

**TOWN OF BLOOMER
CHIPPEWA COUNTY, WISCONSIN**

ZONING, LAND USE AND BUILDING ORDINANCE (2018 - 02)
(effective date 07/10/2018)

Prepared and Published by:

Town of Bloomer, Chippewa County, Wisconsin

ZONING, LAND USE AND BUILDING ORDINANCE

TOWN OF BLOOMER

CHIPPEWA COUNTY, WISCONSIN

Pursuant to the authority granted by 60.22 (3), 60.62, 61.35 and 62.23 of the Wisconsin Statutes, the Town Board of the Town of Bloomer, Chippewa County, Wisconsin, does hereby ordain this Ordinance.

The provisions of the Ordinance shall be held to be minimum requirements, adopted to promote the health, safety, aesthetics, comfort, prosperity and general welfare of the Town of Bloomer, to provide for orderly development and appropriate use of land in the Town of Bloomer, and to preserve agricultural land for the well-being of future generations.


Gary Nehring, Chairman


Brian Lueck, Supervisor


Roger D. McFarlane, Supervisor


Roxanne Guerink, Clerk

Date 6-5-18

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Ordinance Amendment:

2012-02 -- Definitions: Planning Commission, Setback, and Vision Triangle Language; Rural Residential District: Yard Areas Language; Industrial District: Height Restrictions Language, Highway and Water Setback Requirements Language, Administration for Ordinance: Planning Commission and Land Use permits Language revised (Adopted by the Town of Bloomer on 04-11-2012 and approved by the Chippewa County Board on 06-12-2012)

Ordinance Amendment:

2014-03 -- Definitions: Accessory Farm Building, Additional Farm Residences, Base Farm Tract, Farm Residential Driveway, Rights of Way, Seasonal Use, and Sign Size; General Provisions: Compliance, Minimum Building Requirements, and Home Occupations Sign Language, and List of Uses; Forestry and Recreation District: Lot Area Language; Agriculture Production District: Lot Size and Development Options Language; Rural Residential District: Lot Size Language; Commercial District: Lot Size Language; Industrial District: Lot Size Language; Highway and Water Setback Requirements: Class D Highway Setback Language, Access Driveways: Minimum Distances and Minimum Number and Width Language; Signs: On-premise test plot signs in the Agriculture Production District Language; Administration for Ordinance: Land Use Permit Language; Conditional Uses: Town Board Action and Termination and Revocation Language revised. (Adopted by the Town of Bloomer on 08-05-2014 and 09-10-2014 approved by the Chippewa County Board on 02/10/15)

Ordinance Amendment:

2015-05 -- General Provisions, Excessive Height Permitted and Table of Uses; Site Restrictions in the Agriculture Production, Rural Residential, and Commercial Districts; Non-Metallic Mining Overlay District; On-premise Sign setbacks and size; and Zoning Administrator Designation. (Adopted by the Town of Bloomer on 09-23-15, approved by the Chippewa County Board on 11/10/15)

Ordinance Amendment:

2018-02 — Access Driveways Language, Table of Uses (additional Commercial Uses), Created a new Zoning Classification ((I - 2) - Infrastructural Manufacturing and Construction), Table of Uses (added I - 2 Uses), and Non-Metallic Mining General Conditional Use Requirement Setback from Wetlands Language (Adopted by the Town of Bloomer on 09/05/17, 03/06/18, 05/01/18, and 06/05/18 approved by the Chippewa County Board on 03/13/18 and 07/10/18).

ARTICLE I
TITLE

This Ordinance shall be known, cited and referred to as the Town of Bloomer Zoning, Land Use and Building Ordinance.

ARTICLE II
INTENT AND PURPOSE

Pursuant to the authority granted by 60.22 (3), 60.62, 61.35 and 62.23 of the Wisconsin Statutes, the Town Board of the Town of Bloomer, Chippewa County, Wisconsin, does hereby ordain this Ordinance.

The provisions of this Ordinance shall be held to be minimum requirements, adopted to promote the health, safety, aesthetics, comfort, prosperity and general welfare of the Town of Bloomer, and to preserve agricultural land for the well-being of future generations.

ARTICLE III
DEFINITIONS

For purposes of this Ordinance, certain terms are defined as follows:

Accessory Building. A subordinate building, the use of which is purely incidental to the permitted use of the principal building, and is unattached from the principal building by a minimum of five (5) feet.

Accessory Farm Buildings. Farm building other than the principal structure or dwelling unit.

Additional Farms Residences. A residence other than the original or principal residence which can be occupied by immediate family members of the property owner(s) and who are actively engaged in the farm operations or employees of the farm and their immediate families, who obtain a significant portion of their gross income from the farm. Additional farm residences cannot be originally constructed as rental properties to generate income for the farm operation. Lastly, if an additional farm residence is subdivided from the farm, each subdivision must meet Section 7.4-7.6 requirements.

Automobile Wrecking Yard. Any premises on which six or more motor vehicles which would require valid, current license plates to be operated upon any public highway and which do not bear valid, current license plates.

Alley. A way which affords only a secondary means of access to abutting property.

Base Farm Tract. Consists of all contiguous parcels that are part of a single farm duly recorded and existing prior to December 11, 2003, and is subject to Article VII of the Town of Bloomer Zoning Code, consists of a minimum of thirty-five (35) acres, and regardless of subsequent changes in the size of the farm due to farm consolidations or splits. The boundaries of all "base farm tracts" are determined on the same date (December 11, 2003) and never change.

Basement. A portion of a building or structure partly underground designed for human occupancy.

Building. A structure having a roof supported by columns or walls, and intended for the shelter, housing, or enclosure of persons, animals, or chattels; each portion of a building separated by a division of walls from the ground up, without openings in those walls, is a separated building for the purpose of this Ordinance.

Building Alterations of. Any change or rearrangement of the supporting member (such as bearing walls, beams, columns or girders) of a building, and addition to a building, or movement of a building from one location to another.

Building Height of. The vertical distance from the average elevation of the finished grade at the building line to the highest point of a flat roof, or the deck line of a mansard roof, or the average height of the highest gable or gambrel, hip or pitch roof.

Definitions (cont.)

Building, Principal. A building in which is conducted the main use of the lot on which said building is located.

Building Line, Front. A line parallel to the street, intersecting the foremost point of the building, excluding uncovered steps.

Campground. A parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of camper or travel trailers.

Conditional Use. A use, either public or private, which, because of its unique characteristics, cannot be properly classified as an "permitted" use in any particular district or districts. In each case, after, due consideration by the Plan Commission and Town Board of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, such conditional use may or may not be granted, with or without conditions.

Cluster, Clustered or Clustering. Lots for residential development which are grouped together so that every lot is adjacent to at least one other lot, and when groupings include more than five lots most lots are adjacent to more than one lot. Adjacent lots include lots across an approved road from each other, but does not include lots touching only at a corner. Clustering allows placement of dwellings in one portion of the property, usually wooded land or marginal farmland, so as to reduce their impact on productive farmland.

Dwelling Unit. Any room or group of rooms located within a dwelling and forming a single habitable unit, with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

Dwelling, Single Family. A detached building designed for and occupied exclusively by one family.

Dwelling, Two Family. A detached building designed for and occupied exclusively by two families living independently of each other.

Dwelling, Multiple. A building or portion thereof used or designated as a residence for three (3) or more families as separate housekeeping units, including apartments, apartment hotels, and town houses.

Family. Any number of individuals living and cooking together on the premises as a single housekeeping unit.

Farm Residential Driveway. A driveway intended to only access a residential dwelling and residential accessory structures such as a garage, but not agriculture production related structures, such as a barn, grain bin, or equipment storage structure.

Forest Industries. The cutting and temporary storage of forest products, the operation of portable sawmills, the production of maple syrup and sugar.

Foundation (Permanent). A slab or basement built of concrete, blocks, or other materials.

Interchange. A grade-separated intersection with one (1) or more direct connections for vehicular travel between the intersecting streets or highways.

Junk Yard. An open space where waste, used, or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber, tires, and bottles. A "junk yard" also includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings, or material stored and used in conjunction with the primary use of that zoning district.

Lot. A division of land occupied or designed to be occupied by one building and its accessory buildings or uses, including open spaces required by this Ordinance. A lot may be a parcel of land designated in a plat or CSM laid out prior to the effective date of this amendment, whether or not such division abuts a public street or other officially approved place recorded in the office of the Register of Deeds, or any part of a larger division when such parts comply with the requirements of this Ordinance as to width and area for the district in which it is located.

Lot Coverage. The percent of the area of a lot occupied by buildings or structures, including accessory building or structures.

Definitions (cont.)

Manufactured Home or Housing. Any structure, HUD certified and labeled under the National Manufactured Home Construction and Safety Standards Act of 1974 (U.S.C. Title 42, Chapter 70), that is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances.

Mobile Home. Any structure, not HUD certified and labeled under the National Manufactured Home Construction and Safety Standards Act of 1974 (U.S.C. Title 42, Chapter 70), that is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances.

Modular Units. A detached single or double family dwelling unit designed for long term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems, which is or was designed to be mounted on its own foundation.

Off-premise sign. Any sign which advertises goods, products, facilities or services not on the premises where the sign is located, or directs persons to a different location from where the sign is located.

Permits, Land Use. Certificate to allow a specific use of land or structures, including construction, on a legally described tract, issued by the Zoning Administrator.

Plan Commission. A seven (7) person commission with the authority and responsibilities delineated in 62.23 (2), (3), (4), (5) and (7) (d), Wisconsin Statutes and appointed by the Town Chairman pursuant to 60.62 (4) (a), Wis. Statutes.

Resort. A parcel of land used or intended to be used, let or rented for occupancy by campers, for occupancy by or of camper or travel trailers and for occupancy rooms.

Rights of Way. Any street, road, or highway that is publicly maintained or railroad and public utility easements. For Town roads the right of way is typically sixty-six (66) feet wide (4 rods) measuring thirty-three (33) feet from the center line of the road in both directions unless defined by a certified survey map, ancient fence lines, or approved as something other than a four (4)-rod road by the Town Board. Right of way for county, State, or Federal roads are designated by the agency having jurisdiction over the road.

Roadside Stand. A structure having a ground area of not more than 300 square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises.

Seasonal Use. Human habitation of a dwelling unit (such as a seasonal cabin, travel trailer, or recreational vehicle) as defined in this Ordinance for not more than 150 days counted inclusively during any one calendar year.

Setback. The minimum horizontal distance from the lot line, the right-of-way line of the highway or the center line of the highway, as designated in the Ordinance, to the outermost projection of the building, exclusive of permitted projections. The setback shall be measured at right angles to such lot line, right-of-way line or center of highway.

Sign. Anything erected, hung, suspended, painted, or attached to any other structure carrying words, letters, figures, phrases, sentences, names, designs, trade names or trade marks or any other devices placed so as to be visible from a street or highway, and calling attention to a business, trade, profession, commodity, product, persons, form or corporation.

Sign size. The size of a sign does not include the supports, posts, columns, frames, or brackets used to install the sign.

Street. A public or private thoroughfare which may either provide the principal means for pedestrian and/or vehicular access to abutting property or may provide for the movement of pedestrian and/or vehicular traffic or both.

Definitions (cont.)

Street (Arterial). A public street or highway intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways, as well as major thoroughfares, highways and parkways.

Structure. Anything constructed or erected, the use of which requires location on the ground or that it be attached to something having a location on the ground but not including utility lines and their normal accessory equipment.

Structural Alterations. Any change in the supporting members of a structure such as bearing walls, columns, beams or girders, foundations and poles.

Travel Trailer. A vehicular portable structure designed as a temporary dwelling for travel, recreation and vacation use, which does not fall within the definition of mobile home or modular unit, and does not exceed thirty-five (35) feet in length.

Variance. A departure from the terms of this Ordinance as applied to a specific building, structure or parcel of land, which the Board of Zoning Appeals may permit contrary to the regulations of this Ordinance for the district in which such building, structure, or parcel of land is located, when the Board of Zoning Appeals finds that a literal application of such regulation will affect a limitation of the use of the property which does not generally apply to other properties in the same district, and for which there is no compensation gain to the public health, safety or welfare. See *Article XVII and XVIII*.

Vision Clearance. An unoccupied triangular space at the intersection of highways or streets with other highways or streets or at the intersection of highways or streets with railroads. Such vision clearance triangle shall be bounded by the intersecting highway, street or railroad center lines and a setback line connecting points located on such center lines by measurement from the intersection as specified in the Ordinance. See sketch on Page 33.

Yard. An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation as permitted, and except for permitted accessory buildings in rear yard.

ARTICLE IV

GENERAL PROVISIONS

Section

4.1 Jurisdiction: The jurisdiction of this Ordinance shall include all lands within the Town of Bloomer, Chippewa County, Wisconsin.

4.2 Compliance.

- A. No structure shall after December 11, 2003 be used; and no structure or part thereof shall after December 11, 2003 be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full compliance with the provisions of this Ordinance and all other applicable local, county, and state regulations.
- B. No provisions of this Ordinance or compliance therewith shall bar an action to enjoin or abate the use of occupancy of any land or structure as a nuisance under the appropriate laws of the State of Wisconsin.
- C. Nonconforming Use: A use that was lawfully established prior to the effect of this Ordinance)December 11, 2003 which is not in conformance with the provisions of this Ordinance shall be called a nonconforming use and may be continued subject to the following provisions:
 - 1. No said use shall be intensified, expanded or enlarged except in conformity with the provisions of this Ordinance.

General Provisions (cont.)

4. 2. C. (cont.)

2. No structural alteration or repair to any structure associated with a nonconforming use shall exceed 50% of its current market value as determined by the Plan Commission, unless the use of the premise is permanently changed to a conforming use. Regular and ordinary maintenance is exempt from this provision.
 3. When a structure containing a nonconforming use is damaged by fire, explosion, act of God, or the public enemy to the extent of more than 50% of its current market value as determined by the Plan Commission, it shall not be restored except in conformity with regulations of the district in which it is located.
 4. If the nonconforming use of any structure or premise is discontinued for a period of twelve (12) months, any further use of the structure or premise shall conform to the regulations for the district in which it is located.
- D. Nonconforming Structure: A structure that was lawfully established prior to the effect of this Ordinance December 11, 2003 which is not in conformance with the dimensional standards of this Ordinance shall be called a nonconforming structure and is subject to the following provisions:
1. No said structure shall be expanded or enlarged except in conformity with the provisions of this Ordinance.
 2. No structural alteration or repair to any nonconforming structure shall exceed 50% of its current market value as determined by the Plan Commission, except that the structural alteration or repair is in conformity with the dimensional standards of this Ordinance. Regular and ordinary maintenance is exempt from this provision.
 3. When a nonconforming structure is damaged by fire, explosion, act of God, or the public enemy to the extent of more than 50% of its current market value as determined by the Plan Commission, it shall not be restored except in conformity with dimensional standards of this Ordinance.
 4. No structure shall be considered to be nonconforming if at the time this Ordinance became effective (December 11, 2003) it was a conforming structure and it is not in conformance with the dimensional standards of this Ordinance due to a subsequent action by a person, corporation or government other than any owner of the property.
- E. Nonconforming Lot: A lot that was lawfully established prior to the effect of this Ordinance (December 11, 2003) which is not in conformance with the provisions of this Ordinance, for example, lots of substandard size or dimension, shall be called a nonconforming lot and may be developed subject to the following provisions:
1. Lots existing and of record prior to adoption of this Ordinance, but of substandard size or dimension, may be devoted to uses permitted in the district in which they are located.
 2. One principal structure is permitted on a nonconforming lot if the yard requirements of this Ordinance can be met and the requirements of the Chippewa County Sanitary Ordinance can be satisfied.
 3. If a nonconforming lot is contiguous to one or more lots under the same ownership as of the effective date of this Ordinance, and if those lots could be combined so that the result would constitute one or more conforming lots, the lots involved shall be so combined for all purposes under this Ordinance.

General Provisions (cont.)

4.3 Site and Building Restrictions.

- A. Unsuitable Land: No land shall be used or structure erected where the land is determined by the Plan Commission to be unsuitable for such use or structure by reason of flooding, inadequate drainage, adverse rock formation, unfavorable topography, presence of a regulated wetland or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of the community. The Plan Commission, in applying the provisions of this section, shall, in writing, recite the facts upon which it bases its conclusions that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Plan Commission may affirm, modify, or withdraw its determination of unsuitability.
- B. Minimum Building Requirements. Every building to be used in whole or in part for residential purposes shall have a living area of not less than 900 square feet exclusive of porch, deck and garage, except for seasonal dwellings such as cabins, travel trailers, or recreational vehicles, which must only be used for seasonal use and may never be converted to continuous residential use unless the structure meets all of the requirements of this Ordinance and all Chippewa County residential permitting requirements; and every building to be used in whole or in part for residential or commercial purposes shall have finished exterior siding. Specifically prohibited is the use of tar paper tyvek or equivalent material as siding. The exterior of every such building shall be completed within one year after the issuance of the land use permit unless such time for completion shall be extended in writing by the Town Board.
- C. All lots or sites shall abut upon a public street or approved private street and each lot shall have a minimum frontage and area as set forth in this Ordinance.
- D. All principal structures shall be located on a lot, and only one principal structure shall be located, erected, or moved onto a lot.
- E. No Land Use Permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width.
- F. Private Sewer and Water: Every lot and parcel of property to be used in whole or in part for residential purposes shall first be furnished with a sanitary disposal system constructed thereon in accordance with the requirements of Chippewa County, the State of Wisconsin, and of this Ordinance. Sanitary surface privies serving the occupants of residential structures are not permitted in the Town of Bloomer. In any district where a public water service or public sewage system is not available, the lot width and area shall be determined in accordance with the Town of Bloomer Zoning Ordinance.

4.4 Use Restrictions.

- A. Approved Uses: Only those approved uses specified for a district, their essential services, and the uses specified in Paragraphs B. through L. shall be permitted in a district.
- B. Accessory Uses and Structures: Permitted in any district, but not until their principal structure is present or under construction. Accessory uses include professional home offices, household occupations, incidental repairs, parking facilities, gardening, servant's, owner's, itinerant agricultural laborer's and watchman's quarters not for rent, private swimming pools, and private emergency shelters. Except as herein otherwise regulated, accessory uses shall not include the keeping, propagation or culture of pigeons, poultry or livestock.
- C. Conditional Uses: May be permitted when receiving a recommendation by the Plan Commission and approved by the Town Board.
- D. Unclassified or Unspecified Uses: May be permitted by the Town Board after the Plan Commission has made a review and recommendation, provided that such uses are similar in character to the principal uses permitted in the district.

General Provisions (cont.)

4.4 (cont.)

- E. Temporary Uses. May be established in any district from which they are otherwise excluded by the regulations of this Ordinance under the conditions hereinafter specified:
1. Real estate office, for a period not to exceed one year.
 2. Temporary buildings and the temporary storage of materials and equipment incidental to the construction of buildings on the premises, for a period not to exceed one year from the date of issuance of the land use permit or permits for such construction.
 3. A house trailer or mobile home may be occupied on any premises by the owner or builder, while residential construction is in progress, for a period not to exceed one year from the date of issuance of the land use permit for such residence,
 4. A basement of an uncompleted residence may be occupied for living purposes by the owner while construction is in progress, for a period not to exceed one year from the date of issuance of the land use permit for such residence and provided said basement has two exits.
- F. Mobile Homes and Mobile Home Parks.
1. Provisions and Definitions of Wisconsin Statutes Adopted. The provisions of Section 66.0435 of the Wisconsin Statutes including the definitions contained therein, are hereby adopted by reference, except that the definitions for mobile home and manufactured home in Article III, Definitions apply.
 2. Location Outside Mobile Home Park.
 - a. It shall be unlawful, for any person to park any mobile home or manufactured home on any street, alley, highway, or other public place for more than two hours.
 - b. No person shall park or occupy any mobile home, or manufactured home, without complete bathroom facilities and an approved on-site wastewater treatment system on any tract of land, owned by any person, outside a licensed mobile home park.
 - c. No person shall park or occupy any mobile home, or manufactured home, with complete bathroom facilities and an approved on-site wastewater treatment system on any tract of land, owned by any person, which is situated outside a licensed mobile home park until a land use permit has been issued by the Town Board or Zoning Administrator. In a case where the Town Board or Zoning Administrator issues a land use permit to park or occupy such mobile home or manufactured home on property situated outside a licensed mobile home park, such structures shall be subject to the same setback and sanitary requirements provided in this ordinance for buildings and other structures.
 3. Monthly Parking Permit Fee. There is hereby imposed on each occupied, non-exempt mobile home or manufactured home located in the Town of Bloomer a monthly parking permit fee as determined in accordance with provisions of Section 66.0435 of the Wisconsin Statutes. Said fees shall be paid to the Town Treasurer on or before the 10th day of the month following the month for which such fees are due. In addition thereto, occupants or owners of non-exempt mobile homes or manufactured homes shall remit to the Town Clerk a cash deposit of One-hundred Dollars (\$100.00) to guarantee payment of such fees when due to the Town Treasurer; and , when such non-exempt mobile home or manufactured home has been removed from the Town, such cash deposit shall be applied to reduce any monthly parking permit fee for which said occupant or owner is liable and the excess shall be refunded.

General Provisions (cont.)
4.4 F.(cont.)

4. Mobile Home Park Licenses. It shall be unlawful for any person to establish or operate within the Town of Bloomer a mobile home park without first having secured a license therefore from the Town Clerk. The application for such a license shall be accompanied by a fee of One-hundred Dollars (\$100.00) for each 50 spaces within the existing or proposed park. The license shall expire one year from the date of issuance. A fee of Ten Dollars (\$10.00) shall be paid for the transfer of each license.
 5. Revocation and Suspension. The Town Board may revoke any license or permit issued pursuant to the terms of Section 4.4 F. of this Ordinance in accordance with the provisions of Section 66.0435 of the Wisconsin Statutes.
- G. Junked Automobiles, Junked Property and Wrecking Yards.
1. Not more than six automobiles or other motorized vehicles which would require valid, current license plates to be operated upon any public highway and which do not bear valid, current license plates shall be parked or shall be permitted to remain for more than 30 days within 100 feet of any lot line or property line or within 100 feet of any road, street or highway.
 2. No person shall store junked or discarded property, including motor vehicles, boats, bicycles, refrigerators, furnaces, washing machines, dryers, stoves, farm or other equipment, lumber, bricks, cement blocks, tires, or other unsightly debris, except in a building or other enclosure which keeps such items from public view.
 3. It shall be unlawful for any person to establish, operate or maintain within the Town of Bloomer a junk yard, salvage yard or wrecking yard without having first secured a license therefor from the Town Clerk. The application for such license shall be accompanied by a fee of One-hundred Dollars (\$100.00). The license shall expire one year from the date of issuance. A fee of Ten Dollars (\$10.00) shall be paid for each transfer of a license.
- H. Metallic Mining. Pursuant to Section 293.33, Wisconsin Statutes the Town of Bloomer will establish a Local Mining Impact Committee to study any metallic mining proposal. In addition, the Town of Bloomer will exercise its zoning authority by hereby establishing a license and standards for metallic mining. The Local Mining Impact Committee will report its findings to the Plan Commission before it acts to make a recommendation to the Town Board and to the Town Board before it acts to approve or deny the license.
1. It shall be unlawful for any person to establish, operate, or maintain within the Town of Bloomer a mine or pit for the extraction of natural metallic minerals without having first secured a license therefore from the Town Clerk. The granting of such license shall be subject to Plan Commission recommendation to the Town Board following a public hearing and Town Board approval following Plan Commission recommendation and a public hearing. The application for such license shall be accompanied by a fee of Ten Thousand Dollars (\$10,000.00) the first year of application; thereafter the annual application fee shall be Twenty-five Hundred Dollars (\$2,500.00). The license shall expire one year from the date of issuance. A fee of Twenty-five Hundred Dollars (\$2,500.00) shall be paid for each transfer of a license. Such license shall entitle the applicant to extract metallic mineral resources on the licensed premises, including the erection of buildings and installation of equipment necessary thereto, subject to the provisions of this subsection 4.4 I.
 2. Natural metallic mineral resources shall not be processed, other than physical or mechanical reduction, on the premises where extracted.
 3. Every mine or pit for the extraction of natural metallic minerals and every part thereof, including processing and weighing or measuring equipment, shall comply with the minimum distance requirements set forth in the permit issued by the State of Wisconsin or the following minimum distance requirements, whichever are greater:

General Provisions (cont.)
 4.4 H. (cont.)

Item	Minimum distance therefrom
Any property line	300 feet
Any public road right-of-way	300 feet
Any private well	1320 feet
Any dwelling	1320 feet
Any commercial, industrial or agricultural structure	500 feet
Any wetland, lake or stream/river	2640 feet

4. It shall be unlawful for any person to excavate, extract, process, weigh, measure or transport natural metallic minerals at or within any mine or pit except between the hours of 6:00 a.m., when such activities may commence, and 6:00 p.m., when such activities shall cease. Said times shall be central standard time when standard time observed and central daylight time when daylight savings time is observed.
 5. Within two years after operations cease, all disturbed land for the extraction of metallic natural minerals shall be restored in compliance with State of Wisconsin law.
- I. Land Spreading, Storage and Soil Incorporation of Waste. This subsection is intended to protect property values, to prevent blight and deterioration of areas within the Town, and to enhance the quality of life within the Town by the regulation of the storage, ground surface application, and soil incorporation of waste produced outside of the Town.
1. Definitions. The following definitions apply to this subsection:
 - a. Waste. Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include animal manure, or animal manure mixed with organic bedding material.
 - b. Organic Waste. Waste that is derived from living organisms.
 - c. Inorganic Waste. Waste that is not derived from living organisms.
 - d. Commission. The Town of Bloomer Plan Commission.
 - e. Person. Any individual, partnership, limited liability corporation, limited liability partnership, firm or corporation.
 - f. Store. To keep or maintain an item or material in any quantity and whether in a container or vehicle or building and whether on or underneath the surface of the ground.
 2. Storage, Application, Incorporation of Waste.
 - a. It shall be unlawful for any person to store at any location within the Town of Bloomer or apply to the surface of the ground or incorporate into the soil of any lands within the Town of Bloomer, inorganic waste produced outside the Town of Bloomer.

General Provisions (cont.)

4.4 I. 2 (cont.)

- b. It shall be unlawful for any person to store at any location within the Town of Bloomer or apply to the surface of the ground or incorporate into the soil of any lands within the Town of Bloomer, organic waste produced outside the Town of Bloomer without first having obtained a conditional use permit therefor from the Plan Commission.
3. Application, Hearing, Notice and Conditional Use Permit.
 - a. Application for a conditional use permit shall be made in writing upon a blank form to be furnished by the Plan Commission. Such application shall state the name and address of the applicant, the name and address of the owner of the premises on which the waste is proposed to be placed, and the legal description of the premises on which the waste is proposed to be placed. Such application shall also specifically identify the type of waste, how and when the applicant proposes to use the waste and such other information as the Plan Commission may require.
 - b. The Plan Commission shall, not later than twenty-one (21) days after the receipt of the application, hold a hearing at which the applicant, members of the public, and other persons interested may be heard on the application. Notice of the hearing shall be published as a Class 1 Notice under chapter 985, Wisconsin Stats
 - c. At the conclusion of the hearing on the application or any adjournment thereof, but in any event, not less than twenty-one (21) days after receipt of the application, the Plan Commission shall decide whether to grant or deny the permit and determine what restrictions and limitations, if any shall be placed on the permit.
 - d. Restrictions and limitations that may be included in the permit by the Plan Commission shall include the use to which waste may be put; quantities of waste that may be used; how the waste must be stored; if used as a fertilizer, whether the waste may be applied to the surface of the soil or incorporated into the soil; the number of times or the period of time, including the number of hours and time of day of the application, in which waste may be used; and other restrictions and limitations that further the stated the purpose and intent of this subsection.
- J. Towers and Wireless Communications Facilities.
1. This subsection is intended to:
 - a. Accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare;
 - b. Facilitate the provision of towers and wireless communication services to the residents and businesses of the Town of Bloomer;
 - c. Minimize adverse visual effects of towers and wireless communication facilities through careful siting and design standards;
 - d. Avoid potential damage to adjacent properties from the construction and operation of towers and wireless communication facilities through structural standards and setback requirements; and
 - e. Maximize the use of existing and approved towers, buildings or structures to accommodate new wireless communication antennas to reduce the number of towers needed to serve the community.

General Provisions (cont.)

4.4 J. (cont.)

2. Definitions.
 - a. Antenna. Any device or equipment used for the transmission or reception of electromagnetic waves, which may include omni-directional antenna (rod), directional antenna (panel) or parabolic antenna (disc).
 - b. Collocation. The location of more than one antenna or set of antennas on the same tower structure.
 - c. FAA. Federal Aviation Administration.
 - d. FCC. Federal Communications Commission.
 - e. Height. The distance measured from ground level to the highest point on a tower or structure, including any antenna.
 - f. High power transmission line. A 69 kv or greater electric transmission line with towers at least 75 feet in height.
 - g. Tower. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including guy towers, monopole towers and self-supporting lattice towers.
 - h. Tower accessory structure. Any structure located at the base of a tower for housing base receiving or transmitting equipment.
 - i. Wireless Communications. Any personal wireless services as defined in the Telecommunications Act of 1996, including FCC licensed commercial wireless telecommunications services such as cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or may be developed.
3. Applicability.
 - a. Conditional Use Permit Required. A conditional use permit is required for any facility controlled under this subsection to be used, established or sited. This subsection specifically applies to all electromagnetic frequency transmission towers over 50 feet, except as noted in d. below.
 - b. Preexisting Towers and Antennas. Any tower or antenna for which a permit has been issued prior to the effective date of this subchapter shall not be required to meet the requirements of this subchapter, other than the requirements of subsections 4.4 K. 4. a., c. and g. Any addition or change to a preexisting tower or antenna shall comply with all applicable requirements of this subchapter.
 - c. District Height Limitations. The requirements set forth in this subchapter shall govern the design and siting of towers and antennas that exceed the height limitations specified for each zoning district.
 - d. Amateur Radio; Receive Only Antennas. This subchapter shall not govern the installation of any tower or antenna that is owned and/or operated by a federally licensed amateur radio operator or is used exclusively for receive-only antennas.
4. General Requirements.
 - a. All towers and antennas shall comply with all FCC and FAA rules and regulations.

General Provisions (cont.)

4.4 J. 4. (cont.)

- b. The monopole design is the preferred tower structure. If a monopole tower can be built, that is what will be built. Use of guy or lattice towers must be justified on the basis of collocation opportunities or specific site and/or structural requirements which will preclude the use of a monopole tower. Guy and lattice towers will not be allowed without such justification.
 - c. Design and installation of all towers and antennas shall comply with the manufacturer's specifications. Plans shall be approved and certified by a registered professional engineer.
 - d. Installation of all towers and antennas shall comply with all applicable state and local building and electrical codes.
 - e. For leased sites, written authorization for siting the wireless communication facilities from the property owner must be provided and on file with the Town of Bloomer.
 - f. The owner of the tower is responsible and liable for electrical interference resulting from the tower, including but not limited to, radio interference, power surges, stray voltage and ground/earth currents.
 - g. All towers and antennas must be adequately insured for injury and property damage.
 - h. All unused towers and antennas must be removed within 12 months of cessation of operation or use, unless a written exemption is provided by the Plan Commission. After the facilities are removed, the site shall be restored to its original or an improved condition, and anchoring elements shall be removed from the ground to within 8 feet of ground level. If removal and/or restoration is not completed, the Town is authorized to complete the removal and site restoration and the cost shall be assessed against the property as a special assessment.
 - i. When applicable, proposals to erect new towers and antennas shall be accompanied by any required federal, state or local agency licenses or applications for such licenses.
 - j. Only one tower is permitted on a parcel of land. Additional towers may be permitted with a conditional use permit if each additional tower is located within 200 feet of the first tower located on the parcel and all other requirements of this subchapter and for conditional use permits are met.
5. Prohibitions.
- a. No tower shall be over 300 feet in height.
 - b. No tower or antenna may be installed on a parcel within a subdivision or CSM created for residential purposes.
 - c. No advertising message or sign shall be affixed to any tower or antenna.
 - d. Towers and antennas shall not be artificially illuminated unless required by FCC or FAA regulations. Any artificial illumination on a tower must be deflected from view of residences or farmsteads within 1500 feet of the tower.
 - e. No part of any tower or antenna shall extend across or over any right-of-way, public street, highway, sidewalk or property line.

General Provisions (cont.)
4.4 J. 5. (cont.)

- f. No temporary mobile communication sites are permitted except in the case of equipment failure, equipment testing, equipment replacement, or in the case of an emergency situation authorized by the Zoning Administrator. Use of temporary mobile communication sites for testing purposes shall be limited to 36 hours, and the use of temporary mobile communication sites for equipment failure, equipment replacement, or in the case of emergency situations, shall be limited to 30 days, unless extended in writing by the Zoning Administrator.

6. Performance Standards.

- a. General. Except as provided in this subchapter, all wireless communication facilities shall meet the dimensional standards of the zoning district in which they are located. Where the facilities are the principal use on a separate parcel, the parcel shall meet the minimum lot size requirements of the respective zoning district. On a parcel of land that already has a principal use, the facilities shall be considered an accessory use and a smaller area of land may be leased provided that all requirements of the Ordinance can be met.

- b. Setbacks and Separation.

- i. Tower structures shall be setback from the nearest property line a distance equal to the height of the tower. This setback may be reduced to one-half the height of the tower if the applicant submits an engineering report from a registered professional engineer that certifies that the tower is designed and engineered to collapse upon failure within the distance from the tower to the property line.

- ii. No new tower shall be located within one mile of any residence other than the residence on the parcel on which the tower is to be located and no new tower shall be located within two miles of an existing tower unless the applicant demonstrates to the reasonable satisfaction of the Commission that no area or existing tower beyond these separation distances can accommodate the applicant's proposed tower or antenna. Supporting evidence may consist of the following conditions:

- (a) Collocation or sharing of facilities is not possible according to 4.4 K. 6. c. below.
- (b) There is no area beyond the separation distances that meets the applicant's engineering requirements.

If the Commission allows a new tower within the separation distances, such placement shall be the farthest away from the residence or existing tower as is practicable. In any case, no new tower shall be located within 660 feet of any residence other than the residence on the parcel on which the tower is to be located.

- c. Collocation/Sharing of Facilities.

- i. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Plan Commission that no existing tower or structure can accommodate the applicant's proposed antenna. Supporting evidence may consist of the following conditions:

- (a) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
- (b) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

General Provisions (cont.)
4.4 J. 6.c.i. (cont.)

- (c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (d) The applicant's proposed system would cause electromagnetic interference with the system on the existing tower or structure, or the system on the existing tower or structure would cause interference with the applicant's proposed system.
 - (e) The fees, cost, or contractual provisions required by the owner to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are considered unreasonable.
 - (f) The applicant demonstrates conclusively that there are other limiting factors that render existing towers or structures unsuitable.
- ii. New towers shall be designed structurally and electrically to accommodate the applicant's antennas and comparable antennas for:
- (a) at least 2 additional users if the tower is 130 feet or more in height and less than 165 feet in height;
 - (b) at least 3 additional users if the tower is between 165 feet and 200 feet in height;
 - (c) at least 4 additional users if the tower is over 200 feet in height and less than 250 feet in height; and,
 - (d) at least 5 additional users if the tower is 250 feet or more in height.
- iii. The total number of users required to be accommodated in 6. c. ii. above can be reduced to the number of FCC licenses (all licenses granted, pending or available) for service comparable to that of the applicant's intended use of the tower.
- iv. The total number of users required to be accommodated in 6. c. ii. above can be reduced if the applicant demonstrates to the reasonable satisfaction of the Plan Commission that the proposed tower cannot accommodate the number of users required. Supporting evidence may consist of the following conditions:
- (a) There is no other location within the geographic area required to meet the applicant's engineering requirements and the engineering requirements of all the required users.
 - (b) Due to topographic conditions there is not sufficient height to meet the engineering requirements for all the required users and there is no available location within the geographic area of the applicant's engineering requirements affording sufficient height to meet the engineering requirements for all the required users.
 - (c) The applicant demonstrates conclusively that the proposed tower cannot accommodate the number of users required due to other specific limiting factors.
 - (d) The total number of users required to be accommodated in 6. c. ii. above can be only be reduced by the minimum number necessary to achieve the adequate provision of service of all the users of the tower.

General Provisions (cont.)
4.4 J. 6.c. (cont.)

- v. New towers must be designed to allow for future rearrangement of antennas on the tower and accept antennas mounted at different heights.
 - d. Screening and Landscaping. The tower location shall provide for the maximum amount of screening of the facilities. The site shall be landscaped with a buffer of plant materials that effectively screens the view of all tower accessory structures, equipment and improvements at ground level from adjacent properties. The standard buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the area where tower accessory structures and equipment are located at ground level. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived by the Committee. Existing mature vegetation and natural landforms on the site shall be preserved to the maximum extent possible.
 - e. Security Fencing and Lighting.
 - i. All towers shall be reasonably protected against unauthorized access. The bottom of the tower from ground level to 12 feet above ground shall be designed to preclude unauthorized climbing and shall be enclosed with a minimum of a 6 feet high chain link fence with a locked gate.
 - ii. Security lighting for on-ground facilities and equipment is permitted, as long as it is down shielded to keep light within the boundaries of the site.
 - f. Color and Materials.
 - i. All towers and antennas shall use building materials, colors, textures, screening and landscaping that blend the facilities with the surrounding natural features and built environment to the greatest extent possible. The tower shall be painted light blue or another color or colors that are demonstrated to minimize visibility. Mottling of light blue and light gray can be an effective camouflage for towers against most sky conditions and is the preferred tower coloration.
 - ii. All metal towers shall be constructed or treated with corrosion resistant material.
 - g. Parking and Access. Adequate parking spaces shall be provided on each site so that parking on public road right-of-way will not be necessary. Additional parking may be required by the Plan Commission if the minimum parking proves to be inadequate. Access must be provided by a gated, all-weather driveway.
7. Conditional Use Permit.
- a. Applications. In addition to the application requirements for conditional use permits, all applications for conditional use permits for new wireless communication facilities shall include the following information:
 - i. A report from a registered professional engineer and other professionals which:
 - (a) describes the tower height and design, including a cross section and elevation;
 - (b) certifies the facility's compliance with structural and electrical standards;
 - (c) describes the tower's capacity, including the potential number and type of antennas that it can accommodate;
 - (d) describes the lighting to be placed on the tower if required by the FCC or FAA;

General Provisions (cont.)
4.4 J. 7. a. i. (cont.)

- (e) certifies that the facilities will not cause destructive interference with previously established public safety communications system; and describes how the requirements and standards of this subchapter will be met by the proposed facilities.
 - ii. Each application shall include a facility plan. The County will maintain an inventory of all existing and proposed wireless communication site installations and all providers shall provide the following information in each plan. The plan must be updated with each submittal as necessary.
 - (a) Written description of the type of consumer services each provider will provide to its customers (cellular, PCS, SMR, ESMR, paging or other anticipated wireless communication services).
 - (b) Provide a list of all existing sites, existing sites to be upgraded or replaced, and proposed cell sites within the County for these services to be provided by the provider.
 - (c) Provide a map of the County which shows the geographic service areas of the existing and proposed cell sites.
 - iii. Landowner Acknowledgement. Written acknowledgement by the landowner of a leased site that he/she will abide by all applicable terms and conditions of the zoning permit or conditional use permit, including the restoration and reclamation requirements of section K. 4. H. of this subsection.
 - iv. Additional Information and Analysis.
 - (a) The Plan Commission may, at its discretion, require visual impact demonstrations, including mock-ups and/or photo montages; screening and painting plans; network maps; alternative site analysis; lists of other nearby wireless communication facilities; or facility design alternatives for the proposed facilities.
 - (b) The Plan Commission may employ, on behalf of the Town, an independent technical expert to review technical materials submitted by the applicant or to prepare any technical materials required but not submitted by the applicant. The applicant shall pay the costs of such review and/or independent analysis.
 - v. Existing Tower/New Antenna. Applications for a conditional use permit to add a new antenna to an existing tower or structure shall be exempt from the requirements of par. 7. a. ii. of this subsection.
- K. Nude or Nearly Nude Activity and Adult Entertainment.
- 1. Definitions. In this subsection 4.4 L.:
 - a. "Knowingly" means having actual knowledge or having reasonable cause to know.
 - b. "License" means any license issued by the Town of Bloomer under Chapter 125, Wisconsin Statutes.
 - c. "Licensed business establishment" means a place of business located within the Town of Bloomer, Chippewa County, Wisconsin where alcohol beverages or wine are sold for consumption on the premises pursuant to a license issued by the Town of Bloomer under Chapter 125, Wisconsin Statutes.

General Provisions (cont.)
4.4 K. 1. (cont.)

- d. "Adult establishment" means any bookstore, motion picture theater, mini motion picture theater, bath house, massage parlor, modeling studio, body painting studio, cabaret, novelty shop and video store that:
 - i. Has as a substantial or significant portion of its stock-in-trade in books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein or an establishment with a segment or section devoted to the sale or display of such material.
 - ii. Presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein for observation by patrons therein.
 - iii. Provides the services of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the State of Wisconsin and which establishment provides to its patrons an opportunity for engaging in "specified sexual activities" as defined herein.
 - iv. Provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, not operated by a medical practitioner or professional physical therapist licensed by the State of Wisconsin and which establishment provides for its patrons the opportunity to engage in "specified sexual activities" as defined herein.
 - v. Provides the services of modeling for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing or otherwise.
 - vi. Provides an opportunity to paint images on a body which is wholly or partially nude. For purposes of the Ordinance, the adult body painting studio shall not be deemed to include a tattoo parlor.
 - vii. Features male and/or female topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, burlesque shows, male or female impersonators, or similar entertainers.
 - viii. Has as a substantial or significant portion of its stock-in-trade in novelty or other items which are distinguished or characterized by their emphasis on, or designed for, "specified sexual activities" as defined herein or simulating such activity.
 - ix. Has as a substantial or significant portion of its stock and trade in videotapes, CDs or DVDs for sale or rent which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specific sexual activities" or "specified anatomical areas" as defined herein or an establishment with a segment or section devoted to the sale, display or rental of such material.
- e. "Licensee" means any person to whom any license has been issued by the Town of Bloomer under Chapter 125, Wisconsin Statutes, and shall include the officers, agents and employees of the licensee.
- f. "Nude or nearly nude activity" means appearing in such a manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals, or any simulation thereof, or when a female appears in such a manner or attire as to expose to view any portion of the breast referred to as the areola, nipple, or any simulation thereof.
- g. "Specified sexual activities" means:
 - i. Human genitals in a state of sexual stimulation or arousal.

General Provisions (cont.)

4.4 K. 1. g. (cont.)

- ii. Acts of human masturbation, sexual intercourse or sodomy.
 - iii. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
 - iv. Flagellation or torture in the context of a sexual relationship.
 - v. Masochism, erotic or sexually oriented torture, beating or the infliction of pain.
 - vi. Erotic touching, fondling or other such contact with an animal by a human being.
 - vii. Human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in i. through vi. above.
 - h. "Specified anatomical areas" means:
 - i. Less than completely and opaquely covered human genitals, pubic region, buttocks, anal region or female breast below a point immediately above the top of the areola.
 - ii. Human male genitals in a discernibly turgid state even if completely and opaquely covered.
 - i. "Premises" means the land and building in and upon any licensed business establishment or adult establishment is operated.
 - 2. No person shall perform nude or nearly nude activity, or operate an adult establishment, upon any licensed business establishment's premises.
 - 3. No licensee shall knowingly allow any person to perform nude or nearly nude activity, or knowingly operate an adult establishment, on any licensed business establishment's premises owned or under the control of such licensee.
 - 4. Whenever any licensee violates any portion of this subsection, proceedings for the revocation or suspension of the licensee's license may be instituted in the manner and under the procedure established by Section 125.12, Wisconsin Statutes.
 - 5. Adult establishments shall be a conditional use in the Industrial Zoning District, and shall not be allowed in any other district.
 - 6. No more than one of the adult entertainment uses, defined in 4.4 L. 1. d. i. through ix., may be established on any one parcel and any of the adult entertainment uses so defined shall be at least 1,320 feet from any other adult entertainment use. No adult entertainment use shall be permitted within 1,500 feet of any establishment serving alcoholic beverages or an agricultural, commercial or residential district, or within 3,000 feet of any school, library, church, hospital, park, playground, daycare facility, community building, or athletic facility or club serving patrons under the age of 21.
 - 7. The hours of operation for adult establishments shall be limited to the same hours of operations for bars and taverns within the Town of Bloomer.
- 4.5 Joint Use: No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.
- 4.6 Area Regulations.
- A. After adoption of this Ordinance, no lot area shall be so reduced that the dimensional and yard requirements required by this Ordinance cannot be met.

General Provisions (cont.)

4.6 (cont.)

- B. Lots created after adoption of this Ordinance and which are not served by public sewer systems shall meet minimum area requirements of the Town of Bloomer Ordinance.

4.7 Height Regulations.

- A. Except as otherwise provided in this Ordinance, the height of any building hereafter erected, converted, enlarged, or structurally altered shall be in compliance with the regulations established herein for the district in which such building is located.
- B. Excessive Height Permitted: Heights of the following structures may exceed Ordinance limits for the district in which it is to be located with the approval of the Plan Commission: cooling towers, penthouses, stacks, lookout towers, water towers, spires, telephone, wireless communication, radio and television aerials, masts, antennae, conveyor and/or other equipment requirements for natural mineral extraction or processing, and any other necessary mechanical appurtenances. Residences may be increased in height by not more than ten (10) feet when all yards and other required open spaces are increased by one (1) foot for each foot by which such building exceeds the height limit of the district in which it is located. Churches, schools, hospitals, sanitariums, and other public, and quasi-public buildings may be erected to a height not exceeding 75 feet, provided the front, side and rear yards required in the district in which such building is to be located each increased at least one (1) foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
- C. Height Restriction Exemptions: Farm buildings and related farm structures not for human habitation, are hereby exempted from the height regulations of this Ordinance.

4.8 Home Occupations.

- A. Purpose. The purpose of this section is to:
 - 1. Allow residents to conduct home occupation businesses.
 - 2. Protect residential and agricultural areas from adverse effects of home occupations.
- B. General Standards. The following standards shall apply to all home occupations:
 - 1. The person conducting the home occupation must reside at the location of the home occupation.
 - 2. All home occupations shall be clearly incidental and secondary to the use of a residence or accessory structure for residential or agricultural purposes, and the appearance of the structure shall not be altered or the occupation within the dwelling or accessory structure be conducted in such a manner which would cause the premises to differ from its residential or agricultural character due to colors, materials, construction, lighting, signs, equipment, or the emission of sounds, noises, odors or vibrations.
 - 3. The public shall not have physical access to the home occupation from 10:00 p.m. to 7:00 a.m.
 - 4. A home occupation shall have adequate parking spaces available to compensate for additional parking needs generated.
 - 5. Home occupations shall not be the source of noise, objectionable odors, vibrations, glare, fumes or electrical interference detectable beyond the lot line of the parcel on which the home occupation is located.
 - 6. Home occupations shall not discharge any materials, fluids or gases in violation of any applicable government code.

General Provisions (cont.)

4.8 B. (cont.)

7. Refer to Article XII Signs 13.1 E. for information regarding signs.
 8. There may be one annual inspection of any home occupation by the Zoning Administrator or a designee. In addition, the Zoning Administrator or a designee shall have the right, during the regular business hours of the home occupation or any other reasonable time, to enter and inspect the premises for compliance purposes.
- C. Minor Home Occupation.
1. A minor home occupation is a home occupation that is allowed with a land use permit and conforms to all of the following standards:
 - a. It shall be conducted in the residence.
 - b. Only a resident of the residence and one non-resident employee may be engaged or employed in the home occupation.
 - c. The area set aside for the home occupation shall not exceed 25 percent of the total floor area of such residence.
 - d. No article can be sold or offered for sale unless it is produced by the home occupation.
 - e. The direct sale of products off display shelves or racks is not allowed.
 - f. There shall be no exterior storage of equipment, materials, merchandise, inventory, vehicles or equipment.
 2. Permitted minor home occupations include, but are not limited to, the following:
 - a. Dressmaking, sewing and tailoring.
 - b. Painting, sculpturing, photography, or writing.
 - c. Telephone answering or marketing.
 - d. Home crafts for sale off-site.
 - e. Tutoring for one student at a time.
 - f. Home cooking and preserving for sale off-site.
 - g. Computer programming, data entry, telecommuting, or other data processing services.
 - h. Secretarial services.
 - i. Order taking by telephone or utilizing information technology.
 - j. Professional Home Offices where client visits are limited to no more than one client and their associates at any one time.
 - k. In the case of any use which is not specifically mentioned in 2. a. through j. above, the Zoning Administrator shall make all determinations that similar uses constitute a minor home occupation.

General Provisions (cont.)
4.8 (cont.)

D. Major Home Occupation.

1. A major home occupation is a home occupation which does not qualify as a minor home occupation, is allowed by conditional use permit, and conforms to all of the following standards:
 - a. Major home occupations shall be conducted within the residence or permitted accessory structure.
 - b. Major home occupations shall not be established within 500 feet of any neighboring residential structure.
 - c. No more than two people other than a resident of the residence may be employed or engaged on the premises of a major home occupation.
 - d. The area set aside for the major home occupation shall not exceed 25 percent of the total floor area of the residence. Where an accessory structure is used, the total floor area dedicated to the home occupation, including any area used in the residence, shall be limited to 5,000 square feet.
 - e. Exterior storage of equipment, materials, merchandise, inventory, vehicles or equipment shall be limited to 10,000 square feet and shall be adequately screened.
 - f. Only merchandise directly incidental to a service provided may be displayed or sold within the residence or accessory structure used for a major home occupation.
 - g. Major home occupations authorized in the Agriculture Production District are limited to agriculturally-related activities.
 - h. Any changes in the activity of the major home occupation conditionally permitted that would constitute an expansion or change in the major home occupation shall require a new application for a conditional use permit.
 - i. Conditional use permits for major home occupations granted by the Plan Commission shall be temporary in nature and shall be granted to a designated person who resides at the location of the home occupation. They are not transferable from person to person or from address to address.
 - j. Should a major home occupation conditional use permit holder die or move to a new location, the permit shall be automatically terminated. However, a surviving spouse or child residing at the same address may continue the major home occupation upon written notice to the Zoning Administrator.
 - k. If the owner of a major home occupation wants to exceed the limits of this section, it is the intent of the Ordinance that the business be moved to an zoned commercial district.
 - l. Conditional use permits for a major home occupation, once granted, may be revoked by the Plan Commission for cause after notice and a hearing. All such revocations shall be administered in accordance with the Conditional Use provisions of the Ordinance.

General Provisions (cont.)

4.9 Table of Uses. Land uses in the Town of Bloomer shall be allowed as shown in the Table of Uses below. Other specific use requirements are found in 4.4 Use Restrictions and the individual District sections below.

A. Principal uses shall be allowed as shown in the following table.

B. Accessory Uses. Any use permitted as a principal use in a district shall be permitted as an accessory use in that district, except as noted below. Any use that is conditional as a principal use in a district shall be conditional as an accessory use in that district, except as noted below. Additional accessory uses shall be allowed as shown in the following table.

P = Permitted Use C = Conditional Use blank space = Not Permitted in District P/C = Permitted as a Principal Use, Conditional as an Accessory Use * = Cannot be applied as an Accessory Use, check listed Accessory Uses (O) = Non-Metallic Mining Overlay District

Principal Use	AP	RR	C	I	I - 2	CON	FR
<i>Agricultural Uses</i>							
I Farm Residence, First, Initial or Original	P *	P					
I General Forestry/Silviculture	P	P				P	P
I General Agriculture	P	P				C	C
I Horse Production, Private	P	P/C					
I Livestock Grazing	P	P/C				P	C
I Livestock Operation <650 A.U.	P						
I Livestock Operation ≥650 A.U.	C						
I Specialty Crop	P	P				C	
I Specialty Livestock	P	P/C					
Custom Crop Harvesting	P		P				
Custom Crop Planting	P		P				
Custom Crop Spraying	P			C			
Grain Storage	P/C		P	P			
<i>Commercial Uses</i>							
I Adult Entertainment				C			
I Agricultural Business, Permanent	C		P	C			
I Agricultural Business, Seasonal	P		P	C			
I Amphitheater, Concert or Festival Grounds			C				
I Antique Shop, Art Gallery			P				
I Enclosed Arena or Stadium, Sports or Entertainment			C				

Principal Use, cont'd	AP	RR	C	I	I - 2	CON	FR
<i>Commercial Uses (cont'd)</i>							
I Automotive Dealership			P	C			
I Automotive and Other Mechanical Parts, Equipment or Accessories Retail			P	C			
I Automotive Associated Repair and Service			P	P			
I Bakery, Confectionery, Ice Cream and Soda Shoppes, food preparation for on-site sale and consumption			P				
I Bar, Tavern or Nightclub			P				
I Barber, Hair Salon or Beauty Shop			P				
I Boat or Mobile Home Salesrooms and Lots			P	C			
I Bottling Works, non-alcoholic beverages			P	P			
I Bowling Alley, Dance Hall, Video Arcade or Skating Rink			P				
I Car or Truck Wash and/or Quick Oil Change			P	C			
I Clothing, Apparel or Footwear Retail			P				
I Club or Lodge, open to the public			P				
I Club or Lodge, private		C	P				
I Commercial Boating Facility			P				
I Computer, Television/Video, Audio, Furniture, Office Equipment or Appliance Sales and Service <5000 sq. ft.			P	C			
I Computer, Television/Video, Audio, Furniture, Office Equipment or Appliance Sales and Service >5000 sq. ft.			P	C			
I Convenience Store, Gas-Grocery-Supplies			P	C			
I Department Store			C				
I Drug Store or Pharmacy			P	C			
I Farm Market	P	C	C			C	C

Principal Use, cont'd	AP	RR	C	I	I - 2	CON	FR
<i>Commercial Uses (cont'd)</i>							
I Fast Food or Drive-In Restaurant			P	C			
I Financial or Investment Institution <2000 sq.ft.			P	C			
I Financial or Investment Institution >2000 sq.ft.			P	C			
I Food Products Retail, Market or Grocery			P				
I Frozen Food Locker			P				
I Funeral Home			P				
I Fur Farm						C	
I Furniture, Office Equipment or Appliance Retail or Service <5000 sq. ft.			P				
I Furniture, Office Equipment or Appliance Retail or Service >5000 sq. ft.			P	C			
I Game Management	P					P	C
I Gasoline Retail			P	C			
I Group Day Care		C	P	C			
I Hardware or Paint Retail <5000 sq. ft.			P	C			
I Hardware or Paint Retail >5000 sq. ft.			P	C			
I Heavy Equipment Dealership			P	P			
I Horse Production, Commercial	C						
I Implement Dealership			P	C			
I Indoor Maintenance and Repair of Goods and Equipment			P	C			
I Indoor Recreation Facilities >5000 sq. ft.			P				
I Kennel	C		C				
I Laundry, Cleaning or Dyeing			P	C			
I Liquor Retail			P				
I Lodging, Hotel or Motel			P				

Principal Use, cont'd	AP	RR	C	I	I - 2	CON	FR
<i>Commercial Uses (cont'd)</i>							
I Lumber or Building Supplies Retail			P	C			
I Music Conservatories, Dancing Studios			P				
I Notion, Variety, Card or Gift Shop			P				
I Office, Business or Professional			P	C			
I Painting and Refinishing Shop			P	C			
I Printing, Publishing, Bookbinding, Copying, Reprographics, Engraving, Photoengraving, Photofinishing and Lithography			P	P			
I Nursery/Greenhouse, Growing Stock Only	P	C					
I Nursery/Greenhouse, Retail or Wholesale	C		P				
I Race Track, Motorized, Horse or Dog				C			
I Resort/Conference Center			P	C			
I Restaurant, Dinner Club or Cafe			P				
Road Surface Maintenance (major - utilizes heavy equipment and large trucks)				C			
Road Surface Maintenance (minor - crack filling, sealcoating, and stripe painting)			P	P			
I Roadside Stand, Agriculture	P	C	P	C			
I Sale Barn		C	C	C			
I Self-Storage or Mini-Storage Facility			P	P			
Snow Removal (major- utilizes heavy equipment and trucks)			C	C			
Snow Removal (minor - truck < or = 2-ton bobcat, small tractor with blade and bucket)		C	P	P			
I Sporting Goods, Bait Shops <1500 sq. ft.			P	C			
I Sporting Goods, Marine, ATV, Snow-mobile and Accessories Sales and Service			P	C			
I Tattoo and Body Piercing Parlor			P	C			
I Theater, Drive-In			P	C			

Principal Use, cont'd	AP	RR	C	I	I - 2	CON	FR
<i>Commercial Uses (cont'd)</i>							
I Theater, Movie			P				
I Theater, Performing Arts			P				
I Travel Trailer or RV Park			P				C
I Trade/Contractor Establishment or Yard			C	P			
I Transportation/Motor Freight Terminal				P			
I Veterinary Clinic or Animal Hospital			P	C			
I Wholesale or Jobbing			C	P			
<i>Industrial Uses</i>							
I Acid, Ammonia, Bleach, Chlorine or Soap Production or Storage							
I Bottle Gas Storage for Local Distribution			C	C			
I Concrete or Asphalt Plant, Permanent				C	P		
I Creamery, Dairy or Cheese Factory	C			P			
I Fertilizer Plant				C			
I Food Processing Plant, Canning Factory	C			P			
I Gelatin, Glue or Size Production				C			
I Junk, Salvage, or Automobile Wrecking Yard				C			
I Outdoor Storage of Salvage Materials	C		C	P			
I Power Generation Plant and Flowages				C			
I Rendering Plants, Fat, Offal and Dead Animal Reduction				C			
I Sawmill/Planing Mill, Pea Vining or Charcoal Kiln	C			C			
I Slaughterhouse or Stockyard	C						
I Tank Farm, inflammable gases and liquids, storage, refining or manufacturing				C			
I Warehousing & Distribution <20,000 sq. ft.				P			
I Warehousing & Distribution >20,000 sq. ft.				C			

Principal Use, cont'd	AP	RR	C	I	I - 2	CON	FR
<i>Industrial (I - 2) Infrastructural Manufacturing and Construction) Uses</i>							
Infrastructure Construction and/or Storage of heavy equipment and trucks				C	P		
Cement Manufacturing Plant					C		
II Concrete Block, Panel, or Pipe Plant					C		
Brigrdr/Building Structural Component Plant					P		
<i>Institutional Uses</i>							
I Alternative School			C				
I Cemetery	P	C					
I Church and/or Rectory	P	P					
I Community Living Arrangement		C					
I Correctional Institution							
I Government Building, Storage or Use		C	C	C			
I Hospital			P				
I Library			C				
I Medical Clinic			P				
I Preschool, Elementary School		C					
I School, Secondary, College or University			P	C			
I Trade School, Private			P	C			
<i>Non-Metallic Mining Uses</i>							
I Construction Aggregate Mining (≤ 25 acres)	C			C		C	C
I Construction Aggregate Mining (> 25 acres)	C						
I Industrial Sand Processing and Storage	C(O)			C			
I Industrial Sand Mining	C(O)						
I Rail Trans Load Facility	C(O)			C			
<i>Outdoor Recreational Uses</i>							
I Golf Course (no residences)		C	C				

Principal Use, cont'd	AP	RR	C	I	I - 2	CON	FR
<i>Outdoor Recreational Uses (cont'd)</i>							
I Miniature Golf, Batting Cage, Driving Range			P				
I Motorized Recreation Facilities			C				
I Playground	C	P	C			P	P
I Pond, Artificial or Altered Natural	C	C	C	C		C	C
I Public Boating Facilities	C					P	P
I Public Hunting and Fishing Facilities	C					P	P
I Recreational or Youth Camp			C			C	C
I Riding Stable and/or Trails	C	P					
I Skateboard/Inline Skate Facilities			C	C			
I Stadium or Arena, Outdoor Sports and/or Entertainment			C	C			
I Shooting Range/Trap and Skeet						C	C
I Water Recreation Facilities			C				
<i>Residential Uses</i>							
I Conservation Designed Development	P	P *					
I Duplexes or Two Household Dwellings	P	P *					
I Manufactured Homes	P	P *					
I Manufactured Home Park		C *					
I Multiple Household Dwellings, sewerded							
I Multiple Household Dwellings, unsewered							
I Seasonal Cabin (Dwelling, Travel Trailer, RV	P	P *					P
I Single Household Dwellings	P	P *					
I Airports			C	C			
I Landing Strips	P		C	C			
I Clean Fill Site	C	P	P	P		C	C
I Communication Towers	C	C	C	C		C	C
I Filling and Grading	P	P	P	P		C	C

Principal Use, cont'd	AP	RR	C	I	I - 2	CON	FR
<i>Miscellaneous Uses (cont.)</i>							
I Waste Spreading and Storage, see 4.4 J.	C					C	C
I Solid Waste Disposal Facility							
I Solid Waste Recycling Facility			C	P			
I Solid Waste Transfer Facility				C			
I Utility Facilities (<1000 s.f.)	C	C	C	C		C	C
I Utility Facilities (>1000 s.f.)	C	C	C	C			
<i>Accessory Use</i>							
I Accessory Residence		C	C	P			
I Accessory Apartment	C	C					
I Additional Farm Residences	P						
I Landing Strips	P		C	C			
I Family Day Care	C	P					
I Home Occupation, Major	C	C					C
I Home Occupation, Minor	P	P					P
I Seasonal Storage, Interior <25,000 sq. ft.	C		C				
I Seasonal Storage, Interior >25,000 sq. ft.			C				
I Contractor's Project Office		P	P	P			
I Roadside Stand, Temporary/Seasonal Retail			P	C			
I Temporary Concrete or Asphalt Plant	C	C	C	C			
<i>Temporary Use</i>							
I Temporary Residence During Construction	P	P					
I Temporary Residence in Basement During Construction	P	P					
I Temporary Use of Garage During Construction	P	P					

ARTICLE V

CONSERVANCY DISTRICT - CN

Section

5.1 Purpose.

- A. To discourage development and disturbance to the natural setting in areas with unique features.
- B. To provide protected areas to ensure proper water conservation and flood control.
- C. To give primary consideration to outdoor recreation and forestry pursuits.
- D. To provide areas where native flora and fauna may prosper in a natural habitat.

5.2 Permitted Uses.

- A. All permitted uses for the CN district pursuant to Section 4.9 Table of Uses.
- B. Production of Forest Products: To include but not be limited to production of pulp, saw logs, poles, firewood, maple syrup and Christmas trees.
- C. Harvesting of Wild Crops: Such as marsh hay, ferns, moss, wild rice, mushrooms, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
- D. The Outdoor Pursuits of: Hunting, including the construction and maintenance of blinds, Trapping, Fishing, Wildlife Viewing and Photography, Swimming, Boating, Hiking, Bicycling, Skiing, ATVing, Snowmobiling, and Hiking, Bicycling, Skiing, ATV and Snowmobile Trails.
- E. Practice of Wildlife, Fish and Forest Management.
- F. Nonresidential Buildings and Structures: Buildings and structures used solely in conjunction with the raising of wildlife and fish and the practice of forestry, including buildings and structures used by public agencies or groups for research in or for the rehabilitation of natural resources.

5.3 Conditional Uses.

- A. All conditional uses for the CN district pursuant to Section 4.9 Table of Uses.
- B. Cranberry Bogs.
- C. Hydroelectric Power Stations, Dams and Other Structures: For the use or control of flowing water and flowage areas.
- D. Utilities: Such as, but not limited to, telephone, telegraph, data, cable television, and power transmission lines.
- E. Roads necessary for timber management and harvest.
- F. Temporary Sawmill or Forest Harvest Processing: To accommodate the on-site adding of value when harvesting timber. Such activity shall not exceed 3 months per 40 acres of timber harvested.
- G. Nonresidential Buildings and Structures: Used solely in conjunction with a conditional use in the district.

Conservancy District - CN (cont.)

- 5.4 Yard Areas: No building shall be erected or enlarged unless it is in compliance with the distances specifically enumerated within this section as follows:
- A. Front Yard: As per highway setback schedule in Section 13.1 of this Ordinance.
 - B. Side Yard.
 - 1. Corner lot: Same as front yard.
 - 2. Interior lot: Ten feet.
 - C. Rear Yard: Twenty-five (25) feet.
- 5.5 Height Restrictions: In the Conservancy District, no building shall be erected or altered to a height in excess of thirty-five (35) feet unless as otherwise provided in Section 4.7 of this Ordinance.

ARTICLE VI

FORESTRY AND RECREATIONAL DISTRICT - FR

Section

- 6.1 Purpose.
- A. To encourage proper use and development of the landscape for active and passive recreational endeavors.
 - B. To provide areas where active or passive and public or private recreational activities may be established.
 - C. To permit man-made encroachment into natural areas under a controlled program.
 - D. To encourage harvesting of wood and wood products and good timber management in the forested areas of the Town of Bloomer.
- 6.2 Permitted Uses.
- A. All permitted uses for the FR district pursuant to Section 4.9 Table of Uses.
 - B. All uses permitted in the CN district.
 - C. Seasonal cabins or residences occupied no more than 150 days a year.
 - D. Public parks, picnic grounds, campgrounds, and beaches.
 - E. Signs as provided for in Article XIV, Signs.
- 6.3 Conditional Uses.
- A. All conditional uses for the FR district pursuant to Section 4.9 Table of Uses.
 - B. Recreational and youth camps.
 - C. Private parks, picnic grounds, campgrounds, and beaches.

Forestry and Recreational District - FR (cont.)
6.3 (cont.)

- D. Private or public hunting and fishing or recreational related clubs and/or lodges.
- E. Travel trailer and RV camps-courts.
- F. Recreational services which are incidental to a permitted or authorized conditional use such as but not limited to resorts, restaurants, cocktail lounges, marinas, sport shops and bait shops.
- G. All uses that are allowed as conditional uses in the CN district.

6.4 Lot Area.

- A. Permitted Uses: Every principal permitted use in this section shall be located on a tract of land having an area of not less than five (5) acres, excluding any public road rights of way, and a width at the established building line of not less than two hundred fifty (250) feet.
- B. Conditional Uses: Every conditional use authorized in the FR District shall be located on a tract of land the minimum size of which shall be specified in the Conditional Use Permit.

6.5 Yard Areas: No building shall be erected or enlarged unless it is in compliance with the distances specifically enumerated within this section as follows:

- A. Front Yard: As per highway setback schedule in Section 13.1 of this Ordinance.
- B. Side Yard.
 - 1. Corner lot: Same as front yard.
 - 2. Interior lot: Ten (10) feet.
- C. Rear Yard: Twenty-five (25) feet.

6.6 Height Restrictions: In the Forestry and Recreational District, no building shall be erected or altered to a height in excess of thirty-five (35) feet unless otherwise provided in Section 4.7 of this Ordinance.

ARTICLE VII

AGRICULTURE PRODUCTION DISTRICT - AP

Section

7.1 Purpose.

- A. To give primary consideration to agricultural pursuits and related agri-industry, and limited consideration to non-agricultural uses.
- B. To permit non-agricultural uses that require large land areas that will not detract or adversely affect the normal agricultural pursuits of the rural area.
- C. To discourage premature and disassociated non-agricultural development on certain lands that will be utilized for agricultural pursuits and open space uses.
- D. To discourage residential development other than those that desire to associate and identify with a rural agricultural community accepting its relevant and known environmental conditions.

Agriculture Production District - AP (cont.)

7.2 Permitted Uses.

- A. All permitted uses for the AP district pursuant to Section 4.9 Table of Uses.
- B. Signs: As permitted in this Ordinance, Article XIV, Signs.

7.3 Conditional Uses.

- A. All conditional uses for the AP district pursuant to Section 4.9 Table of Uses.

7.4 Lot Size.

- A. Principal Permitted Uses: Every principal permitted use in this section shall be located on a tract of land having an area of not less than one and a half (1 ½) acres, excluding any public road rights of way, and a width at the established building line of not less than one hundred (100) feet.
- B. Conditional Uses: Every conditional use authorized in the AP District shall be located on a tract of land the minimum size of which shall be specified in the Conditional Use Permit.

7.5 Yard Areas: No building shall be erected or enlarged unless it is in compliance with the distances specifically enumerated within this section as follows:

- A. Front Yard: As per highway setback schedule in Section 13.1 of this Ordinance.
- B. Side Yard.
 - 1. Corner lot: Same as front yard.
 - 2. Interior lot: Ten (10) feet.
- C. Rear Yard: Twenty-five (25) feet.

7.6 Development Options: The allowable options for residential development is as follows:

- A. Allowed Number of Lots: The maximum number of lots allowed on a base farm tract lawfully established prior to the effective date of this Ordinance (December 11, 2003) in Agricultural Production District shall be one lot per gross thirty-five (35) acres,
- B. Size of Lots: The minimum lot size for a residential dwelling shall be one and one-half (1 ½) acres and the maximum lot size for a residential dwelling shall be five (5) acres, excluding any public rights of way..
- C. Conservation Easement: For every lot created on a base farm tract for a dwelling, a conservation easement, prohibiting non-farm and residential development and deed restricted for agricultural, conservancy or open space uses, pursuant to Section 700.40, Wisconsin Statutes and held by the Town of Bloomer shall be enjoined on thirty-five (35) acres from the base farm tract, excluding any public road rights of way minus the acreage of the residential lot created, for example, if a two (2)-acre residential lot is desired, the minimum acreage covered by the conservation easement would be thirty-five (35) acres minus two (2) or thirty-three (33) acres. The Town of Bloomer can release the conservation easement after the successful rezoning of the residential lot created from Agricultural Production.

Agriculture Production District - AP (cont.)
7.6 (cont.)

- D. Deed Restriction. All residential lots created in the Agricultural Production District must have recorded with the deed a covenant stating that the new lot created for residential purposes is in a pre-existing agricultural area where agricultural uses predominate and are favored by the Town of Bloomer and owners of said lot are forewarned they are moving into a pre-existing agricultural area with its associated accepted normal agricultural practices, including but not limited to, animal and plant husbandry, broad hours of operation, farm equipment traffic and farming debris on roads, farm equipment lights, odors, dust, smoke, noise, and manure, chemical, pesticide and herbicide application.
 - E. Placement of Lots. Lots can be placed one per gross thirty-five (35) acres of land. However, if more than one lot is allowed for a parcel pursuant to 7.6 A. above, such lots can be clustered together using conservation design concepts and preferably in wooded areas or on areas with marginal or poor farming soils so as to keep housing from taking good farming land out of production to the greatest extent as is practicable. For such lots so clustered a density bonus can be granted by the plan commission as follows:
 - 1. Clustered developments of three (3) allowable dwelling units pursuant to 7.6 A. above are granted an additional dwelling unit so that the cluster can become a four (4) dwelling unit cluster. For example, a landowner with 105 acres of gross land area can develop four lots with clustering.
 - 2. Clustered developments of four or more allowable dwelling units are granted additional dwelling units so that for each three (3) allowable dwelling units pursuant to 7.6 A. above an additional dwelling unit is granted. For example, a landowner with 200 acres of gross land area can develop seven lots with clustering, while the landowner with 210 acres of gross land area can develop eight lots with clustering.
- 7.7 Height Restrictions: In the Agricultural Production District, no building shall be erected or altered to a height in excess of thirty-five (35) feet unless otherwise provided in Section 4.7 of this Ordinance. Farm buildings and related farm structures not for human habitation are hereby exempt from the height regulations of this Ordinance.
- 7.8 Site Restrictions: In the Agriculture Production District, no structure for human habitation shall be located within three hundred (300) feet of a industrial sand mine site.

ARTICLE VIII

RURAL RESIDENTIAL DISTRICT - RR

Section

8.1 Purpose.

- A. To give primary consideration to residential uses which are consistent with the rural character of the Town of Bloomer.
- B. To permit non-agricultural uses that require large land areas that will not detract or adversely affect the normal agricultural pursuits of the rural area.
- C. To discourage premature and disassociated non-agricultural development on certain lands that will be utilized for agricultural pursuits and open space uses.
- D. To discourage residential development other than those that desire to associate and identify with a rural agricultural community accepting its relevant and known environmental conditions.

Rural Residential District (cont.)

8.2 Permitted Uses.

- A. All permitted uses for the RR district pursuant to Table of Uses.
- B. Single-Family and Two Family Residences: Provided that adequate sewer and water systems can be installed.
- C. Signs: As permitted in this Ordinance, Article XIV, Signs.

8.3 Conditional Uses.

- A. All conditional uses for the RR district pursuant to Table of Uses.

8.4 Lot Size.

- A. Principal Permitted Uses: Every principal permitted use in this section shall be located on a tract of land having an area of not less than one and a half (1 ½) acres, excluding any public road rights of way, and a width at the established building line of not less than one hundred (100) feet.
- B. Conditional Uses: Every conditional use authorized in the RR District shall be located on a tract of land the minimum size of which shall be specified in the Conditional Use Permit.
Rural Residential District - RR (cont.)

8.5 Yard Areas: No building shall be erected or enlarged unless it is in compliance with the distances specifically enumerated within this section as follows:

- A. Front Yard: As per highway setback schedule in Section 13.1 of this Ordinance.
- B. Side Yard.
 - 1. Corner lot: Same as front yard.
 - 2. Interior lot: Ten (10) feet.
- C. Rear Yard: Twenty-five (25) feet for the principal building
Ten (10) for accessory building.

8.6 Height Restrictions: In the Rural Residential District, no building shall be erected or altered to a height in excess of thirty-five (35) feet unless otherwise provided in Section 4.7 of this Ordinance. Farm buildings and related farm structures not for human habitation are hereby exempt from the height regulations of this Ordinance.

8.7 Site Restrictions: In the Rural Residential District, no structure for human habitation shall be located within three hundred (300) feet of a industrial sand mine site.

ARTICLE IX

COMMERCIAL DISTRICT - C

Section

9.1 Purpose.

- A. To give primary consideration to commercial pursuits and uses.

Commercial District (cont.)

9.2 Permitted Uses.

- A. All permitted uses for the C district pursuant to Table of Uses.
- B. Signs: As permitted in this Ordinance, Article XIV, Signs.

9.3 Conditional Uses.

- A. All conditional uses for the C district pursuant to Table of Uses.

9.4 Lot Size.

- A. Principal Permitted Uses: Every principal permitted use in this section shall be located on a tract of land having an area of not less than one and a half (1 ½) acres, excluding any public road rights of way, and a width at the established building line of not less than one hundred fifty (150) feet.
- B. Conditional Uses: Every conditional use authorized in the C District shall be located on a tract of land the minimum size of which shall be specified in the Conditional Use Permit.

9.5 Yard Areas: No building shall be erected or enlarged unless it is in compliance with the distances specifically enumerated within this section for Conditional Uses, or established when a Conditional Use Permit is approved as follows:

- A. Front Yard: As per highway setback schedule in Section 13.1 of this Ordinance.
- B. Side Yard.
 - 1. Corner lot: Same as front yard.
 - 2. Interior lot: Ten (10) feet.
- C. Rear Yard: Twenty-five (25) feet.

9.6 Height Restrictions: In the Commercial District, no building shall be erected or altered to a height in excess of thirty-five (35) feet unless otherwise provided in Section 4.7 of this Ordinance. Farm buildings and related farm structures not for human habitation are hereby exempt from the height regulations of this Ordinance.

9.7 Site Restrictions: In the Commercial District, no structure where employee/customer interaction occurs shall be located within three hundred (300) feet of a industrial sand mine site.

ARTICLE X

INDUSTRIAL DISTRICT - I

Section

10.1 Purpose.

- A. To give primary consideration to manufacturing and light industrial pursuits and uses.

Industrial District - I (cont.)

10.2 Permitted Uses.

- A. All permitted uses for the I district pursuant to Table of Uses.
- B. Signs: As permitted in this Ordinance, Article XIV, Signs.

10.3 Conditional Uses.

- A. All conditional uses for the I district pursuant to Table of Uses.

10.4 Lot Size.

- A. Principal Permitted Uses: Every principal permitted use in this section shall be located on a tract of land having an area of not less than one and a half (1 ½) acres, excluding any public road rights of way, and a width at the established building line of not less than one hundred fifty (150) feet.
- B. Conditional Uses: Every conditional use authorized in the I District shall be located on a tract of land the minimum size of which shall be specified in the Conditional Use Permit.

10.5 Yard Areas: No building shall be erected or enlarged unless it is in compliance with the distances specifically enumerated within this section for Conditional Uses, or established when a Conditional Use Permit is approved as follows:

- A. Front Yard: As per highway setback schedule in Section 13.1 of this Ordinance.
- B. Side Yard.
 - 1. Corner lot: Same as front yard.
 - 2. Interior lot: Ten (10) feet.
- C. Rear Yard: Twenty-five (25) feet.

10.6 Height Restrictions: In the Industrial District, no building shall be erected or altered to a height in excess of sixty (60) feet unless otherwise provided in Section 4.7 of this Ordinance. Farm buildings and related farm structures not for human habitation are hereby exempt from the height regulations of this Ordinance.

ARTICLE XI

INDUSTRIAL DISTRICT (Infrastructural Manufacturing and Construction) I-2

Section

11.1 Purpose.

- A. To give primary consideration to infrastructural manufacturing and construction pursuits and uses.

11.2 Permitted Uses.

- A. All permitted uses for the I - 2 district pursuant to Table of Uses.
- B. Signs: As permitted in this Ordinance, Article XIV, Signs.

Industrial District - I - 2 (cont.)

11.3 Conditional Uses.

- A. All conditional uses for the I - 2 district pursuant to Table of Uses.

11.4 Lot Size.

- A. Principal Permitted Uses: Every principal permitted use in this section shall be located on a tract of land having an area of not less than five (5) acres, excluding any public road rights of way, and a width at the established building line of not less than one hundred fifty (150) feet.
- B. Conditional Uses: Every conditional use authorized in the I - 2 District shall be located on a tract of land the minimum size of which shall be specified in the Conditional Use Permit.

11.5 Yard Areas: No building shall be erected or enlarged unless it is in compliance with the distances specifically enumerated within this section for Conditional Uses, or established when a Conditional Use Permit is approved as follows:

- A. Front Yard: As per highway setback schedule in Section 13.1 of this Ordinance.
- B. Side Yard.
1. Corner lot: Same as front yard.
 2. Interior lot: Twenty-five (25) feet.
- C. Rear Yard: Twenty-five (25) feet.

11.6 Height Restrictions: In the Industrial District, no building shall be erected or altered to a height in excess of sixty (60) feet unless otherwise provided in Section 4.7 of this Ordinance. Farm buildings and related farm structures not for human habitation are hereby exempt from the height regulations of this Ordinance.

11.7 General Permit Requirements. Any materials or equipment storage and structures within three hundred (300) feet from an adjacent principal residential structure shall utilize the following requirements to eliminate or mitigate light, fugitive dust, to noise generated on the site as determined by the Planning Commission.

- A. Fugitive Dust Control.
1. The Operator shall use best management practices in its efforts to control and minimize fugitive dust, including one of the following: landscaped earthen berms, paved entrance roadways, standard methods of water spray, dust covers on transfer points, and contract sweeping, if needed.
- B. Noise Control.
1. The Operator shall comply with all applicable noise regulations and industry recommendations including, but not limited to white noise backup alarms.
- C. Lighting Control as follows:
1. All lighting must be fully shielded in a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where the light is emitted.
 2. Lighting must be directed away from adjacent properties to prevent light from trespassing or spilling on to those properties.
 3. All outdoor flood light projection above the horizontal is prohibited.

Industrial District - I-2 (cont.)
11.7.C (cont.)

4. The use of berms of sufficient height coupled with other methods of visual screening to block light from neighboring properties. A landscaped berm of sufficient height (at least ten (10) feet in height) may be established to shield the adjacent residential structure(s).
- D, Hours of Operation will be from 5:30 a.m. to 8:00 p.m. with exceptions allowed due to equipment breakdown or repairs, accidents, operator illness, or injury, family emergencies, or other unforeseen circumstances. Special projects specifically related to the construction or reconstruction of local, county, state, or federal roadways or other infrastructure projects requiring work to be accomplished outside the permitted hours of operation may be allowed with written notice to the Town Chairman at least ten (10) days prior to beginning the project. Any longterm operations outside the permitted hours of operation may be allowed with the granting of a variance by the Town of Bloomer Board of Appeals.

ARTICLE XII

NON-METALLIC MINING OVERLAY DISTRICT - NMM

Section

12.1 Purpose.

- A. It is the primary purpose of this overlay district to apply impartial standards to regulate the extraction, processing, utilization and transport of non-metallic mineral resources and products to ensure maximum protection to surrounding properties and the physical environment, protect the public health, safety and general welfare, and to promote aesthetic values. This district is also created to protect mineral extraction operations against problems caused by intrusion of incompatible land uses, and to allow for protection of deposits of minerals.

12.2 Justification.

While Industrial Sand Mining and Non-metallic Mineral Mining are legitimate and permissible economic activities, and while they may provide employment opportunities and beneficial economic growth, the activities, processes and chemicals that may be used can adversely affect groundwater and surface water, drastically alter the aesthetic appearance of natural landscape, and produce harmful levels of soil erosion, dust, noise and other negative impacts. Industrial sand mining and non-metallic mining operations can result in negative impacts and present safety concerns to members of the public, create traffic problems, damage roads, and lead to other off-site impacts affecting the safety and well-being of town residents and landowners. Property values may also be adversely affected by such mines and the transportation of non-metallic minerals on public roads. Other potential impacts from Industrial Sand Mining and Non-metallic Mineral Mining and processing include potentially detrimental changes in land use, storm water runoff, excessive groundwater use and the addition of potential sources of surface and ground water contamination, exposure to respirable minute silica dust, noise and light, all of which may adversely impact human health and the environment.

Non-Metallic Mining Overlay District (cont.)
12.2 (cont.)

Furthermore, there maybe cumulative impacts associated with industrial sand mining and the permitting of multiple industrial sand mining locations. Whereas gravel and other construction aggregates are typically mined sporadically on an as needed, project by project basis at a local level, industrial sand mining is a continuous, daily process wherein operators attempt to mine and/or process continuously until each given deposit is exhausted and at times as quickly as possible given the immediate and far-reaching need for the commodity. The incremental impacts of each individually permitted industrial sand mine on the environment, human health and land use could be much greater when considered cumulatively. Due to the potential complexity of the decision making process, a through review and analysis of each application is necessary. When considered cumulatively, industrial sand mining may present vastly different impacts than other non-metallic mineral mining operations or construction aggregate and may require more stringent regulations due to the cumulative nature of these impacts. Thus, all industrial sand mining operations shall be performed in the Non-metallic Mining Overlay District and shall be subject to the review and permitting procedures of Sections 12.12 and 12.13.

12.3 Applicability.

- A. Overlay district boundaries shall follow platted lot lines, government lot lines, certified survey map lot lines, quarter-quarter section lines, or municipal boundaries, centerlines of streets, highways, railroads, or lakes, streams, and other water bodies.
- B. The overlay district shall not remove land use restrictions in the underlying zoning district. However, should there be a conflict between the underlying zoning and the overlay district requirements the overlay district supersedes the underlying zoning requirements
- C. If approved for a particular site, the overlay district shall remain in effect until the applicant receives a certificate of compliance from the Chippewa County Department of Land Conservation and Forest Management in accord with the non-metallic mining reclamation standards. In the event that a reclamation plan is not required under NR135, the overlay district will remain in effect until the non-metallic mining operation has been discontinued for a period of twelve (12) months
- D. The Non-metallic Mining Overlay (NMM) District is only available in the Town's underlying Agriculture Production (AP) and Industrial (I) Districts.

12.4 Permitted Principal Uses.

- A. Uses allowed in the underlying zoning district.
- B. Non-metallic mining operations that have been previously permitted with a conditional use permit (CUP) and/or by a non-metallic mining reclamation permit to operate shall be allowed to continue to operate under the terms and conditions of those permits on file prior to the effective date of this ordinance.

12.5 Permitted Principal Structures.

- A. Structures allowed in the underlying zoning district.
- B. Any structures associated with previously permitted non-metallic mining operations.

12.6 Permitted Accessory Uses.

- A. Uses allowed in the underlying zoning district.

Non-Metallic Mining Overlay District (cont.)
12.6 (cont.)

- B. Any accessory uses associated with previously permitted non-metallic mining operations.

12.7 Permitted Accessory Structures.

- A. Accessory structures allowed in the underlying zoning district.
- B. Any accessory structures associated with previously permitted non-metallic mining operations.

12.8 Conditional Permitted Uses.

- A. In the non-metallic mining overlay district, the following are conditional uses and are subject to the provisions of the Sections listed below:
 - 1. Non-metallic mining operations subject to the provisions of Section 12.12.
 - 2. Industrial Sand Mining and Processing Operations subject to the provisions of Section 11.13 and 12.14, respectively.
 - 3. Conditional uses allowed by the underlying zoning district subject to the AP and I District regulations.

12.9 Structures Subject to Conditional Use Permits.

- A. Structures associated with a Non-metallic Mining Operation and its accessory uses Non-Metallic Mining Overlay District (cont.)
- B. Structures associated with a Industrial Sand Mining Operation and its accessory uses.
- C. Structures for temporary hot mix and concrete batch plant operations.
- D. Structures conditionally permitted by the underlying zoning district regulations.

12.10 Standards for overlay zoning.

- A. Zoning to the non-metallic mining overlay district shall be based on findings that consider the following factors:
 - 1. The land use is consistent with Town of Bloomer's (Town's) comprehensive plan and the general purpose of this ordinance as stated in Article II.
 - 2. The suitability of the land for mining or for mining operations based on the non-metallic mineral deposits.
 - 3. The potential that the mining operation will unduly burden public facilities or services in the Town of Bloomer or otherwise impact the Town's ability to meet the demands of users of Town roads.

12.11 Petition for Overlay District.

- A. A petition to establish non-metallic mining overlay district boundaries (rezone) shall be filed in accord with Article XVI of this ordinance and may be applied for at the same time as a request to amend the underlying zoning district of the parcel.

Non-Metallic Mining Overlay District (cont.)

12.12 **Non-metallic Mining**

A. Purpose.

It is the purpose of this section to establish impartial standards to govern the Town's interest in facilitating the wise use of the natural resources of the town including consideration of the demand for and economical extraction of non-metallic minerals, aesthetic implications of the siting of such a mine at a given location, the impacts of such a mining operation on the general health, safety and welfare of the public, preservation of environmentally sensitive areas, avoiding the degradation of existing private and public water supplies, and minimization of potential adverse environmental impacts of non-metallic mining operations through the use of performance standards and best management practices. See provisions of subsection D.10. below for existing or nonconforming mine sites.

B. Applicability.

1. Notwithstanding the general limitations of non-metallic mining to NMM Overlay Districts situated in the AP and I Districts, non-metallic mining operations and construction aggregate mining operations of less than twenty-five (25) acres (based on the planned life of the mine), and government mining operations are conditional permitted uses and may be permitted in the AP, FR, CN, and I Districts. Construction aggregate non-metallic mining operations twenty-five (25) acres or larger (based on the planned life of the mine) are conditional uses and may be permitted in the AP District. All other non-metallic mining operations twenty-five (25) acres and greater, (based on the planned life of the mine) and Industrial Sand Mining operations are conditional uses in the NMM Overlay District.
2. Exemptions. This section shall apply to all non-metallic mineral extraction operations except as follows:
 - a. Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.
 - b. Excavations or grading conducted for construction, reconstruction, maintenance or repair of a highway, railroad or any other transportation facility where the excavations or grading is entirely within the property boundaries of the highway, railroad or other transportation facility.
 - c. Grading conducted for preparing a construction site or restoring land following a flood or other natural disaster.
 - d. Excavations for building construction purposes conducted on the building site.
 - e. Non-metallic mining sites where less than one (1) acre is affected.
 - f. Removal from the earth of products or commodities that contain only minor incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, christmas trees or plant nursery stock.
 - g. Borrow sites are exempted from local zoning under Wis. Stat. § 85.193 8. Excavations or grading when its use is exclusively for a municipal, county or state highway construction project.

Non-Metallic Mining Overlay District (cont.)
12.12 B (cont.)

3. Each application shall be judged on its own merits. Subject only to the standards set forth in this section and in the zoning ordinance as a whole, it is impossible to prescribe the criteria upon which such a permit may be granted in each and every case. A mining site may be permitted for Industrial Sand or Construction Aggregate, or both. If a mining site is permitted for both, then two separate conditional use permits shall be obtained and shall be enforced separately.

C. Permit Application.

In addition to the application requirements of Article XVII, Conditional Use Permits, all applications for a proposed nonmetallic mining operation shall include the following information:

1. General Information.

- a. The name and mailing address of the property owner(s), and operator, if different from the owner. If the applicant is a corporation, partnership, limited liability company or limited liability partnership, the application shall include the full legal name of the business entity; the date of incorporation, registration or organization; the state in which the entity was incorporated, registered or organized; and the name, address and telephone number of the designated contact person for the application.
- b. The name, position title, address and telephone number of the individual who is responsible for the daily operation and maintenance of the site and who will serve the primary contact person for the Town.
- c. A signed statement by the applicant, property owner and operator, if different than the applicant, that the applicant, property owner and operator, is familiar with and will comply with the provisions of this subsection, including the responsibility to pay the required fees and any possible forfeitures, if imposed for a violation, for the effective administration and enforcement of this section.
- d. A list and description of all applicable local, state or federal permits that will be required for the operation of the proposed non-metallic mine site or the associated activities onsite, including any variance request that the owner or operator will submit to operate on the proposed site.

2. Initial Site Plan.

- a. A site plan, drawn at a scale of not less than 1" = 200' or an alternative scale approved by the Zoning Administrator, which produces a clearly legible drawing and shall include the following:
 - i. North point, scale, and date.
 - ii. Location map to indicate general location of the proposed non-metal mining site in the Town by town and range.
 - iii. Property boundaries of the land on which the proposed non-metallic mining site will be located.

Non-Metallic Mining Overlay District (cont.)
12.12 C.2. (cont.)

- iv. Location and boundaries of the proposed non-metallic mining site, including extent of the area to be excavated, related storage, stockpiling and processing areas.
 - v. Location and dimension of all existing culverts, access points, roads, rights-of-way, utilities and utility easements on or abutting the property.
 - vi. Location and dimension of all structures within one thousand three hundred twenty (1,320) feet of the proposed non-metallic mining site and the use of each proposed or existing structure.
 - vii. Location and direction of flow of both ground and surface water on or within one thousand three hundred twenty (1,320) feet of the proposed non-metallic mining site, and the disposition of both ground and surface water. Said location and direction of flow shall be portrayed graphically. Maps prepared by the County or State may be used to satisfy this requirement. Maps that are not prepared by the County or State may also be used to satisfy shall this requirement, but shall be prepared by a professional engineer, geologist or hydrologist licensed to work in the State of Wisconsin.
 - viii. Location of permanent benchmarks, section corners or section monumentation.
 - ix. A topographic map, with a contour interval of not more than two (2) feet or an alternative vertical contour interval approved by the Zoning Administrator of the proposed non-metallic mining site and the area within one thousand three hundred twenty (1,320) feet of the proposed non-metallic mining site which identifies all existing section corner's or site will be located and benchmarks tying the property into the existing contour data of the County.
 - x. Typical cross section of the proposed non-metallic mining site showing the water table.
 - xi. Wetlands within one thousand three hundred twenty (1,320) feet of the proposed non-metallic mining site. All wetlands on the proposed non-metallic mining site shall be delineated and staked in the field
 - xii. Boundaries of any previous excavations on the proposed non-metallic mining site, including information pertaining to the history of any excavations, the type of material that was excavated from the proposed non-metallic mining site and time period during which the excavations occurred.
 - xiii. Wells within two thousand six hundred forty (2,640) feet of the proposed non-metallic mining site.
 - xiv. Locations and names of all intermittent and perennial streams and lakes as indicated on USGS 7.5 minute topographic maps within one thousand three hundred twenty (1,320) feet.
3. Operation Plan.
- a. An operation plan, which shall include a written description of the proposed non-metallic mining operation and methods and procedures to be used in mining the proposed non-metallic mining site. The operation plan shall also include the following:

Non-Metallic Mining Overlay District (cont.)
12.12 C.3.a (cont.)

- i. A legal description and general location map of the tracts of land on which the proposed non-metallic mining site will be located. The exterior property boundaries of the proposed non-metallic mining site shall be surveyed and marked so they are clearly identified
- ii. Planned cell boundaries showing the progression of all activities throughout the duration of the permitted activity, and areas where non-metallic mining refuse is to be deposited. The plan shall include the areas proposed for operation as a result of the application, and, any known future areas of operation to be subject to a separate, future application, as well as any areas not subject to this section, due to being a legal nonconforming use or being covered by a conditional use permit issued prior to the effective date of this section.
- iii. The approximate date of the commencement of the proposed non-metallic mining site operations.
- iv. Proposed parking areas, signs, and fencing, including a description of the purpose of the fencing.
- v. Type of mining, processing, and transportation equipment to be utilized within the proposed non-metallic mining site and for hauling material from the proposed non-metallic mine site.
- vi. List the type(s) of non-metallic mining materials, which will be mined from the proposed non-metallic mining site. Estimate the quantity of non-metallic materials to be mined in each proposed cell and over the life of entire proposed non-metallic mining site.
- vii. Estimate the life of each planned cell and the life of the proposed non-metallic mining site.
- viii. Existing and proposed roads and drives to be used on the proposed non-metallic mining site, including all points of ingress and egress, and all primary transportation routes to be utilized within the Town to transport the material to County, State, or Federal highways. The Commission may establish as a condition of the issuance of a conditional use permit that a road use agreement between the jurisdiction having authority over the proposed transportation route and the operator be established, but shall not be a party to any road use agreement between the jurisdiction having authority over the proposed transportation route and the operator unless it is a Town road.
- ix. Estimated number of truckloads of material per day, and estimated weight of material per truckload.
- x. All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize as much as possible noise, lighting, vibration, and be in compliance with all MSHA regulations. All trucks shall follow an anti-idling plan that minimizes excessive idling, but accounts for traffic, temperatures in excess of ninety (90) degrees and less than zero degrees Fahrenheit and inclement weather. Examples of anti-idling regulations can be found at the following: American Transportation Research Institute and US EPA.

Non-Metallic Mining Overlay District (cont.)
12.12 C .3. a. (cont.)

- xv. Operational measures to be taken to prevent groundwater and surface water degradation including methods for site dewatering and preventing potential effluent discharge.
 - xii. Measured depth to groundwater and general groundwater flow direction at the non-metallic mining site. Information from the Chippewa County groundwater flow maps and aquifer susceptibility maps shall be referenced.
 - xiii. Detailed operational measures that will be taken by the operator to stabilize topsoil and other material stockpiles.
 - xiv. Detailed operational measures that will be taken by the operator to ensure no wetland is disturbed, unless prior written approval to disturb the wetland(s) is secured from the U.S. Army Corps of Engineers and/or the Wisconsin Department of Natural Resources.
 - xv. Areas on the proposed non-metallic mining site to be used for drainage and erosion control management or sedimentation ponds, if proposed. This may include, but is not limited to the following: water diversions, grassed waterways, sediment basins, filter strips, silt fencing, bale check dams, sod strips, rock rip-rap, temporary seeding and mulching.
4. Drainage and Erosion Control Plan.
- a. A written description detailing storm water drainage and erosion control measures that will be taken by the operator on the proposed non-metallic mining site for all mapped information, which include, but is not limited to the following:
 - i. contours of which shall be shown at one (1)-foot intervals; existing drainage ways, subsurface tile drains, pipes and culverts;
 - ii. existing floodplains, wetlands and water bodies within one thousand (1,320) feet of the boundaries of the proposed nonmetallic mining site;
 - iii. arrows illustrating the direction of surface water drainage;
 - iv. the potential impact of the non-metallic mining activity on adjacent properties both upstream and downstream from the proposed non-metallic 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 event;
 - v. location and design details of runoff detention facilities planned or constructed to contain, at a minimum, the runoff from a 10-year 24-hour storm; and
 - vi. temporary and permanent erosion control measures.
 - vii. The mining operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the mining operation.

Non-Metallic Mining Overlay District (cont.)
12.12 C. (cont.)

5. Surface and Subsurface Water Quality and Quantity.
 - a. The mining operation shall not adversely affect the quality or quantity of surface or subsurface water resources to the extent that the resources no longer meet pre-existing needs and uses such as the quantity and quality of water residential purposes, irrigation systems, livestock, for pre-existing commercial and industrial purposes..
6. Non-degradation of Surface Water.
 - a. Streamflow originating outside and passing through the permitted mining site shall, at its point of departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The mining operator shall perform any water treatment necessary to comply with this provision.
 - b. The Operator shall comply with all applicable ordinances, codes or permits regulating erosion control measures and water drainage and discharge from the proposed non-metallic mining site. A copy of all applicable storm water runoff, water drainage or erosion control permits shall be submitted to the Zoning Administrator prior to the commencement of activities on the proposed non-metallic mining site. The CUP shall require that in the event drainage and erosion control permits are required to be obtained in the future, a copy of the issued permits shall be submitted to the Zoning Administrator, within ten (10) days of permit issuance.
7. Reclamation Plan.
 - a. At the time of application for the conditional use permit the applicant shall demonstrate or provide evidence that a Draft Reclamation Plan that has been developed in accordance with specifications provided by the Chippewa County Department of Land Conservation and Forest Management (LCFM) and that has been accepted by LCFM as complete. Prior to beginning activities on the proposed non-metallic mining site, the operator must demonstrate (or provide evidence) that the final reclamation plan has been approved, and a reclamation permit issued by the LCFM.
8. Lease(s).
 - a. If the proposed non-metallic mining site is leased to the Operator, a copy or portion of the lease that indicates the operator has been granted access to the property for mining uses with the the proposed non-metallic mining site shall be submitted with the application.
9. Exception.
 - a. The Zoning Administrator may waive portions of the specified information upon finding that the specified information is not relevant or is unnecessary for a full and proper evaluation of the application based on the nature or method of the non-metallic mining operation.
10. Additional Information.
 - a. By written request, the Town may require submittal of such other information as may be necessary to determine the nature of the non-metallic mining operation and proposed reclamation and the effect on the surrounding area.

Non-Metallic Mining Overlay District (cont.)
12.12. (cont.)

D. General Conditional Use Permit Requirements

1. Setbacks.

- a. The setbacks in this section shall apply to non-metallic mining activity including, without limitation: non-metallic mining, the storage of waste materials, stockpiling of mined and separated materials, inventory, and equipment. The Town reserves the right to require greater setbacks for activity on the proposed non-metallic mining site in order to protect the integrity of the sloped perimeters from erosion. The setback requirements are inapplicable to berms or other methods of landscaping, except within the vision triangle of any roads.
- b. The proposed non-metallic mining site shall be at least Sixty-six (66) feet from all exterior lot lines of the property on which the proposed non-metallic mine site is located, excluding road right-of-ways, except when railroad access for a transload facility is within sixty-six (66) feet of the right of way.
 - ii. Two hundred fifty (250) feet from a dwelling unit(s) unless the Operator owns the dwelling unit;
 - iii. Two hundred fifty (250) feet from a private well providing potable water;
 - iv. Sixty-six (66) feet from a commercial, industrial or agricultural structure;
 - v. One hundred fifty(150) feet from a wetland, stream, creek, river, lake, or mapped floodplain and one thousand (1,000) feet from a Class 1 or 2 trout stream.
- c. Waiver.
 - i. The Town may consider a reduced setback under this subsection, provided that a signed written agreement between adjoining property owners is filed with the application or prior to consideration of the CUP, which specifies the agreed upon separation distance between the adjoining property owners

2. Landfill Setback.

- a. A setback to an active, inactive or abandoned landfill shall meet the requirements listed in NR 812.08(4)(g)(1) as follows:
 - i. Delineated Landfill Boundaries. One thousand two hundred (1,200) feet setback from the edge of the delineated WDNR boundary.
 - ii. Undelineated Landfill Boundaries. One thousand two hundred (1,200) feet setback from the all exterior parcel lot lines on which the landfill is located.

Non-Metallic Mining Overlay District (cont.)
12.12 D. (cont.)

3. Hydrogeological Study.
 - a. A reduced setback may be allowed if a hydrogeological study is submitted which demonstrates to the satisfaction of the Zoning Administrator that groundwater contamination will not occur as a result of the activities on the proposed non-metallic mining site and that groundwater flow will not be disrupted. The study shall be conducted by a qualified registered engineer, geologist or hydrogeologist, demonstrating the impact on existing groundwater flow patterns.
4. Hours of Operation for non-metallic mining shall be limited based upon the defined activities of Extraction and Preliminary Processing.
 - a. Extraction operations within the proposed non-metallic mining site shall be limited to the hours of 6:00 a.m. to 6:00 p.m., Monday through Friday, and 7:00 a.m. to 3:00 p.m. on Saturday. Operations within the proposed non-metallic mining site shall not be conducted on Sundays or legal holidays consisting of New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, Christmas Eve Day, and Christmas Day.
 - b. Preliminary Processing operations within the proposed non-metallic mining site may be allowed within enclosed structures during non-extraction hours of operation between Monday at 6:00 a.m. through Saturday at 3:00 p.m. No heavy equipment operation shall be allowed outside of structures during non-extraction hours of operation except for snow removal or equipment repairs. No Preliminary Processing shall be allowed between Saturday at 3:00 p.m. and Monday at 6:00 a.m. No Preliminary Processing shall be allowed on Sundays or legal Holidays, as defined in subsection 4(a) above.
 - c. Special Projects with Limited Night-time Hours. Projects specifically related to the construction or reconstruction of local, county, state or federal roadways and with approval of the Zoning Administrator specific types of privately funded projects (such as monolithic concrete pours) may be allowed to operate outside of the permitted hours. Written notification shall be sent via certified mail at least thirty (30) days prior to the start of special projects with limited night-time hours to all property owners within one thousand three hundred twenty (1,320) feet of the proposed non-metallic mining site boundaries, to the Town Board Chair and to the Zoning Administrator. The written notification shall confirm the intended project, the expected hours of operation, the anticipated start date, the approximate number of days the project is projected to last and the expected non-metallic mining activities.
5. Dust Control.
 - a. The Operator shall use best management practices in its efforts to control and minimize fugitive dust, including one of the following: landscaped earthen berms, paved entrance roadways, standard methods of water spray, dust covers on transfer points, and contract sweeping, if needed.
6. Noise Control.
 - a. The Operator shall comply with all applicable noise regulations and industry recommendations including, but not limited to white noise backup alarms.

Non-Metallic Mining Overlay District (cont.)
12.12 D.. (cont.)

7. Lighting Control as follows:
 - a. All lighting must be fully shielded in a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where the light is emitted.
 - b. Lighting must be directed away from adjacent properties to prevent light from trespassing or spilling on to those properties.
 - c. All outdoor flood light projection above the horizontal is prohibited.
 - d. The use of berms of sufficient height coupled with other methods of visual screening to block light from neighboring properties
 - e. The mine Operator shall apply for a variance to the Mine Safety and Health Administration (MSHA) to lessen lighting impacts on surrounding properties and if a variance is granted make improvements to the outdoor lighting plan. The operator shall submit copies of the variance application and MSHA's response to the Zoning Administrator.
8. Groundwater Monitoring.
 - a. If a high-capacity well is proposed to be installed on the mine site, it shall be subject to the following pre-installation requirements:
 - i. The installation of onsite monitoring wells in sufficient numbers and locations so that the depth to groundwater and the direction of flow can be properly observed.
 - ii. Delineation of the potential draw down area resulting from the operation of the well and the effects of such well on existing or already proposed municipal or private potable wells within one thousand (1,000) feet of the proposed high capacity well.
 - b. Private Well Baseline.
 - i. The Operator shall send a certified letter, with return receipt requested, to owners of properties within one thousand three hundred twenty (1,320) feet on which a private well is located. The letter shall notify the property owner of the property owner's right to have a baseline test performed within thirty (30) calendar days of receipt of the letter on the landowner's existing well. The operator shall be responsible for all well testing where the property owner has indicated in writing within the thirty (30) calendar day period mentioned that they want to have their well tested and have granted permission for access and testing on the property. The operator is strongly encouraged to get written evidence from all property owners that choose not to participate in the baseline testing. Baseline testing shall test for, at a minimum: static water level, bacteria, turbidity, lead, arsenic, chlorides, nitrates, specific conductivity, total suspended solids, and drawdown. Testing must be completed and results obtained prior to the operation of the permitted non-metallic mine site. Drawdown tests shall be conducted when requested in writing by a property owner who believes the quantity of water in

the property owner's well has been impacted by the mining activities. All tests shall be performed by a qualified third party professional.

- ii. All test results shall be provided to both the owner and the Town within ten (10) calendar days of receipt of the test results. If test results show that the well is not suitable for use as a result of the permitted non-metallic mining site, the operator shall take all reasonable steps to alleviate any problems including, but not limited to, immediately providing a temporary water source, well repair, or code compliant well replacement. In no case shall bottled water be provided as a permanent solution. The operator shall also be responsible for, at the operator's option, either repairing the well, drilling a new well or casing a well, which was found compliant and safe at the time the conditional use permit was issued, which later revealed turbidity, total suspended solids, or drawdown problems as a result of the non-metallic mining activity. Wells that were not included in the baseline testing, due to the installation date, or an owner indicating a willingness to be exempt from the baseline testing, are not subject to this subsection 8.
 - iii. The Operator may install a well for residential type uses (sanitary, lavatory, shower, drinking water, less than 70 gallon per minute uses) in the non-metallic mining operation. High capacity wells and high capacity well systems, both as defined in Wis. Admin. Code NR 812.07, as amended, shall comply with Wisconsin State Law and Wisconsin Administrative Codes, regarding high capacity well systems.
- c. The Planning Commission may require the applicant to provide additional relevant hydrogeologic studies such as groundwater modeling, when:
- i. Dewatering or mining below the water table are proposed at the mining site or a high-capacity well is proposed,
 - ii. Exceptional, outstanding, and/or 303d WDNR-listed (impaired) waters exist within two thousand six hundred forty (2,640) feet of the mining site, or
 - iii. Existing wells using the same or a shallower aquifer exist within one thousand three hundred twenty (1,320) feet of the mining site.
- d. If groundwater modeling is required, the following minimum information shall be provided:
- i. Description and justification of all input data to groundwater models.
 - ii. Calibration of all groundwater models.
 - iii. Sensitivity analysis for all groundwater models.
 - iv. Detailed output from the hydrologic methods including the elevation of the water, elevation of the cone of depression caused by the operation of high capacity wells or dewatering, groundwater flow directions, groundwater velocities, mounding elevations, groundwater temperature, and any potential effects on nearby surface water, springs, or users of surface and groundwater.

Non-Metallic Mining Overlay District (cont.)
12.12 D. (cont.)

9. Spill Prevention.
 - a. As a condition of each permit, the Operator shall comply with the applicable State and Federal requirements regarding chemical storage and handling and spill response, including, but is not limited to: OSHA or MSHA, EPA's Spill prevention or Countermeasures, Alcohol, Tobacco and Firearms, and any other applicable State or Federal law and regulations.
10. Limits on Pre-Existing Non-metallic Mining Operations.
 - a. For operations, which were approved by a permit, which predate this section, the extent of non-metallic mining operations shall be limited to the parameters approved by the permit, which authorized the non-metallic mining operation, unless the operation goes through the permitting process under this section and gains approval to expand.
 - b. If the non-metallic mining operation predated the Town's adoption of a zoning ordinance the non-metallic mining activity may continue up to, but not extend past, the lot lines of the tract of land upon which the activity was occurring at the time of adoption of the zoning ordinance, unless the operation goes through the permitting process under this section and gains approval to expand.
11. Landscaping and Screening.
 - a. Unless an alternative landscaping and screening plan is approved by the Town, all non-metallic mining operations shall install a berm around the perimeter of the proposed non-metallic mining boundaries, except for entrances and exits. Existing vegetation shall be taken into consideration provided it is of sufficient height and density. Berms shall be in compliance with the following:
 - i. Prior to construction of said berm, the Operator shall submit and obtain approval from the Town for a detailed berm, landscaping and related drainage and erosion control plan.
 - ii. The berm shall be installed within fourteen (14) calendar days of stripped overburden and topsoil becoming available from the proposed non-metallic mining site or from suitable outside sources. The berm may be constructed in phases as material becomes available.
 - iii. The berm shall not be placed closer than ten (10) feet to an exterior property line, public road right-of-way or public road vision triangle.
 - iv. Only clean topsoil, subsoil or overburden from the proposed nonmetallic mining site or suitable outside sources shall be used in constructing the berm.
 - v. The height of the berm must be adequate to provide screening from all roadways adjacent to the property on which the non-metallic mine site is located and adjacent land uses. The top of the berm shall be a minimum of eight (8) feet wide. The adequate height must be maintained throughout the life of the project.

Non-Metallic Mining Overlay District (cont.)
12.12 D. 11. a. (cont.)

- vi. The outward-facing slopes of the berm shall not be steeper than three (3) horizontal units to one (1) vertical unit. The inner-facing slopes may be steeper, but not less than a two (2) to one (1) ratio and must be stabilized and maintained to remain stable.
- vii. The berm shall be constructed in a manner that does not result in flooding, concentrated runoff, inadequate drainage or excessive erosion or sedimentation.
- viii. The exterior of the berm shall be kept free of noxious weeds, trash and debris.
- ix. With respect to residences situated on properties adjoining the mine site, to the extent that no berm exists, the Operator shall make inquiry in writing of the owner of each such residence as to whether or not the owner desires a berm be constructed, and if not, the Operator shall not be required to install berms opposite residences that are constructed after the date of application of this CUP.

E. Permits

1. Review.

- a. Provided the application meets the requirements of this section, including all of the information required under Section 12.12 C, a conditional-use-permit application shall be scheduled for a public hearing pursuant to Article XVIII, Conditional Use Permits. When reviewing the application, the Town shall consider, as a minimum, the following:
 - i. The appropriateness of the proposed non-metallic mining site and non-metallic mining activities in relation to the existing nearby land uses.
 - ii. The effect of the proposed non-metallic mining site and non-metallic mining activities upon existing private and public water quality and quantity.
 - iii. The economic impact of the proposed non-metallic mining site and non-metallic mining activities on private enterprises and local government (e.g. road maintenance expenses).
 - iv. The effect of the proposed non-metallic mine on public health, safety, and welfare.
 - v. The location of, and effect upon, the proposed non-metallic mining site and non-metallic mining activities with respect to floodplains, floodways, drainage paths, and shorelands
 - vi. Evidence demonstrating that no wetlands will be filled or negatively impacted as a result of the proposed non-metallic mine.

Non-Metallic Mining Overlay District (cont.)

12.12 E. 1. (cont.)

- b. Contingent on Other Required Permits. In addition to satisfactorily meeting the requirements of this section, approval of the application and approval of the conditional-use-permit shall be contingent upon the receipt of all other required permits for effluent discharge, storm water management, erosion control and highway road access.
- 2. Termination.
 - a. The CUP shall not be terminated or denied without first providing the Operator with a notice of a public hearing and a public hearing at which the Operator shall be given the right to respond to any alleged noncompliance of the conditions of the permit and this Article. Termination or non-renewal shall occur only in the event of an Operator's failure to comply with any material term of the CUP, the Reclamation Plan, the performance standards incorporated herein, or upon a substantive change, as determined by experts retained by the Planning Commission, in material circumstances rendering continued operation under the CUP to be contrary to the health, safety, or welfare of the Town.
 - 3. Transfer of Permit.
 - a. The Operator seeks to assign or transfer ownership or operation of the non-metallic mine site to a third party or the rights and responsibilities under this permit to a third party, it shall first notify the Town Board which may seek to review the fiscal ability of the assignee or transferee to meet the obligations imposed upon the Operator under this permit. The said approval shall not unreasonably be withheld. The following additional conditions must be met before a transfer of the permit may occur:
 - i. The non-metallic mine site is in compliance with the requirements of this section and the permit for the operation of the non-metallic mine site.
 - ii. The new operator assumes the responsibility of the former operator to complete the reclamation of the entire permitted non-metallic mining site by a written signed and notarized document.
 - 4. Non-metallic Mine Site Enlargement.
 - a. Any proposed non-metallic mining site enlargement shall be processed as a new application pursuant to sections 12.12. All provisions of section 12.12 shall apply to the proposed enlargement.
- F. Fees.
- 1. Permit, transfer, and inspection fees which apply to this chapter are established annually by Town of Bloomer and are listed in the Town of Bloomer fee schedule. Copies of the current fee schedule shall be kept on file with the Town of Bloomer Clerk. The current fee schedule is also available from the Zoning Administrator and may be found on the Town of Bloomer website. The amount of the fees will be based upon requirements established in Section 66.0628, Wis. Stats.

Non-Metallic Mining Overlay District (cont.)
12.12 (cont.)

G. Reimbursable Costs.

1. The Town Clerk, Town Board, Town Plan Commission, and other Town staff may expend time in the review and processing of a CUP application. The Town may also retain the services of a retained expert for the purposes of reviewing, processing, and acting upon the CUP application. Any applicant for a CUP shall reimburse the Town for the cost to the Town charged by any retained expert, in the administration, investigation, and processing of such CUP application above and beyond those expenses covered by the standard CUP application fee.

H. Notice.

1. The owners of property within seven hundred (700) feet of the property that is the subject of a Non-metallic Mining conditional use application shall receive due notice of the public hearing.

I. Inspections and Enforcement

1. Inspection.

- a. In addition to reporting requirements, the Town may make inspections of all mining sites to determine the condition of the resource extraction sites in order to ensure and safeguard the health and safety of the public and determine compliance with the minimum standards under the applicable law. The applicant/permit holder agrees to pay the costs associated with the hiring of a qualified consultant. If the inspection discloses any non-compliance, the Town shall issue a corrective action order. Failure by the applicant/permit holder to comply with the action order or to pay the cost of the inspection(s) shall result in a Stop Work Order and consideration of revocation of the interim use or conditional use permit.

2. Enforcement.

- a. In the event of a violation or threatened violation of any of the terms of this ordinance, the Town may take appropriate action to enforce other security, application for injunctive relief, action to compel performance, revocation of the zoning permits, civil fines, and/or other appropriate action before the Town or in court if the Town deems necessary to prevent, restrain, correct or abate such violations or threatened violations.

12.13 Industrial Sand Mining

Note: Section 12.13 has more specific regulations and standards than Section 12.12 and, as such, where there is a conflict between the application of Sections 12.12 and 12.13 to a given fact situation, the provisions of Section 12.13 shall control.

- A. Industrial sand mining includes mining of sand or sandstone for any of the following purposes: glassmaking, metal casting, metal production, chemical production, paint and coatings, ceramics and refractories, and oil and gas recovery (i.e. "frac sand"). This sand is classified as 212322 Industrial Sand Mining according to the NAICS (North American Industry Classification System) Standard Industrial Classification (SIC) System. In addition to the requirements of this section, the following are additional requirements for non-metallic mining sites that will be mining industrial sand:

Non-Metallic Mining Overlay District (cont.)
12.13. A.(cont.)

1. Siting and Location Requirements.
 - a. Any new or expanded mineral extraction and mining site must comply with the following siting and location requirements. When more than one (1) setback standard applies, the most restrictive standard shall apply. Mining operations shall not be conducted closer than:
 - i. Prohibited in District. Three hundred (300) feet from the permitted operation boundary to the boundary of any zoning district where mining operations are not permitted (RR, C, FR). This setback standard is reciprocal. Conversely any proposed additions to the RR, C, FR Districts shall be setback at least three hundred (300) feet from any permitted or regulated mine site.
 - ii. Adjoining Property Line. One hundred (100) feet to the boundary of an adjoining property line, unless a variance is applied for and approved by the Board of Adjustment (BOA) and the BOA may not reduce the specified distance by more than twenty-five (25)%.
 - iii. Excavating or Stockpiling. Two hundred fifty (250) feet to the right-of-way line of any existing or platted street, road, or highway.
 - iv. Public Waters. Two thousand six hundred forty (2,640) feet from the ordinary high water mark of any water body on the DNR inventory of public waters. Existing mines wishing to expand shall expand no closer than the current mine boundary.
 - v. Residential and Commercial Structures. Three hundred (300) feet from any pre-existing residential or commercial structure to the boundary of the mine operational site, except those residential or commercial structures owned by the applicant or mine owner. No new residential or commercial structures can be built within three hundred (300) feet of described mining operations site. This setback standard is reciprocal.
2. Fugitive Dust Plans.
 - a. A fugitive dust plan shall be submitted to the Zoning Administrator as part of the permitting process and shall be designed employing the best management provisions of NR 415.075 and NR 415.076. In addition, the provisions as listed in NR 415.075(3) must be satisfied.
3. Traffic Impact Analysis and Public Improvement Plan.
 - a. A traffic impact analysis shall be submitted to the Zoning Administrator for the proposed non-metallic mining site. The traffic impact analysis shall be developed by professionals with expertise in traffic patterns. Any recommended improvements and associated costs shall be memorialized in a developer's or road usage agreement with the jurisdiction having authority over the road right-of-way. All necessary improvements shall be installed prior to the issuance of permits for the proposed non-metallic mining site.

4. Ambient Air Monitoring Plan.

- a. An ambient air monitoring plan shall be submitted as part of the permitting process. The ambient air monitoring plan shall be developed by a professional with expertise in ambient air monitoring. Components of the plan, such as testing, data collection or analysis shall be completed by appropriate licensed professionals and laboratories. The plan shall contain all of the following:
- i. Strategy for the collection, analysis and reporting mechanisms for ambient air monitoring, including baseline information and the appropriate meteorological data collected from the proposed non-metallic mining site or other approved sites.
 - ii. An alternatives analysis which reviews several different methods for the ambient air monitoring plan or ambient air monitoring plan components. The ambient air monitoring plan shall explain why one alternative is recommended over another and shall include a final recommendation.
 - iii. Best available technology for monitoring and reporting shall be explored and utilized on an ongoing basis, including “real time” reporting under which the results are sent automatically to a secured site for collection, review and retention. Improvements to monitoring or technology shall be incorporated into the conditional use permit and utilized in the operation of the non-metallic mine site within six (6) months.
 - iv. The ambient air monitoring plan shall address expected, anticipated and theorized types of failures with the proposed equipment. A contingency plan for repairing or replacing the equipment shall be established. In the event that a failure occurs that was not anticipated or theorized, a contingency plan shall be developed and implemented within forty-eight (48) hours of failure.
 - v. The ambient air monitoring plan shall include specific techniques, strategy and methodology to be utilized on the proposed non-metallic mine site in monitoring for particulate matter PM_{2.5}. If PM_{2.5} levels exceed thirty-five (35) micrograms implement additional best management practices to minimize PM 2.5 emissions. In the event the State of Wisconsin or the EPA adopts a stricter standard, the stricter standard shall take precedence under the permit.
 - vi. The ambient air monitoring plan shall state specific strategies that will be utilized on the non-metallic mine site to monitor total suspended particulates (TSP). In the event TSP levels exceed one hundred fifty (150) micrograms per cubic meter of TSP in any 24-hour period, the operator shall evaluate and implement additional best management practices to minimize TSP. In the event the State of Wisconsin or the EPA adopts a stricter standard, the stricter standard shall take precedence under the permit

5. Blasting and Vibration.

- a. Blasting is not approved for extracting non-metallic minerals or sand, unless an independent geologist or mining engineer approved by the Town can demonstrate that blasting is the only viable and practical method for non-metallic mineral extraction. If blasting is shown to be necessary, a blasting monitoring plan shall include the following:

Non-Metallic Mining Overlay District (cont.)
12.13 A. 5. a. (cont.)

- i. The operations of the permitted non-metallic mining site shall comply with all Wisconsin State Statutes and Wisconsin Administrative Code provisions pertaining to blasting activities. Upon request by the Town, the Operator shall submit the location of seismic sensors at and around the non-metallic mining site, the reading from those sensors and the blasting logs to the Town.
- ii. A map showing the location of the blasting site. Include on this map the location and use of all buildings located within two thousand six hundred forty (2,640) feet of the controlled blasting site, attaching the names, addresses and land phone numbers of owners of those buildings.
- iii. Pre-blasting letters notifying all residents or owners of buildings or other structures (including, but not limited to, wells) located within two thousand six hundred forty (2,640) feet from the blasting site will be completing a pre-blasting survey. The pre-blasting survey is a record on paper, video, or an unalterable electronic file to document the condition of a dwelling, structure, or water well within two thousand six hundred forty (2,640) feet of the mine boundary before commencement of blasting activity. The written notification shall include a statement indicating that the survey provides a baseline record of the pre-existing condition of building or a structure against which the effects of blasting can be assessed and it should include both the interior and exterior of the buildings. It shall also indicate that no survey will be done unless the resident or owner makes a written request for a pre-blast survey and a water quality test including testing at a minimum for: static water level, bacteria, turbidity, lead, arsenic, nitrates, chlorides, specific conductivity, total suspended solids, and drawdown for existing wells. The resident or owner shall make this request in writing to the applicant. The applicant shall conduct a pre-blast survey only of requested dwellings or structures and conduct water quality testing for existing wells.
- iv. Pre-blasting surveys shall be conducted to determine the condition of all buildings or structures within two thousand six hundred forty (2,640) feet of the blast site(s) and the quality of water in and condition of all wells in that area shall be tested prior to the onset of blasting. The pre-blasting surveys shall be completed at the applicant's expense. Each survey shall provide the name and address and telephone number (if known) of the resident or owner of said buildings, structures and/or wells, and shall document any pre-blasting presence or absence of damage or other physical factors that could reasonably be expected to be affected by the use of explosives. The testing of wells shall determine whether a well has been impacted by blasting and problems will be remedied through the process in section I. General Conditional Use Permit Requirements 12.12(D)(8)(b).
- v. Blasting Schedule. All surface blasting shall be conducted between sunrise and sunset, unless one of the following conditions applies:
- vi. A more restrictive time period is specified by the Town as a condition of use.

Non-Metallic Mining Overlay District (cont.)
12.13 A. 5. a. (cont.)

- vii. Complaint Log. The Operator shall maintain a log of all complaints of damage and a description of the follow-up action taken by the Operator. A copy of the complaint and the follow-up action shall be forwarded to the Zoning Administrator within twenty-one (21) working days of receiving the complaint.
- 6. Settling Ponds.
 - a. Describe the purpose and functionality of the proposed settling pond. Describe any types of additives to be utilized in the settling pond, typical flow loads into and out of the settling pond, the protocol for maintenance of the settling pond, the proposed location for deposit of any material or water taken from the ponds, the stability analysis of the material removed from the pond, and a contingency plan addressing protocol to be followed in the event the pond is compromised. Material Safety Data Sheets (MSDS) for any chemicals utilized directly in the settling pond or added to water that will be stored in the settling pond shall be submitted as part of the application.
 - b. All settling ponds shall be lined with at least five (5) feet of clay or composite liner with at least a four (4)-foot clay component meeting the technical standards contained in Wis. Admin Code §NR 504.06(2) for clay and composite liners. If a concrete-lined pond is proposed, the pond shall meet the technical standards contained in NRCS - Code 313(B).
- 7. Disposal of Waste.
 - a. Specific information pertaining to the disposal or placement of any material brought into or is generated within the non-metallic mining site which contains non-biological substances and/or biological substances that may cause groundwater to be unfit for human consumption based upon Wisconsin drinking water standards.
- 8. The amount of reject material (non-marketable sand) returned to a mine site as part of the reclamation process shall not exceed the amount of reject material separated from the wash sand delivered to the processing plant. A processing facility shall keep records of the tonnage of washed material transported from each mine site and the amount of reject sand generated during the screening process. The tonnage of reject byproduct that is returned to each mine reclamation site shall not exceed the tonnage of reject contained in the washed sand received at the processing facility from that site. For example, if 100,000 tons of washed sand were transported from a mine site to a drying plant and if 95,000 tons of salable sand are produced, the remaining 5,000 tons of reject sand would be the maximum amount of material from any drying plant or source that could be returned to the mine for reclamation purposes.
- 9. Limits of Excavation in Groundwater.
 - a. Any excavation in the proposed non-metallic mining site shall occur at least ten (10) feet above the groundwater elevation.
- 10. Base Flow for Streams and Base Elevations for Lakes and Ponds.
 - a. A map showing the base flows and elevations to those streams, tributaries, ponds and lakes within one thousand three hundred twenty (1,320) feet of the proposed nonmetallic mine boundaries shall be submitted to the Zoning Administrator as part of the application. One base flow and elevation measurement shall be provided for every one thousand

Non-Metallic Mining Overlay District (cont.)

12.13 A. 10. a.(cont.)

(1,000) feet of stream that is within one thousand three hundred twenty (1,320) feet of the proposed non-metallic mine boundary.

11. Transportation Routes.

- a. A map clearly identifying the routes that will be utilized to transport the industrial sand off-site shall be submitted to the Zoning Administrator. The hours for transportation off-site may be restricted in order to provide for the safety of residents going to and from work, school bus routes, school zones or quiet zones.

12. Noise.

- a. Audible noise emitted during any non-metallic mining is limited to the standards set forth in this provision:
 - i. Noise generated during Extraction hours of operation is not limited by this ordinance but may be regulated through the conditions of the conditional use permit.
 - ii. Noise generated during the Non-Extraction hours of operation shall not exceed L10 of 60 dbA and an L50 of 55 dbA, as measured at existing residential structures as identified in the attached Exhibit "C".
 - iii. Definitions:
 - a. L10 is the sound level, expressed in dbA, which is exceeded ten percent (10%) of the time for a one (1) hour survey.
 - b. L50 is the sound level, expressed in dbA, which is exceeded fifty percent (50%) of the time for a one (1) hour survey.
 - c. dbA is the unit of sound level expressed in decibels (db) and A-weighted, as described in ANSI s 1.4, 1983, section 1.5.
 - iv. Measurement methodology: All sound measuring devices must meet Type O, I, II or S specifications under ANSI s 1.4 1983. Devices must be externally filed calibrated before and after monitoring using a calibration device of known frequency and sound pressure levels. Measurements must be made using the A-weighting and Fast Response characteristics of the sound measuring device as specified in ANSI 2 1.4 1983.
- b. Noise Complaints.
 - i. Any complaint of excessive noise during Non-Extraction Hours of Operation shall be made in writing and shall state the name and address of the party complaining. Any complaint shall be forwarded to the Zoning Administrator. The Zoning Administrator shall immediately forward any such complaint to the Operator. Within 72-hours of the owner/operator of the non-metallic mine receiving the noise complaint, the Operator of the non-metallic mine shall install a decibel meter at the building on the property of the complaining party at the sole expense of the Operator of the non-metallic mine.

Non-Metallic Mining Overlay District (cont.)

12.13 A. 12. b. (cont.)

- ii. If the measured noise does not exceed the limits stated in subsection 12(a)(ii) above, then the installed meter shall continue to measure and record noise levels for a period of thirty (30) days. If after thirty (30) days no noise violations occur, the meter may be removed.
 - iii. If the measured noise does exceed the limits stated in subsection 12(a)(ii) above, then the site operator shall make all reasonable attempts to mitigate the noise issue within forty-five (45) days of the complaint verification. If compliance with subsection 12(a)(ii) above is not achieved within forty-five (45) days a meeting with the Planning Commission will be called as soon as reasonably possible to resolve the issue.
- c. Noise Survey.
- i. Within fifteen (15) days after commencement of Non-Extraction hours of operation, a noise survey shall be completed. Should a non-compliance issue with respect to the limitations set forth in (a)(ii) above be determined as a result of the noise survey, the site Operator shall make all reasonable attempts to mitigate the noise issue within forty-five (45) days of the completion of the noise survey. If compliance with (a)(ii) above is not achieved within forty-five (45) days a meeting with the Planning Commission will be called as soon as reasonably possible to resolve the issue.
 - ii. Noise survey shall be conducted by an independent noise consultant contractor at the expense of operator.
 - iii. The noise survey shall measure the noise levels, in decibels, at the outside of any building or structure used for human habitation on all properties that may be affected by the non-extraction operation noise. The party conducting the noise survey shall obtain consent from each property owner to enter property to measure noise.
 - iv. The purpose of the noise survey is to measure the actual non-extraction operation noise and to determine whether the actual non-extraction operation noise exceeds the limits in section (a)(ii) above. The noise survey shall identify any Affected Property Owner(s).
 - v. Waivers. The operator may obtain a waiver from an Affected Property Owner(s) (see Exhibit C). Such waiver shall be in writing and shall be signed by all fee owners of the Affected real estate, and shall be recorded in the Chippewa County Register of Deeds Office. Such waiver shall state that the Affected Property Owner(s) is aware of the site noise.
 - vi. The refusal of an Affected property owner to allow the operator or its agents to enter his or her property for the purpose of conducting a noise survey in accord with this section shall constitute a waiver on the part of the affected property owner of reliance upon the standards set forth hereinabove.

Non-Metallic Mining Overlay District (cont.)
12.13 (cont.)

B. Permits

1. Review.

- a. Provided the application meets the requirements of this section, including all of the information required under Section 12.12 C, a conditional-use-permit application shall be scheduled for a public hearing pursuant to Article XVIII, Conditional Use Permits. When reviewing the application, the Town shall consider, as a minimum, the following:
 - i. The appropriateness of the proposed non-metallic mining site and non-metallic mining activities in relation to the existing nearby land uses.
 - ii. The effect of the proposed non-metallic mining site and non-metallic mining activities upon existing private and public water quality and quantity.
 - iii. The economic impact of the proposed non-metallic mining site and non-metallic mining activities on private enterprises and local government (e.g. road maintenance expenses).
 - iv. The effect of the proposed non-metallic mine on public health, safety, and welfare.
 - v. The location of, and effect upon, the proposed non-metallic mining site and non-metallic mining activities with respect to floodplains, floodways, drainage paths, and shorelands
 - vi. Evidence demonstrating that no wetlands will be filled or negatively impacted as a result of the proposed non-metallic mine.
- b. Contingent on Other Required Permits. In addition to satisfactorily meeting the requirements of this section, approval of the application and approval of the conditional-use-permit shall be contingent upon the receipt of all other required permits for effluent discharge, storm water management, erosion control and highway road access.

2. Initial Duration of Permit.

- a. The Town may preliminarily approve a conditional use permit if the Town requires certain actions to take place prior to actual issuance of the conditional use permit. Any preliminarily approved conditional use permit shall expressly identify that the conditional use permit is only preliminarily approved and shall state that the issuance of the conditional use permit is dependent upon the satisfaction of all identified preliminary conditions.
- b. The applicant shall be allowed twenty-four (24) months from the date when the conditional use permit was preliminarily approved to satisfy all preliminary conditions. The preliminarily approved conditional use permit shall lapse as a matter of law upon the failure to satisfy all of the preliminary conditions prior to the expiration of the twenty-four (24)-month period.

Non-Metallic Mining Overlay District (cont.)
12.13 B. 2. (cont.)

- c. The Town may allow one extension of time to the twenty-four (24)-month period to satisfy the preliminary conditions, upon the applicant showing just cause. The length of any extension shall be for a fixed period of time at the discretion of the Town. In order to seek such an extension, the applicant must submit a written request to the Zoning Administrator prior to the expiration of the twenty-four (24)-month period.
3. Review of the Conditional Use Permit. The Committee may review conditional use permits authorizing non-metallic mining activities subject to the following:
 - a. Unless a public informational hearing is requested by a person who owns property within seven hundred (700) feet of the proposed non-metallic mining site, no public hearing shall be required to be held with the respect to the conditional use permit review. However, if the operator requests an enlargement of a permitted non-metallic mining site, or otherwise requests for an alteration or change in the method of operations or the reclamation plan previously approved by Chippewa County, a new CUP shall be required, recommended by the Planning Commission and approved by the Town Board only after finding such change will not adversely affect properties within three hundred (300) feet.
 - b. The CUP may be conditioned upon evaluation and possible mitigation of any unrecognized impacts which occurred during the term of initial or review of permits. No modifications to the terms and conditions of this permit shall be allowed until such time as when the Town Board, upon the holding of at least one (1) public hearing by the Plan Commission during which the Operator shall be given the right to respond to any alleged noncompliance of the conditions or proposed changes to the conditions of the permit and the issuance of its recommendation, takes action to amend the permit. No permit modifications shall be considered to be effective until such time as when written notice thereof is sent or delivered to the mine operator.
 - c. The CUP may be reviewed by the Planning Commission every four (4) years. To ensure compliance, the Zoning Administrator shall bi-annually inspect the non-metallic mining operation. An inspection fee is required to be paid by the Operator. The amount of the fees will be based upon requirements established in Section 66.0628 Wi. Statutes. There shall be no limitation upon the number of permit reviews.
4. Termination.
 - a. The CUP shall not be terminated or denied without first providing the Operator with a notice of a public hearing and a public hearing at which the Operator shall be given the right to respond to any alleged noncompliance of the conditions of the permit and this Article. Termination or non-renewal shall occur only in the event of an Operator's failure to comply with any material term of the initial or renewed CUP, the Reclamation Plan, the performance standards incorporated herein, or upon a substantive change, as determined by experts retained by the Planning Commission, in material circumstances rendering continued operation under the CUP to be contrary to the health, safety, or welfare of the Town.
5. Transfer of Permit.
 - a. The Operator seeks to assign or transfer ownership or operation of the non-metallic mine site to a third party or the rights and responsibilities under this permit to a third party, it shall first notify the Town Board which may seek to review the fiscal ability of the

Non-Metallic Mining Overlay District (cont.)
12.13 B. 5.a. (cont.)

assignee or transferee to meet the obligations imposed upon the Operator under this permit. The said approval shall not unreasonably be withheld. The following additional conditions must be met before a transfer of the permit may occur:

- i. The non-metallic mine site is in compliance with the requirements of this section and the permit for the operation of the non-metallic mine site.
- ii. The new operator assumes the responsibility of the former operator to complete the reclamation of the entire permitted non-metallic mining site by a written signed and notarized document and provides adequate financial assurance for approved reclamation of the non-metallic mine site.

6. Non-metallic Mine Site Enlargement.

- a. Any proposed non-metallic mining site enlargement shall be processed as a new application pursuant to sections 12.12 and 12.13. All provisions of sections 12.12 and 12.13 shall apply to the proposed enlargement.

7. Temporary Shutdown.

- a. In the event that the Operator proposes to shut down its transfer of washed sand to an industrial sand processing facility for in excess of six (6) months in succession, the Operator shall notify the Town of its intent and agrees to meet with the Town to discuss what, if any, impacts said shutdown may create and changes which may be required to the terms and conditions of this permit as a direct result thereof. At a minimum the Operator will implement fugitive dust controls to reduce the impact of blowing sand from its industrial sand mines' stockpile(s) of washed sand by one or more of the following: continuously misting or enclosing stockpiles of washed sand, lowering the height of stockpiles of washed sand, or eliminate stockpiles of washed sand.

C. Abandonment of Non-metallic Mine Operations

1. Any non-metallic mine site on which no non-metallic mining activity has taken place for twenty-four (24) consecutive months shall be determined to be abandoned. If the abandonment of a non-metallic mine site occurs, the conditional use permit shall be terminated and all applicable reclamation standards and bonds shall be enforced or executed. Conditional use permits for Construction Aggregate mining sites shall not lapse regardless of whether activity is taking place or not. The Town shall identify at the time of permitting whether a site is Industrial Sand or Construction Aggregate. Non-metallic mining operations shall not be conducted within the boundaries of the previously permitted non-metallic mine site, unless a new non-metallic mine permit has been issued under this section.
 - a. The Zoning Administrator shall determine whether activity or non-activity has taken place at a mining site. Activity shall include, but is not limited to: blasting, construction, crushing, extraction, hauling (truck/rail load out), washing, screening, stripping, non-metallic mining, operation, and processing, all as defined in this section. Upon the premise that the ultimate goal of non-metallic mining is to sell and/or remove non-metallic minerals from a given mining site, the Zoning Administrator shall consider whether progress is being made at a mining site to produce a finished product intended to leave the site in determining whether a mining site is active.

Non-Metallic Mining Overlay District (cont.)
12.13.C.1. (cont.)

- b. The purpose of separating Construction Aggregate mining from Industrial Sand mining is based upon the type, volume of product, and the scale of the mining operations. Construction Aggregate sites are primarily used for infrastructure projects in a given area to reduce hauling from sites that are not in the vicinity. The foot print of a Construction Aggregate mining site is historically much smaller in scale and correspondingly runoff and erosion concerns are significantly reduced. Industrial Sand mine sites are rarely if ever used for local infrastructure projects; footprints are very large in nature. The separated sand particles from an Industrial Sand mining site are prone to both wind and runoff erosion at a much higher rate than Construction Aggregate. The distinction between Construction Aggregate and Industrial Sand mining only applies to determining Abandonment of Non-metallic Mine Operations and the applicability of mining requirements in section 12.13: Industrial Sand Mining.
- c. In order to seek to engage in further operations pertaining to a non-metallic mineral mine whose permit has lapsed, it shall be required that the applicant file a new application for operation as if no permit had been granted in the first place and such permit application shall be processed in accord with all of the requirements of this action.
- d. Upon the lapsing of a permit under this subsection the Zoning Administrator shall immediately inform the permit holder of the lapsing of the permit and notify of their obligation to engage in reclamation activities to the extent that they are required under and in order to fulfill the requirements of the original permit.
- e. Should a permit holder wish to contest the conclusion of the Zoning Administrator that no activity on site has taken place during the twenty-four (24)-month period immediately preceding notice to that effect, the holder may request a public hearing before the Town to present evidence of activity at the site. At such hearing the burden shall be upon the permit holder to establish to the satisfaction of the Town that allowable activity did take place within that twenty-four (24)-month period of time other than site restoration or reclamation efforts. The permit holder shall be responsible for all costs associated therewith. In the event the Town shall conclude that the Zoning Administrator was in error, it shall continue the permit for the period of time remaining under the original permit commencing with the date of notice of its decision.

D. Fees.

- 1. Permit, inspection, and transfer fees which apply to this chapter are established annually by Town of Bloomer and are listed in the Town of Bloomer fee schedule. Copies of the current fee schedule shall be kept on file with the Town of Bloomer Clerk. The current fee schedule is also available from the Zoning Administrator and may be found on the Town of Bloomer website. The amount of the fees will be based upon requirements established in Section 66.0628, Wis. Stats.

E. Reimbursable Costs.

- 1. The Town Clerk, Town Board, Town Plan Commission, and other Town staff may expend time in the review and processing of a CUP application. The Town may also retain the services of a retained expert for the purposes of reviewing, processing, and acting upon the CUP application. Any applicant for a CUP shall reimburse the Town for the cost to the Town charged by any retained expert, in the administration, investigation, and processing of such CUP application above and beyond those expenses covered by the standard CUP application fee.

Non-Metallic Mining Overlay District (cont.)
12.13 (cont.)

F. Notice.

1. The owners of property within seven hundred (700) feet of the property that is the subject of Industrial sand mining conditional use application shall receive due notice of the public hearing.

G. Inspections and Enforcement

1. Inspection.

- a. In addition to reporting requirements, the Town may make inspections of all mining sites to determine the condition of the resource extraction sites in order to ensure and safeguard the health and safety of the public and determine compliance with the minimum standards under the applicable law. The applicant/permit holder agrees to pay the costs associated with the hiring of a qualified consultant. If the inspection discloses any non-compliance, the Town shall issue a corrective action order. Failure by the applicant/permit holder to comply with the action order or to pay the cost of the inspection(s) shall result in a Stop Work Order and consideration of revocation of the interim use or conditional use permit.

2. Enforcement.

- a. In the event of a violation or threatened violation of any of the terms of this ordinance, the Town may take appropriate action to enforce other security, application for injunctive relief, action to compel performance, revocation of the zoning permits, civil fines, and/or other appropriate action before the Town or in court if the Town deems necessary to prevent, restrain, correct or abate such violations or threatened violations.

H. Property Value Guaranty

1. Upon the commencement of operations of an industrial sand mining and related facilities (the "Facility") on the real property identified in the attached Exhibit "B" (the "Effective Date") and until such time as permanent cessation of operation of the Facility is intended (the "Termination Date"), the Operator, will provide this Property Value Guaranty ("Guaranty") to the owners of real property, identified on the attached Exhibit "C" with the distance from the commercial business or residence to the Facility listed, subject to the following terms and conditions:

a. Determination of Fair Market Value

- i. An owner desiring to sell his/her real property shall notify the Operator of such intent at any time during the effective period of this Guaranty.
- ii. The owner and the Operator shall then agree on an appraiser who is licensed as a real estate appraiser in Wisconsin.
- iii. In the event the Operator and the owner cannot agree on an appraiser, the owner shall select a bank or credit union in Chippewa County with whom the owner does not do business, to provide the name of an appraiser it regularly employs to do appraisals.

Non-Metallic Mining Overlay District (cont.)
12.13. H. 1. a. (cont.)

- iv. The appraiser, selected pursuant to (ii) or (iii), above, shall provide the Operator and the owner with an appraisal of the fair market value of the real property, assuming the Facility did not exist ("Fair Market Value").
- v. The Operator shall pay for the appraisal.
- b. Sale of Property
 - i. The owner shall then enter into a listing contract with a Wisconsin licensed real estate broker. The listing contract shall exclude the Operator as a potential buyer so that if the Operator purchases the property, no commission shall be due.
 - ii. Before accepting any offer of less than the Fair Market Value, the owner shall give five (5) business days' notice by fax, email or personal delivery with a copy of the offer to the Operator. If notice is by fax or email, it shall also require confirmed receipt by the Operator that the notice has been received within two (2) business days. If the Operator objects to the offer in writing within five (5) business days, the owner shall not accept such offer and the Operator will proceed to purchase the real property for 125% of Fair Market Value for residential or commercial properties located one thousand three hundred twenty (1,320) feet or less from the Facilities' boundary or 110% of the Fair Market Value for residential or commercial properties located greater than one thousand three hundred twenty (1,320) feet but two thousand six hundred forty (2,640) feet or less from the Facility boundary. Closing on the purchase shall occur no less than thirty (30) days, and no more than ninety (90) days, after the Operator's objection, with such determination in the sole discretion of owner.
 - iii. In the event the Operator does not object as provided in (b)(ii) above, and the owner sells the real property for less than the Fair Market Value, the Operator shall pay the owner the difference between the selling price and 125% of Fair Market Value less the realtor's commission that would have been payable on that difference for residential or commercial properties located one thousand three hundred twenty (1,320) feet or less from the Facility boundary or 110% of the Fair Market Value for residential or commercial properties located greater than one thousand three hundred twenty (1,320) feet but two thousand six hundred forty (2,640) feet or less from the Facility boundary. The Operator shall make the payment within thirty (30) days of the recording of the conveyance of the real property.
 - iv. If the real property is not sold within one hundred eighty (180) days of the date of the listing contract, the Operator shall purchase the real property for 125% of the Fair Market Value less the realtor's commission that would have been paid if sold under the listing contract for residential or commercial properties located one thousand three hundred twenty (1,320) feet or less from the Facility boundary and 110% of the Fair Market Value for residential or commercial properties located greater than one thousand three hundred twenty (1,320) feet but two thousand six hundred forty (2,640) feet or less from the Facility boundary..
- c. Applicability
 - i. The Guaranty shall apply only once for any real property identified in Exhibit B and shall only be available to the property owners as of the Effective Date.

Non-Metallic Mining Overlay District (cont.)
12.13 H. 1. c. (cont.)

- ii. To determine if a property owner is qualified to participate in the property value guaranty the distance shall be measured at right angles from the Facility boundary to the outermost projection of the residential or commercial building, exclusive of permitted projections (such as decks, stairs).
- iii. Properties do not qualify for the Guaranty in the event the property owner wishes to sell or otherwise convey the property to a third-party by a transaction which is not considered an arm's-length transaction (such as a sale or gift to a relative).

12.14 Industrial Sand Drying, Resin Coating, and/or Transload Facilities

A. Purpose.

1. It is the purpose of this section by applying impartial standards to govern the Town's interest in providing for the wise use of the natural resources of the town including consideration of the demand for and economical processing of non-metallic minerals, aesthetic implications of the siting of such a facility at a given location, the impacts of such a industrial sand processing operation on the general health, safety and welfare of the public, preservation of environmentally sensitive areas, through the use of performance standards and best management practices.

B. Applicability.

1. An Industrial Sand Drying and/or Resin Coating facility along with a related Transload facility constructed and operated in conjunction with and located on an Industrial Sand Mining Site is a conditional use in the Non-Metallic Mining Overlay (NMM) District, as established in this ordinance.
2. An Industrial Sand Drying and/or Resin Coating facility along with a related Transload facility not located on a Industrial Sand Mining site is a conditional use in the Industrial (I) or in the Non-Metallic Mining Overlay (NMM) District as established in this ordinance.
3. Each application shall be judged on its owns merits. Subject only to the standards set forth in this section and in the zoning ordinance as a whole, it is impossible to prescribe the criteria upon which such a permit may be granted in each and every case.

C. Permit Application

1. In addition to the application requirements of Article XVIII, Conditional Use Permits, all applications for a proposed industrial sand drying and/or resin coating (sand processing) operation and related transload facility (Facility) shall include the following supplemental information:
2. General Information.
 - a. The name and mailing address of the property owner(s), and Operator, if different from the owner. If the applicant is a corporation, partnership, limited liability company or limited liability partnership, the application shall include the full legal name of the business entity; the date of incorporation, registration or organization; the state in which the entity was incorporated, registered or organized; and the name, address and phone number of the designated contact person for the application.

Non-Metallic Mining Overlay District (cont.)
12.14 C.2.(cont.)

- b. The name, position title, address, email address and phone number of the individual (“Operator”) who is responsible for the daily operation and maintenance of the processing plant and who will serve as the primary contact person for the Town and to whom citizens can direct complaints or concerns regarding the operation of the Facility under this CUP. this person shall report any such contacts, together with its response thereto to the Town within twenty-one (21) days of the date of each such contact. The Operator further agrees to promptly and without undue delay to reply to all complaints or concerns. Notices of any changes in the contact person shall be identified to the Town within five (5) business days thereof. The identity of each such representative shall be placed in writing, a copy of which, together with any changes, from time to time, shall be attached to the original of this CUP. The Town Contact person shall be the Town Zoning Administrator.
 - c. A signed statement by the applicant, property owner and operator, if different than the applicant, that the applicant, property owner and operator, is familiar and will comply with the provisions of this subsection, including the responsibility to pay the required fees and any possible citations forfeitures, if imposed for a violation, for the effective administration and enforcement of this section.
 - d. A list and description of all applicable local, state or federal permits that will be required for the operation of the proposed processing plant or the associated activities onsite, including any variance request that the owner or operator will submit to operate on the proposed site and any electrical, plumbing, or septic permits.
 - e. The Operator shall at all times that the sand processing plant is in operation and until such time as the plant site has been fully demolished and all debris resulting therefrom has been salvaged to properly disposed of, maintain in full force and effect liability insurance in the minimum amount of \$ 2,000,000 and shall cause the Town of Bloomer, and all of its officers and employees to be named as additional insureds thereupon and it shall at all times indemnify and hold the Town of Bloomer, and all Town officers and employees harmless from any and all personal injuries and property damage to third persons arising from its use and occupation of the property subject to this permit, except for personal injuries or property damage occasioned by active negligence on the part of the Town, its officers or employees.
 - f. To the extent that some or all of the work including, but not limited to, trucking to and from, maintenance or repairs of the facilities, or other work is performed on behalf of the Operator by third party contractors, it shall be the responsibility of the Operator to inform its contractors or subcontractors of its duties hereunder and impose upon them contractually or otherwise the necessity of conforming their work to the limitations expressed in this permit. Violations of this permit maintained or created by third party contractors shall be deemed to be caused by the Operator.
3. Initial Site Plan.
- a. A site plan, drawn at a scale of not less than 1” = 200’ or an alternative scale approved by the Zoning Administrator, which produces a clearly legible drawing and shall include the following:
 - i. North point, scale, and date.
 - ii. Location Map to indicate general location of the proposed processing plant in the Town by town and range.

Non-Metallic Mining Overlay District (cont.)
12.14 C. 3. a. (cont.)

- iii. Property boundaries of the land on which the proposed processing plant will be located.
 - iv. Location and boundaries of the proposed processing plant, including extent of the area to be used for product storage, stockpiling and processing areas.
 - v. Location and dimension of all existing culverts, access points, roads, rights-of-way, utilities and utility easements on or abutting the property.
 - vi. Location and dimension of all structures within one thousand three hundred twenty (1320) feet of the proposed sand processing site and the use of each proposed or existing structure.
4. Operation Plan.
- a. An operation plan, which shall include a written description of the proposed processing operation and methods and procedures to be used in processing the sand. The operation plan shall also include the following:
 - i. The approximate date of the commencement of the proposed processing operations.
 - ii. Proposed parking areas, signs, and fencing.
 - iii. Type of processing and transportation equipment to be utilized within the proposed processing plant site and for transporting material to and from the proposed processing site.
 - iv. Existing and proposed roads and drives to be used on the proposed processing site, including all points of ingress and egress, and all primary transportation routes to be utilized within the Town to transport the material to County, State, or Federal highways. The Commission may establish as a condition of the issuance of a CUP that a road use agreement between the jurisdiction having authority over the proposed transportation route and the Operator be established, but shall not be a party to any road use agreement unless it is a Town road.
 - v. Estimated number of truckloads of material per day, and estimated weight of material per truckload.
 - vi. All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize as much as possible noise, lighting, vibration, and be in compliance with all MSHA regulations. All trucks shall follow an anti-idling plan that minimizes excessive idling, but accounts for traffic, temperatures in excess of ninety (90) degrees and less than zero degrees Fahrenheit and inclement weather. Examples of anti-idling regulations can be found at the following: American Transportation Research Institute and US EPA.
 - vii. Areas on the proposed Facility site to be used for drainage and erosion control management or sedimentation ponds, if proposed. This may include, but is not limited to the following: water diversions, grass waterways, sediment basins, filter strips, silt fencing, bale check dams, sod strips, rock rip-rap, temporary seeding and mulching. Stormwater drainage originating on the plant site shall be

Non-Metallic Mining Overlay District (cont.)
12.14 C. 4.a.vii(cont.)

managed in accord with and subject to state and federal permits. All storm water facilities shall be routinely maintained to assure the facilities continue to function as designed.

- viii. No outside storage of washed sand yet to be dried shall be permitted.
- ix. Lease(s). If the proposed Facility site is leased to the Operator, a copy or portion of the lease that indicates the Operator has been granted access to the property for activities with the the proposed Facility shall be submitted with the application.
- x. Violations of the conditions imposed by this permit created or maintained by hauling truck contractors with the Operator shall be implicated to and shall be deemed to be the responsibility of Operator, and may, if sufficiently egregious, form the basis for initiation of an action to suspend or revoke this permit after due process, holding a public hearing, and the Town Board receiving recommendation from the Planning Commission to suspend or revoke the permit.
- xii. Exception. The Zoning Administrator may waive portions of the specified information upon finding that the specified information is not relevant or is unnecessary for a full and proper evaluation of the application based on the nature or method of the industrial sand processing plant operation.
- xiii. Additional Information. By written request, the Town may require submittal of such other information as may be necessary to determine the nature of the non-metallic mining operation and proposed reclamation and the effect on the surrounding area.

D. General Conditional Use Permit Requirements

- 1. Setbacks in the Industrial District and the Non-metallic Mining Overlay (NMM) District for industrial sand processing plants. The setbacks in this subsection shall apply to the Facility including, without limitation: the storage of reject (byproduct) sand, stockpiling of washed sand, inventory, and equipment. The Town reserves the right to require greater setbacks or activity on the proposed industrial sand processing site in order to protect the integrity of the sloped perimeters from erosion. The setback requirements are inapplicable to berms or other methods of landscaping, except within the vision triangle of any roads.
 - a. The proposed Facility site shall be located at least:
 - i. One hundred (100) feet from all exterior lot lines of the property on which the proposed industrial sand processing site is located, excluding road right-of-ways, except when railroad access for a transloading facility is within one hundred (100) feet of the right of way.;
 - ii. Three hundred (300) feet from a dwelling unit(s) unless the dwelling unit(s) is owned by the Operator;
 - iii. Three hundred (300) feet from a private well providing potable water;
 - iv. One hundred (100) feet from a commercial, industrial or agricultural structure unless owned by the Operator;

Non-Metallic Mining Overlay District (cont.)
12.14 D. 1. a. (cont.)

- v. Three hundred (300) feet from a wetland, stream, creek, river, lake, or mapped floodplain and six hundred (660) feet from a Class 1 or 2 trout stream.
- 2. Height Restrictions.
 - a. In the NMM or the I District, no industrial sand processing related structure shall exceed the height limitations of one hundred thirty (130) feet, except as expressly authorized by the Plan Commission or Board of Zoning Appeals. The Plan Commission in exercise of its authority under §4.7 B. of the Zoning Code, grants to the Operator an exception from height restrictions of the Zoning Ordinance for the following described mechanical appurtenance structures, subject to the expressed height limitation: For a number of bucket elevators to be specified in the CUP; the sand stacking device to be used to feed sand to the outside storage piles identified in the site plan; the emissions stack; as well as for all exterior sand conveyors. None of these structures shall exceed a height of one hundred seventy-five (175) feet from grade. To the extent that the Board of Zoning Appeals authorizes variances for other structures, its determinations shall be incorporated into this permit by reference and shall constitute limitations that are enforced by the Plan Commission under this permit.
- 3. The Operator shall grant to public utilities the right to continue to maintain easements over, upon and under the surface of the land contained within the subject parcel(s) for the purpose of maintaining, repairing and operating telephone, electric power, natural gas, cable television, and other utilities crossing its property. It may, however, come to separate agreements with each affected utility to allow it to change the location of any such easement as it may exist as of the date of issuance of this permit. It shall be a condition of this permit that unless the Operator comes to an agreement with utility companies regarding alternate easements for their mains and lines is vacated, the right to maintain the said utility easements in said vacated right of way shall be continued in favor of the utilities.
- 4. Waiver.
 - a. The Town may consider a reduced setback under this subsection, provided that a signed written agreement between adjoining property owners is filed with the application or prior to consideration of the conditional use permit, which specifies the agreed upon separation distance between the adjoining property owners.
- 5. No variance shall be granted by the Board of Appeals that would reduce minimum distance requirements by more than twenty-five per cent (25%).
- 6. Hours of Operation shall be limited based upon the defined activities of truck hauling, sand drying, screening, resin coating, and/or transloading.
 - a. Hauling truck traffic to and from the plant site shall be limited to the hours of 6:00 AM to 7:00 PM, Monday through Friday and 6:00 AM to 3:00 PM on Saturday. Additionally, no trucks may enter or depart the sand processing plant on these official state or federal holidays (New Year Day, Memorial Day, July 4th, Labor Day, Thanksgiving, Christmas Eve Day, and Christmas Day) and Sundays.

Non-Metallic Mining Overlay District (cont.)
12.14 D. 6 (cont.)

- b. The operator may operate Facility all year round, twenty-four (24) hours per day subject to the following express limitations and exceptions stated in item (a) above. All sand drying shall be conducted within enclosed structures on the plant site only. All processing in addition to drying and all storage of sand after drying pending transportation away from the plant site shall occur within enclosed structures on the plant site only, including enclosed conveyors. All such structures shall be equipped with dust collection equipment on all emission points from the sand processing plant structures located on the plant site to capture dust for purposes both of retention and disposal in accord with applicable state and federal regulations and permit requirements. Emissions from the dust collection equipment shall be limited to levels that are acceptable under applicable state or federal permits applicable to the plant site.
 - c. Dust Control. The operator shall use industry best management practices in its efforts to control and minimize fugitive dust, including one or more of the following: landscape earthen berms, paved entrance roadways, standard methods of water spray, dust covers on transfer points, and contract sweeping, if needed. In addition, the beds or containers of all trucks traveling to the sand processing plant that contain sand shall be covered when being driven through the Town of Bloomer, whether on state, county or town highways.
 - d. Fugitive Dust Plans. A fugitive dust plan shall be submitted to the Zoning Administrator as part of the permitting process and shall be designed employing the best management provisions of NR 415.075 and NR 415.076. In addition, the provisions as listed in NR 415.075(3) must be satisfied.
7. Lighting Control as follows:
- a. All lighting must be fully shielded in a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where the light is emitted.
 - b. Lighting must be directed away from adjacent properties to prevent light from trespassing or spilling on to those properties.
 - c. All outdoor flood light projection above the horizontal is prohibited.
 - d. The use of berms of sufficient height coupled with other methods of visual screening to block light from neighboring properties
 - e. The mine operator shall apply for a variance to the Mine Safety and Health Administration (MSHA) to lessen lighting impacts on surrounding properties and if a variance is granted make improvements to the outdoor lighting plan. The operator shall submit copies of the variance application and MSHA's response to the Zoning Administrator.
8. Spill Prevention.
- a. The operator shall comply with the applicable State and Federal requirements regarding fuel, chemical storage and handling and spill response, including, but is not limited to: OSHA or MSHA, EPA's Spill prevention or Countermeasures, Alcohol, Tobacco and Firearms, and any other applicable State or Federal law and regulations. In addition, all fueling stations shall be situated on impervious surfaces and any waste oil or other petroleum products generated on site shall be properly recycled or disposed of in

Non-Metallic Mining Overlay District (cont.)
12.14 D. 8. a (cont.)

accordance with the laws of the State of Wisconsin. Where fueling trucks are used to refuel equipment onsite, all fueling must occur on a fueling absorption pad to minimize any leakage. The Operator shall supply information to the Bloomer Area Fire Department, the Bloomer Ambulance Service, and Chippewa County Sheriffs Department as may be required to equip them to prepare for and service the site in the event of emergencies or human injuries or health hazards. In addition, the Operator shall develop a spill prevention and control program in writing and review the same annually. It shall provide the Town with a copy of the plan and any updates thereto.

9. Landscaping and Screening.

- a. Unless an alternative landscaping and screening plan is approved by the Town, all industrial sand processing operations shall install a berm around the perimeter of the proposed processing plant boundaries, except for entrances and exits. Existing vegetation shall be taken into consideration provided it is of sufficient height and density. Berms shall be in compliance with the following:
- b. Prior to construction of said berm, the operator shall submit and obtain approval from the Town for a detailed berm, landscaping and related drainage and erosion control plan.
- c. The berm shall be installed within fourteen (14) calendar days of stripped overburden and topsoil becoming available from the proposed processing plant site or from suitable outside sources. The berm may be constructed in phases as material becomes available.
- d. The berm shall not be placed closer than ten (10) feet to an exterior property line, road right-of-way or road vision triangle.
- e. Only clean topsoil, subsoil or overburden from the proposed non-metallic mining site or suitable outside sources shall be used in constructing the berm.
- f. The height (minimum height ten (10) feet) of the berm must be adequate to provide screening from all roadways adjacent to the property on which the processing site is located and adjacent land uses. Upon the tops and sides of the berms coniferous trees shall be planted and maintained. The top of the berm shall be a minimum of eight (8) feet wide. The adequate height must be maintained throughout the life of the project. At the option of the Operator, the tops of the berm may vary in height, subject to the minimum above and the base may be placed in other than a straight line.
- g. The outward-facing slopes of the berm shall not be steeper than three (3) horizontal units to one (1) vertical unit. The inner-facing slopes may be steeper, but not less than a two (2) to one (1) ratio and must be stabilized and maintained to remain stable.
- h. The berm shall be constructed in a manner that does not result in flooding, concentrated runoff, inadequate drainage or excessive erosion or sedimentation.
- i. The exterior of the berm shall be kept free of noxious weeds, trash and debris.
- j. With respect to residences situated on properties adjoining the mine site, to the extent that no berm exists, the Operator shall make inquiry in writing of the owner of each such residence as to whether or not the owner desires a berm be constructed, and if not, the operator shall not be required to install berms opposite residences that are constructed after the date of application of this CUP.

10. Ambient Air Monitoring Plan.

- a. An ambient air monitoring plan shall be submitted as part of the permitting process. The ambient air monitoring plan shall be developed by a professional with expertise in ambient air monitoring. Components of the plan, licensed professional and laboratory. The plan shall contain all of the following:
- i. Strategy for the collection, analysis and reporting mechanisms for ambient air monitoring, including baseline information and the appropriate meteorological data collected from the proposed non-metallic mining site or other approved sites.
 - ii. An alternatives analysis which reviews several different methods for the ambient air monitoring plan or ambient air monitoring plan components. The ambient air monitoring plan shall explain why one alternative is recommended over another and shall include a final recommendation.
 - iii. Best available technology for monitoring and reporting shall be explored and utilized on an ongoing basis, including “real time” reporting under which the results are sent automatically to a secured site for collection, review and retention. Improvements to monitoring or technology shall be incorporated into the CUP and utilized in the operation of the Facility within six (6) months
 - iv. The ambient air monitoring plan shall address expected, anticipated and theorized types of failures with the proposed equipment. A contingency plan for repairing or replacing the equipment shall be established. In the event that a failure occurs that was not anticipated or theorized, a contingency plan shall be developed and implemented within forty-eight (48) hours of failure.
 - v. The ambient air monitoring plan shall include specific techniques, strategy and methodology to be utilized on the proposed non-metallic mine site in monitoring for particulate matter PM2.5. If PM2.5 levels exceed thirty-five (35) micrograms implement additional best management practices to minimize PM 2.5 emissions. In the event the State of Wisconsin or the EPA adopts a stricter standard, the stricter standard shall take precedence under the permit.
 - vi. The ambient air monitoring plan shall state specific strategies that will be utilized on the Facility to monitor total suspended particulates (TSP). In the event TSP levels exceed one hundred fifty (150) micrograms per cubic meter of TSP in any 24-hour period, the operator shall evaluate and implement additional best management practices to minimize TSP. In the event the State of Wisconsin or the EPA adopts a stricter standard, the stricter standard shall take precedence under the permit.
 - vii. All air monitoring and noise monitoring results shall be automatically shared with the Town.

11. Noise Control.

- a. The Operator shall comply with all applicable noise regulations and industry recommendations including, but not limited to white noise backup alarms.

Non-Metallic Mining Overlay District (cont.)
12.14 D. (cont.)

12. Noise Generation Limitations

- a. Audible noise emitted during any industrial sand processing is limited to the standards set forth in this provision:
- b. Noise due to during sand hauling hours of operation is not limited by this ordinance.
- c. Noise from the sand processing plant shall not exceed L10 of 65 dbA and an L50 of 60 dbA, as measured at existing residential structures as identified in the attached Exhibit "C".
- d. Noise from trucks or railroad trains shall not be included in measuring the above referred to limits.
- e. Definitions:
 - i. L10 is the sound level, expressed in dbA, which is exceeded ten percent (10%) of the time for a one (1) hour survey.
 - ii. L50 is the sound level, expressed in dbA, which is exceeded fifty percent (50%) of the time for a one (1) hour survey.
 - iii. dbA is the unit of sound level expressed in decibels (db) and A-weighted, as described in ANSI s 1.4, 1983, section 1.5.
- f. Measurement methodology: All sound measuring devices must meet Type O, I, II or S specifications under ANSI s 1.4 1983. Devices must be externally filed calibrated before and after monitoring using a calibration device of known frequency and sound pressure levels. Measurements must be made using the A-weighting and Fast Response characteristics of the sound measuring device as specified in ANSI 2 1.4 1983.

13. Noise Complaints.

- a. Any complaint of excessive noise due to sand processing during Non-Haul hours shall be made in writing and shall state the name and address of the party complaining. Any complaint shall be forwarded to the Zoning Administrator. The Zoning Administrator shall immediately forward any such complaint to the Operator.

14. Noise Survey.

- a. Within fifteen (15) days after commencement of actual sand processing during Non-Haul hours of operation, a noise survey shall be completed. Should a non-compliance issue with respect to the limitations set forth in subsection 12(c) above be determined as a result of the Noise Survey, the Operator shall make all reasonable attempts to mitigate the noise issue within forty-five (45) days of the completion of the Noise Survey. If compliance with 12(c) is not achieved within forty-five (45) days a meeting with the Planning Commission will be called as soon as reasonably possible to resolve the issue.
- b. Noise survey shall be conducted by an independent noise consultant contractor at the expense of the Operator.

Non-Metallic Mining Overlay District (cont.)
12.14 D. 14 (cont.)

- c. The noise survey shall measure the noise levels, in decibels, at the outside of any building or structure used for human habitation on all properties that may be affected by the actual sand processing noise. The party conducting the noise survey shall obtain consent from each property owner to enter property to measure noise.
- d. The purpose of the noise survey is to measure the actual sand processing noise and to determine whether the actual Processing noise exceeds the limits in subsection 12(c) above. The noise survey shall identify any Affected Property Owner(s).
- e. Waivers. The Operator may obtain a waiver from an Affected Property Owner(s). Such waiver shall be in writing and shall be signed by all fee owners of the affected real estate, and shall be recorded in the Chippewa County Register of Deeds Office. Such waiver shall state that the Affected Property Owner(s) is aware of the processing plant noise.
- f. The refusal of an affected property owner to allow the Operator or its agents to enter his or her property for the purpose of conducting a noise survey in accord with this section shall constitute a waiver on the part of the affected property owner of reliance upon the standards set forth hereinabove.

E. Permits

1. Review.

- a. Provided the application meets the requirements of this section, a CUP application shall be scheduled for a public hearing pursuant to Article XVII, Conditional Use Permits. When reviewing the application, the Town shall consider, as a minimum, the following:
 - i. The appropriateness of the proposed Facilities location in relation to the existing nearby land uses.
 - ii. The effect of the proposed Facilities' activities upon existing private and public water quality and quantity.
 - iii. The economic impact of the proposed processing plant site and processing plant activities on private enterprises and local government (e.g. road maintenance expenses).
 - iv. The effect of the proposed processing plant on public health, safety, and welfare.
 - v. The location of, and effect upon, the proposed processing plant activities with respect to floodplains, floodways, drainage paths, and shorelands
 - vi. Evidence demonstrating that no wetlands will be filled or negatively impacted as a result of the proposed Facility.
- b. Contingent on Other Required Permits. In addition to satisfactorily meeting the requirements of this section, approval of the application and approval of the CUP shall be contingent upon the receipt of all other required permits for effluent discharge, storm water management, erosion control and highway road access.

Non-Metallic Mining Overlay District (cont.)
12.14 E. (cont.)

2. Initial Duration of Permit.
 - a. The applicant shall be allowed twenty-four (24) months from the date when the CUP was approved to satisfy all conditions. The approved CUP shall lapse as a matter of law upon the failure to satisfy all of the conditions prior to the expiration of the twenty-four (24)-month period.
 - b. The Town may allow one extension of time to the twenty-four (24)-month period to satisfy the conditions, upon the applicant showing just cause. The length of any extension shall be for a fixed period of time in the discretion of the Town. In order to seek such an extension, the applicant must submit a written request to the Zoning Administrator prior to the expiration of the twenty-four (24)-month period.
3. Review of the Conditional Use Permit. The Committee may review conditional use permits authorizing processing plant activities subject to the following:
 - a. Unless a public informational hearing is requested by a person who owns property within seven hundred (700) feet of the proposed non-metallic mining site, no public hearing shall be required to be held with the respect to the conditional use permit review. However, if the operator requests an enlargement of a permitted non-metallic processing site, or otherwise requests for an alteration or change in the method of operations previously approved, a new CUP shall be required, recommended by the Planning Commission and approved by the Town Board only after finding such change will not adversely affect properties within three hundred (300) feet.
 - b. The CUP may be conditioned upon evaluation and possible mitigation of any unrecognized impacts which occurred during the term of initial or review of permits. No modifications to the terms and conditions of this permit shall be allowed until such time as when the Town Board, upon the holding of at least one (1) public hearing by the Plan Commission during which the Operator shall be given the right to respond to any alleged noncompliance of the conditions or changes to the conditions of the permit and the issuance of its recommendation, takes action to amend the permit. No permit modifications shall be considered to be effective until such time as when written notice thereof is sent or delivered to the mine operator.
 - c. The CUP may be reviewed by the Planning Commission every four (4) years. To ensure compliance, the Zoning Administrator shall bi-annually inspect the non-metallic mining operation. An inspection fee is required to be paid by the Operator. The amount of the fees will be based upon requirements established in Section 66.0628. There shall be no limitation upon the number of permit reviews.
4. Termination.
 - a. The CUP shall not be terminated or denied without first providing the Operator with a notice of a public hearing and a public hearing at which the Operator shall be given the right to respond to any alleged noncompliance of the conditions of the permit and this Article. Termination or non-renewal shall occur only in the event of an Operator's failure to comply with any material term of the initial or renewed CUP, the Reclamation Plan, the performance standards incorporated herein, or upon a substantive change, as determined by experts retained by the Planning Commission, in material circumstances rendering continued operation under the CUP to be contrary to the health, safety, or welfare of the Town.

Non-Metallic Mining Overlay District (cont.)
12.14 E. (cont.)

5. Transfer of Permit.
 - a. The Operator seeks to assign or transfer ownership or operation of the Facility to a third party or the rights and responsibilities under this CUP to a third party, it shall first notify the Town Board which may seek to review the fiscal ability of the assignee or transferee to meet the obligations imposed upon the Operator under this CUP. The said approval shall not unreasonably be withheld. The transfer must also be in complete compliance with the requirements of this section and the CUP for the operation of the Facility before the transfer.
 - b. This restriction on assignment or transfer shall not apply to assignment or transfer to a parent corporation to the Operator or to a wholly owned subsidiary of the Operator.
- F. Closure of the Facility.
 1. The Operator shall notify the Town at least sixty (60) days in advance of permanently ending the operation of the Facility.
 2. If the CUP is issued for the Industrial Zoning District, it shall be a condition of this Permit that upon closure of the Facility, the Operator shall demolish all of the plant improvements that are functional only for industrial sand processing. Unless the remainder of the plant and its infrastructure including, but not limited to, service roads and the railroad spur and yard, are unfeasible for use in association with some other industrial use of the property consistent with the regulations of the Industrial Zoning District of the Town, it may leave those additional improvements and market the property for other permitted or conditionally permitted uses. To the extent that it shall demolish some or all of the improvements to the property, it shall take such steps to restore the site to its condition immediately prior to the granting of this CUP or to facilitate a post sand processing plant use of the property.
 3. If the CUP is issued for the Non-Metallic Mining Overlay Zoning District, it shall be a condition of this CUP that upon closure of the sand processing plant and transload facility, the Operator shall demolish all of the plant improvements and be limited to uses permitted or conditionally permitted uses in the underlying zoning district classification (Agriculture Production District) or in accord with the regulations applicable to another zoning classification to which the land is rezoned. Unless the remainder of the plant and its infrastructure including, but not limited to, service roads and the railroad spur and yard, are unfeasible for use in association with some other use of the property consistent with the regulations of the rezoned district of the Town, it may leave those additional improvements and market the property for other permitted or conditionally permitted uses. To the extent that it shall demolish some or all of the improvements to the property, it shall take such steps to restore the site to its condition immediately prior to the granting of this CUP or to facilitate a post sand processing plant use of the property.
 4. To ensure that the taxpayers of the Town shall not be required to bear the financial burden of demolishing some or all of the improvements, at such time as when the Operator indicates its intent in accord with (A)(1)(e), above, it shall meet with the Town Board and Plan Commission to discuss its plans for the property and should the Town feel insecure at that time about the potential that it shall have to expend public monies on site restoration or demolition, the Town Board may impose upon the Operator the

Non-Metallic Mining Overlay District (cont.)
12.14 F. 4. (cont.)

requirement that it post a bond or other form of financial security in such amount as will cover the estimated cost of site restoration and demolition.

5. In the event that the Operator, whether for economic or other reasons, proposes to temporarily shut down its Facility in excess of twelve (12) months in succession, the Operator shall notify the Town of its intent and agrees to meet with the Town to discuss what, if any, impacts said shutdown may create and changes which may be required to the terms and conditions of this CUP as a direct result thereof.

G. Fees.

1. Permit, inspection, and transfer fees which apply to this chapter are established annually by the Town of Bloomer and are listed in the Town of Bloomer fee schedule. Copies of the current fee schedule shall be kept on file with the Town of Bloomer Clerk. The current fee schedule is also available from the Zoning Administrator and may be found on the Town of Bloomer website. The amount of the fees will be based upon requirements established in Section 66.0628, Wis. Stats.

H. Reimbursable Costs.

1. The Town Clerk, Town Board, Town Plan Commission, and other Town staff may expend time in the review and processing of a CUP application. The Town may also retain the services of a retained expert for the purposes of reviewing, processing, and acting upon the CUP application. Any applicant for a CUP application shall reimburse the Town for the cost to the Town charged by any retained expert, in the administration, investigation, and processing of such CUP application above and beyond those expenses covered by the standard CUP application fee.

I. Notice:

1. The owners of property within seven hundred (700) feet of the property that is the subject of Industrial sand mining conditional use application shall receive due notice of the public hearing.

J. Inspections and Enforcement.

1. Inspections.

- a. The Operator agrees and acknowledges that the designated representative/agent of the Bloomer Town Board shall have access to and may inspect any and all aspects of its operation of its Facility at all times during operating hours upon not less than twenty-four (24) hours notice for the purpose of determining whether the plant is being operated in compliance with the terms and conditions of this CUP. In addition, in the event of a credible report of a violation of this Permit received by the Town, the Town shall be afforded access to the subject real estate and improvements situated thereupon for the purposes of investigating said reports and may designate Town officers and agents including, but not limited to, professional representatives, to exercise this power on behalf and in the interests of the Town, which access shall not be subject to the twenty-four (24) hour notice provision set forth above but which shall be exercised upon the basis of reasonable notice under the particular circumstances and nature of the reported CUP violation. The applicant/permit holder agrees to pay the costs associated with the hiring of a qualified consultant and any associated administrative costs. If the inspection discloses any non-compliance, the Town shall issue a corrective action

Non-Metallic Mining Overlay District (cont.)
12.14.J,1,a, (cont.)

order. Failure by the applicant/permit holder to comply with the action order or to pay the cost of the inspection(s) shall result in a Stop Work Order and consideration of revocation of the interim use or CUP

2. Enforcement.

- a. In the event of a suspected violation of this CUP, whether upon complaint of a resident of the Town or upon its own determination, the Town may, in its discretion, call for a meeting with the Operator in an attempt to resolve the suspected violation. However, the Town Board reserves to itself the right and option, whether an attempt at solving an issue is made informally or not, to bring an action for injunctive relief, forfeitures in accord with the Zoning Ordinance or any other form of legal or equitable relief against the Operator in the Circuit Court for Chippewa County, Wisconsin.
- b. Enforcement rights expressly reserved to the Town. Nothing in this CUP shall be construed to create any private cause of action in favor of any person against the Operator in relationship to the operation of a sand processing plant and transload facility under the terms and conditions of this CUP.

K. Property Value Guaranty

1. Upon the commencement of operations of an industrial sand processing and transloading facility (the "Facility") on the real property identified in the attached Exhibit "B" (the "Effective Date") and until such time as permanent cessation of operation of the Facility is intended (the "Termination Date"), the Operator, will provide this Property Value Guaranty ("Guaranty") to the owners of real property, identified on the attached Exhibit "C", subject to the following terms and conditions:
 - a. Determination of Fair Market Value
 - i. An owner desiring to sell his/her real property shall notify the Operator of such intent at any time during the effective period of this Guaranty.
 - ii. The owner and the Operator shall then agree on an appraiser who is licensed as a real estate appraiser in Wisconsin.
 - iii. In the event the Operator and the owner cannot agree on an appraiser, the owner shall select a bank or credit union in Chippewa County with whom the owner does not do business, to provide the name of an appraiser it regularly employs to do appraisals.
 - iv. The appraiser, selected pursuant to (ii) or (iii), above, shall provide the Operator and the owner with an appraisal of the fair market value of the real property, assuming the Facility did not exist ("Fair Market Value").
 - v. The Operator shall pay for the appraisal.
 - b. Sale of Property
 - i. The owner shall then enter into a listing contract with a Wisconsin licensed real estate broker. The listing contract shall exclude the Facility as a potential buyer so that if the Operator purchases the property, no commission shall be due.

Non-Metallic Mining Overlay District (cont.)
12.14 K 1 b. (cont.)

- ii. Before accepting any offer of less than the Fair Market Value, the owner shall give five (5) business days' notice by fax, email or personal delivery with a copy of the offer to the Operator. If notice is by fax or email, it shall also require confirmed receipt by the Operator that the notice has been received within two (2) business days. If the Operator objects to the offer in writing within five (5) business days, the owner shall not accept such offer and the Operator will proceed to purchase the real property for 120% of Fair Market Value. Closing on the purchase shall occur no less than thirty (30) days, and no more than ninety (90) days, after the Operator's objection, with such determination in the sole discretion of owner.
 - iii. In the event the Operator does not object as provided in (b)(ii) above, and the owner sells the real property for less than the Fair Market Value, the Operators shall pay the owners of property, when the residence or commercial business is one thousand three hundred twenty (1,320) feet or less from the Facility, the difference between the selling price and 120% of Fair Market Value less the realtor's commission that would have been payable on that difference. The Operator shall make the payment within thirty (30) days of the recording of the conveyance of the real property.
 - iv. If the real property is not sold within 180 days of the date of the listing contract, the Operator shall purchase the real property for 120% of the Fair Market Value less the realtor's commission that would have been paid if sold under the listing contract for residential and commercial properties located one thousand three hundred twenty (1,320) feet or less from the proposed Facility.
- c. Applicability.
- i. The Guaranty shall apply only once for any real property identified in Exhibit B and shall only be available to the property owners as of the Effective Date.
 - ii. To determine if a property owner is qualified to participate in the property value guaranty the distance shall be measured at right angles from the Facility boundary to the outermost projection of the residential or commercial building, exclusive of permitted projections (such as decks, stairs).
 - iii. Properties do not qualify for the Guaranty in the event the property owner wishes to sell or otherwise convey the property to a third-party by a transaction which is not considered an arm's-length transaction (such as a sale or gift to a relative).

12.15 Definitions. The following definitions shall apply in the interpretation of an application of this Article.

Applicant shall mean the person, corporation, partnership or other legal entity which makes application for a conditional use permit under this section.

Blasting is the act of using a set charge of dynamite or other explosive at one firing to free up, loosen, or dislodge a desired product at the permitted mine site.

Construction shall mean the process involved in preparing a site for non-metallic mineral extraction activities, including but not limited to the stripping of topsoil and overburden, the destruction of tree cover and other vegetation, the building of access roads and the construction of accessory structures and buildings to be used in the course of mining activities.

Non-Metallic Mining Overlay District (cont.)
12.15 (cont.)

Crushing is the act of breaking down, squeezing, pressing and pounding an object or material so that the action destroys or deforms the object into a usable or desired form.

Non-Metallic Mining Overlay District (cont.)

Drying is the action to remove moisture from the intended marketable material.

Extraction shall mean obtaining the raw material from the permitted site following the permitted conditions. This also includes the acts of Blasting, Stripping, Hauling, and Construction.

Hauling is the action of carting or transporting of any material on public roadways, either raw or processed, from the original location of the raw or processed material to another location not on the permitted grounds.

Holiday shall mean those legal holidays on which no work is performed by employees. These shall include; New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve Day, Christmas Day.

Non-Metallic Mining shall mean all or any part of the process involved in the mining of non-metallic minerals including but not limited to the commercial extraction, agglomeration, beneficiation, removal of overburden and the production of refuse. It does not mean exploration, or prospecting, or mining of non-metallic minerals for a property-owner's sole use on the property-owner's property.

1. Industrial Sand is a high purity silica sand product sold for any of the following uses: glassmaking, metal casting, metal production, chemical production, paint and coatings, ceramics and refractories, and oil and gas recovery (i.e. "frac sand"). This sand is classified as 212322 Industrial Sand Mining according to the NAICS (North American Industry Classification System) Standard Industrial Classification (SIC) System.
2. Construction Aggregate is either sand and gravel or crushed stone (stone crushed from bedrock) that is predominately produced and used for local construction purposes (i.e., asphalt or concrete roads, concrete, asphalt, building or dimension stone, railroad ballast, decorate stone, retaining walls, revetment stone, roofing granules, and other similar uses) or used for agricultural uses such as ag lime and bedding sand for livestock operations. Small amounts of sand and gravel or crushed stone may be produced and used for other purposes such as salt and sand for icy roads, water filtration systems in septic systems, landfills, mortar sand, and sand for sand blasting.

Non-metallic mining site or sites means all contiguous areas of present or proposed mining as follows:

1. The location where nonmetallic mining is proposed or conducted.
2. Storage and processing areas that are in or contiguous to areas excavated for non-metallic mining.
3. Areas where nonmetallic mining refuse is deposited.
4. Areas affected by activities such as the construction or improvement of private roads or haulage ways for non-metallic mining.
5. Areas where grading or regrading is necessary.

Non-Metallic Mining Overlay District (cont.)

12.15 (cont.)

Non-metallic mining site or sites (cont.)

6. Areas where non-metallic mining reclamation activities are carried out or structures needed for non-metallic mining reclamation, such as topsoil stockpile areas, revegetation test plots, or channels for surface water diversion, are located.

Operation shall mean the conducting of all activities associated with the mining of non-metallic minerals from the site, their removal from the ground and their processing on site.

Operator shall mean the person or entity responsible for the the day-to-day operation of the site and/or facility and/or responsible for financial payments such as fees, forfeitures, and property value guaranty payments.

Ordinary high-water mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.

Permit Holder shall mean that person to whom a permit has been issued under this section.

Preliminary Processing shall mean to convert raw material into a marketable form, on site, by a special process that includes the actions of “crushing”, and/or “washing”. Processing shall also include moving material by way of conveyor, slurry system or other forms of transportation, but shall not include moving material on public roadways.

Rail-load out means to load the marketable material at a rail site and transport the material to the necessary location by train.

Reclamation shall mean the restoration efforts required to be engaged to restore the Site pursuant to Wisconsin Statutes Chapter 295, Wisconsin Administrative Code NR 135, Chippewa County .

Screening is sorting or sizing of material into a marketable product size.

Site shall mean the entire legally described location of a non-metallic mining operation including but not limited to the actual sites of land disturbing activities, non-metallic mineral extraction, storage, access roadways and associated structures, buildings and other facilities.

Stripping is to take away or remove soil, rock, or other overburden materials from non-metallic minerals and use that material in the reclamation process, where applicable.

Town shall mean the Town Board of Supervisors that is assigned the responsibility for the implementation of the Town Zoning Ordinance.

Transload facility means the structure used for truck- or rail-load out.

Washing is the action that involves water or some other liquid for the purpose of cleansing by removing impurities or undesirables from the intended product.

Non-Metallic Mining Overlay District (cont.)
12.15 (cont.)

Water table shall mean the upper surface of the unconfined saturated zone where the pore pressure is equal to the atmospheric pressure. It is measured by installing wells extending a few feet into the zone of saturation and then measuring the water level in those wells.

Zoning Administrator shall mean the person(s) designated by the Town to administer the Town Zoning Ordinances.

ARTICLE XIII

HIGHWAY AND WATER SETBACK REQUIREMENTS

Section

13.1 Highway Setbacks: For the purpose of determining the distance buildings and other structures shall be set back from streets and highways, the highways of the Town of Bloomer are divided into the following classes. The Wisconsin State Highway Plan, 1990 Functional System and 1990 Freeway-Expressway Plan are the basis for the following classes. A map of said SHP for Chippewa County is maintained by the Chippewa County Highway Department. That map shall apply until amended and then apply as amended.

A. Class A Highways: Four lanes, etc.

1. All arterial highways classified as freeways or expressways are hereby designated as Class A highways.
2. The setback from Expressways shall be fifty (50) feet from the right-of-way line. The setback for existing Freeways shall be fifty (50) feet from the right-of-way line. These setbacks are also applicable to all officially mapped R/W for highway locations or where R/W has been purchased for future highway constructions.
3. Prior to issuance of a permit for any structure on property adjoining right-of-way of Class A highway, the Department of Transportation, Eau Claire District Office, shall be consulted.

B. Class B Highways: State-Federal

1. All highways classified as primary, standard, and minor arterials and not further classified as a freeway or expressway are hereby designated as Class B highways.
2. The setback from Class B highways shall be fifty (50) feet from the right-of-way line.
3. Prior to issuance of a permit for any structure on property adjoining right-of-way of Class B highway, the Department of Transportation, Eau Claire District Office, may be consulted.

C. Class C Highways: County Trunks

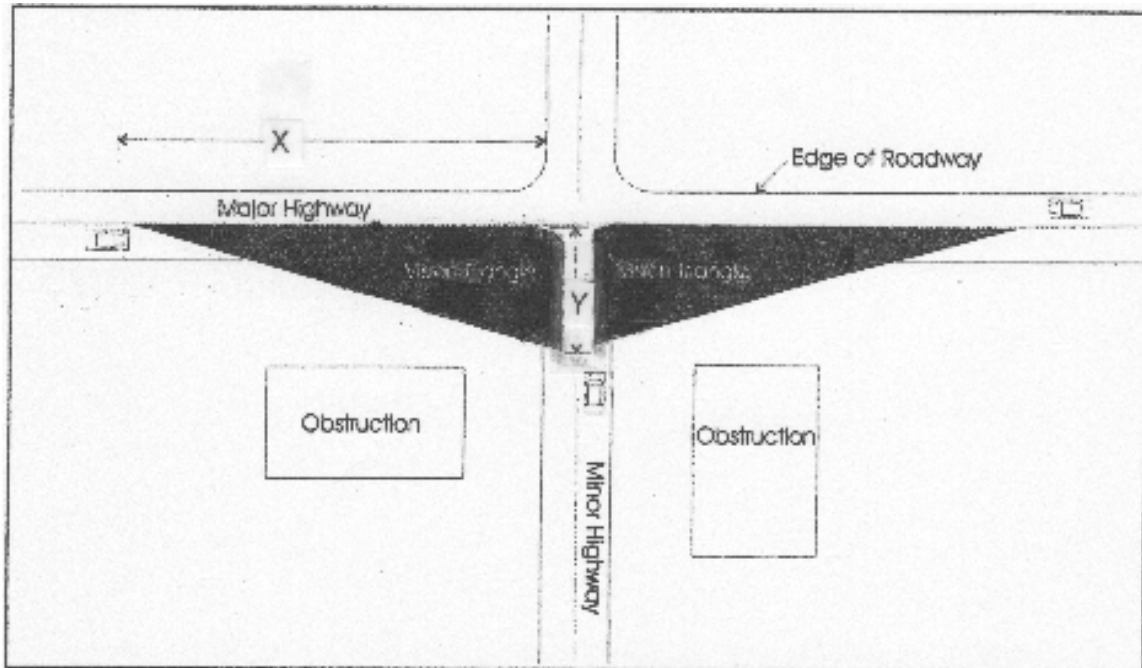
1. All highways classified as high or low collectors are hereby designated as Class C highways.
2. The setback from Class C highways shall be forty (40) feet from the right-of-way line.
3. Prior to issuance of a permit for any structure on property adjoining right-of-way of Class C highways, the agency having jurisdiction over the highway may be consulted.

Highway and Water Setback Requirements (cont.)
13.1 (cont.)

- D. Class D Highways: Town Roads, all other unclassified
1. All highways not included in the aforementioned classifications are hereby designated as Class D highways.
 2. The setback from Class D highways shall be thirty (30) feet from the right-of-way line. The right of way is thirty-three (33) feet as measured from the centerline of the road; as determined by ancient fence lines; or as determined by certified survey, whichever is greatest.
 3. Prior to issuance of a permit for any structure on property adjoining right-of-way of Class D highways, the agency having jurisdiction over the highway may be consulted.
- E. Other setbacks: No building or other structure shall be constructed within ten (10) feet of any lot line or property line. No sanitary surface privy shall be constructed within one hundred (100) feet of any lot line or property line, or within 100 feet of any road, street or highway. The term "sanitary surface privy" as used in this section includes every outdoor toilet and privy of every nature and description.

13.2 Road Intersection Vision Triangle. In each quadrant of every public highway intersection there shall be a visual clearance triangle bounded by the highway edge of centerline and a line connecting points on the intersecting highway centerline such that:

VISION TRIANGLE DIAGRAM



Highway and Water Setback Requirements (cont.)
 13.2 (cont.)

VISION TRIANGLE	ROAD CLASS			
	A	B	C	D
See diagram above				
Major intersecting highway, distance "X"	300 feet	300 feet	200 feet	125 feet
Minor intersecting highway, distance "Y"	100 feet	100 feet	60 feet	50 feet
Signaled intersecting highways, distance "X" and "Y"	100 feet	100 feet	60 feet	50 feet

Major intersecting highway: Through traffic, which does not stop at the intersection.

Minor intersecting highway: Controlled traffic, which always stops at the intersection. At four-way stop intersections, both distance "X" and "Y" are minor intersecting highway distances.

Signaled intersecting highways: Controlled traffic, which intermittently stops at the intersection with a traffic signal light.

- A. At grade intersections of highway with railroads, there shall be a visual clearance triangle in each quadrant of such intersections. Each triangle shall be established by a supplementary setback line which shall be a straight line connecting points located on the setback lines along the highway and the railroad right-of-way lines and 100 feet back from the intersection of the highway setback lines and the railroad right-of-way.
- B. No building, structure or any other object may be placed within the setback lines or a vision triangle preventing a line of sight through a vision triangle.
- C. Historic structures which are non-conforming by encroaching on vision triangles can be repaired, restored and expanded as long as any new addition complies with the Ordinance. The original structure cannot be replaced by a new structure in the non-conforming location.
- D. The vision triangle for an intersection may be modified by the Zoning Administrator to fit site conditions as suggested by or with the approval of the Wisconsin Department of Transportation or the County Highway Commissioner.

13.3 Objects Permitted Within Setback Lines or Vision Triangle.

- A. Open Fences.
- B. Underground Utility Lines and Other Underground Structures: Telephone, telegraph, and power transmission and distribution poles and lines, underground utility lines and other underground structures not capable of being used as foundations for prohibited overground structures, wells and septic tanks.
- C. Portable Equipment Housing and Livestock Housing: With permit from the Plan Commission.

Highway and Water Setback Requirements (cont.)
13.3 (cont.)

- D. Planting and Harvesting of Field Crops, Landscaping, Shrubbery, and Trees: Not to exceed three feet in height.
- E. Access or Service Road Construction: According to plans approved by the agency having the jurisdiction over the adjacent highway.
- F. Permitted Signs: Also signs placed by the public authorities for the guidance or warning of traffic.

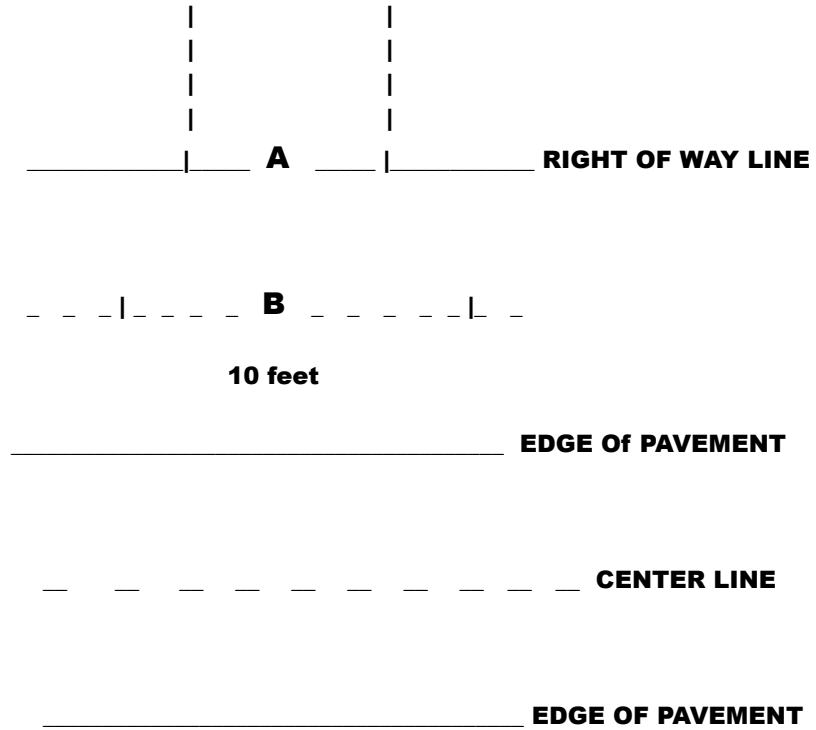
13.4 Access Driveways.

- A. Minimum Distances: Access driveways to highways from abutting properties shall comply with the following requirements:
 - 1. Class A Highways: There is no minimum distance of highway frontage between access driveways for separate lots or parcels allowed and no minimum distance access driveways may be located to the centerline of an intersection highway.
 - 2. Class B Highways: There is a five hundred (500)-foot spacing for minimum distances of highway frontage between access driveways for separate lots or parcels and a two hundred twenty-five (225) foot minimum distance that access driveways may be located to the centerline of an intersection highway.
 - 3. Class C Highways: The minimum distance of highway frontage between access driveways for separate lots or parcels is three (3) driveways or less in six hundred (600) feet of frontage with seventy-five (75) feet minimum spacing. The minimum distance access driveways may be located to the centerline of an intersection highway is two hundred (200) feet.
 - 4. Class D Highways: The minimum distance of highway frontage between access driveways for separate land uses is 75 foot spacing, except when the highway frontage for the property is insufficient to allow the minimum seventy-five (75)-foot spacing. The minimum distance access driveways may be located to the centerline of an intersection highway is one hundred twenty-five (125) feet. Driveways must be ten (10) feet from adjacent property lines, as measured from the top and of the culvert and if no culvert is required, measured from from the edge of the driveway.
 - 5. Increase of Distance Based on Site Conditions. The jurisdictional authority of the different road classes can increase the required distance if circumstances warrant to provide for safety.
- B. Service Road: Where there are two or more lots in less than five hundred (500) feet of frontage on a Class B highway, a service road of not less than fifty (50) feet of right-of-way shall be provided across the entire frontage of each lot unless a temporary access permit has been granted with the approval of the agency having jurisdiction over the highway.

Highway and Water Setback Requirements (cont.)
13.4(cont.)

- C. Maximum Number and Width: The maximum number and width of access driveways to highways and service roads shall be as follows:
1. Commercial, Agricultural Production (except farm residential driveways), Industrial Conservancy, Forestry and Recreational, and Non-Metallic Mining and Processing Land Uses: The maximum number of access driveways is two (2), must be located at least seventy-five (75) feet apart, and the maximum width of access driveways is thirty-two (32) feet, excluding radii.
 2. Field accesses shall not be restricted regarding number or width requirements, but must be located at least seventy-five (75) feet apart and are subject to approval by the authority having jurisdiction over the public highway. An access driveway used solely for field access may be converted into a different land use access driveway if the jurisdictional body determines that the proposed use and location meets the requirements of this ordinance.
 3. Residential: The maximum number of access driveways is two (2) and the maximum width of a single residential access driveways is twenty-four (24) feet, excluding radii. When two (2) access driveways are permitted, the maximum cumulative width of the two (2) driveways cannot exceed thirty-two (32) feet in total excluding radii.
 - a. One unimproved access driveway shall be allowed on each lot, provided the unimproved access driveway meets the side yard setback of ten (10) feet and the authority having jurisdiction over the road right-on-wy has approved the proposed location. An unimproved driveway is herein defined as a driveway that does not serve the principal structure in in any manner and does not have any type of hard surface or base course, such as gravel, crushed rock, shale, etc. only soil which is seeded will be allowed. A culvert may be installed to maintain the proper ditching.

Driveway Width Specification Diagram



Driveway Type	Residential (RR & AP)	Commercial, Farm Operation, I, I-2, CON, & FR
A (width)	24 feet (maximum width)	32 feet (maximum width)
B (width)	40 feet (maximum width)	60 feet (maximum width)

Highway and Water Setback Requirements (cont.)
13.4(cont.)

- D. Shared access driveways shall be allowed within ten (10) feet of the property line under the regulations of Section 13.4.C and the following requirements.
1. Approval has been granted by the jurisdiction having authority over the highway.
 2. An access easement shall be recorded with the County register of deeds office, which includes the location of the shared easement , the responsibility of each property owner to maintain the access driveway, and the discontinuance of the access driveway.
 3. The shared access driveway shall be equally located on each property, until the point the access driveway separates and/or divides at this point the driveway shall meet the standard ten (10)-foot setback of this ordinance.
 4. The shared access driveway shall not exceed the maximum width requirements of section 13.4.C of this ordinance.
- E. Access Driveway Design and Construction: Access driveways shall be designed and constructed in accordance with State of Wisconsin transportation standards as to provide adequate access for emergency and rescue vehicles to building locations. Where it is deemed that a driveway may not meet this requirement because of concerns of the zoning administrator or the agency having jurisdiction over the road right-of-way, either individual or agency may contact the local emergency personnel for verification if it is found that the driveway is unsafe or inaccessible the driveway permit may be denied.
- F. Cross-Overs: Where cross-overs in median strips have been provided, access driveways shall be directly opposite these crossovers.
- G. Filing For Permit: In addition to the above standards, a permit number E-M-404-68 or its subsequent revision must be filed with Wisconsin State Department of Transportation for access to all state highways. Approval must be given by the above agency before the county will consider and give approval to the applicant's request.
- 13.5 Water Setback Lines: All buildings and structures on lots abutting navigable waters shall be in keeping with setbacks set forth in the Chippewa County Shorelands, Sanitary, Subdivision and Flood Plain Management Ordinance.

ARTICLE XIV
SIGNS

Section

- 14.1 To promote community standards and maintain its essential rural character, the Town of Bloomer will regulate exterior signs to reasonably accommodate the business activity in the Town while reducing any undue visual impact.
- A. All on-premise and off-premise signs existing on the effective date (December 11, 2003) of this Ordinance can be maintained, repaired or replaced to maintain or attain their original size and condition without requiring a permit or meeting the new sign construction standards.

Signs (cont.)
14.1 (cont.)

- B. All new on-premise and off-premise signs require a land use permit, except as provided for herein, and shall meet the Town's sign construction standards.
- C. Political signs are allowed without permit and must comply with State law.
- D. The Town of Bloomer may permit off-premise signs that direct the public to local businesses. No off-premise signs shall advertise goods, products, facilities or services not related to economic activity in the Town. An off-premise sign is any sign which advertises goods, products, facilities or services not on the premises where the sign is located, or directs persons to a different location from where the sign is located.
 - 1. An off-premise sign can carry messages for more than one business establishment, product, facility or service.
 - 2. On Town and County highways, off-premise signs shall be placed at or near road intersections, one sign per intersection quadrant, in a sign kiosk that ideally serves multiple local businesses.
 - 3. On Town and County highways, off-premise signs shall not be placed closer than 5 feet to a highway right-of-way or within any road intersection vision triangle.
 - 4. On State and Federal highways, off-premise signs shall comply with all Town, County, State of Wisconsin and Federal regulations and shall not be placed closer than 2 miles apart on the same side of the highway.
 - 5. No off-premise sign shall exceed thirty-two (32) square feet in size or ten (10) feet in length or height, and shall have a maximum height for the sign and its supporting structure of twelve (12) feet.
 - 6. Off-premise signs shall not be placed within one hundred fifty (150) feet of a residence.
 - 7. Off-premise signs shall not be illuminated, but may use reflective material that does not produce excessive glare.
 - 8. Any person wishing to place an off-premise sign on his/her premises or the premises of another shall first obtain a land use permit.
- E. An on-premise sign is any sign identifying or advertising a business, person, activity, goods, products or services, or the price of same, located on a premise where the sign is installed and maintained.
 - 1. No individual on-premise sign shall exceed thirty-two (32) square feet in size, and the total area for all on-premise signs for each premise shall be two hundred (200) square feet.
 - 2. On premise signs may be illuminated, but such illumination shall be shielded to not produce excessive glare.
 - 3. On Town and County highways, on-premise signs shall not be placed closer than five (5) feet to a highway right-of-way, within any road intersection vision triangle or adjacent property lines. On State and Federal highways, on-premise shall not be placed closer than ten (10) feet to a highway right-of-way, within any road intersection vision triangle, or adjacent property lines
 - 4. Any person wishing to place an on-premise sign larger than 4 square feet in size, or resulting in a total signage area of 32 square feet or more, on his/her premises or the premises of another shall first obtain a land use permit.

Signs (cont.)
14.1 E (cont.)

5. In the Agriculture Production District, any person wishing to place on-premise field test plot signs equal to or less than four (4) square feet in size and one sign no larger than thirty-two (32) square feet in size per crop type (corn, soy beans, etc.) on his/her premises do not require a land use permit. Signs may be installed at the time of planting and shall be removed within thirty (30) days after harvest
 6. In the Commercial, Industrial, and Non-Metallic Overlay Districts, no individual on-premise sign shall exceed sixty-four (64) square feet, and a total area for all on-premise signs on the building(s) shall not exceed three (3) times the lineal front footage (with a minimum of two hundred (200) square feet permitted) of the most prominent building. The front footage is considered that portion of the most prominent building that fronts onto the principal highway.
 7. All new on-premise signs need to meet the Town's construction standards even though some do not require a permit.
- F. Every new sign or advertising structure shall have marked in a conspicuous place the date of erection, the manufacturer's name, the permit number and the voltage of any electrical apparatus used. All signs attached to a building must be securely mounted. All ground sign structures shall be self-supporting structures and permanently and securely attached to sufficient foundations. No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that could cause wear on supporting members or connections. Supports and braces shall be an integral part of the sign design. Angle irons, chains, or wires used for supports or braces shall be hidden from the public view to the extent technically feasible. Electrical service to on-premise signs shall be concealed wherever possible and such signs shall comply with the State of Wisconsin electrical code and the current National Electrical Code.
- G. Every sign shall be maintained in a safe, presentable, and good structural condition at all times, including replacement of defective parts, painting (except when a weathered or natural surface is intended), repairing, cleaning and other acts required for the maintenance of the sign.

ARTICLE XV

ADMINISTRATION FOR ORDINANCE

Section

15.1 Zoning Administrator.

- A. Designation: There is herewith created the office of Zoning Administrator. The Zoning Administrator office will be filled by appointment by the Town Board; and, if the office of Zoning Administrator shall be vacant for any reason, the Town Chair shall have the powers and shall perform the duties of the interim Zoning Administrator until such time as another Zoning Administrator is appointed. The Town Chair as interim Zoning Administrator shall be compensated at the same hourly rate as the preceding Zoning Administrator and the total annual compensation shall not exceed \$5,000. Sec 60.37(4).
- B. Duties, Zoning Administrator: In administering and enforcing this Ordinance, the Zoning Administrator and any of his deputies shall perform the following duties under the direction of the Town Board.
 1. Advising and Assisting: Advise applicants as to the provisions of this Ordinance, and inform them as to the required content of a properly completed permit application.

Administration for Ordinance (cont.)

15.1.B (cont.)

2. Issue Permits and Inspect Properties: Issue permits and after examined and approved and inspected, or cause to be inspected by his deputy or assistant, properties for compliance with this Ordinance and issue certificates of occupancy.
3. Keep Records: Keep records of all permits issued, inspections made, work approved and other official actions.
4. Issue Conditional Use Permits: When authorized by the Plan Commission or Town Board.
5. Enforce Regulations: To take such action as may be necessary for the enforcement of the regulations provided herein; to attend all such meetings as the Town Board, Plan Commission or Board of Zoning Appeals shall direct.

C. Powers, Zoning Administrator: The Zoning Administrator and his/her duly-appointed deputies shall have authority including but not limited to the following:

1. Inspect Structure or Premise: Access to any structure or premise for the purpose of performing his duties by the permission of the owner or upon issuance of a special inspection warrant.
2. Revoke Land Use Permit and Issue Cease and Desist Orders: Upon reasonable cause or question as to proper compliance to revoke any land use permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this Ordinance.

15.2 Plan Commission: The Plan Commission shall be the designated agent of the Town of Bloomer and will be so created and shall have authority so stipulated in Chapters 60.62 (4) (a) and 62.23 (2), (3), (4), (5) and (7) (d), Wisconsin Statutes. The Plan Commission shall keep minutes of its proceedings and shall keep records of its findings of fact and official actions, all of which shall be immediately filed in the office of the Zoning Administrator and shall be a public record.

A. Compensation and Removal: The members of the Planning Commission shall receive such compensation as shall be determined by the Town Board, and shall be removable by the Town Board upon written charges and after public hearing.

15.3 Land Use Permits.

A. Purpose of Land Use Permit: A land use permit issued according to the regulations of this Ordinance is an administrative tool to ensure development and land use activity in the Town of Bloomer is in conformance with this Ordinance. The land use permit is of limited duration and to provide the Zoning Administrator with opportunity for inspection for compliance. A structure or use is fully established when conformance with the Ordinance is determined and a Certificate of Occupancy is granted

B. Land Use Permit Required: No building or other structure, including mobile homes, or any part thereof with a cost or value of \$5000 or more shall hereafter be built, enlarged, altered or moved until a land use permit shall be first obtained by the owner, or by his/her agent, from the Zoning Administrator. Such land use permit shall be readily available for viewing on the premises before any work is commenced and at all times thereafter until such work is completed. All buildings and structures, including mobile homes, or any part thereof shall conform to this ordinance whether or not a land use permit is required.

Administration for Ordinance (cont.)
15.3 (cont.)

- C. Application: Application for permits shall be made in writing to the Zoning Administrator upon a land use permit form to be furnished by the Zoning Administrator. Such application shall state the name and address of the owner of the building, of the owner of the premises on which the work is to be done, and of the designer. Such application also shall contain the legal description of the premises on which the work is to be done and such other information as the Zoning Administrator may require. In addition, thereto, there shall be submitted with such application a complete set of plans and specifications, drawn to scale and including a situation plan, showing the location of the proposed building or other structure with relation to adjoining streets, highways, lot lines, property lines, and other buildings.
 - D. Prior to granting any permit required under this ordinance, it is the duty of the property owner to present satisfactory evidence to the Zoning Administrator as to the location of the property lines relevant to the permit. The property owner/applicant may meet the evidence requirement by identifying the existing plat or certified survey markers. The Zoning Administrator may accept a mutually acknowledged lot line confirmed in writing by abutting property owners, provided that in any case where the Zoning Administrator should reasonably question the location of a property line, the Zoning Administrator may require a licensed survey thereof. The owner/applicant is responsible for survey costs. Granting a permit does not in itself determine property lines or the respective property rights of adjacent property owners. In lieu of actually ROW markers or certified survey evidence the Zoning Administrator may utilize parcel data available on the Chippewa County Land Records website to ascertain the ROW line or ancient fence lines to establish highway setbacks.
 - E. If the Zoning Administrator finds that the proposed building or structure will comply in every respect with all ordinances of the Town of Bloomer and of Chippewa County and with all laws and orders of the State of Wisconsin, he shall issue a land use permit therefore. No plans or specifications shall be altered in any respect without the express written consent of the Zoning Administrator. It shall be unlawful to commence work on any building or other structure before the land use permit required has been issued.
 - F. A land use permit shall have lapsed and be void unless work shall be commenced within six (6) months from the date thereof, and in any event, a land use permit shall lapse one (1) year from the date of issue thereof unless extended in writing by the Town Board. If the Zoning Administrator shall find at any time that any legal requirement is not being complied with, he shall revoke the land use permit by a written notice posted upon the premises on which the work is being done, and, upon such posting, it shall be unlawful to do any further work upon said premises until the land use permit is reissued except such as the Zoning Administrator shall order to be done as a condition precedent to the re-issuance of the permit. Where a permitted use does not continue in conformity with the original approval, the land use permit shall be terminated by action of the Town Board at a public hearing or enforcement action will be commenced.
 - G. Permit Fee: Applications for permits, or certificates prepared under the regulations of this Ordinance shall be accompanied by a fee set by the Town Board. A copy of current fee schedules shall be kept on file in the office of the Town Zoning Administrator. All permit fees shall be doubled for any building structure or sign requiring a permit under this Ordinance when construction commences prior to a land use permit or other permit being issued.
- 15.4 Certificate of Occupancy. No lot or parcel of property now vacant shall be occupied or used for residential purposes, and no building or other structure for which a land use permit is required shall be occupied or used for residential, commercial or industrial purposes, until a certificate of occupancy therefore shall first be obtained by the owner, or by his agent, from the Zoning Administrator. If the Zoning Administrator finds that the proposed occupancy or use will comply in every respect with all ordinances of the Town of Bloomer and of Chippewa County and with all laws and orders of the State of Wisconsin, he shall issue a certificate of occupancy therefore within ten days after the date such application is made.

Administration for Ordinance (cont.)

15.5 Enforcement.

- A. Enforcement: The Zoning Administrator shall report all violations of this Ordinance and action thereof to the Town Board. The Zoning Administrator may sign complaints.

ARTICLE XVI

BOUNDARIES OF DISTRICTS

Section

16.1 Definitions.

- A. District Boundary Lines: In unsubdivided property, unless otherwise indicated on the "Zoning Maps of Town of Bloomer" or in the legal description, the district boundary lines are the center lines of streets, highways, railroads, section lines or quarter section, eighth section or sixteenth section lines of such lines extended.
- B. Dimensions: Whenever dimensions are shown on the "Zoning Maps of Town of Bloomer", they shall govern.
- C. Lot Lines: In subdivided lands where district boundaries are shown as adjacent and parallel or approximately paralleled to street lines, such district boundary lines shall be assumed to be the lot lines of the lots abutting such streets.
- D. Abutting Right-of-Way, Highway or Railroad: When district boundary lines are shown on the "Zoning Maps of Town of Bloomer" as being adjacent to streets, highways or railroads, it is intended that such district boundary lines shall be assumed to abut the right-of-way of such street, highway or railroad.
- E. Waterbodies as Boundaries: Only when another acceptable boundary cannot be used will the shores or center of watercourses be allowed as a district boundary line, and only after approval of the Town Board.

ARTICLE XVII

AMENDMENTS

Section

17.1 Purpose: This Ordinance may be amended by changing the boundaries of any district or by changing any district regulation, general provision, or other provision thereof in accord with the procedure prescribed in this Article.

17.2 Initiation.

- A. Petition: A change in the boundaries of any district may be initiated by petition by any person, firm or corporation owning or leasing property in the Town of Bloomer. If a proposed change of a district is in more than one ownership, all the owners or their authorized agents shall join in filing the application.

Amendments (cont.)

17.2 (cont.)

- B. Action of the Town: A change in boundaries of any district, or a change in district regulation, may be initiated by action of the Town or its agent provided that the procedure prescribed in the following paragraphs of this section is followed.

17.3 Application Filing Procedure: A property owner desiring to propose a change in the boundaries of the district in which his/her property is located or his/her authorized agent may file with the Zoning Administrator an application for a change in district boundaries on a form prescribed by the Town of Bloomer which shall include the following information and material:

- A. Name and Address of Applicant.
- B. Statement of Ownership: Statement that the applicant is the owner or the authorized agent of the owner of the property for which the change in district boundaries is proposed.
- C. Address or Description of the Property.
- D. Scale Drawing of Site and Area: An accurate scale drawing of the site and the surrounding area for a distance of at least three hundred (300) feet from each boundary of the site showing the location of property lines and Rights of Way (any highway, road, street, and railroad and public utilities).
- E. Name and Address of All Adjacent Property Owners.
- F. Application Fee: The application shall be accompanied by a fee as scheduled by the Town of Bloomer.

The Zoning Administrator shall forward the application to the Plan Commission for recommendation on behalf of the Town Board.

17.4 Plan Commission Hearing of Application: The Plan Commission shall hold a public hearing on each application for a change in district boundaries or for a change of a district regulation, general provisions or other provisions of this Ordinance. Notice under Chapter 985 of the Wisconsin State Statutes of the public hearing shall be given. A record of the hearing shall be filed in the Town.

17.5 Town Board Hearing of Application: The Town Board shall hold a public hearing on each application and Plan Commission recommendation for a change in district boundaries or for a change of a district regulation, general provisions or other provisions of this Ordinance. Notice under Chapter 985 of the Wisconsin State Statutes of the public hearing shall be given. A record of the hearing shall be filed in the Town.

17.6 Time Limitations.

- A. Plan Commission Public Hearing Notice: The Plan Commission shall schedule a public hearing within 30 days of receipt, in proper form, of a petition for Amendment.
- B. Plan Commission Recommendation: The Plan Commission shall make a recommendation to the Town Board to approve, approve with changes or deny a petition for an Amendment within 30 days of the scheduled Plan Commission public hearing. Any action to deny shall be so stated in writing with reasons for that denial.
- C. Town Board Public Hearing Notice: The Town Board shall schedule a public hearing within 30 days of receipt of a Plan Commission recommendation.
- D. Town Board Action: The Town Board shall approve, approve with changes or deny a petition for an Amendment within 30 days of the scheduled Town Board public hearing. Any action to deny shall be so stated in writing with reasons for that denial.
- E. Action Notification: Notice of the action taken by the Town Board shall be sent to the petitioner by U. S. Mail within thirty (30) days of said decision.

Amendments (cont.)

- 17.7 Notice: The owners of property within seven hundred (700) feet of the property that is the subject of the zoning amendment application shall receive due notice of the hearing.

ARTICLE XVIII

CONDITIONAL USES

Section

- 18.1 Purpose: The formulation and enactment of a comprehensive zoning ordinance is based on the division of the entire town into districts in each of which are permitted specified uses that are mutually compatible.

In addition to such permitted, compatible uses, however, it is recognized that there are other uses which it may be necessary or desirable to allow in a given district, but which, because of their potential influence upon neighboring uses or public facilities, need to be carefully regulated with respect to location or operation for the protection of the community. Such uses are classified in this Ordinance as "Conditional Uses" and are listed in the Table of Uses and under the individual districts.

- 18.2 Initiation.

- A. Petition: Any conditional uses permit may be initiated by petition of any firm, person, or corporation. If a special exception permit occurs on property that is in more than one ownership, all the owners or their authorized agents shall join in filing the application.
- B. Action: Conditional uses may be initiated by action of the town or its agent provided that the procedure prescribed in the following paragraphs of this section is followed.

- 18.3 Application for Conditional Uses: An application for a Conditional Use Permit shall be filed on a prescribed form with the Zoning Administrator. The applicant shall include a statement in writing and adequate evidence showing that the proposed conditional use will conform to the standards set forth in this Ordinance hereinafter, plus the following information and material.

- A. Name and Address of Applicant. Including the property owner and agent, if any.
- B. Statement of Ownership: Statement that the applicant is the owner or the authorized agent of the owner of the property for which the change in district boundaries is proposed.
- C. Address or Description of the Property.
- D. Scale Drawing of Site and Surrounding Area: An accurate scale drawing of the site and the surrounding area for a distance of at least three hundred (300) feet from each boundary of the site showing the location of buildings, property lines and Rights of Way (any highway, road, street, and railroad and public utilities).
- E. Name and Address of Adjacent Property Owners.
- F. Application Fee: The application shall be accompanied by a fee as scheduled by the Town Board.

- 18.4 Hearing of Application: Upon receipt in proper form of the application and statement the Plan Commission shall hold at least one (1) public hearing on the proposed conditional use. A Notice under Chapter 985 of the Wisconsin State Statutes shall be given. A record of the hearing shall be filed in the Town.

Conditional Uses (cont.)

18.5 Time Limitations.

- A. Public Hearing Notice: The Plan Commission shall schedule a public hearing within forty-five (45) days of receipt, in proper form, of a petition for Conditional Use.
 - B. Plan Commission Recommendation: The Plan Commission shall make a recommendation to approve with changes or deny a petition for a Conditional Use within forty-five (45) days of the scheduled public hearing. Any action to deny shall be so stated in writing with reasons for that denial.
 - C. Town Board Action: The Town Board shall approve, approve with changes or deny a petition for a conditional use permit within 30 days of the Planning Commission's recommendation. Any action to deny shall be so stated in writing with reasons for that denial.
 - D. Action Notification: Notice of the action taken by the Town Board shall be sent to the petitioner by U. S. Mail within thirty (30) days of said decision.
 - E. Termination and Revocation: The conditional use permit shall lapse and is void two (2) years after the date of issuance by the Town Board unless the use is fully established and improvements to the property described in the permit is implemented. An extension of a specific period of time may be granted in writing by the Town Board.
- 18.6 Notice: The owners of property within seven hundred (700) feet of the property that is the subject of the conditional use application shall receive due notice of the hearing.

ARTICLE XIX

VARIANCE

Section

- 19.1 Purpose: The Board of Zoning Appeals shall determine and may vary the regulations of this Ordinance in harmony with its general purpose and intent, only in specific instances where the Board makes a finding of fact, based upon the standards hereinafter prescribed, that there are practical difficulties in carrying out the strict letter of the regulations of this Ordinance, and that the granting of a variance will not merely serve as a convenience to the applicant, but is necessary to alleviate some demonstrable difficulty.
- 19.2 Initiation.
- A. Petition: Any variance application may be initiated by petition of any firm, person, or corporation. If a variance application involves property that is in more than one ownership, all the owners or their authorized agents shall join in filing the application.
 - B. Action: Variances may be initiated by action of the Town or its agent provided that the procedure prescribed in the following paragraphs of this section is followed.
- 19.3 Application: An application for a variance shall be filed with the Board of Zoning Appeals. The applicant shall include a statement in writing and adequate evidence showing that the proposed variance will conform to the variance standards set forth in this Ordinance hereinafter, plus the following information and material:
- A. Name and Address of Applicant. Including the property owner and agent, if any.

Variance (cont.)
19.3 (cony.)

- B. Ownership Statement: Statement that the applicant is the owner or the authorized agent of the owner of the property for which the variance is proposed.
 - C. Address or description of the Property.
 - D. Scale Drawing of Site and Surround Area: An accurate scale drawing of the site and the surrounding area for a distance of at least three hundred (300) feet from each boundary of the site showing the location of buildings, property lines and Rights of Way (any highway, road, street, and railroad and public utilities).
 - E. Name and Address of Adjacent Property Owners.
 - F. Application Fee: As scheduled by the Town Board.
- 19.4 Notice: The owners of property within seven hundred (700) feet of the property that is the subject of the variance application shall receive due notice of the hearing.

ARTICLE XX

BOARD OF ZONING APPEALS

Section

- 20.1 Establishment: There is hereby established a Board of Zoning Appeals for the Town of Bloomer for the purpose of hearing appeals and making determinations, and granting variances from the provisions of this Ordinance in harmony with the general purpose and intent of this Ordinance.
- 20.2 Membership.
- A. Number of Members: The Board of Zoning Appeals shall consist of five (5) members appointed by the Chairman of the Town Board and confirmed by the Town Board. No more than one Town Supervisor shall be a member of the Board.
 - B. Residence Requirements and Terms of Office: The members of the Board of Zoning Appeals shall all reside within the Town of Bloomer. Terms shall be staggered for three-year periods. Successors shall be appointed in a like manner at the expiration of each term and their term shall be three (3) years in all cases. An alternate member may be appointed by the Town Chairman for a term of three (3) years and shall act only when a regular member is absent or refuses to vote because of interest. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.
 - C. Chairman: The Board of Zoning Appeals shall elect its Chairman.
 - D. Compensation and Removal: The members of the Board of Zoning Appeals shall receive such compensation as shall be determined by the Town Board, and shall be removable by the Town Board upon written charges and after public hearing.
- 20.3 Duties: The Board of Zoning Appeals is hereby delegated the following duties and responsibilities.
- A. To Correct Errors or Abuses: In the administration of the Ordinance by the Town Zoning Administrator.

Board of Zoning Appeals (cont.)
20.3 (cont.)

- B. To Grant Relief: When hardship results from strict application of the provisions of the Ordinance.
- C. To Consider Applications for Variances.
- D. To Grant or Deny Applications for Variances from the Ordinance.
- E. To Interpret the Zoning Regulations: Or the zoning district map.

20.4 Powers of the Board: The Board of Zoning Appeals shall have the following powers.

- A. To Hear and Decide Appeals: Where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.
- B. To Authorize Upon Appeal in Specific Cases Such Variance: From the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship or practical difficulties, and so that the spirit of the Ordinance shall be observed and substantial justice done.
- C. To Interpret the Zoning Regulations. Where there is a question about the purpose, intent, application or effect of the Zoning Regulations, including the zoning district map.

20.5 Principles Guiding Board Decisions: The following are principles that shall guide the Board of Zoning Appeals:

- A. Acceptance of Zoning Ordinance and Map: The Board is bound to accept the zoning ordinance and zoning district map as being correct.
- B. Proof of Need for a Variance: The burden is upon the appellant to prove the need for a variance.
- C. Variance Standards.
 - 1. Unnecessary Hardship. The application of the zoning ordinance to the site, property or buildings will cause an unnecessary hardship.
 - a. An unnecessary hardship occurs when the strict application of the zoning ordinance denies the applicant all reasonable use of the property as a whole.
 - b. A variance shall not be granted where the reason for obtaining a variance is to alleviate personal inconvenience, construction errors or self-created hardships.
 - c. A variance shall not be granted where the reason for obtaining a variance is to obtain a more profitable use of the property or other economic reasons.
 - d. The hardship cannot be one that would have existed in the absence of the zoning ordinance.
 - 2. Unique Property Limitations or Practical Difficulty. Unique physical characteristics of the property prevents the applicant from developing in compliance with the zoning ordinance.
 - a. Physical features that may limit the use of property include, but are not limited to, wetlands, soil type, bedrock type and depth, groundwater depth and steep slopes.

Board of Zoning Appeals (cont.)
20.5.C.2 (cont.)

- b. Unique property limitations are unique or special conditions or exceptional circumstances on the land in question due to lot size or shape, topography, or other physical features or circumstances, which the applicants or the owners of the property since the enactment of the Ordinance have had no control over and which do not generally apply to other properties in the same zone or vicinity. The property must qualify for the variance, not the situation of the applicant.
 - c. Existing violations on other properties or variances previously granted, including variances improperly granted, are not grounds for a variance. Applications for a variance must be individually evaluated based on all of these standards as applied to the property in question.
 - d. Variances shall not be granted for property features that affect many properties in the same way, nor shall a variance have the effect of a rezoning or an amendment to the Ordinance.
3. Public Interest Protected. Granting of a variance must not harm the public interest. A variance must not violate the purpose, intent or objectives of the Ordinance.
- a. The granting of a variance shall not be based on the number of persons for or against it, or the lack of opposition or support, but shall be based solely upon the equities of the situation involved and the interest of the public at large.
 - b. If granted, the variance can only provide the minimum relief needed to alleviate the unnecessary hardship or obtain reasonable use of the property.
 - c. The variance must not be detrimental to adjacent properties.
 - d. Variances may be granted in the form of an area or dimensional variance. However, use variances shall be specifically prohibited under the Ordinance. No variance shall have the effect of permitting any use in a district that is prohibited in that district. To effect the permitting of any use in a district that is prohibited in that district suggests the property needs to be rezoned or that use be strictly prohibited.
 - e. The use of the property and/or buildings in question must presently either conform to the Ordinance or be a legal non-conformity, to even be considered for a variance. An application that would bring the property into compliance may be considered.

20.6 Rules, Meetings, Minutes.

- A. Rules of Procedure: The Board of Zoning Appeals shall adopt rules of procedure in accordance with the provisions of this Ordinance.
- B. Meeting Regulations: Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.
- C. Keeping Minutes: The Board of Zoning 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, findings of fact and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator and shall be a public record.

Board of Zoning Appeals (cont.)

- 20.7 Appeals to Board and Appeal Fees: Appeals to the Board of Zoning Appeals may be taken from any person, company, partnership, corporation or government unit aggrieved or affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within ten (10) calendar days, by filing with the officer from whom the appeal is taken and with the Board of Zoning Appeals a Notice of Appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The cost, as set by the Town Board, shall be paid to the Town Clerk at the time of appeal.
- 20.8 Stays: An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Zoning Appeals after the Notice Of Appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.
- 20.9 Hearing Appeals: The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, determination or variance and publish a Class 2 Notice thereof under Chapter 985 of the Wisconsin Statutes, as well as give due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
- 20.10 Order on Appeal: In exercising the above-mentioned powers such board may, in conformity with the provisions of this section, reverse, or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.
- 20.11 Concurring Vote: The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such Ordinance, or to effect any variation in such Ordinance. The grounds of every such determination shall be stated.
- 20.12 Court Review: Any person or persons, jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer, or any officer, department, board or bureau of the municipality, can present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be filed within thirty (30) days after the of the decision of the Board of Zoning Appeals.
- 20.13 Certiorari: Upon the filing of such petition the court can allow a writ of certiorari directed to the Board of Zoning Appeals to review such decision of the Board of Zoning Appeals, and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner(s), which shall not be less than ten (10) days and can be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court can, on application, on notice to the Board, and on due cause shown, grant a restraining order.
- 20.14 Return to Writ: The Board of Zoning Appeals shall not be required to return the original papers acted upon it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from, and shall be verified.
- 20.15 Court Decision: If, upon the hearing, it shall appear to the court that testimony is necessary for the proper Disposition of the matter, it can take evidence, or appoint a referee to take such evidence as it may direct and to report the same to the court with his findings of fact and conclusions of law, which shall constitute part of the proceedings upon which the determination of the court shall be made. The court can reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

ARTICLE XXI

VOIDING OF CONFLICTING PROVISIONS

All provisions of ordinances less stringent than the provisions of this Ordinance are void.

ARTICLE XXII

SAVING CLAUSE

If several terms and provisions of this Ordinance shall be deemed severable, and if any provisions of this Ordinance or the application thereto to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such to other persons and circumstances shall not be affected thereby.