officers, departments, commissions and boards.
- E) Oaths - the chairperson may administer oaths and compel the attendance of witnesses.

**18.5 Appeals and Applications.** Appeals from the decision of the Zoning Administrator concerning the literal enforcement of this Ordinance may be made by any person aggrieved or by an officer, department, board or bureau of the Town. Such appeals shall be filed with the secretary and the officer from whom the appeal is taken within thirty (30) days after the date of written notice of the decision or order of the Zoning Administrator or the Town Board. Applications may be made by the owner or lessee of the structure, land or water to be effected at any time and shall be filed with the Zoning Administrator. Such appeals and applications shall include the following:

- A) Names and Addresses of the appellant or applicant and all abutting and opposite property owners of record.
- B) Sketch showing all the information required for a Land Use Permit.
- C) Additional Information which was required for the decision appealed from or may be required by the Board of appeals.
- D) Non- Refundable Fee in the amount as set by resolution of the Town Board to be paid to the Town at the time of application.

**18.6 Hearings.** The Board of Appeals shall fix a reasonable place for the hearing and hold a hearing within 45 days or less, give a Class One (1) notice thereof as provided in Chapter 985 of the Wisconsin Statutes, and give due notice to the parties in interest, the Zoning Administrator and the Town Board. At the hearing the applicant or the appellant may appear in person, by agent, or by attorney.

**18.7 Decisions.** The Board of Appeals shall decide all appeals, special exceptions, variances, and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, the Zoning Administrator and the Town Board. Conditions may be placed upon any Land Use Permit ordered or authorized by this Board. The concurring vote of a quorum of members 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 on any matter upon which it is required to pass under this Ordinance, or to effect any variation in this Ordinance. The grounds of every such determination shall be stated.

**18.8 Review by Court of Record.** Any person or persons aggrieved by any decision of the Board of Appeals may commence an action seeking the remedy available by certiorari. Such action shall be commenced within thirty (30) days after the filing of the decision in the office of the Board of Appeals.

## **Section 19.0 Duties of Zoning Administrator.**

The Town Zoning Administrator is hereby designated as the administrative and enforcement officer for the provisions of this Ordinance. The duty of the Zoning Administrator shall be to interpret and administer this Ordinance and to issue, after on-site inspection, all permits required by this Ordinance.

### **19.1 The Zoning Administrator shall further:**

- A) Maintain Records of all permits issued, inspections made, work approved, and other official actions.
- B) Inspect all structures, lands, and waters to assure compliance with this Ordinance.
- C) Investigate all complaints made relating to violations of this ordinance and the use of structures, lands, and waters; give notice of all violations of this Ordinance to the owner, resident, agent, or occupant of the premises; and report uncorrected violations to the Town Attorney with permission of the Town Board in a manner specified by them.
- D) Assist the Town Attorney in the prosecution of Ordinance violations.
- E) Access to premises and structures shall be permitted during reasonable hours to make those inspections as deemed necessary by him/her to ensure compliance with this Ordinance. If, however, he/she is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with Section 66.0119 of the Wisconsin Statutes.
- F) Prohibit the use or erection of any structure, land or water until the Zoning Administrator has inspected and approved such use or erection.
- G) Attend as requested by the Town Plan Commission at a determined fee, meetings of the Town Plan Commission and the Town Board of Appeals.
- H) At the request of the Town Board, Town Board Chair, Plan Commission or Board of Appeals, present to such persons or bodies facts, records or reports that may assist them in making decisions, or assist them in any way as requested.

**19.2 Zoning Permit Required.** No structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, or structurally altered until after the owner or his agent has secured a zoning permit from the Zoning Administrator, unless otherwise exempted pursuant to Section 19.3 of this Ordinance.

- A) Applications for a zoning permit shall be made to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable:
  - 1) Name and Addresses of the applicant, owner of the site, architect, professional engineer, and contractor.

- 2) Description of the Subject Site by lot, block and recorded subdivision address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- 3) Location Sketch drawn as close as possible to scale showing the location, boundaries, dimensions, elevations, or where deemed appropriate by the Zoning Administrator.
- 4) Plat of Survey prepared by a registered land surveyor. The sketch or plat shall show uses, and sizes of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas and drive-ways; existing highway access restrictions; and existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within 40 feet of the subject site.
- 5) A photocopy of Any Necessary Zoning Permits secured from the Calumet County Resource Management Department.
- 6) A Photocopy of any Necessary Sanitary Permits secured from the Calumet County Resource Management Department.
- 7) Additional Information as may be required by the Town Board, Plan Commission, or the Town Zoning Administrator or Building Inspector.

B) A Land Use Permit shall be granted or denied in writing by the Zoning Administrator within 9 working days after all the required information is provided. If denied, the reasons for such denial shall clearly appear upon the face of the notification of denial. Permits shall expire twelve (12) months after issuance unless substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void. Building construction shall be in a location in accordance with the sketched and staked area and inspection by the Zoning Administrator, otherwise the permit shall be null and void.

C) Fees in the amount set from time to time by resolution of the Town Board for each permit.

**19.3 Uses Not Requiring a Zoning Permit.** No Zoning Permit shall be required for any of the following cases:

- A) For Building an Accessory Building less than 200 square feet in area.
- B) For Any Improvement or alteration to an existing building less than 200 square feet in area which does not effect a change in use, setbacks or lot coverage.
- C) For Repairs that do not alter the size or position of an existing structure on a lot. Such repairs shall not include the replacement or alteration of bearing walls.
- D) Portable Structure.
- E) However, any work that qualifies for an exemption under this section shall be required to comply with the applicable setback, yard, height, and other requirements set forth in this Ordinance.

**19.4 Conditional Use Permit Required** -follow 15.0 of this code.

**19.5 Other Permits.** It is the responsibility of the permit applicant to secure all other necessary permits required by any state, federal agency or Calumet County- follow 2.6 of this code.

**19.6 Use Restrictions.** The following use restrictions and regulations shall apply:

- A) **Principal Uses.** Only those principal uses specified for a district, their essential services, and the following uses shall be permitted in the district.
- B) **Accessory Uses.** Accessory uses and structures are permitted in any district.
- C) **Conditional Uses.** Conditional Uses and their accessory uses are those which require review, public hearing, and approval by the Town Board in accordance with Section 15.0 of this code. The only conditional uses and structures permitted by this Ordinance shall be those enumerated in the Schedule of District Regulations.
- D) **Temporary Uses.** Temporary uses such as real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Zoning Administrator.

**19.7 Violations.** In the event any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure, or land is or is proposed to be used in violation of this ordinance, the Town Board, the Town Building Inspector, in addition to any other remedies provided by law, institute appropriate action or proceedings to prevent, restrain, enjoin, correct, or abate such violations, to prevent the occupancy of buildings or structures, or to prevent any illegal act, conduct, business, or use in or about such premises.

**19.8 Penalties.** Any person who violates any provisions of this ordinance or any other order, rule, or regulation made hereunder shall, upon conviction, be subject to forfeitures of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense, together with the costs of prosecution and attorneys' fees, and in default of payment of such amounts, shall be imprisoned in the county jail until such forfeitures are paid, but not to exceed thirty (30) days. Each day that a violation continues shall be considered a separate offense. In addition to the foregoing, the Town may seek injunctive relief and abatement orders in the event of a violation of this ordinance.

## **Section 20.0 Left Blank Intentionally.**

## **Section 21.0 Fees.**

**21.1 Land Use Permit.** A fee in an amount determined by the Town Board by resolution is required to be paid by the applicant for a zoning permit. The fee shall be paid to the Town Zoning Administrator upon application.

**21.2 Plan Commission.** A fee in an amount to be determined by the Town Board by resolution is required for any petition for the amendment of this zoning ordinance, which fee shall be paid to the Town Treasurer and receipt filed with the amendment petition. This provision shall not apply to amendments initiated by the Town Board.

**21.3 Fee for Board of Appeals.** A fee in an amount determined by the Town Board by resolution is required to be paid by the applicant for each application or appeal to the Board of Appeals, which fee shall be paid to the Town Treasurer and receipt therefore filed with the application. This fee shall not be required of any township officers acting in his/her official capacity.

**Section 22.0 Left Blank Intentionally.**

## **Section 23.0 Changes and Amendments.**

**23.1 Power of Amendment.** The Town Board may, from time to time on its own motion or on petition, amend, supplement or change this ordinance, including the Official Zoning Map.

### **23.2 Process for Application by Property Owner or Option Holder.**

A) An owner or owner's designated agent wishing to rezone his or her property shall meet or contact the Town Chairperson or designated Zoning Administrator to discuss the proposed rezoning. If the owner or owner's designated agent wishes to pursue a rezoning, they shall obtain, complete and file a rezoning application form with the Town Clerk accompanied by a nonrefundable fee which may be amended from time to time, as established by the Town Board by resolution, to cover costs of public notice and administrative review. The application form shall contain, at a minimum, the following information:

- 1) Applicant and property owner's name, address and telephone (cell) number.
- 2) Parcel information, including parcel number, legal description, street address, if any, dimensions and existing zoning, land use, and Land Use Plan designation.
- 3) Present zoning district and use of the property.
- 4) Proposed zoning district and description of proposed land use and/or structures.
- 5) Justification for rezoning.
- 6) Map of area, drawn to scale, outlining the parcel(s) requested for rezoning, identifying all adjacent streets, properties, existing zoning and present uses on all adjacent properties.

B) **Notification to Adjoining Property Owners and Municipalities** As a matter of practice, an earnest effort will be made to send, by regular mail, a copy of the notice for public hearing to the applicant or petitioner or their agent, and to the property owners (as recorded in the Calumet County Register of Deeds Office) of all lands located within 500 feet of any part of the parcel or parcels included in a zoning amendment petition, Conditional Use permit application, variance petition, or appeal. The failure to mail a notice to the above parties or the failure of such notice to reach any of the above parties does not invalidate any public hearing or any decision of the Plan Commission and/or Town Board or Board of Appeals.

### **23.3 Public Hearing and Notice.**

A) **Required Hearing** No amendment of this ordinance shall become effective until it is forwarded to the Plan Commission for review and recommendation. Once the Plan Commission forwards their recommendation to the Town Board, a public hearing is scheduled to allow parties in interest and citizens to be heard. If the Plan Commission does not provide a recommendation within 60 days, the Town Board may proceed to hold a public hearing without the recommendation.

B) **Notice of Hearing** A Class 2 notice in accordance with Chapter 985 of the Wisconsin



Statutes shall be published in the Town of Brothertown’s official newspaper once during each of the two weeks prior to the Town Board hearing.

- C) Notification to Adjoining Municipality At least 10 days before the public hearing, a written notice of such hearing shall also be given to the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the proposed amendment. Failure to give such notice shall not invalidate such amendment.

**Section 24.0 Effective Date and Repeal of Previous Zoning Ordinance.**

**24.1** This ordinance shall be in force from and after its passage, approval, publication and recording according to law.

**24.2** The Previous Zoning Ordinance, originally dated 5-22-2013 is hereby repealed on the date on which this ordinance becomes effective

TOWN OF BROTHERTOWN

\_\_\_\_\_  
Charles Schneider, Town Chairperson

\_\_\_\_\_  
LeAnne Karls Town Clerk  
Passed and Adopted: 3-27-2017

Prepared by Paul Birschbach. (Members)  
Birschbach Inspection Service INC.  
Note: April 1986 Zoning Code updated with 5-22-2013 Zoning Code.  
5-22-2013 Zoning Code updated with 3-27-2017 Zoning Code.  
3-27-2017 Change S.F.20 Calumet County Shoreland Zoning Change.  
Passed by Calumet Co. Board April 12 2017 Resolution 2017-03

# Ordinance to Adopt the Wisconsin Municipal Records Schedule #2022 - 02

## SECTION 1- TITLE AND PURPOSE

This ordinance is entitled the Town of Brothertown Ordinance to Adopt the Wisconsin Municipal Records Schedule. The purpose of this ordinance is to provide the legal custodian(s) of public records in the possession of the Town of Brothertown with the authority to retain and destroy those records.

## SECTION II: AUTHORITY

The Town Board of the Town of Brothertown, County, Wisconsin, has the specific authority under ss. 60.83 and ss. 19.21(4), Wis. Stats., to adopt an ordinance to address the management and destruction of public records.

## SECTION III: ADOPTION OF WISCONSIN MUNICIPAL RECORDS SCHEDULE

The Wisconsin Municipal Records Schedule, as approved by the Public Records Board on August 27, 2018, attached hereto and incorporated herein by reference, is hereby adopted by the Town Board of Brothertown as the Town's official record retention schedule.

## SECTION IV: NOTIFICATION TO WISCONSIN STATE HISTORICAL SOCIETY

When a record has met the terms of the retention period, the record may be destroyed by the legal custodian of the record, provided the custodian has complied with the notification requirement set forth in s. 19.21(4), Wis. Stats., to the Wisconsin State Historical Society.

## SECTION V: CONFLICT

In the event of any conflict between the terms of this ordinance and any applicable state statute, the applicable state statute shall control.

## SECTION VII: REVOCATION OF PRECEDING ORDINANCE

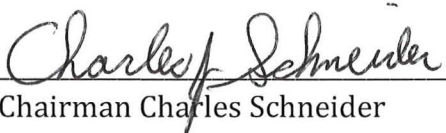
This ordinance hereby revokes and supersedes any prior resolutions or ordinances adopted by the town board relating to the retention and/or destruction of public records of the Town of Brothertown.

## SECTION VIII: EFFECTIVE DATE

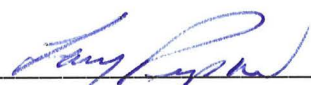
This ordinance shall become effective upon its publication and/or posting in the manner set forth in s. 60.80, Wis. Stats.


Adopted this 6<sup>th</sup> day of September, 2022.

By the Town Board of the Town of Brothertown, Calumet County:

  
Chairman Charles Schneider

  
Supervisor Doug Marcelle

  
Supervisor Larry Propson

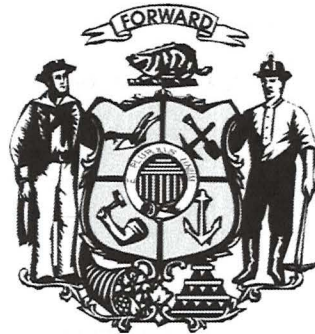
Attest:   
LeAnne Karls, Town Clerk

# General Records Schedule

## *Wisconsin Municipal and Related Records*

Approved by the Public Records Board:

***August 27, 2018***



Expiration: August 27, 2028

For use by all units of Wisconsin Government at the Municipal level

## Introduction:

Records are a basic tool of transacting business on behalf of all local government units. They are the foundation for government accountability. Records management is regulated by Wisconsin state law, and accordingly, the Wisconsin Municipal Records Schedule (WMRS), upon adoption, provides legal authorization to dispose of records on a regularly scheduled basis. The schedule serves as a mechanism for consistent retention and disposition of similar types of records across all municipal governments and provides assurance of accountability to the public.

The schedule was developed following guidelines for complying with legal, fiscal, and archival requirements for records retention and facilitates cost-effective management of records commonly found in municipal governments.

Wisconsin Statute § 19.21(1) defines public records as “all property and things received from the officer’s predecessor or other persons and required by law to be filed, deposited, or kept in the officer’s office, or which are in the lawful possession or control of the officer or the officer’s deputies.” Records are defined by Wisconsin Statute § 19.32(2) as “any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, that has been created or is being kept by an authority.” Public records are also defined as being “all books, papers, maps, photographs, films, recordings, optical discs, electronically formatted documents, or other documentary materials, regardless of physical form or characteristics, made or received by any state agency or its officers or employees in connection with the transaction of public business” (Wis. Stat. § 16.61(2)(b)).

### I. Applicability:

The WRMS is available for adoption by all Wisconsin cities, villages, and towns; along with other non-county local units of government. County governments should refer to the County General Schedule for their record retention requirements. The WMRS is intended to serve as guidance for records that are created or received by your particular unit. Adopting the schedule does not require local units to begin creating any record series that they currently do not produce.

Records retention guidelines apply regardless of record format. Records covered by the WMRS may be retained in electronic, paper, or other formats. The schedule applies to all records: born digital (including those created or transmitted via e-mail), data contained in database systems, tapes/cartridges and other types of electronic records and information systems maintained by agencies. Municipalities must also meet the standards and requirements for the management of electronic records outlined in Chapter Adm. 12.

Specific schedules may also be set by Records Disposition Authorizations (RDAs). Please consult the PRB webpage on [Information for Counties and Municipalities](#) for more information and instructions.

Municipalities that choose not to adopt the WMRS are still required to schedule the destruction of obsolete records through ordinance as stated in Wis. Stat. 19.21(4). Retention periods that are not specifically set by state statutes CANNOT be scheduled for less than 7 years without approval from the PRB.

**IV. Using the Schedule:**

The WMRS is arranged in five different sections covering the record series created by municipal governments. Some sections are broken down into subsections to provide easier reference. The following is an example of the format used in each section and an explanation of the information found in each column.

Record Series Title	Series Description	Retention	Confidential	WHS Notification
<b>Subsection</b>				

- Record Series Title – Descriptive title of the record series. This is a basic title, not necessarily universally used by all municipalities.
- Series Description – Brief overview of the records that are included in the record series.
  - If a specific statute or legal source defines a retention period for the records it is identified in this field.
- Retention – Indicates the minimum time period a record series must be maintained and a description of what initiates the start of the retention clock.
  - **Creation:** Is used when the creation of the record initiates the retention time period. (*Example:* If a RDA existed for ABC Annual Reports, the event might be written as *Creation+ 3 years* meaning an ABC Annual Report must be retained for three years after it is created.)
  - **Fiscal:** Is used if the retention time period is initiated by the end of a fiscal year. (*Example:* RDAs that exist for annual budgets might be written as *Fiscal+ 6 years* meaning a budget would have to be retained for six years after the end of that fiscal year.)
  - **Event:** Is used if a specific event other than Creation or Fiscal initiates the retention time period. (*Example:* A RDA that exists for a housing relocation program has the event written as *Event+ 5 years; Event=Approval Letter for Relocation Plan*". In this scenario, it means all records associated with this RDA have to be retained for five years after the official letter was sent by the state to approve the relocation plan.)

- Permanent: Records identified as “permanent” have been identified as containing significant historical information and long term business value. Therefore municipalities are responsible for ensuring the long-term preservation of these records. The Wisconsin Historical Society will, in certain circumstances, accept “permanent” records for transfer if the municipality is unable to maintain these records.

Records that have passed their retention period should not be destroyed if any of the following conditions apply:

- Records are required for financial or performance audits either currently underway or known to be planned.
- Records are subject to a “legal hold” because they may be relevant to an existing, pending, or anticipated legal proceeding.
- A related open records request has been received and not completed, or statutorily required time periods have expired.

## V. Confidential Records and Personally Identifiable Information (PII)

### Confidential Records:

Some records series may contain confidential or restricted access records. The WMRS identifies any record series containing information required by Wisconsin Statute, administrative rule, or other legal authority to be kept confidential or protected from public access. The confidential column is marked “yes” if ANY records in the series may contain confidential information.

Even when specific confidentiality statutes do not apply, application of substantive common law principles through the balancing test considerations under Wis. Stat. § 19.35(1)(a), may affect disclosure of the record under the public records law.

When an individual or an individual’s representative makes an open records request for records containing personally identifiable information about that individual, there is no balancing test, but the disclosure exceptions under Wis. Stat. §19.35(1)(am), must be considered. Wis. Stat. §19.35(1)(am) exceptions include:

- endangering an individual’s life or safety;
- endangering the security of a prison, including the security of the population or staff;
- identifying a confidential informant; and
- records collected or maintained in connection with complaints, investigations, or other circumstances that may lead to various administrative or court proceedings.

It is strongly recommended that local governments consult with legal counsel when responding to an open records request. Additional resources on open records requests can be found by visiting the Wisconsin Department of Justice, [Office of Open Government’s website](#).

## Administrative Records

### Requirements Specific to Administrative Records

The Administrative Records section is organized by the following subsections:

- Administration (general)
- Common Council/Village Board/Town Board
- Emergency Planning
- Human Resources/Personnel
- Legal
- Licenses and Permits
- Municipal Land Ownership
- Municipal Vehicles
- Payroll
- Real Property Titles

This section is intended to provide municipalities with schedules for the most common record series generally grouped under this topic. Municipalities that are in need of schedules for records not covered in this section are encouraged to review and consult the appropriate General Records Schedules listed below:

- [Administrative Records General Schedule](#)
- [Fleet and Aircraft Management Records](#)
- [Human Resources and Related General Schedule](#)
- [Payroll & Related General Schedule](#)

Municipal Court Records are scheduled by [Supreme Court Rule 72](#), which specifies the retention periods for court records and requires municipal courts to give 60 day notice to the Wisconsin Historical Society prior to destroying obsolete records. Furthermore, SCR 72 states that notice is not required for records in which “the historical society has indicated, by blanket waiver, that it has no interest for historical purposes.” The Wisconsin Historical Society has waived the sixty-day notification period for all municipal court records dated 1941 or later. This waiver applies to all municipal courts throughout the state and allows for the disposal of municipal court records without further notification. Municipal Courts are still obligated to maintain the records for the minimum time specified in Supreme Court Rule 72. Please contact the Wisconsin Historical Society if you have any questions regarding Municipal Court Records.

**Note:** Notification should be given on any records 75 years or older regardless if they are marked waived.

Record Series Title	Series Description	Retention	Confidential	WHS Notification
Contracts and Agreements	Any contracts or agreements to which the municipality is a party.	Event+6; Event=End date or cancellation of contract	No	Waive
Correspondence (Senior Level or Elected Official)	Business-related correspondence (paper and electronic) of senior level staff and elected officials.	Event+6 months; Event=Separation from position/end of term  Note: Correspondence that relates specifically to a program or project may need to be retained per that particular schedule	No	Notify
Correspondence (General Staff)	Business-related correspondence (paper and electronic) of non-appointed general staff.	Event+1 year; Event=Creation or receipt  Note: Correspondence that relates specifically to a program or project may need to be retained per that particular schedule	No	Waive



<b>Record Series Title</b>	<b>Series Description</b>	<b>Retention</b>	<b>Confidential</b>	<b>WHS Notification</b>
Oath of Office	Elected or appointed municipal officers may be required to take, and file in writing, an official oath within ten days after receiving notice of election or appointment.	Event+5 years; Event=End of term	No	Waive
Open Records Requests and Responses	Records relating to regular and reformulated, repetitious, systematic or continuing requests by individuals, groups or organizations for access to general information under the provisions of the Wis. Stats. §§ 19.35-19.37.	Event+3 years; Event=Response provided	No	Waive
Organizational Chart	Repository of the official organizational structure of offices.	Event; Event=Superseded	No	Waive
Organizational Planning	Includes division and unit strategic business and operational planning files such as, but not limited to, final plan and significant work papers.	Event+7 years; Event=Completion of plan	No	Notify
Petitions	Petitions submitted to municipalities for improvements or changes to existing municipal services/structures.	Event+7 years; Event=Petition approved or denied	No	Waived

Record Series Title	Series Description	Retention	Confidential	WHS Notification
<b>Common Council/Village Board/Town Board</b>				
Affidavits of Publication	Records providing proof of publication for legal notices as required by law. (Note: See Wis. Stat. § 985.12 for more information on proof of publication).	Event+7 years; Event=Date of publication	No	Waive
Audio Tapes	Recordings of meetings used to produce minutes. Authority provided by Wis. Stat. § 19.21(7).	Event+90 days; Event=Date the minutes have been approved and published	No	Waive
Minutes (Common Council)	Official minutes of the Common Council/Village Board/Town Board.	Permanent	No	N/A
Ordinances	Official ordinances and any ordinance books kept by municipalities.	Permanent	No	N/A
Resolutions	Official records pertaining to resolutions passed by municipalities.	Permanent	No	N/A

Record Series Title	Series Description	Retention	Confidential	WHS Notification
Personnel Files	Documents employee personnel actions during the employment of the employee. Applies to ALL employees.	Event+7 years; Event=End of employment/service	No <sup>4</sup>	Waive
<b>Legal</b>				
Attorney Opinions	Municipal attorney opinions given to answer specific questions regarding the interpretation and application of statutes and ordinances, or other legal matters.	Permanent	No <sup>5</sup>	N/A
Case Files	Files include, but are not limited to, pleadings and legal arguments, evidence, research, orders, legal summons and subpoenas issued. <sup>6</sup>	Event+7 years; Event=Close of case	No <sup>7</sup>	Notify on historically significant cases only <sup>8</sup>

<sup>4</sup> No specific statutes restrict this type of record. However, the balancing test per Wis. Stat. § 19.35(1)(a) should be applied prior to releasing this type of record. Personnel files may contain patient health records which may be protected by Wis. Stat. § 146.82 and/or the Health Insurance Portability and Accountability Act (HIPAA).

<sup>5</sup> Records may contain material protected by Attorney-Client Privilege Wis. Stat. § 905.03.

<sup>6</sup> Records may contain the client file with information pertaining to expenses, attorney notes, medical records, government agency filings, discovery such as requests for production of documents, deposition transcripts, and evidence.

<sup>7</sup> Records may contain material protected by Attorney-Client Privilege Wis. Stat. § 905.03.

<sup>8</sup> Historically significant case files include those that have established legal precedents; cases that received widespread attention from the public and news media; and cases recognized for their uniqueness. Examples of such cases include, but are not limited to, major civil rights cases, major labor relations cases, major environmental cases, cases dealing tribal governments and treaty rights, major cases with constitutional implications, and cases related to major prosecutions of public officials.

Record Series Title	Series Description	Retention	Confidential	WHS Notification
<b>Municipal Land Ownership</b>				
Land Titles, Conveyances and Easements	Documentation for municipal owned land. Also includes any legal rights granted to others that relate to municipal owned land.	Permanent	No	N/A
Sales of Facilities and/or Land (Case Files)	Includes appraisals and related valuations. Projects where a municipality plans or actually sells either facilities and/or land assets.	Event+6 years; Event=date of the completion of the transaction	No	Waived
<b>Municipal Vehicles</b>				
Motor Vehicle Control and Assignment Records	Documentation of agency motor vehicle assignments to employees. Includes completed documentation on reservations for pool cars, individual trips, driver profiles, check-in and checkout logs.	Event+1 year; Event=date the vehicle is disposed	No	Waived
Motor Vehicle and Heavy Equipment Maintenance Records	Records documenting service and repair orders to motor vehicles. These records normally include maintenance orders, logs, fiscal documents, such as requisitions or purchase orders for parts or services, vehicle warranties, operation and repair manuals and parts lists.	Event+1 year; Event=date the vehicle is disposed	No	Waived

<b>Record Series Title</b>	<b>Series Description</b>	<b>Retention</b>	<b>Confidential</b>	<b>WHS Notification</b>
Payrolls and Payroll Registers	Payroll listings showing gross and net pay, as well as deductions for state employees. Referred to on questions of back pay and income taxes.	Creation+4 years	No	Waived
<b>Real Property Titles</b>				
Title Documentation	Records documenting the title of land owned by the municipality including the abstract and certificate of title, opinions of title, and title insurance policies.	Permanent	No	N/A

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Record Series Title	Series Description	Retention and Disposition	Confidential	WHS Notification
Contract for Sale	Copy of each contract for the sale of a cemetery lot, mausoleum space, or cemetery merchandise. Authority provided by Wis. Stat. § 157.62(4).	Event=3 years; Event=After all of the obligations of the contract have been fulfilled	No	Waive
Grave Registration Records	Records that describe who is buried, the date of death, interment and location of the remains.	Permanent	No	N/A
Preneed Trust Funds	An accounting of amounts deposited in, amounts withdrawn from, income accruing to, and the balance at the close of the reporting period of any preneed trust funds of the cemetery. Including records that show, for each deposit, the name of the purchaser or beneficiary of the contract relating to the deposit and the item purchased. Authority provided by Wis. Stat. § 157.62(4).	Event+15 years; Event=Date of the deposit or withdrawal	Yes Confidential per Wis. Stat. § 157.62(2)(c)	Waive
Reburial of Human Remains	Includes records confirming an attempt to notify individuals specified in Wis. Stat. 157.112(3)(b)1.-4. when none of the individuals specified are available. Authority provided by Wis. Stat. § 157.112(3m).	Permanent	No	N/A

## Community Development/Public Services

### Requirements Specific to Community Development/Public Services

The Community Development/Public Services section is organized by the following subsections:

- Housing Program
- Outreach
- Parks
- Public Transportation
- Sanitation

This section is intended to provide municipalities with schedules for the most common record series generally grouped under this topic. Municipalities that are in need of schedules for records not covered in this section are encouraged to review the County General Schedule for reference on scheduling similar records. The County General Schedule cannot be adopted by municipalities for use, but the schedules can be used for creating record schedules through municipal ordinances.

Municipalities that have records pertaining to Public Health should use the County General Schedule to create ordinances to schedule those records.

The retention of public transportation surveillance recordings is covered by the schedule for surveillance recordings listed under the subsection Maintenance and Operations in the Public Works section.

**Note:** Notification should be given on any records 75 years or older regardless if they are marked waived.

<b>Record Series Title</b>	<b>Series Description</b>	<b>Retention and Disposition</b>	<b>Confidential</b>	<b>Waive/Notify</b>
Reservation Requests, Rental Agreements, Use Permits, and Contracts	Permits, agreements, and contracts for the use of parks, shelters, and facilities.	Event+3 years; Event=Date of reservation	No	Waived
Supervisors Daily Report of Work Completed	Summarizes progress made on a particular job, noting the time required, employees assigned and vehicles used.	Creation+2 years	No	Waived
<b>Public Transportation</b>				
Accessible Boarding Reports	Reports documenting the accessibility of vehicles.	Creation+5 years	No	Waive
Americans with Disabilities Act (ADA) Customer Eligibility Files	Files determining the eligibility of customers for ADA transit programs.	Event+6 years; Event=Termination of service or participation by customer	Yes Patient health information may be protected by Wis. Stat. § 146.82	Waive
Bus Route Schedules and Timetables	Documentation of transit schedules, timetables, routes, and route history.	Event+3 years; Event=Superseded	No	Waive



<b>Record Series Title</b>	<b>Series Description</b>	<b>Retention and Disposition</b>	<b>Confidential</b>	<b>Waive/Notify</b>
Curbside Recycling Program	Documentation of the curbside recycling program including policies, procedures, and administration of the program.	Event+7 years; Event=superseded	No	Waive
Drop Off Site/Recycling Yard Waste	Site operation files and records.	Creation+7 years	No	Waive
Household Hazardous Waste Collection Center	Records related to the collection and disposal of paints, corrosives, flammables, toxics, used motor oil, and car/truck batteries.	Creation+30 years	No	Waive
Landfill/Garbage Dump Sites	Location of any fill, records of materials deposited, cover materials used, reports of leachate and methane leakage and treatment, source of fill materials, (household, commercial) source of cover materials, and inspection reports.	Permanent	No	N/A

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<b>Record Series Title</b>	<b>Series Description</b>	<b>Retention and Disposition</b>	<b>Confidential</b>	<b>WHS Notification</b>
Applications for Absentee Ballots (State, County, Local Elections)	Includes copies of proof of identification when submitted with application. Authority provided by Wis. Stat. § 7.23(1)(k).	Event+90 days; Event=Election	No	Waived
Ballots (Federal Elections)	Federal election ballots. Authority provided by Wis. Stat. § 7.23(1)(f).	Event+22 months; Event=Election	No	Waived
Ballots (State, County, Local Elections)	State, county, local offices. Authority provided by Wis. Stat. § 7.23(1)(h).	Event+30 days; Event=Election	No	Waived
Ballots (Unused and related Materials)	Only applies to unused ballots and materials. Authority provided by Wis. Stat. § 7.23(1)(a).	Event+3 business days; Event=Completion of all election canvasses <sup>11</sup>	No	Waived

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<sup>11</sup> Materials must be retained in event a petition for recount has been filed.

<b>Record Series Title</b>	<b>Series Description</b>	<b>Retention and Disposition</b>	<b>Confidential</b>	<b>WHS Notification</b>
Campaign Registration Statements	Statements filed by candidates for public office. Includes Notification of Non-candidacy for reelection forms. Authority provided by Wis. Stat. § 7.23(1)(d).	Event+6 years; Event=termination issued by the registrant	No	Waived
<b>Reports and Lists</b>				
Official Canvassers Statements	Prepared statement showing the results of each election. Authority provided by Wis. Stat. § 7.23(1)(i).	Event+10 years; Event=election	No	Waived
Election Notices	Includes proofs of publication and correspondence filed in connection with such notices. Authority provided by Wis. Stat. § 7.23(1)(j).	Event+1 year; Event=Election	No	Waived
Election Notices (Federal Elections)	Includes proofs of publication and correspondence filed in connection with such notices. Authority provided by Wis. Stat. § 7.23(1)(j).	Event=22 months; Event=Election	No	Waived
Election Voting and Registration Statistics Reports	Reports filed by municipal clerks on registration, voting, and absentee voting. Authority provided by Wis. Stat. §§ 6.275-6.276.	Event+22 months; Event=Election	No	Waived

## Finance Records

### Requirements Specific to Finance Records

The Finance section is organized by the following subsections:

- Budget
- Fiscal
- Purchasing

Municipalities are encouraged to adopt the following general schedules in instances where this schedule does not adequately provide coverage for all types of records that could be created:

- [Budget & Related General Records Schedule](#)
- [Fiscal & Accounting Related Records General Schedule](#)
- [Purchasing & Procurement General Schedule](#)

**Note:** Records in this series may contain confidential or restricted information. Even when specific confidentiality statutes do not apply, application of substantive common law principles through the balancing test considerations under Wis. Stat. § 19.35(1)(a), may affect disclosure of the record under the public records law. Please consult [Section V: Confidential Records and Personally Identifiable Information \(PII\)](#) of the Introduction for more information on this topic.

**Note:** Notification should be given on any records 75 years or older regardless if they are marked waived.

Record Series Title	Series Description	Retention and Disposition	Confidential	WHS Notification
<b>Budget</b>				
Approved Annual Operating Budget	Records related to establishing the base level agency annual operating budget each fiscal year.	Fiscal+6 years	No	Waived

Record Series Title	Series Description	Retention and Disposition	Confidential	WHS Notification
<b>Payments and Receipts</b>				
Bank Statements/ Reconciliations	Statements received from institutions holding the municipality's funds.	Creation+7 years	No	Waived
Cashbook	Overall record accounting for receipts and disbursements, usually for fiscal or calendar year.	Event+7 years; Event=Audit	No	Waived
Collection & Disbursement Reports	Reports showing the amounts collected, amounts retained by county/local government, and portion sent to state.	Event+3 years; Event=Transaction date	No	Waived
Credit Card Receipts or Information Received from Sales	Credit card receipts and related documentation associated with credit card transactions.	Event+3 years; Event=Transaction date	No	Waived
Financial support records	Records used in reconciling bank statements and verifying expenditures. Includes, but not limited to, credit/debit notices, cash reconciliations, and deposit stubs.	Event+1 year; Event=Audit	No	Waived

## Public Works

### Requirements Specific to Public Works

Records in the Public Works section are arranged under the following subsections:

- Building Inspection
- Engineering
- Maintenance and Operations
- Planning and Zoning
- Utilities

The Public Works section is intended to provide municipalities with schedules for the most common record series generally grouped under this topic. Municipalities that are in need of schedules for records not covered in this section are encouraged to review and consult the appropriate General Records Schedules listed below:

- Facilities Management and Related Records

Wis. Stat. § 19.21(4)(b) defines the minimum retention cities, villages, and towns may set for water stubs, receipts of current billing, and customer's ledgers of any municipal utility as 2 years. In addition, municipalities should check the schedule set by the Public Service Commission of Wisconsin (PSC) for Municipal Utilities. A complete list of records and schedules is located in "Investigation to Consider Proposed Changes to Records Retention Requirements for Electric, Gas and Water Utilities."

Schedules specific to Police/First Responder records are not included in the WMRS. Consult the County General Schedule for records schedules for similar records which can be used as a basis for the creation of schedules and/or ordinances.

Surveillance recording schedule applies to municipally operated security footage for public buildings, street cameras, and public transportation. The schedule **does not apply** to footage recorded by police body cameras, patrol dashboard cameras, or any similar police recording device.

Municipalities should have adequate and clear procedures in place that explain the proper handling and destruction of surveillance recordings. Clear communication with appropriate municipal personnel will help to ensure that the record is not destroyed prematurely and public requests and/or any legal or program needs are met in a timely manner.

**Note:** Notification should be given on any records 75 years or older regardless if they are marked waived.

<b>Record Series Title</b>	<b>Series Description</b>	<b>Retention and Disposition</b>	<b>Confidential</b>	<b>WHS Notification</b>
Building Plans: Residential 1 and 2 Family Dwellings	Includes architectural, design specs, structural and utility plans submitted for inspection review. Authority provided by Wis. Admin. Code § SPS 320.10(6)(a)2.	Event+4 years; Event=Construction completed	No	Waived
Building Inspection: Residential 1 and 2 Family Dwellings	Applications forms, correction orders, correspondence and inspection records. Authority provided by Wis. Admin. Code § SPS 320.10(6)(a)3.	Event+ 7 years; Event=Construction completed	No	Waived
Code Compliance Inspection Reports	Reports completed during field investigations to determine if buildings and system installations comply with the specifications of appropriate codes.	Permanent	No	N/A
<b>Engineering</b>				
Airport Improvement Petition File	Material submitted to the Department of Transportation when a municipality wants to make an improvement to the airport. Records may include public hearing records, briefs, reports and recommendations, and correspondence.	Event+7; Event=petition submitted to DOT	No	Waived
Airport Master Plan	The Airport Master Plan provides information about the condition of the airport and projects development for the next 20 years.	Event+20 years; Event=new plan issued	No	Notify

Record Series Title	Series Description	Retention and Disposition	Confidential	WHS Notification
Municipal Project Records	All documents pertaining to a project including, design and construction contracts, proposed and approved amendments to all contracts, bidding plans and specifications, details on materials used on each project, and all other related project materials. Use for buildings, streets, sewers, sidewalks, etc.	Event+10 years; Event=Date project is completed	No	Waived
Municipal Project Records (Historically Significant)	Use for historically significant projects. (Projects are typically large-scale and may include new construction of a major municipal facility, as well as projects involving facilities significant to the State of WI or United States history; buildings on the State or National Register of Historic Places.)	Event; Event=Life of structure	No	Notify
<b>Maintenance and Operations</b>				
American with Disabilities Act (ADA) Facility Reviews	Records cover ADA inspections, investigations, complaint investigations, facility logs and reports regarding ADA compliance relating to facilities and structures.	Event+6 years; Event=Close of review or audit	No	Waived
Asbestos and Hazardous Material and Environmental Remediation Case File	Project files on asbestos abatement and hazardous materials and environmental remediation projects at state owned buildings. <sup>17</sup>	Event+30 years; Event=Completion of the project	Yes <sup>18</sup>	Waived



<b>Record Series Title</b>	<b>Series Description</b>	<b>Retention and Disposition</b>	<b>Confidential</b>	<b>WHS Notification</b>
Building Maintenance: Equipment Repair and Service Records	Documents the installation, maintenance, service and history of equipment commonly used to maintain facilities.	Event+1 month; Event=Removal and disposal of equipment	No	Waived
Building Lease Files	Files on leased facilities.	Event+7 years; Event=End of lease	No	Waived
Maps	Series may document road locations or surfaces, zoning information, parks, flood plains, soils, or parcel boundaries. This record series may also include indexes to maps. <sup>19</sup>	Permanent	No	N/A
Physical Plant Monitoring and Inspection Reports	Records documenting the operation of all facets of facilities: VAC; plumbing, mechanical, electrical, structural as well as special monitoring of building components.	Creation+6 years	No	Waived

<sup>19</sup> Copies of maps that are retained by local government offices after originals have been sent to other government units for retention may be destroyed 90 days after they have been transferred. An example of this are copies of certified survey maps created by local units and then sent to the county register of deeds office for retention under Wis. Stat. § 236.34(2).

Record Series Title	Series Description	Retention and Disposition	Confidential	WHS Notification
<b>Planning and Zoning</b>				
Aerial Photographs	Aerial photographs used for planning and map creation.	Event; Event=Superseded	No	Notify
Annexation Records	Incorporation records such as petitions, hearing testimony and exhibits, court orders, notices, resolutions, and related correspondence. <sup>23</sup>	Permanent	No	N/A
Comprehensive Growth and Development Plan	Provides general goals, objectives, policies and implementation recommendations to guide the future growth and development of the city.	Event+14 years; Event=Superseded by new plan	No	Notify
Conditional Use Permits	Applications and related documents for a conditional use permit. Applications include site plan, applicate statement, and evidence evidence/documentation.  This series may also include public hearing notice, reports, public hearing documentation, and decision.	Event+7 years; Event=termination of conditional use permit	No	Waived

<sup>23</sup> Records cover proposed incorporations of town areas into cities and villages pursuant to Wis. Stat. § 66.0201 - § 66.0209, and municipal consolidations of towns with cities and villages pursuant to Wis. Stat. § 66.0229.

<b>Record Series Title</b>	<b>Series Description</b>	<b>Retention and Disposition</b>	<b>Confidential</b>	<b>WHS Notification</b>
Zoning Appeals, Unapproved	Material submitted to appeal a zoning decision. May include maps, rezoning application, written local description of the proposed zoning boundaries, and drawings of the boundaries. Also includes public hearing records.	Event+7 years; Event=Final appeal is closed	No	Notify
Zoning Board and Zoning Board of Appeals Meeting Material	Agendas, minutes, reports, plans, and other material submitted to the Zoning Board, and/or Zoning Board of Appeals.	Permanent	No	N/A
Zoning Ordinance	The text of the zoning ordinance spells out uniform rules that apply to each zoning district including: uses of the land (permitted, conditional and prohibited uses), dimensional standards (lot size, frontage, setbacks, building height, bulk, floor area), and the density of development. Authority provided by Wis. Stat. § 60.61.	Permanent	No	N/A
Zoning, Rezoning Files	May include, but is not limited to, maps, rezoning application, written local description of the proposed zoning boundaries, and drawings of the boundaries. Also includes public hearing records.	Permanent	No	N/A
Zoning Variance Files	Records related to area and use variances. Documentation submitted by landowners to secure a variance to the zoning ordinance.	Permanent	No	N/A

<b>Record Series Title</b>	<b>Series Description</b>	<b>Retention and Disposition</b>	<b>Confidential</b>	<b>WHS Notification</b>
Water and Sewer Main Break Records	A record documenting the history of breaks in water and sewer main lines.	Permanent	No	N/A
Water, Storm, and Sanitary Sewer Main Maps	Maps providing the location of water, storm, and sanitary sewer mains. Also provides information about the depth, slope, size and composition of these features.	Permanent	No	N/A

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Record Series Title	Series Description	Retention and Disposition	Confidential	WHS Notification
<b>Assessment</b>				
Assessor' Final Reports	Documents yearly changes to master property record and personal property returns. Final report is filed with DOR.	Event+5 years; Event=Final report filed with DOR	No	Waive
Cadastral Maps	Includes any plats, assessor's plats, certified surveys, or aerial photographs used in determining taxable boundaries.	Permanent	No	N/A
Final Assessment Rolls	Both real and personal property rolls.	Creation+15 years (Provided no Forest Crop Acreage is recorded) <sup>25</sup>	No	Notify
Master Property Records	Details the appraisal of real property, based on the field inspections of the assessor.	Event+5 years; Event=Life of structure	No	Notify

<sup>25</sup> Wis. Stat. § 19.21(4)(a) states that no assessment roll that contains forest crop acreage may be destroyed without the prior approval of the secretary of revenue. Notification to the Wisconsin Historical Society is still required before approved assessment rolls can be destroyed.

<b>Record Series Title</b>	<b>Series Description</b>	<b>Retention and Disposition</b>	<b>Confidential</b>	<b>WHS Notification</b>
Notice of Determination	Final decisions sent to property owners. Authority provided by Wis. Stat. § 70.47(12).	Event+7 years; Event=Final action of Board of Review or completion of appeal	No	Waive
Proceedings	Includes audio recordings and any transcripts of board of review proceedings, along with any notes taken by clerk. Authority provided by Wis. Stat. § 70.47(8)(f).	Event+7 years; Event=Final action of Board of Review or completion of appeal	No	Waive
<b>Special Assessments</b>				
Final Resolution	Final authorization of special assessments. Authority provided by Wis. Stat. § 66.0703(8)(d).	Permanent	No	N/A
Payment Register	Record of the receipt of scheduled payments.	Event+7 years; Event=Final collection of payments	No	Waive
Preliminary Resolutions	Issued by municipal district describing the purpose of the project, calculations, limits of assessment district, and number of installments to be paid. Authority provided by Wis. Stat. § 66.0703(4).	Creation+2 years (provided report is on file with public works project record)	No	Waive

<b>Record Series Title</b>	<b>Series Description</b>	<b>Retention and Disposition</b>	<b>Confidential</b>	<b>WHS Notification</b>
Tax Receipts	Receipts issued by treasurer upon payment of taxes. Includes any supporting documents associated with issuing and recording receipts of payments.	Event+7 years; Event=Audit of records by outside accounting firm	No	Waive
Tax Settlements	Used to verify tax collections compared to the taxes levied in the municipal records.	Event+7 years; Event=Audit	No	Waive
Unpaid Tax Statements	List of postponed real property, delinquent real property, and delinquent personal property taxes.	Creation+15 years (Retain with tax roll)	No	Waive

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# Ordinance for Referendum for Appointed Town Clerk and Town Treasurer

## Ordinance #2022-01

The Town Board of the Town of Brothertown, Calumet County, Wisconsin, does hereby ordain as follows:

That, pursuant to Wis. Stat. § 60.30(1e)(a), the offices of the town clerk and the town treasurer shall be filled by appointment of a majority of the members-elect of the town board.

The term of office for the appointed position(s) shall be set by the town board, but may not exceed 3 years per § 60.30(1e)(c). The town board may re-appoint the officer(s) for additional terms. However, removal by the town board during a given term of office may only be for "cause" as defined under § 17.001 and required by § 60.30(1e)(f).

This ordinance is subject to approval by the town electors in a referendum, which is hereby called by the Town Board to be held on November 8<sup>th</sup>, 2022. The referendum question(s) shall be:

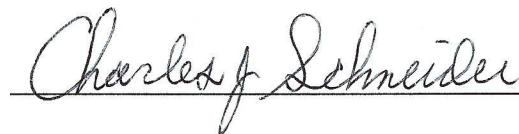
"Shall the person(s) holding the office of the town clerk and the office of the town treasurer in the Town of Brothertown be appointed by the town board?"

The salary of the appointed position(s) shall be set by the town board and may not be reduced during the term of office.

This ordinance shall be in full force and effect from and after the date of its town board passage, notice after passage per § 60.80 and also its referendum approval by the town electors as required by § 60.30(1e)(b).

Adopted this 1<sup>st</sup> day of March, 2022.

Town of Brothertown, Calumet County, Wisconsin.



Charles J. Schneider, Chairperson

Attestation:  LeAnne Karls, Clerk

Published/Posted: 03/05/2022



# ORDINANCE REQUIRING PAYMENT OF LOCAL CLAIMS AS CONDITION OF OBTAINING OR RENEWING TOWN ISSUED LICENSES


## Ordinance #2021-02


Town of Brothertown, Calumet County, ordains as follows:

1. DELINQUENCY: As a condition of obtaining or renewing a license, all local taxes, assessments, special charges, or other fees, including but not limited to municipal forfeitures from a violation of any town ordinance, shall be paid on a current basis. Any such local claims that remain unpaid within a time limit set by the town, or a court, as the case may be, place the licensee in a state of delinquency.
2. NEW APPLICANTS: New applicants for municipal licenses who are in a current state of delinquency on any local claim will be denied a license.
3. NOTICE REQUIREMENTS FOR RENEWAL APPLICATIONS: Prior to any denial of an application for renewal of a license, the applicant shall be given notice and opportunity for a hearing as hereinafter provided: Upon complaint by any person, or at board discretion, and following board review and approval, written notice shall be given to the licensee of the complaint basis, and the date and time the board will hear the matter. For non-alcohol licenses where no statutory procedure is set, service may be by first class mail to the licensee's last known address, or personal service, at the chairperson's option. For alcohol licenses, present Wisconsin Statute 125.12, or its successor will be followed for the provision of notice and the hearing. At present, the statute requires personal service of the hearing notice (summons) and complaint, and a hearing within 3-10 days thereafter. The clerk will keep a record of service. The town clerk shall also see that the hearing notice is properly posted or published, in compliance with the state open meetings law.
4. HEARING PROCEDURE: If the renewal applicant shall fail to appear before the board on the date indicated in the notice, the board shall deny the application for renewal. If the applicant appears before the board on the date indicated in the notice and denies the reasons for non-renewal exist, the board shall conduct a hearing with respect to the matter. At the hearing, both the town and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. If the town board determines the applicant shall not be entitled to renewal, the application shall be denied. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense.
5. SEVERABILITY: In the event any portion of this ordinance is or becomes invalid or illegal, the remaining portions shall remain in full force and effect.
6. EFFECT: This ordinance shall take effect following passage and posting in 3 public places within the town.

Adopted on: 03/02/2021

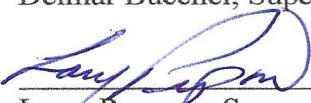
BY THE TOWN BOARD:

  
Charles J. Schneider, Chairperson

  
Delmar Buechel, Supervisor

ATTEST:   
LeAnne Karls, Town Clerk

Posted on: 03/14/2021

  
Larry Propson, Supervisor

# ORDINANCE ESTABLISHING REFUND POLICY FOR OVERPAYMENT OF TAXES

## Ordinance #2021-01

Town of Brothertown, Calumet County, ordains as follows:

WHEREAS, the Treasurer of the Town of Brothertown collects and receipts for real estate taxes paid by town residents; and

WHEREAS, from time to time, the payments received are in an amount that exceeds the actual amount due; and

WHEREAS, the Clerk of the Town of Brothertown refunds said overpayments to residents; and

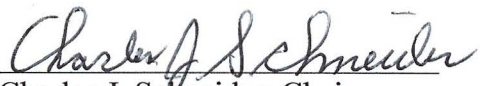
WHEREAS, the Town Board of the Town Brothertown, has determined that it is not economically feasible to process a refund for overpayments of less than \$5.00;

THEREFORE, it is hereby ordained by the Town Board of the Town Brothertown, that any overpayments received in an amount less than \$5.00 shall not be refunded; and furthermore, that any amounts not refunded be held in the General Fund of the Town of Brothertown.

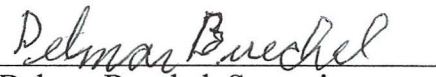
This ordinance shall take effect following passage and posting in 3 public places within the town.


BY THE TOWN BOARD:

Adopted on: 03/02/2021

  
Charles J. Schneider, Chairperson

ATTEST:   
LeAnne Karls, Town Clerk

  
Delmar Buechel, Supervisor

  
Larry Propson, Supervisor

Posted on: 03/14/2021

**ORDINANCE #2019-02**  
TOWN OF BROTHERTOWN  
CALUMET COUNTY, WISCONSIN

AN ORDINANCE DESIGNATING ALL-TERRAIN VEHICLE ROUTES AND REGULATING THE  
OPERATION OF ALL-TERRAIN VEHICLES WITHIN THE TOWN OF BROTHERTOWN

Be it hereby ordained, by the Town Board of the Town of Brothertown, Calumet County, Wisconsin as follows:

**SECTION 1: INTENT**

Following due consideration of the recreational value to connect trail opportunities and weighted against possible dangers, public health, liability aspects, terrain involved, traffic density, and the history of automobile traffic, the Town of Brothertown, Calumet County, Wisconsin, adopts and designates the following all-terrain vehicle (ATV) routes for the operation of ATVs upon the roadways set forth and designated in Section 3 below.

**SECTION 2: STATUTORY AUTHORITY AND REFERENCE**

This Ordinance is adopted pursuant to Wis. Stat. § 23.33(8)(b) and (11). All provisions of Wis. Stat. § 23.33, along with any future amendments thereto, are adopted and incorporated herein by reference to the fullest extent permitted by law.

**SECTION 3: ATV ROUTES**

All Town roadways, to the fullest extent permitted by law, are designated as ATV routes.

**SECTION 4: CONDITIONS**

As conditions for the use of ATVs on the ATV routes set forth and designated in Section 3 above, all ATV operators and passengers shall comply with all of the following:

- A. All ATV operators shall observe posted speed limits.
- B. All ATV operators shall ride in single file.
- C. All other applicable laws.

**SECTION 5: SIGNAGE**

All ATV routes set forth and designated in Section 3 above shall be signed in accordance with NR 64.12.

**SECTION 6: ENFORCEMENT**

This Ordinance may be enforced by any law enforcement officer authorized to enforce the laws in the State of Wisconsin.

**SECTION 7: PENALTIES**

The penalties set forth in Wis. Stat. § 23.33(13) are adopted and incorporated herein by reference.

**SECTION 8: SEVERABILITY**

The provisions of this Ordinance shall be deemed severable, and it is expressly declared that the Town of Brothertown, Calumet County, Wisconsin, would have adopted all other provisions of this Ordinance irrespective of whether or not one or more provisions of this Ordinance may be declared invalid. If any provision of this Ordinance, or if the application of this Ordinance to any person, entity, and / or circumstance, is declared invalid, the remainder of this Ordinance, and the application of such provisions to other persons, entities, and / or circumstances, shall remain in full force and effect.

**SECTION 9: NOTICE**

Pursuant to Wis. Stat. § 23.33(11)(b), immediately upon the adoption of this Ordinance, the Town Clerk shall send a copy of this Ordinance to the Wisconsin Department of Natural Resources, the State of Wisconsin Department of Transportation Division of State Patrol, and the Calumet County Sheriff's Office.

**SECTION 10: EFFECTIVE DATE**

This Ordinance shall become effective upon adoption and publication.

Adopted and passed this 6<sup>th</sup> day of August, 2019.

TOWN BOARD OF THE TOWN OF BROTHERTOWN

BY: Charles J. Schneider  
Charles J. Schneider, Chairman

BY: Delmar Buechel  
Delmar Buechel, Supervisor

BY: Larry Propson  
Larry Propson, Supervisor

ATTEST:

LeAnne Karls  
LeAnne Karls, Town Clerk

**ADDENDUM TO ORDINANCE #2019-02**

**ORDINANCE DESIGNATING ALL-TERRAIN VEHICLE ROUTES AND  
REGULATING THE OPERATION OF ALL-TERRAIN VEHICLES WITHIN THE  
TOWN OF BROTHERTOWN**

This ordinance is to apply to both All-Terrain Vehicles and Utility Terrain Vehicles.

Addendum approved on October 1<sup>st</sup>, 2019.

TOWN BOARD OF THE TOWN OF BROTHERTOWN

BY: Charles J. Schneider  
Charles J. Schneider, Chairman

BY: Delmar Buechel  
Delmar Buechel, Supervisor

BY: Larry Propson  
Larry Propson, Supervisor

**TOWN OF BROTHERTOWN, CALUMET COUNTY, WISCONSIN**  
**MANURE EQUIPMENT TRANSFER PERMIT ORDINANCE**  
**#2019 – 01**

The Town of Brothertown is in charge of public highways within its jurisdiction; and

the Town Board is aware of the agricultural practices related to land application of manure involving the use of frac tanks and dump stations and the need for their temporary location on public highways near the receiving fields; and

the Town deems it in the public interest to allow the temporary location of such manure transfer equipment in the right-of-way of public highways under limited conditions and subject to specific requirements as a cost effective method of manure removal and application; and

it is necessary and in the public interest to regulate this procedure for purposes of public health and safety;

Therefore, the Town Board of the Town of Brothertown, Calumet County, Wisconsin, pursuant to Section 60.22, Wis. Stat. and its village powers and its statutory authority over the regulation of the public highways, do ordain as follows:

**1. PERMIT REQUIRED.**

(A) No person shall Locate Manure Transfer Equipment within the right-of-way without first obtaining a permit from the Town Highway Supervisor.

(B) An annual permit application shall be completed by the owner or operator of the Manure Source. The permit application can be obtained by contacting the Highway Supervisor at (920) 849-9008. The application fee of \$100.00 is due per calendar year and prior to review. The Highway Supervisor may also require additional information including, but not limited to, Certificates of Insurance from one or more of the parties involved in the Manure Transfer meeting the insurance requirements as stated below.

(C) The minimum insurance requirements to obtain a permit are:

(1) Farm or general liability - \$1,000,000 aggregate, \$500,000 per occurrence.

(2) Farm and/or business automobile coverage - \$500,000 each person/\$500,000 each accident for bodily injury and \$1,000,000 for property damage, or \$1,000,000 combined single limit for bodily injury and property damage for each accident.

(3) Pollution liability coverage - \$1,000,000 general aggregate/\$1,000,000 each occurrence limit.

(4) All insurance policies shall name the Town of Brothertown as an additional insured. All insurance policies shall be issued by companies licensed to sell insurance in the State of Wisconsin. All insurance policies shall contain the provision requiring 30 days advanced notice cancellation.

(D) Each permit shall expire on December 31<sup>st</sup> of the year of issuance.

**2. RULES OF OPERATION.** The Owner and Operator of the Manure Transfer Equipment for a Manure Source subject to a permit issued under this Ordinance shall comply with the following rules:

(A) Notify the Town Highway Supervisor by phone at least 24 hours before each hauling event and within 3 days after a hauling event.

(B) At the Highway Supervisor's request, the Operator shall have a listing and a road map of the locations of all possible manure transfer sites (i.e. where Manure Transfer Equipment may be placed before, during, and after transport) for review by the Town Highway Supervisor to determine if any changes or restrictions are necessary. Such required changes may include, but are not limited to establishing and approving a transport route for loaded and empty trucks and combining as many fields to one transfer site to keep repairs and inconvenience to a minimum. Such restrictions required by the Town Highway Supervisor shall focus on improving traffic safety or road conditions. Such restrictions will be determined on a site by site basis.

(C) Follow the Manual of Uniform Traffic Control Devices (MUTCD) for work zone signage and installation within the work zone. All signs shall be at least 48 inches x 48 inches with prismatic sheeting or higher grade intensity or such alternative signage approved by the Town Highway Supervisor.

(D) Day and night Location operations will be permitted as long as all requirements of the MUTCD are met, as well as the proper usage of signage and flashing lights. However, night (i.e. one-half (1/2) hour before sunset until one-half (1/2) hour after sunrise) Location operation privileges may be restricted, suspended or revoked by the Town Board, at its sole discretion.

(E) Manure Transfer Equipment may be Located on the right-of-way when not in operation as long as it is properly marked and such equipment does not extend into the roadway. However, no Manure Transport Equipment may be placed closer than 250 feet from an intersection unless proper MUTCD procedures for flagging are followed.

(F) No more than four (4) manure transfer trucks, including the unloading truck, shall be located at a transfer site at any given time.

**3. RESPONSIBILITY FOR DAMAGES.** The Owner, Operator and Owner of the Manure Source shall be jointly and severally liable to the Town for all damages to the highway, right-of-way, including the travelled surface, edge of roadway, shoulder, and ditch for slope and back slope pursuant to s. 86.02 and s. 96.021, Wisconsin Statutes. Prior to utilizing the right-of-way under the Permit, the Owner and/or Operator shall notify the Town Board with photographs of any existing highway and/or right-of-way damage. By failing to provide such notice, or satisfactory evidence of existing highway and/or right-of-way damage, all damages shall be presumed to be caused by the operating of the Manure Transfer Equipment pursuant to the Permit.

**4. PENALTIES FOR FAILURE TO OBTAIN PERMIT AND/OR FAILURE TO FOLLOW RULES.** The enforcement of this ordinance and all other laws and ordinances relating to Manure Transfer Equipment may be by means of one or more of the following: 1) the

withholding of permits; 2) imposition of forfeitures; and/or 3) injunctive action. Forfeitures shall be not less than \$25.00 nor more than \$1,000 for each day of noncompliance.

**5. PERMIT FEE AMENDMENT.** The amount of the permit fee may be changed by resolution of the Town Board.

**6. SEVERABILITY.** The provisions of this Ordinance are severable. If any provision of this Ordinance is found to be void or unconstitutional by a court of competent jurisdiction, such finding shall not affect the remaining portions of this Ordinance which will be deemed in full force effect.

**7. EFFECTIVE DATE.** This Ordinance shall be deemed adopted on February 5, 2019 and is effective upon publication according to law.

**8. DEFINITIONS.**

(A) LOCATE means to park or stop the Manure Transfer Equipment in any portion of the right-of-way, except for emergency purposes.

(B) MANURE TRANSFER EQUIPMENT includes frac tanks and/or dump stations used for the application of manure on fields. Frac tank is a large heavy gauge steel tank pulled by a tractor to a site used for the temporary storage of manure.

(C) MANURE SOURCE is the farm that produces the manure subject to transfer.

(D) MUTCD means the Manual of Uniform Traffic Control Devices located at <http://mutcd.fhwa.dot.gov/kno-millennium.htm>

(E) OPERATOR means the person in charge of operation of the Manure Transfer Equipment.

(F) OWNER means the legal owner of the Manure Transfer Equipment.

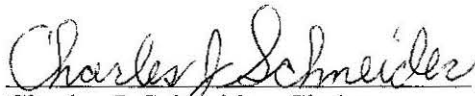
(G) RIGHT-OF-WAY means the right-of-way of all public highways under the jurisdiction of the Town of Brothertown.

(H) TOWN means the Town of Brothertown, Calumet County, Wisconsin.

Adopted: February 5<sup>th</sup>, 2019

TOWN OF BROTHERTOWN  
TOWN BOARD

Attest:   
LeAnne Karls, Town Clerk

  
Charles J. Schneider, Chairman



# TOWN OF BROTHERTOWN

## Ordinance #2018-02

### Ordinance to Establish Fire Inspection Frequency

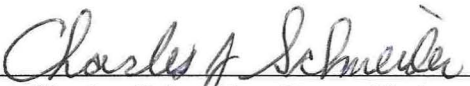
#### Section I

The frequency of fire inspections conducted by the City of Chilton Fire Department shall be at least once per calendar year, provided the interval between those inspections does not exceed fifteen (15) months, as provided by the Wisconsin Administrative Code, Fire Prevention, Chapter Comm 14.01(11)(6b).


#### Section II

This ordinance shall take effect and be in full force upon passage and posting as provided by law.

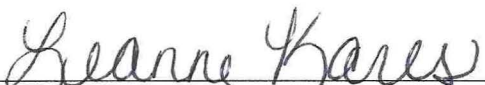
This ordinance adopted the <sup>3<sup>rd</sup></sup> 2<sup>nd</sup> day of July, 2018.

  
Charles Schneider, Town Chairman

  
Delmar Buechel, Town Supervisor

  
Larry Propson, Town Supervisor

Attest:

  
LeAnne Karls, Town Clerk

Posted: 07/21/2018

TOWN OF BROTHERTOWN  
CALUMET COUNTY, WISCONSIN

**Ordinance for Restricting Use and Obstruction of Town Road  
Right-of-Way Ditches and Embankments  
Ordinance #2018-01**

SECTION ONE. Permit required for excavations; fee; insurance.

A. Permit required.

- (1) No person, partnership, utility or corporation, or his or its agents or employees or contractors, shall make or cause to be made any opening or excavation in any public road, public way, public ground, public sidewalk or Town-owned easement, or fill or alter any culvert or construction or install additions or extensions to his or its existing facilities within the Town of Brothertown without a permit therefor from the Town.
- (2) The applicant shall submit to the Town a written request for a utility construction/street excavation permit and a plan of the proposed alteration, extension or addition, showing its location and details of construction, including specified depth, method of excavation, open cut or augering, provisions of restoration and any other materials requested by the Town. By submitting an application, the applicant agrees to be bound by the terms of this Ordinance.

B. Fee. The fee for a permit shall be determined by resolution of the Town Board. The fee shall be paid at the time of application.

C. Insurance required. A permit shall be issued only upon condition that the applicant submit to the Town satisfactory written evidence that the applicant has in force and will maintain during the time the permit is in effect liability insurance of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. The Town shall be named an additional insured on the policy.

SECTION TWO. Regulations governing excavations and openings.

A. Frozen ground. No openings in the roads or public ways shall be permitted when the ground is frozen except where it is deemed necessary by the Town.

B. Removal of paving. In any opening or excavation, all paving or ballasting materials shall be removed with the least possible loss of or injury to surfacing materials and together with the excavated materials from the opening shall be placed so as to cause the least practicable inconvenience to the public and permit free flow of water.

C. Protection of public.

- (1) Every opening and excavation shall be enforced with barriers. Warning lights shall be kept on from sunset to sunrise. Such lights shall be spaced so as to give adequate warning of the existence of the opening and of piled excavated materials. No open flame warning pots shall be used. Except by special permission from the Town, no trench shall be excavated more than 250 feet in advance of pipe or conduit laying nor left unfilled more than 500 feet where pipe or conduit has been laid.
- (2) All necessary precautions shall be taken to guard the public from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Town in defending any action brought against it for damages, as well as costs of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.

D. Replacing road surface. Upon completion of work pursuant to a permit issued by the Town, the applicant shall restore the site to its original condition.

E. Notice. The permittee shall notify the Town Road Supervisor, Calumet County Sheriff's Department and all private individuals, firms and corporations affected by the work to be done at least 24 hours before such work is to commence. The Town Road Supervisor shall also be notified at least four hours prior to backfilling and/or restoring the surface.

F. Validity of Permit. Unless the work shall be commenced within the time prescribed in the permit, the permit shall be void and a new permit must be obtained and an additional fee charged. The Town may extend the time limitation for good cause. The utility or contractor shall have present at the site of construction and during the restoration period a copy of the construction plans and Town permit.

G. Emergency excavation. In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public road or way and his agents and employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day.

H. Exception. The provisions of this section shall not apply to excavation work done by Town employees or contractors performing work under contract with the Town.

SECTION THREE. Obstruction of intersections or signs; trees, fences, poles and other structures.

- A. Obstruction of intersections. No person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two or more roads in the Town any hedge, tree, shrub or other growth or object which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- B. Obstruction of signs. It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign in the Town. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.
- C. Abatement procedure. Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be danger to public travel, and the Town shall notify the property owner in writing, describing the conditions, stating the steps necessary to correct the conditions, and establishing a reasonable time within which the corrective steps shall be taken. In the event that effective steps are not taken within the time specific, it shall be lawful for the Town to abate these conditions to the extent necessary to assure compliance with the foregoing requirements, and the costs thereof may be assessed to the owner.
- D. Vegetation in right-of-way. Other than mowing, no person shall till, graze, kill or destroy the vegetation in the right-of-way. No person shall plant additional vegetation in the right-of-way.
- E. Fences, poles and other structures. No person shall build or reconstruct any fence, pole or other structure within the public road right-of-way measured from the center of the road to a point 18 inches from the back line of the right-of-way unless otherwise approved by the Town. This provision shall not apply to mailboxes and boxes for delivery of newspapers.
- F. Overhead utility wires shall cross the roadway as close to perpendicular as possible.

SECTION FOUR. Deposit of waste or rubbish on right-of-way.

It shall be unlawful for any person to throw or deposit any weeds, sod, brush, cans, glass, gravel, stones, boulders, dirt, machinery, garbage or other waste or rubbish in or on the right-of-way of any highway located in the Town of Brothertown.

SECTION FIVE. Structures and construction in Town right-of-way.

- A. Mailboxes and boxes for delivery of newspapers. The provision of this Ordinance shall not apply to the installation of mailboxes and boxes for the delivery of newspapers.
- B. Existing structures and obstructions. Any existing structure, sign, fence, wall, pavement or other obstruction (including trees) which, in the judgment of the Town, will prevent proper snow removal from the pavement and shoulders or mowing of the ditches of the Town highway shall be removed by the owner or occupant of the adjacent property

within 15 days of receiving written notice from the Town. If the owner or occupant does not remove said structure or obstruction within the allotted time, the Town shall remove it or make arrangements to have the obstruction removed and the expense of removal shall be charged to the adjacent property as a special charge or special assessment.

SECTION SIX. Violations.

Any person, persons, partnerships, company or corporation who violates any provision of this Ordinance shall be subject to a forfeiture of not less than \$200 nor more than \$1,000 for each violation. For purposes of determining forfeitures, each day that a violation continues shall be considered a separate offense. In addition, the Town shall be entitled to recover its reasonable attorneys' fees included in any enforcement action and shall be entitled to injunctive relief, abatement orders, and other equitable relief.

Dated this 9<sup>th</sup> day of February, 2018.

TOWN OF BROTHERTOWN

By: Charles J. Schneider  
Chuck Schneider, Chairperson

Attest:

Leanne Karls, Clerk  
Leanne Karls, Town Clerk

# Ordinance Concerning Payment of Taxes

## TOWN OF BROTHERTOWN

### Ordinance #2017-01

Pursuant to WI Statute 70.67(2), the Town of Brothertown hereby adopts the following:

#### **Section I** DUTY OF THE TREASURER.

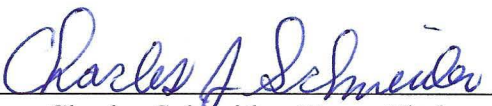
It shall be the duty of the Treasurer of the Town of Brothertown, Calumet County, Wisconsin, to pay to the Treasurer of Calumet County, Wisconsin, all taxes of any kind required by law to be paid by such Treasurer to the County Treasurer.

#### **Section II** OBLIGATION OF THE TOWN OF BROTHERTOWN.

It shall be the obligation of the Town of Brothertown, Calumet County, Wisconsin, to pay such taxes to the County Treasurer of Calumet County, Wisconsin, in the event the Treasurer of the Town of Brothertown shall fail to do so.

**Section III** This ordinance shall take effect and be in full force upon passage and posting as provided by law.

This ordinance adopted the 5<sup>th</sup> day of December, 2017.

  
\_\_\_\_\_  
Charles Schneider, Town Chairman

Attest:

  
\_\_\_\_\_  
LeAnne Karls, Town Clerk

Posted: 12/23/2017

TOWN OF BROTHERTOWN  
CALUMET COUNTY, WISCONSIN

**Ordinance Amending Section 14 of the Town of Brothertown Zoning Ordinance**

The Town Board of the Town of Brothertown, Calumet County, Wisconsin, upon recommendation of the Town of Brothertown Plan Commission and after conducting public hearing preceded by a Class 2 notice, does hereby ordain the following amendments to the Town of Brothertown Zoning Ordinance:

Section 14 of the Town of Brothertown Zoning Ordinance is amended to read:

**Section 14.0 Regulation of Mobile Tower Siting.**

**Section 14.1. Purpose and Intent.** The purpose of this section is to regulate by a conditional use permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

**Section 14.2. Definitions.**

All definitions contained in Wis. Stat. § 66.0404(1) are hereby incorporated by reference.

**Section 14.3. Siting and Construction of Any New Mobile Service Support Structure and Facilities.**

A) Application Process.

- 1) A conditional use permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the Town obtainable with this permit.
- 2) A written permit application must be completed by any applicant and submitted to the Town. The application must contain the following information:
  - a) The name and business address of, and the contact individual for, the applicant.

- b) The location of the proposed or affected support structure.
  - c) The location of the proposed mobile service facility.
  - d) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
  - e) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
  - f) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- 3) A permit application will be provided by the Town upon request to any applicant.
- 4) If an applicant submits to the Town an application for a permit to engage in an activity described in this Ordinance, which contains all of the information required under this Ordinance, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required



information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

- 5) Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 90-day period:
    - a) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
    - b) Make a final decision whether to approve or disapprove the application.
    - c) Notify the applicant, in writing, of its final decision.
    - d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
  - 6) The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 15.3126.
  - 7) The fee for the permit is \$3,000.
- B) Limitations. The Town may impose any conditions on its approval, except that it cannot include any condition prohibited by Wis. Stat. § 66.0404(4).

#### **Section 14.4. Class 1 Collocation.**

##### A) Application Process.

- 1) A conditional use permit is required for a class 1 collocation. A class 1 collocation is a conditional use in the Town obtainable with this permit.

- 2) A written permit application must be completed by any applicant and submitted to the Town. The application must contain the following information:
  - a) The name and business address of, and the contact individual for, the applicant.
  - b) The location of the proposed or affected support structure.
  - c) The location of the proposed mobile service facility.
  - d) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
  - e) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
  - f) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose class 1 collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- 3) A permit application will be provided by the Town upon request to any applicant.
- 4) If an applicant submits to the Town an application for a permit to engage in an activity described in this Ordinance, which contains all of the information required under this Ordinance, the Town shall consider the application complete. If the Town does not believe that the

application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

- 5) Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 90-day period:
    - a) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
    - b) Make a final decision whether to approve or disapprove the application.
    - c) Notify the applicant, in writing, of its final decision.
    - d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
  - 6) The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation with the applicant's search ring and provide the sworn statement describe under paragraph 15.4126.
  - 7) If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
  - 8) The fee for the permit is \$3,000.
- B) Limitations. The Town may impose any conditions on its approval, except that it cannot include any condition prohibited by Wis. Stat. § 66.0404(4).

## Section 14.5. Class 2 Collocation.

### A) Application Process.

- 1) A conditional use permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the Town but still requires the issuance of the conditional use permit.
- 2) A written permit application must be completed by any applicant and submitted to the Town. The application must contain the following information.
  - a) The name and business address of, and the contact individual for, the applicant.
  - b) The location of the proposed or affected support structure.
  - c) The location of the proposed mobile service facility.
- 3) A permit application will be provided by the Town upon request to any applicant.
- 4) A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.
- 5) If an applicant submits to the Town an application for a permit to engage in an activity described in this Ordinance, which contains all of the information required under this Ordinance, the Town shall consider the application complete. If any of the required information is not in the application, the Town shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- 6) Within 45 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 45-day period.

- a) Make a final decision whether to approve or disapprove the application.
- b) Notify the applicant, in writing, of its final decision.
- c) If the application is approved, issue the applicant the relevant permit.
- d) If the decision is to disapprove the application, include in the written notification substantial evidence which support the decision.
- e) The fee for the permit is \$500.

B. Limitations. The Town may impose any conditions on its approval, except that it cannot include any condition prohibited by Wis. Stat. § 66.0404(4).

All other provisions in the Town of Brothertown Zoning Ordinance remain unchanged.

The Town of Brothertown Town Clerk is authorized and directed to make all changes to the Town of Brothertown Zoning Ordinance necessary to reflect this Amendment.

Adopted this 17<sup>th</sup> day of August, 2015.

TOWN OF BROTHERTOWN

By: Charles J. Schneider  
Chuck Schneider, Town Chairperson

Attest:

Leanne Karls  
Leanne Karls, Town Clerk

ORDINANCE NO. 2011-01

ORDINANCE TO ESTABLISH A TEMPORARY MORATORIUM ON THE  
DEVELOPMENT OF WIND ENERGY SYSTEMS IN THE  
TOWN OF BROTHERTOWN

The Town of Brothertown, Calumet County, Wisconsin, hereby adopts an Ordinance establishing a temporary moratorium as follows:

**Section 1. Legislative Findings.**

- a. The Public Service Commission of Wisconsin recently adopted regulations governing the siting process and performance standards for wind energy systems, which are found at PSC 128.
- b. PSC 128 allows a town to adopt an ordinance regulating wind energy systems consistent with its provisions that may require a permit and payment of a reasonable application fee for the construction or expansion of wind energy systems.
- c. PSC 128 becomes effective on March 1, 2011.
- d. Calumet County is in the process of adopting an ordinance regulating wind energy systems consistent with Wis. Stat., § 66.0401 and PSC 128.
- e. Calumet County has adopted a moratorium on the development of wind energy systems effective until April 1, 2011.
- f. Residents of the Town of Brothertown have expressed a desire for the Town to exercise local control on issues relating to wind energy systems and obtain a fee for wind energy development.
- g. For the Town to exercise local control over wind energy systems, it must enact an ordinance consistent with PSC 128.
- h. Without an ordinance consistent with PSC 128, the Town has no authority to regulate wind energy system setbacks, noise levels, shadow flicker requirements, signal interference limits, stray voltage limits, or construction and operation standards.
- i. The Town does not have an ordinance regulating wind energy systems and, therefore, it requires time to establish an ordinance regulating wind energy systems consistent with PSC 128.

j. Because the Town of Brothertown does not have planning staff, it must either hire an attorney or consultant to draft an ordinance regulating wind energy systems, or it will draft an ordinance based on that adopted by Calumet County.

k. The Town also needs to develop application and compliance forms to administer any wind energy system ordinance it develops.

l. Time is of the essence in adoption of this moratorium.

m. This moratorium serves to preserve and protect the public health and safety.

**Section 2. Authority.** This Ordinance is adopted pursuant to Wis. Stat., §§ 60.10(2)(c), 60.22(3), 60.50, 60.61, 61.34, 62.17, 62.23, 66.0401 and 236.45. This Ordinance is also adopted pursuant to the Town's police powers, which are being exercised for the purpose of protecting the public health, safety, and general welfare in the Town of Brothertown.

**Section 3. Temporary Moratorium on Acceptance of Applications, Construction, or Expansion of Wind Energy Systems.** The Town does hereby declare a moratorium on the acceptance of applications for wind energy systems, the constructions of wind energy systems, and the expansion of wind energy systems, whether the applications are for building permits, driveway permits, or any other type of permit, or land division approval, that may be required to construct and operate wind energy systems in the Town. All applications submitted shall be returned without being considered.

**Section 4. Term of Moratorium.** This moratorium shall be in effect until six months after the date of its adoption. The Town reserves the right to lift this moratorium prior to that date if the Town adopts an ordinance regulating wind energy systems, or if the Town otherwise chooses to lift the moratorium. The Town reserves the right to extend this moratorium if it finds that an extension is necessary.

**Section 5. Inconsistent Ordinances Voided.** All ordinances or provisions of ordinances inconsistent with or contravening the provisions of this Ordinance are hereby temporarily voided and shall have no legal force or effect during the period that this Ordinance is in effect.

**Section 6. Scope.** This temporary moratorium applies throughout the Town of Brothertown.

**Section 7. Interpretation and Severability.** This Ordinance shall be liberally construed to accomplish its intended purposes. If a court of competent jurisdiction determines that any section or provision is invalid or illegal, the court is authorized to substitute reasonable language in order to preserve the intended purposes of this ordinance. If any section or provision of this

Ordinance is adjudged to be invalid or illegal by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**Section 8. Definitions.** For purposes of this Ordinance “wind energy system” shall have the same definition as that set forth in Wis. Stat., § 66.0403(1)(m).

**Section 9. Effective Date.** This Ordinance shall take effect upon adoption and publication as provided by law.

Adopted this 24<sup>th</sup> day of February, 2011.

TOWN OF BROTHERTOWN

By: Charley Schneider  
Town Chairperson

Attest:

Suzanne Kares, Clerk  
Town Clerk



**AN ORDINANCE AMENDING SECTION 7.011 OF THE ZONING  
ORDINANCE REGULATING WIND ENERGY  
SYSTEMS WITHIN THE AGRICULTURAL DISTRICT**

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WHEREAS, Section 66.0401 of the Wisconsin Statutes establishes and limits the authority for Towns to regulate wind energy systems, as defined in Section 66.0403(1)(m) of the Wisconsin Statutes, and

WHEREAS, under Section 1.12(3)(b) of the Wisconsin Statutes it is the goal in this state to promote the use of renewable energy sources if cost effective and technically feasible, and

WHEREAS, the Town of Brothertown does not presently have provisions within the Town Zoning Ordinance to regulate wind energy systems, and

WHEREAS, Calumet County has enacted a comprehensive ordinance addressing the siting of wind energy systems throughout Calumet County entitled Wind Energy Facility and which can be found in Chapter 79 of the Calumet County Code of Ordinances, and

WHEREAS, it is in the best interests of the citizens of the Town of Brothertown that Chapter 79 control the siting of wind energy systems in the Town of Brothertown.

NOW, THEREFORE, the Town Board of the Town of Brothertown does ordain:

Section 1. Section 5.07 of the Zoning Ordinance is created to read as follows:

Section 5.07 Wind Energy Facility The Town of Brothertown Zoning Ordinance is not applicable to a Wind Energy Facility located in an Agricultural district which has received a Wind Energy Siting Permit from Calumet County.


Section 2. Severability. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect the remainder of the Ordinance.

Section 3. This ordinance shall be effective upon passage and posting as required by law.

TOWN OF BROTHERTOWN

  
Town Chairperson

ATTEST:

  
Town Clerk

Adopted: 04/03/07

Posted: 04/07/07

**RESOLUTION NO. 2021-01**

**AMENDING THE ARTICLES OF ORGANIZATION AND THE BY-LAWS OF  
EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION**

TO THE TOWN OF BROTHERTOWN BOARD OF SUPERVISORS

WHEREAS, the Town of Brothertown is a member of the East Central Wisconsin Regional Planning Commission;

WHEREAS, the Town of Brothertown is a local unit of government in Calumet County;

WHEREAS, the Articles of Organization ("Articles") and the By-Laws of the East Central Wisconsin Regional Planning Commission ("Commission") authorize a majority of the counties of the Commission to make certain amendments to the Articles and By-Laws;

WHEREAS, however, the Articles and By-Laws reserve to the local units of government within the Commission the authority to determine the composition of the Commission;

WHEREAS, the Commission's Steering Committee and the Commission is recommending to both the member counties and the local units of government the amendments to the Articles and the By-Laws described below;

NOW THEREFORE, the following resolution is presented by the East Central Wisconsin Regional Planning Commission to the Town Board.

RESOLVED, that the Town of Brothertown Board of Supervisors does hereby approve the revisions to the By-Laws as more fully set forth in Exhibit A, which is attached and incorporated by reference; and

FURTHER RESOLVED, that the Town Board does hereby recommend that Article III of the Articles describing the composition of the Commission also be amended as more fully set forth in Exhibit B; and

FINALLY RESOLVED, that the Town Clerk be directed to forward a copy of the signed resolution to the Executive Director of the East Central Wisconsin Regional Planning Commission.

Effective Date: October 5<sup>th</sup>, 2021

Submitted By: East Central Wisconsin Regional Planning Commission

Signed:   
Chuck Schneider, Chairman

  
LeAnne Karls, Town Clerk

**EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION**  
**COMMISSION COMPOSITION & PROPOSED BYLAWS CHANGES**

Updated: 4/30/2021

COMMISSION BOARD COMPOSITION		
	Current Board Composition	New Bylaws Board Composition as approved by Commission on 4/30/2021
Number of Commissioners	36	31
CALUMET COUNTY		
	Current Board Composition	New Bylaws Board Composition as approved by Commission on 4/30/2021
Commission Board Representation	County Bd. Chair	County Bd. Chair
	County Bd. Appt.	County Bd. Appt.
	Mayor of Largest City	Mayor of Largest City
	Governor's Appt.	
Number of Commissioners	4	3
FOND DU LAC COUNTY		
	Current Board Composition	New Bylaws Board Composition as approved by Commission on 4/30/2021
Commission Board Representation	County Executive	County Executive
	County Bd. Chair	County Bd. Chair
	County Bd. Appt.	County Bd. Appt.
	Council Pres. of Largest City	Council Pres. of Largest City
	Governor's Appt.	
Number of Commissioners	5	4
MENOMINEE COUNTY		
	Current Board Composition	New Bylaws Board Composition as approved by Commission on 4/30/2021
Commission Board Representation	County Bd. Chair	County Bd. Chair
	County Bd. Appt.	County Bd. Appt.
	Governor's Appt.	County Bd. Appt.
Number of Commissioners	3	3
OUTAGAMIE COUNTY		
	Current Board Composition	New Bylaws Board Composition as approved by Commission on 4/30/2021
Commission Board Representation	County Executive	County Executive
	County Bd. Chair	County Bd. Chair
	Mayor of Largest City	County Bd. Appt.
	County Bd. Appt.	County Bd. Appt.
	County Bd. Appt.	Mayor of Largest City
Number of Commissioners	6	5
SHAWANO COUNTY		
	Current Board Composition	New Bylaws Board Composition as approved by Commission on 4/30/2021
Commission Board Representation	County Bd. Chair	County Bd. Chair
	County Bd. Appt.	County Bd. Appt.
	Governor's Appt.	County Bd. Appt.
Number of Commissioners	3	3
WAUPACA COUNTY		
	Current Board Composition	New Bylaws Board Composition as approved by Commission on 4/30/2021
Commission Board Representation	County Bd. Chair	County Bd. Chair
	County Bd. Appt.	County Bd. Appt.
	Mayor of Largest City	Mayor of Largest City
	Governor's Appt.	
Number of Commissioners	4	3
WAUSHARA COUNTY		
	Current Board Composition	New Bylaws Board Composition as approved by Commission on 4/30/2021
Commission Board Representation	County Bd. Chair	County Bd. Chair
	County Bd. Appt.	County Bd. Appt.
	Governor's Appt.	County Bd. Appt.
Number of Commissioners	3	3

RESOLUTION NO. 11-21

AMENDING THE ARTICLES OF ORGANIZATION AND THE BY-LAWS OF  
EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION

**WHEREAS**, the Articles of Organization (“Articles”) and the By-Laws authorize a majority of the counties that are members of the Commission to make certain amendments to the Articles and By-Laws; and

**WHEREAS**, however, the Articles and By-Laws reserve to the local units within the Commission the authority to determine the composition of the Commission; and

**WHEREAS**, the Commission’s Steering Committee has recommended to the Commission and is recommending to both the member counties and the local units the amendments to the Articles and the By-Laws described below; and

**WHEREAS**, the Commission’s Steering Committee has reconsidered its prior recommendation and now recommends to the Commission and to the local units, respectively, their approval of the revised set of Articles and By-Laws that are attached to this resolution;

**RESOLVED**, that the Commission does hereby approve the revisions to the By-Laws as more fully set forth in Exhibit A, which is attached and incorporated by reference; and

**FURTHER RESOLVED**, that the Commission does hereby recommend that Article III of the Articles describing the composition of the Commission also be amended as more fully set forth in Exhibit B; and

**FURTHER RESOLVED**, that the Commission’s Executive Director is authorized and directed to present the recommended amendments of the Articles and the By-Laws to both the member counties and the local units consistent with the revisions set forth in Exhibit A and Exhibit B; and

**FURTHER RESOLVED**, that the Commission’s Executive Director is authorized and directed to take such further action as may be necessary and appropriate to accomplish the intended purposes of this Resolution.

Effective Date: April 30, 2021

Submitted By: Steering Committee

Prepared By: Melissa A. Kraemer Badtke, Executive Director

*Martin Farrell*

Martin Farrell (May 4, 2021 14:31 CDT)

Martin Farrell, Chair – Fond du Lac Co.

ARTICLES OF ORGANIZATION  
OF  
EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION  
September 27, 1972

**ARTICLES OF ORGANIZATION  
OF  
EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION**

**ARTICLE I - AUTHORIZATION**

The provisions of Section 66.945 of the Wis. Stats. authorizes counties, in the form of resolutions, to petition the Governor of the State of Wisconsin to create a regional planning commission within a proposed area. Upon receipt of such petitions and the holding of a public hearing, the governor may create a regional planning commission by Order and designate the areas and boundaries of the commission's jurisdiction.

Pursuant to such statutory provisions the governing bodies of Calumet, Fond du Lac, Green Lake, Marquette, Menominee, Outagamie, Shawano, Waupaca, Waushara, and Winnebago Counties, by resolution, petitioned the Honorable Patrick J. Lucey to form a regional planning commission encompassing the general area of such counties. Thereafter a public hearing on such petitions was duly held at the Winnebago Court House located in the City of Oshkosh, Wisconsin, on the 26th day of June, 1972. Subsequent to the said public hearing, the Honorable Governor Patrick J. Lucey did by an Executive Order dated June 29, 1972, create the Regional Planning Commission and designate that the area of the Commission be comprised of the Counties of Calumet, Fond du Lac, Green Lake, Marquette, Menominee, Outagamie, Shawano, Waupaca, Waushara, and Winnebago.

**ARTICLE II - NAME**

The said counties comprising the Regional Planning Commission, as designated by the Governor's Executive Order dated June 29, 1972, are all located within the proximity of the East Central area of Wisconsin; and, therefore, the name of the Commission shall be: **EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION.**

### ARTICLE III - COMPOSITION OF COMMISSION

The area of the Commission as designated by the Executive Order of the Governor does not include a city of the first class as defined in Wis. Stat. Section 62.05 ~~of the Wis. Stats.~~ Therefore, pursuant to the provisions of Wis. Stat. Section 66.9450309 (3) ~~3.~~(b) the membership of the Commission is to be determined by resolutions duly approved by the governing bodies of a majority of the local units within the region, and these units shall have in the aggregate at least half of the population of the region.

The said ten-county area comprising the Commission includes 243 local units of government with a combined population of 474,186 as shown by the last Federal census. A majority or 145 of these local units within the designated region representing a population count of 379,773 have duly adopted the following resolutions as to membership of the Commission: **[Update numbers recited in this paragraph.]**

~~RESOLVED that the Commission consist of representatives selected in the following manner:~~

**Section 1. GENERAL:** Adhering to the principle of representation based on population, the membership of the Commission shall be created pursuant to the provisions of Wis. Stat. Section 66.9450309 (3) ~~3.~~(b) ~~of the Wis. Stats.~~ determined and allocated among participating counties as follows:

- A. ~~Two elected officials from each member county which comprises the Commission. The~~  
Chairperson and the County Executive from each member county within the Commission. If a member county is organized without a County Executive, the County Chairperson shall appoint a member of the County Board to serve as the second elected official from that county.
- B. ~~One person, who may be elected official from each participating county, selected by the Governor. One elected official from the largest city, or if no city the largest village, within each~~  
member county, appointed by the mayor, council president, or village president, depending on the specific form of government.
- C. ~~One (1) additional elected official from each 50,000 unit of population residing within a~~



~~member county as determined by the last federal decennial census. No additional representation hereunder shall be granted for any fractional part of the required population unit. One ex-officio representative of the Wisconsin Department of Transportation (WisDOT) may participate on transportation issues, subjects of concern and interest to their geographic areas, or due to noted/recognized expertise. This member must be appointed by WisDOT.~~

- ~~D. One ex-officio representative of a public agency that administers or operates major modes of transportation in the Fox Valley metropolitan planning organization area, including representation by providers of public transportation. [Note: This position will be held by the Transit Manager for Valley Transit.]~~

~~**Section 2. SELECTION OF MEMBERSHIP:** The Commission membership as set forth in the preceding Section 1 of this Article shall consist of members to include the following:~~

- ~~A. The Chairman of the County Board of each participating County and the County Executive, if any, of each participating County shall be members of said Commission.~~
- ~~B. One member from each participating County shall be appointed by the Governor from a list of six or more persons nominated by the respective County Boards, of which at least four shall be private citizens. In nominating private citizens, the County Board shall give preference to those persons having experience in multi-jurisdictional efforts in one or more of the following areas: land use planning, transportation, law, finance, engineering, recreation and natural resources development, social or economic planning.~~
- ~~C. The remaining elected officials comprising the representation allocated to each participating County under Section 1, Paragraph A, shall be appointed by the Chairman of the County Board or by the County Executive as the Wis. Stats. so provide and subject to confirmation by the County Board. In those counties having additional representation as specified in Section 1, Paragraph C, the first such representative shall be the mayor, or council president in cities with a council-manager plan, of the largest city in the County. All additional representatives~~

~~shall be either county supervisors, city mayors, aldermen or councilmen, village presidents or board members, town board chairmen or town board supervisors residing within the respective County.~~

**Section 32. TERM OF OFFICE:** ~~Those Commissioners who are appointed by the County Board Chairman or the County Executive~~ shall serve for a term of two (2) years, or until they cease to hold their public office, whichever comes first. Voting, ex-officio members shall serve continuously at the pleasure of the appointing body.

~~Those Commissioners appointed by the Governor shall serve for a four (4) year term.~~

**Section 3. COMMISSION ALTERNATES:** Any member of the Commission selected pursuant to Section 1, of this Article may designate, in writing and with the concurrence of the Commission a permanent designee.

**Section 4. RESIGNATION:** Any Commissioner who resigns his or her Commission membership or his or her elective office shall submit his or her resignation effective as of the last day in office, and thereafter the vacancy shall be filled by appointment for the unexpired term by the County Board Chairperson (if a county) or the city council or village board.

#### **ARTICLE IV - PURPOSES**

The purposes for which the Commission is created are to engage in any lawful activity within the purposes for which regional planning commissions may be created under Wis. Stat. Section 66.0309.

#### **ARTICLE V - POWERS, FUNCTIONS AND DUTIES**

In general, the Regional Planning Commission shall have all of the powers necessary to enable it to perform its functions and promote regional planning.

The functions of the Regional Planning Commission shall be solely advisory to the local governments and local governmental officials comprising the area and shall include but not be limited to the following because of enumeration.

- A. The Commission may conduct all types of research studies, collect and analyze data, prepare maps, charts and tables and conduct all necessary studies for the accomplishment of its other duties.
- B. The Commission may make plans for the physical, social and economic development of the region and may adopt by resolution any plan or the promotion of any plan so prepared as its official recommendation for the development of the region.
- C. The Commission may publicize and advertise its purposes, objectives and findings and may distribute reports thereon.
- D. The Commission may provide advisory services on regional planning problems to the local government units within the region and to other public and private agencies in matters relative to its functions and objectives.
- E. The Commission may act as a coordinating agency for programs and activities of such local units and agencies as the relate to its objectives.
- F. The Commission may accept aid in any form for the purpose of accomplishing regional planning from all governmental agencies whether local, state or federal if the conditions under which such aid is furnished is not incompatible with the provisions of Wis. Stat. Section 66.0309.
- G. The Commission may accept gifts and grants from public or private individuals or agencies if the conditions under which such grants are made are in accordance with the accomplishment of its objectives.
- H. The Commission shall make an annual report of its activities to the legislative bodies, the local governmental units within the region, and shall submit two copies of such report to the Legislative Reference Bureau.
- I. The Commission shall prepare a comprehensive planning program for the physical development of the region. The Commission may amend, extend or add to the comprehensive planning program or carry any part of such mater into greater detail.

- J. The Commission shall annually on or before October 1, of each year prepare and approve a budget reflecting the cost of its operation and services to the local governmental units within the region.

#### **ARTICLE VI - PROPORTIONATE SHARE OF COSTS**

The member counties of the Commission shall provide their proportionate share of the public funds necessary to meet the requirements of the budget in the amount represented by the percentage of their equalized valuation for tax purposes of the land, buildings and other improvements thereon of such local and governmental unit, within the region, to the total such equalized valuation within the region. The amount charged shall be in accordance with the most recent equalized valuation figures published by the Wisconsin Department of Taxation. The requested allocation from and levied upon each member county shall not exceed the statutory limits of a .003% of such equalized value under its jurisdiction within the region.

#### **ARTICLE VII - ADMINISTRATION**

The administrative affairs and the rules of procedure of the Regional Planning Commission shall be governed in the manner as provided for in the duly adopted By-laws of the Commission. In compliance with the statutory requirements, the said adopted By-laws shall provide for the election of a chairman and executive committee and an annual meeting of the said Commission.

#### **ARTICLE VIII - WITHDRAWAL**

A member county of the Commission may withdraw from the Regional Planning Commission at the end of any fiscal year by a two-thirds (2/3rds) vote of the members elect of its Board of Supervisors taken at least six months prior to the effective date of such withdrawal.

#### **ARTICLE IX - AMENDMENTS**

These Articles, except Article III, may be amended by resolutions duly adopted by the Board of Supervisors from a majority of the counties which are members of this Commission. Article III shall be amended only in accordance with resolutions approved by the governing bodies of a majority of local units within the region, and these units shall have in the aggregate at least half of the population of the region.

**BY-LAWS**  
**of the**  
**EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION**

September 27, 1972  
As Amended February 8, 1973  
As Amended March 11, 1976  
As Amended May 13, 1976  
As Amended May 8, 1980  
As Amended May 14, 1981  
As Amended May 13, 1982  
As Amended April 25, 1985  
As Amended April 28, 1988  
As Amended April 26, 1990  
As Amended April 30, 1993  
As Amended April 28, 1995  
As Amended May 23, 2001  
As Amended April 26, 2002  
As Amended April 27, 2006  
As Amended, April, 25, 2008  
As Amended, October 30, 2009  
As Amended, April 29, 2011  
As Amended, October 26, 2013  
As Amended, April 25, 2014  
As Amended, July 25, 2014  
As Amended, January 30, 2015  
As Amended July 26, 2019  
As Amended April 30, 2021  
As Amended \_\_\_\_\_, 2021

**BY-LAWS**  
**of the**  
**EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION**

**PREAMBLE**

These By-laws, consistent with the statutes of the State of Wisconsin, and the Articles of Organization of the East Central Wisconsin Regional Planning Commission, further define, regulate, and provide rules of procedure for the East Central Wisconsin Regional Planning Commission and those Committees and officers established by and responsible to it, and have been adopted by the Commission for that purpose. Where the word "Commission" appears hereinafter, it shall be construed to mean the East Central Wisconsin Regional Planning Commission. It is the express intent of the Commission and the purpose of these By-laws to advance the regional function of the Commission as provided for by applicable law and to carry on the business of regional metropolitan and non-metropolitan planning and development in all of its ramifications and branches and to render professional and technical services in conjunction therewith.

**ARTICLE I - OFFICES**

**Section 1.** The Commission shall establish its offices at such location as it may from time to time, except that such location will be within the East Central Wisconsin Region, which is comprised of the Counties of Calumet, Fond du Lac, Menominee, Outagamie, Shawano, Waupaca, Waushara and Winnebago.

**ARTICLE II - POWERS, DUTIES AND RESPONSIBILITIES**

**Section 1. PURPOSE:** The purposes for which the Commission is created are to engage in any lawful activity within the purposes for which regional planning commissions may be created under Section 66.0309 of the Wisconsin Statutes, as amended.

**Section 2. POWERS, FUNCTIONS AND RESPONSIBILITIES:** In general, the Commission shall have all of the powers necessary to enable it to perform its functions and promote regional planning.

The functions of the Commission shall be solely advisory to the local governments and local governmental officials comprising the area and shall include but not be limited to the following because of enumeration.

- A. The Commission may conduct all types of research studies, collect and analyze data, prepare maps, charts and tables and conduct all necessary studies for the accomplishment of its other duties.

- B. The Commission may make plans for the physical, social and economic development of the region and may adopt by resolution any plan or the portion of any plan so prepared as its official recommendation for the development of the region.
- C. The Commission may publicize and advertise its purposes, objectives and findings and may distribute reports thereon.
- D. The Commission may provide advisory services on regional planning problems to the local government units within the region and to other public and private agencies in matters relative to its functions and objectives.
- E. The Commission may act as a coordinating agency for programs and activities of such local units and agencies as they relate to its objectives.
- F. The Commission may accept aid in any form for the purpose of accomplishing regional planning for all governmental agencies whether local, state or federal if the conditions under which such aid is furnished is not incompatible with the provisions of Section 66.0309 of the Wisconsin Statutes, as amended.
- G. The Commission may accept gifts and grants from public or private individuals, entities or agencies if the conditions under which such grants are made in accordance with the accomplishment of its objectives.
- H. The Commission shall make an annual report of its activities to the legislative bodies of the local governmental units within the region, and shall submit two copies of such report to the Legislative Reference Bureau.
- I. The Commission shall prepare a comprehensive planning program for the physical development of the region and adopt a regional comprehensive plan consistent with Section 66.1001 of the Wisconsin Statutes, as amended. The Commission may amend, extend or add to the comprehensive planning program or carry any part of such matter into greater detail.
- J. The Commission shall annually on or before July 31 of each year prepare and approve a preliminary budget reflecting the cost of its operation and services to the participating governmental units within the region. The Commission's final budget shall be approved by or before January 31 of the year following.

### **ARTICLE III - MEETINGS**

**Section 1. ANNUAL MEETING:** There shall be an annual meeting of the Commission in conjunction with, and following, the April Quarterly Meeting for the appointment of standing committee membership, a presentation of the Commission's Annual Report of its activities and any other business as may properly come before it.



**Section 2. QUARTERLY MEETINGS:** In addition to the annual meeting, quarterly meetings of the Commission shall be held on the last Friday of January, April, July and October, except when a different date is designated by the officers. When the agenda of any meeting does not include resolutions for deliberation by the Commission or consideration of said resolutions may be delayed to the next meeting without adversely impacting the work flow of the Commission, the Chairperson may cancel and then reschedule any meeting at his discretion but may not cancel two consecutive meetings. The election of officers shall be conducted by the Commission at the April quarterly meeting. The annual budget, levy, and work program shall be adopted by the Commission at the July quarterly meeting. The annual budget and work program (not levy) shall be re-affirmed at the subsequent January meeting.

**Section 3. SPECIAL MEETINGS:** Special meetings may be called at any time by the Chairperson of the Commission. Special meetings shall also be called by the Chairperson upon written request by three or more members of the Commission.

**Section 4. NOTICE OF MEETINGS:** The Secretary of the Commission shall e-mail or mail to each and every member of the Commission notice of all meetings, not less than ten days prior to said meetings and such notice shall state the day, time, place and general purpose of such meeting. Notices for special meetings, as described in Section 3 shall be e-mailed, mailed, or posted not less than three (3) business days prior to said meeting. In no case, shall an agenda, or amended agenda, be e-mailed or posted less than 24 hours in advance of said meeting.

**Section 5. QUORUM:** The presence at any meetings (including Standing Committees, unless otherwise noted) of a majority (defined as  $\geq 50\%$ ) of the current Commission members, which majority shall also include representation from a majority (defined as  $\geq 50\%$ ) of the member Counties assigned to the Committee, shall be necessary and sufficient to constitute a quorum for the transaction of any business and the election of officers. All matters relating to business shall require an affirmative vote of a simple majority of those members attending a legal meeting (when a quorum is present), unless otherwise noted as a 2/3 vote requirement.

**Section 6. PUBLIC MEETINGS:** Member County Planning/Zoning Directors and State Legislative Representatives from the region (unless already a member of the Commission), and the Wisconsin Economic Development Corporation, the Department of Natural Resources and other agencies, as may be determined from time to time, shall be notified of all meetings pursuant to Article III, Section 4. Meeting notices shall be e-mailed or mailed to local media, posted on ECWRPC premises, and posted to the Commission's website, [www.ecwrpc.org](http://www.ecwrpc.org) for public viewing.

## ARTICLE IV - COMPOSITION OF COMMISSION

**Section 1. GENERAL:** Adhering to the principle of representation based on population, the membership of the Commission shall be created pursuant to the provisions of Section 66.0309 (3) (b) ~~1.~~ of the Wisconsin Statutes, as amended, determined and allocated among participating counties as follows:

- ~~A. The Chairperson and the County Executive from each member county within the Commission. If a member county is organized without a County Executive, the County Chairperson shall appoint a member of the County Board to serve as the second elected official from that county. Two elected officials from each member county which comprises the Commission.~~
- ~~B. One person, who may be an elected official from each participating county, selected by the Governor.~~
- ~~CB. No additional representation hereunder shall be granted for any fractional part of the required population unit. One elected official from the largest city, or if no city the largest village, within each member county, appointed by the mayor, council president, or village president, depending on the specific form of government.~~
- C. One ex-officio representative of the Wisconsin Department of Transportation (WisDOT) may participate on transportation issues, subjects of concern and interest to their geographic areas, or due to noted/recognized expertise. This member must be appointed by WisDOT.
- D. One ex-officio representative of a public agency that administers or operates major modes of transportation in the Fox Valley metropolitan planning organization area, including representation by providers of public transportation. [Note: This position will be held by the Transit Manager for Valley Transit].

**Section 2. SELECTION OF MEMBERSHIP:** ~~The Commission membership as set forth in the preceding Section 1 of this Article shall consist of members to include the following:~~

- ~~A. The Chairman of the County Board of each participating County and the County Executive, if any, of each participating County shall be members of said Commission.~~
- ~~B. One member from each participating County shall be appointed by the Governor from a list of two (2) or more persons nominated by the respective County Boards, of which at least one (1) shall be a private citizens. In nominating private citizens, the County Board shall give preference to those persons having experience in multi-jurisdictional efforts in one or more of the following areas: land use planning, transportation, law, finance, engineering, recreation and natural resources development, social or economic planning. The Commission shall reimburse the member Counties for any costs incurred in seeking/fulfilling this~~

position.

~~C. The remaining elected officials comprising the representation allocated to each participating County under Section 1, Paragraph A, shall be appointed by the Chairman of the County Board or by the County Executive as the Wis. Stats. so require or provide and subject to confirmation by the County Board [Note: see determination by Outagamie County Corporation Counsel in letter dated April 27, 2012]. In those counties having additional representation as specified in Section 1, Paragraph C, the first such representation shall be the mayor, or council president in cities with a council manager plan, of the largest city in the County. All additional representatives shall be either county supervisors, city mayors, aldermen or councilmen, village presidents or board members, town board chairman or town board supervisors residing within the respective County.~~

~~D. One ex-officio representative of the Wisconsin Department of Transportation (WisDOT) may participate on transportation issues, subjects of concern and interest to their geographic areas, or due to noted/recognized expertise. This member must be appointed by WisDOT.~~

~~E. One ex-officio representative of a public agency that administers or operates major modes of transportation in the Fox Valley metropolitan planning organization area, including representation by providers of public transportation. [Note: This position will be held by the Transit Manager for Valley Transit].~~

**Section 32. TERM OF OFFICE:** ~~Those Commissioners who are appointed by the County Board Chairman or the County Executive shall serve for a term of two (2) years, or until they cease to hold their public office, whichever comes first. Those Commissioners appointed by the Governor shall serve for a four (4) year term.~~ Voting, ex-officio members as described in ~~Section 2.D.7~~ shall serve continuously at the pleasure of the appointing body.

**Section 43. COMMISSION ALTERNATES:** Any member of the Commission selected pursuant to ~~Section 21, Paragraphs A or C~~ of this ~~a~~Article may designate, in writing and with the concurrence of the Commission, a ~~permanent designee. representative as an alternate provided the representative meets the provisions of Section 2, Paragraph C of this article.~~ Alternatively, for members serving under the provisions of ~~Section 1, Paragraph C~~ of this article as the first additional representative in counties having a population greater than 50,000, and then only when representing cities with council manager forms of municipal government, the current city manager may be designated as a permanent alternate by action of the member with concurrence by resolution of the council of said community. Such alternate representative may attend all meetings of the Commission or its committees and exercise all voting powers of the member, except when the member is present. Any member of the Commission may designate, in writing, a temporary alternate for any meeting of the Commission or its committees, except that an alternate may not be designated for more than two Commission meetings in succession. Temporary alternate representatives may attend all meetings of the Commission or its committees and exercise all voting powers of the member, except when the member is present.

**Section 54. RESIGNATION:** Any Commissioner ~~selected pursuant to Section 2, Paragraph C~~

~~of this article~~ who resigns his or her Commission membership or his or her elective office shall submit his or her resignation effective as of ~~his~~ the last day in office, and thereafter the vacancy shall be filled by appointment for the unexpired term by the County Board Chairperson (if a county) or the city council or village board. only, pursuant to Section 2, Paragraph C of this article. ~~Any Commissioner selected pursuant to Section 2, Paragraph B of this article who resigns shall submit his resignation to the Governor with a copy to the County Board Chairman or County Executive, and thereafter the vacancy shall be refilled pursuant to the provisions of Section 2, Paragraph B and Section 3 of this article.~~

## ARTICLE V - OFFICERS

**Section 1. NUMBER:** The officers of the Commission shall be comprised of a Chairperson, Vice-Chairperson, and Secretary-Treasurer, subject to the express condition that the offices of Chairperson and Vice-Chairperson shall never be concurrently held by Commissioners from the same County.

**Section 2. ELECTION:** The offices of Chairperson and Vice-Chairperson of the Commission shall be selected by ballot as the last order of business at the April quarterly meeting of the Commission, to take office effective as of said date, and they shall hold their terms of office for a period of two years or until their successors have been duly elected and qualified. The Chairperson shall appoint a Nominating Committee for the purpose of nominating Commission members for election as officers, and the Chairperson shall advise the Commission of his or her selection of such a Nominating Committee at the January meeting.

**Section 3. REMOVAL:** Any of the officers may be removed for cause and may be removed if incapacitated or unable to attend meetings and perform the duties of his office. Removal from office shall require a two-thirds (2/3rds) vote of the Commissioners present, voting at a legal meeting.

**Section 4. VACANCIES:** Should any office become vacant for any cause, the Commission shall select a successor from among the Commission members who will serve until the next April quarterly meeting of the Commission when the regular elections are held.

**Section 5. CHAIRPERSON:** The Chairperson of the Commission shall preside, and may vote, at all meetings of the Commission. He or she may present to the Commission such matters as, in his or her judgment, require attention, and he or she shall perform such other duties as are entrusted to the Chairperson by statute or by these By-laws. Subject to any contrary requirements in these By-laws, the Chairperson shall be guided by Robert's Rules of Order in the conduct of meetings. In no event shall any one member serve as Chairperson for more than three consecutive terms. The Chairperson may also act on behalf of the Steering Committee and/or full Commission in the rare instances that a timely commitment of County levy funds is required in order to take advantage of state or federal grant funding opportunities. In such cases, the Chairperson's may approve such commitments for an amount equal to or less than \$50,000. In all cases, when such action is used, the item shall be placed on the next available Steering Committee agenda for review and follow up action by the Steering Committee as a whole. The Commission Chairperson will be compensated an additional annual net stipend

of \$1,000 beginning in 2020, with the first payment to be made in March, 2021 and then annually thereafter.

**Section 6. VICE-CHAIRPERSON:** The Vice-Chairperson shall preside in the absence of the Chairperson or in the event that the Chairperson is incapacitated or unable to serve, and in the absence or disability of the Chairperson, his or her duties shall be performed by the Vice-Chairperson.

**Section 7. SECRETARY-TREASURER:** The Executive Director of the Commission shall be designated as the Secretary-Treasurer of the Commission and shall keep and distribute minutes of all meetings of the Commission and shall counter-sign all documents as required to be executed, and shall keep and preserve all resolutions, transactions, findings and determinations of the Commission. In the absence of the Secretary-Treasurer, the Chairperson may name a Deputy Secretary-Treasurer who shall perform the duties of the Secretary-Treasurer at that meeting, or until the office shall have been filled as heretofore provided. The Secretary-Treasurer of the Commission shall keep all the funds of the Commission except those funds held by governmental agencies in trust for the Commission, and shall deposit them in a depository authorized by the Commission, and shall keep an accurate record of all receipts and disbursements. He or she shall be required to supply a bond in the amount of Fifty-Thousand Dollars (\$50,000), the premium for which shall be paid out of the Commission's funds, and he or she shall make all the disbursements under the direction of the Commission.

**Section 8. ADDITIONAL OFFICERS:** The Commission, at an annual, special or quarterly meeting, may create such additional officers as it may deem in its judgment advisable and prescribe their duties.

## ARTICLE VI - MANAGEMENT

**Section 1. EXECUTIVE COMMITTEE:** The Executive Committee shall be comprised of the entire Commission membership as set forth in Article IV.

**Section 2. STANDING COMMITTEES:** Appointments to standing committees shall be made by the Chairperson at its Annual Meeting based on recommendations of the Nominating Committee. Such appointments shall not include designation of the committee chairperson and vice-chairperson as such positions are nominated and elected by the Committees themselves.

There shall be Standing Committees and sub-committees including but not limited to the following:

- A. **Steering Committee:** The Steering Committee shall be composed of at least eight (8) members who serve as their respective county board chair or their designee. The Chairperson and Vice-Chairperson positions for the Committee can, but is not required to be, the same as the current Commission Chairperson and Vice-Chairperson positions. The Secretary-Treasurer of the Commission shall be the secretary of the Steering Committee and shall attend all meetings of the Committee,

keep a record of the proceedings and perform such other duties as may be designated to him or her by the Committee. The Secretary-Treasurer shall be an ex-officio member of this Committee without voting privileges. The duties of the Committee shall include:

1. Ensure proper coordination and cooperation among the planning committees of the Commission and their respective citizens' or technical advisory committees.
2. Act in emergency situations with the full power and authority of the Commission taking appropriate action until action is taken at the next Commission meeting, subject only to the limitation of \$50,000 for any expenditure resulting from such action. Refer also to Article V, Section 5 regarding additional Chairperson authorities for the timely approval of County levy commitments for state and federal funding opportunities, and the Commission's Financial Procedures Manual for authorities of the Executive Director.
3. Keep the Commission advised of pending legislation affecting the Commission, its policies and its programs.
4. Prepare and submit at the quarterly July meeting a preliminary budget and work program for the purposes of establishing the levy.
5. Recommend entering into contracts with member governmental units for the provision of staff planning services.
6. Recommend the employment of auditors to audit the books of the Commission.
7. Direct the payment of any bills, claims or expenses incurred on behalf of and approved by the Commission.
8. Recommend the appointment of employees necessary to administer and carry out the functions of the Commission.
9. Recommend the salaries and wages of all employees of the Commission.
10. Recommend a per diem compensation, mileage and other expenses to be paid members of the Commission.
11. Direct and monitor the current planning, information system and administration, and overhead program elements.

**B. Planning Committees:** The composition of the various planning committees shall be determined by the Steering Committee. The general functions of the committees include:

1. Elect a Committee Chairperson and Vice-Chairperson as their first order of business at the first regular Committee meeting following the Annual Meeting.

The Steering Committee Chairperson and Vice Chairperson shall generally be the same as the current Commission Chairperson and Vice-Chairperson, but it is not required.

2. Provide orientation information for new Planning Committee members at the first meeting following the Annual Meeting.
3. Prepare the annual work program statement of activities for their respective program element(s).
4. Review detailed study designs for major work elements.
5. Monitor progress on work activities, review staff drafts of analytical reports and alternative plan and program proposals.
6. Report, advise and recommend on activities for their respective program element(s) including their responsibilities for elements of the regional comprehensive plan to the full Commission for action.
7. Review specific project proposals for conformance with adopted plans and policies.
8. Coordinate activities with those of other committees when necessary and desirable.
9. Maintain liaison with appropriate citizen and technical advisory committees.

The specific duties of the Planning committees are as follows:

- (a) **Regional Comprehensive Planning Committee:** This committee directs and monitors the regional comprehensive plan and oversees other matters of regional impact. The committee is also responsible for intergovernmental coordination and serves as the Regional Clearinghouse Review Sub-Committee which administers the review process according to procedures outlined in the Clearinghouse Review Manual.
- (b) **Economic Development Committee:** This Committee directs and monitors the economic development and housing program element and maintains liaison with respective technical advisory committees, including the Comprehensive Economic Development Strategy (CEDS) Committee. The CEDS Committee composition and operational structure is managed through the guidelines adopted by the Commission in Resolution No. 29-09.
- (c) **Transportation Committee:** This committee directs and monitors the transportation program element and maintains liaison with the Transportation Policy Advisory Committees and the Transportation Technical Advisory Committee.
- (d) **Open Space and Environmental Management Committee:** This committee

directs and monitors the open space and environmental management program element and maintains liaison with the Open Space Technical Advisory Committee and the Environmental Management Technical Advisory Committee.

- (e) **Community Facilities Committee:** This committee directs and monitors the community facilities program element. The committee has responsibility to act on-behalf of the Commission for sewer service area amendments and reviews. The committee maintains liaison with the Sewer Service Area Technical Advisory Committee.

**Section 3. SPECIAL PROJECT COMMITTEES:** The Commission may from time to time create special project committees from the Commission membership to perform under delegated authority of the Commission.

**Section 4. ADVISORY COMMITTEES:** The Commission shall seek the advice and cooperation of interested citizens, public officials and agency administrators. Citizen and Technical Advisory Committees shall be established as the Commission shall deem necessary to effectively carry out the purposes of the organization. The membership of the Citizen and Technical Advisory Committees shall be established in such manner as determined by the Commission.

**Section 5. NOMINATING COMMITTEE:** The Nominating Committee shall consist of one Commissioner from each County appointed by the Chairperson and approved by the Commission at their January meeting, provided that no officer may serve on the Committee. The nominating Committee shall review the results of an internal survey of Commissioners (developed and mailed by staff) as part of their deliberations on Committee assignments. The Committee may, at its discretion, develop and institute a standard rotation schedule of Committee assignments based on agreed upon criteria.

**Section 6. STAFF:** The Commission may conduct its operations through a permanent staff hired in a manner that the Steering Committee may determine, or through retention of part-time professional, technical and clerical employees, through consultants or through other personnel that it may deem qualified to assist in its business. The Commission may delegate to the staff and to those persons hired by it those functions that the Commission may determine, but the said Commission will remain solely responsible in all matters.

**Section 7. DEPOSITORY:** The Commission shall determine a depository for the funds of the Commission and direct the Secretary-Treasurer therein to deposit the funds in such designated depository in such manner so the deposits will not be made inconsistent with Wisconsin Law and which may be subject to review by the Commission as a body. The terms and conditions of the agreements between the depository and the Commission shall be incorporated as a part of the By-laws of the Commission.

**Section 8. MEETING PAYMENTS AND EXPENSES:** A payment for meetings, mileage, and other expenses shall be paid to Commissioners-by the Commission. All members shall be reimbursed for actual expenses incurred as members of the Commission in attending meetings



and in carrying out the work of the Commission.

## **ARTICLE VII - CONTRACTS AND EXECUTION OF INSTRUMENTS, CHECKS AND DRAFTS**

**Section 1. CONTRACTS:** The Commission may enter into such contracts which are necessary to carry out the purposes and duties of the Commission and which are not inconsistent with the provisions of the Wisconsin law. The Commission may apply, contract for, receive, and expend for its purposes, any funds, grants, gifts or donations from any local governmental unit, the State of Wisconsin, the Federal Government or any other source.

**Section 2. EXECUTION OF INSTRUMENTS:** When the execution of any contract, conveyance or other instrument has been authorized without specification of the executing officers, the Chairperson or Vice-Chairperson, and the Secretary-Treasurer may execute the same in the name and behalf of the Commission per the limits expressed in the Financial Procedures Manual. The Commission shall have the power to designate the officers and agents who shall have authority to execute any instrument in behalf of the Commission.

**Section 3. CHECKS AND DRAFTS:** The Commission may authorize and direct the Secretary-Treasurer to issue such checks, drafts and vouchers as it may deem necessary for the payment of bills and expenses incurred for and on behalf of the Commission. All disbursements made by check drawn on the Commission's depository bank shall be signed by the Secretary-Treasurer. In the Secretary-Treasurer's absence, the Assistant Director may sign checks, drafts, and vouchers. To facilitate prompt payment of small bills and expenses, there is established a petty cash fund of \$100. This petty cash fund is authorized to be placed in the custody of the Secretary-Treasurer, or their designee, who may make payment of claims up to \$100.

## **ARTICLE VIII - FISCAL YEAR**

**Section 1.** The fiscal year of the Commission shall be the calendar year.

## **ARTICLE IX - SEAL**

**Section 1.** The Commission shall procure an official seal which shall contain the following legend: "EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION."

## **ARTICLE X - AMENDMENTS**

**Section 1.** Except as described in Section 2, below, these By-laws may be amended at any quarterly meeting of the Commission. The Secretary-Treasurer shall mail to each member of the Commission a copy of the proposed amendment or amendments to the By-laws. This shall be done not less than ten (10) days prior to the date of the meeting at which they will be considered. Amendment of these By-laws shall require a majority vote of the Commissioners

present, voting at a legal meeting (when a quorum is present).

**Section 2.** Article IV, Section 1 hereof shall be amended only in accordance with resolutions approved by the governing bodies of a majority of local units within the Commission, and these units shall have in the aggregate at least half of the population of the region.

## **ARTICLE XI - COMPLIANCE WITH FEDERAL AND STATE OF WISCONSIN LAW**

**Section 1. INCONSISTENCIES:** In the event that these By-laws, or any provisions herein contained, should in any manner be contrary to or violate of the provisions of Federal or State of Wisconsin Law, the provisions of the Federal or State of Wisconsin Law shall prevail.

## **ARTICLE XII – METROPOLITAN PLANNING ORGANIZATION FUNCTION & RESPONSIBILITIES**

**Section 1: PURPOSE:** To implement Federal and State level transportation planning requirements as the designated Metropolitan Planning Organization (MPO) for the Fox Cities and Oshkosh Metropolitan Planning Areas (MPAs).

**Section 2. OFFICIAL DESIGNATION:** The East Central Wisconsin Regional Planning Commission (Commission) through cooperative partnership agreements with the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and the Wisconsin Department of Transportation (WisDOT) is the designated Metropolitan Planning Organization (MPO) for the Fox Cities Transportation Management Area (TMA) and the Oshkosh Metropolitan Planning Area (MPA).

**Section 3: URBANIZED AREA BOUNDARY & METROPOLITAN PLANNING AREA:** Per the 2010 Decennial Census, the Fox Cities and Oshkosh Urbanized Areas and Metropolitan Planning Areas (MPAs) includes portions of Calumet, Outagamie and Winnebago Counties.

**Section 4: MPO POLICY BOARD:** The Fox Cities and Oshkosh Metropolitan Planning Organizations (MPOs) are governed by a single MPO Policy Board containing the same representation of elected and appointed representatives as those of the Commission. All functions, responsibilities, and authorities conveyed in these Bylaws, as they pertain to the Commission, are conferred to the MPO Policy Board when exercising such authority on transportation related policy matters or decisions.

**Section 5: MPO STAFF:** MPO staff is responsible for carrying out the federal transportation planning process in conjunction with its partners. The Commission is the hosting body for the MPO staff. As such, MPO staff are Commission employees.

**Section 6: RESPONSIBILITIES MPO POLICY BOARD:** In addition all other Bylaw responsibilities afforded to the Commission, the MPO Policy Board is the body that reviews and approves all transportation related activities of the MPO. This includes being a forum for cooperative decision-making with the following responsibilities:

- A. Approve goals and objectives of the transportation planning process;
- B. Review and approval the Long Range Transportation Plans (LRTPs) and its updates or revisions;
- C. Review and adopt changes in transportation planning concepts;
- D. Review and approve the Unified Planning Work Program (UPWP);
- E. Review and adopt the Transportation Improvement Program (TIP) including project priorities and approve any changes in the priority schedule;
- F. Ensure the efficient and effective use of the Federal Highway Administration (FHWA) Section 112 and the Federal Transit Administration (FTA) Section 5303 planning funds;
- G. Serve as liaison representatives between various governmental units in the study area to obtain optimum cooperation of all governmental units in implementing various elements of the plan;
- H. Ensure citizen participation and transparency within the transportation planning process through proactive policies and procedures.

**Section 7: MPO SUBCOMMITTEES & INTERLOCAL AGREEMENTS:** The MPO Policy Board shall have the authority to form temporary (or permanent) subcommittees to conduct the following activities in order to carry out MPO Policy Board functions:

- A. To negotiate the terms of possible funding agreements with member agencies;
- B. To investigate how MPO functions might be improved;
- C. To evaluate the MPO Director's performance and make recommendations;
- D. To conduct research and/or fact-finding regarding MPO plans, policies or operations.

All findings, recommendations and/or proposals submitted by MPO subcommittees shall not be binding, but are subject to review and final approval of the MPO Policy Board.

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These By-laws were adopted by the Commission on the 27th day of September, 1972, as further amended on the 8th day of February, 1973, the 11th day of March, 1976, the 13th day of May, 1976, the 8th day of May, 1980, the 14th day of May, 1981, the 13th day of May, 1982, the 25th day of April, 1985, the 28th day of April, 1988, the 26th day of April, 1990, 30th day of April, the 28th day of April, 1995 the 23<sup>rd</sup> day of May, 2001, the 26<sup>th</sup> day of April, 2002, the 27<sup>th</sup> day of April, 2006, the 25th day of April, 2008, the 29<sup>th</sup> day of April, 2011, the 26<sup>th</sup> day of October, 2013, the 25<sup>th</sup> day of April, 2014, the 25<sup>th</sup> day of July, 2014, the 30<sup>th</sup> day of January, 2015, the 26<sup>th</sup> day of July, 2019, the 30<sup>th</sup> day of April, 2021 and the  
day of , 2021.

**DATE:** June 30, 2021

**TO:** Local Units of Government within Calumet County

**FROM:** Melissa Kraemer Badtke, Executive Director

**RE:** Recommendations of Amendments to Articles of Organization and By-laws for East Central Wisconsin Regional Planning

The East Central Wisconsin Regional Planning Commission (ECWRPC) is a regional planning agency serving Calumet, Fond du Lac, Menominee, Outagamie, Shawano, Waupaca, Waushara, and Winnebago Counties. Regional Planning Commissions were formed by the executive order of the governor under Wis. State Statutes §66.0309. The Wisconsin statutes specify that regional planning commissions are to provide intergovernmental planning and coordination for physical, social and economic development of the region.

The East Central Wisconsin Regional Planning Commission is recommending amendments to the East Central's Articles of Organization and By-laws to remove the Gubernatorial appointments because of the extreme delays in obtaining the Appointments for the Commission Board. The Commission Board made additional changes to the Articles of Organization and the By-laws and both documents were finalized and approved by the Commission Board on April 30, 2021. Calumet County Board approved a resolution supporting these revisions on Tuesday, May 18, 2021.

Enclosed you will find a copy of the revised Articles of Organization and the By-laws for your review. For your convenience we are also enclosing a draft form resolution the Commission is recommending that you approve. The following steps would need to be taken by the local units of government, including the Counties to assist in this process:

1. A majority of the local units of governments (as defined as counties, towns, villages, and cities) would need to approve a resolution amending East Central's Articles of Organization and the By-laws.
2. A copy of the signed resolution will need to be sent Erin Bonnin, Administrative Coordinator at East Central ([ebonnin@ecwrpc.org](mailto:ebonnin@ecwrpc.org)) and Melissa Kraemer Badtke, Executive Director at ([mbadtke@ecwrpc.org](mailto:mbadtke@ecwrpc.org)).

If you have any questions, please contact:

Melissa Kraemer Badtke, Executive Director  
East Central Wisconsin Regional Planning Commission  
Phone: 920-886-6828  
Cell Phone: 920-2020-1479  
Email: [mbadtke@ecwrpc.org](mailto:mbadtke@ecwrpc.org)